

Health promotion and disease prevention make economic sense as well. Each dollar spent on comprehensive maternity care for pregnant women saves three dollars in later health costs. A dollar spent on childhood immunization saves ten dollars. By investing early in children's health, we can save unnecessary pain and suffering, while at the same time saving billions of dollars in health care costs.

Unfortunately, our present patchwork health insurance system has so many holes that it fails to promote prevention and to achieve these savings. In 1991, more than eight million children were not covered by either health insurance or Medicaid. For these children, preventive care is a luxury. Visits to a doctor or nurse are usually delayed until there is a serious problem, and the emergency room is often the only family doctor these children know. The consequences of these delays are costly for the health care system, and often devastating for the children and their families.

Even for families who have insurance, parental unemployment or job changes can lead to gaps in coverage. Children may not receive consistent preventive care during this period, and if a serious illness results, it is often impossible for parents to obtain new insurance.

These problems are not the fault of dedicated medical professionals. The system is the villain. Our challenge is to ensure that all children have access to timely, affordable, and comprehensive care. Fortunately, the health reform plan proposed by President and Mrs. Clinton is well-designed to reach these goals.

By ensuring that all children are covered—without interruption—from the moment of birth, the plan will put an end to the national shame of children without insurance. Parents will no longer worry that the loss of a job will endanger their children's health—let alone their own. Nor will parents of seriously ill children be locked into a job by the fear that if they leave for a better position, their new employer's insurer may refuse them coverage.

By emphasizing preventive care, the benefit package will dramatically improve infant and childhood health. The package covers prenatal care, immunizations, diagnostic tests, regular checkups, vision and hearing tests, and preventive dental care. There is no copayment for these services, so that parents will not hesitate to use them. The plan will also phase in benefits for mental health and substance abuse treatment that will help teenager as well as adults.

By increasing support for community health centers and the National Health Service Corps, the plan will improve access to essential services for children among underserved populations, who are frequently at highest risk.

In other key areas, Congress should continue to work with the Administration to find ways to address some important remaining issues. The benefit package should include an adequate number of clinician visits for preventive health care. To the maximum extent possible, health services should be available to adolescents in the places where they are most likely to use them, especially in their schools. We must pay careful attention to the plan's provision for children with special health care needs, including rehabilitation services and equipment and devices for children who have impaired hearing or speech. Children who now receive these services under Medicaid should not lose them in health reform. Finally, we must be certain

that copayments and deductibles do not disadvantage low-income families and children with special health care needs.

Overall, the Administration's plan is an historic opportunity for America's children. If Congress meets its responsibility as effectively as the President and the First Lady have met theirs, the decades-long battle for genuine health reform will finally be won, and this generation of children may well be the greatest beneficiaries of all.

#### SECURE CHOICE LEGISLATION

Mr. SIMPSON. Mr. President, I rise to cosponsor the secure choice long-term care bill, which was introduced by Senators DOLE and PACKWOOD on October 28, 1993. This bill confronts the challenge of providing long-term care services to our Nation's senior citizens and disabled individuals. It is a thoughtful and comprehensive three-part legislative plan, which tackles the explosive demand for affordable long-term care services. The philosophy behind this legislation is that the Federal Government should limit its role in furnishing long-term care to providing assistance to individuals who have low incomes and assets either because of their financial situation or because of catastrophic long-term care expenses.

First, the bill provides for nursing home care and expanded home and community-based care for functionally impaired individuals with incomes below the Federal poverty level, \$6,970 in 1993, through a new title of the Social Security Act. Long-term care services now provided under Medicaid would be moved to this new title XXI.

Second, Secure Choice creates a public-private partnership to assist Americans with moderate incomes less than 300 percent of the Federal poverty level—about \$21,000—to purchase long-term care insurance. This bill would make it more affordable because the Federal and State governments would join together to pay part of the cost of long-term care services when they are needed.

Finally, Secure Choice clarifies that all long-term care services—medical care and personal care—are treated as medical expenses under the tax law. This would allow individuals to take tax deductions for out-of-pocket long-term care expenses and insurance premiums—to the extent they exceed 7.5 percent of adjusted gross income. It further provides that employer-paid long-term care services and insurance would be a tax-free employee benefit. By removing barriers that presently discourage employers from offering long-term care benefits to their employees, these reforms will assist in the development of the private long-term care insurance market.

The bill also specifies consumer protection standards for long-term care insurance policies. It would protect consumers by guaranteeing policy renewability and portability, and by re-

quiring policies to meet standards developed by the National Association of Insurance Commissioners. Policies that do not meet these standards would be denied the favorable tax treatment. These standards would protect consumers from unscrupulous sales practices and would enable consumers to get more of their money's worth from the purchase of a long-term care insurance policy.

With the elderly population skyrocketing, the need for long-term care grows, especially, the need for home and community-based care. We must find ways to make long-term care more affordable, and this legislation is a good step in the direction of providing much more affordable long-term care benefits for the elderly and functionally disabled of our country.

#### TRIBUTE TO JAMES S. FREE

Mr. HEFLIN. Mr. President, earlier this month, I had the opportunity to attend an 85th birthday party for James Stillman Free, a native of Gordo, AL, and, for 33 years, the Washington correspondent for Birmingham News. Jim has enjoyed a rich and colorful career as a journalist and historian, and it was a wonderful experience for his many friends and associate as we gathered with him to celebrate and reflect.

Jim's 33 years as the Birmingham News' Washington correspondent, was the longest tenure for any Washington correspondent for Alabama newspapers. He spent a total of 35 years with that newspaper. He also served as the Washington correspondent for the Chicago Sun, Raleigh News and Observer, and Winston-Salem Journal during the 1940's and 1950's.

His coverage extended from the Great Depression and New Deal; through World War II preparations and his own participation; the McCarthy "Red Scare" era; the civil rights movement; the assassinations of John and Robert Kennedy and Martin Luther King; and all national defense, medical, educational, and environmental issues that affected Alabama. He was an on-the-scenes, eye witness to much of the social change and history of this century.

His many "scoops" included President Truman's 1946 order for the Army to take over strike-threatened railroads, and he led the national press with his stories on the Justice Department's civil rights decisions. Jim filed overseas reports on the 1957 Berlin crisis and NATO operations in the North Sea, Western Europe, and the United Kingdom in 1966. He has served as the historian for the Gridiron Club and was the author of "The First One Hundred Years: A Casual Chronicle of the Gridiron Club." He is also the author of three other books.

It is an understatement to say that Jim Free is a highly regarded and respected figure. He is an all-around great fellow. As one former Member of Congress told me, Jim never tried to purposely hurt anyone through his reporting. His professional ethics dictated that he would let the facts speak for themselves. He never tried to find dirt on every Government official as some reporters today do. He was not a practitioner of "gotcha" journalism.

Jim is a gentleman who possesses all the traits that one would expect to find in a gentleman—civility, an educated mind, sensitivity, courteousness, and a healthy respect for the views of others.

I am proud to congratulate Jim Free on his lifetime of service to the cause of informing citizens about the world around them, and again extend my best wishes to him on the occasion of his recent birthday. I look forward to celebrating many, many more with him in the years to come.

#### ESTELLE STACY CARRIER

Mr. WALLOP. Mr. President, anyone who has been involved in Republican politics in Wyoming for the last 25 years knew Estelle Stacy Carrier. Estelle was a constant, principled Republican who did not tolerate adventure in the party. She was extremely passionate about the things she stood for. This passion was apparent not only in her service to the State of Wyoming but to America. Her service as vice chairman of the Wyoming Republican State Committee and president of the board of trustees of the Converse County Library, just to name a few of her endeavors, made her well known to many around the State. This same devotion was displayed at the national level where she served as Republican National Committeewoman and was appointed to the U.S. Defense Department's Defense Advisory Committee on Women in the Services. Mrs. Carrier has been listed in "Who's Who in America," and "Who's Who in Politics."

People like Estelle Carrier sustained the tradition of strength and equality that Wyoming was built upon and still stands for. One cannot help but draw a correlation between her and another strong woman in Wyoming history, Nellie Tayloe Ross. Both dedicated their lives to their community and State and became an inspiration to all who live in Wyoming. They both forged the future for a proud and hearty breed of Wyoming women.

As a dedicated mother and career woman, Estelle Stacy Carrier lived a full life. Her husband John lives in Casper and works as a petroleum geologist. Her son Richard resides in Cheyenne and is the U.S. attorney for Wyoming. Following the death of her first husband, Leonard Stacy, she continued to run an oil and mineral exploration company that they started in 1963 until her death last Sunday.

Estelle was able to touch many people in her life and affect them profoundly. She will be missed and rightly so.

#### IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at \$4,468,602,585,525.99 as of the close of business yesterday, November 18. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is \$17,397.10.

#### CLARIFYING THE WOOL PROVISIONS

Mr. BAUCUS. I want to clarify three issues in regards to the relationship of the wool provisions of the 1994 Agriculture appropriations bill to the wool provisions in S. 1458, which authorized the wool program to continue until December 31, 1995.

First, is the recourse loan created in S. 1458 for the 1994 marketing years intended to operate at no cost to the Government in fiscal year 1994 by means of the Secretary of Agriculture charging participating wool and mohair producers a fee to cover the cost of administering the recourse loans, and requiring repayment of the loans within the same fiscal year that the loan is made?

Mr. LEAHY. The Senator is correct.

Mr. BAUCUS. Second, is the purpose of incentive payments paid to wool or mohair producers in the 1994 and 1995 marketing years other than to support the price of wool or mohair?

Mr. LEAHY. The Senator is correct.

Mr. BAUCUS. Third, is the Secretary of Agriculture prohibited from making loans or payments which are not obligated by December 31, 1995, during the 1996 calendar year, but is required to make 1995 marketing year loans or payments already obligated by December 31, 1995, during calendar year 1996?

Mr. LEAHY. The Senator is correct.

#### WORLD AIDS DAY AT BRYANT COLLEGE

Mr. PELL. Mr. President, I would like to call the attention of the Senate to the efforts of Bryant College in Smithfield, RI, in connection with World AIDS Awareness Day on December 1, 1993.

On that day, Bryant College will have the distinction of being the only site in Rhode Island, and the only college or university in the country, to be designated an official U.S. postal station for the purposes of issuing a special commemorative cancellation of the new AIDS awareness stamp.

For that one day, the Smithfield campus will be designated "Bryant College Station," and the sale of com-

memorative cachets will serve as a fundraiser for AIDS education programs offered on the Bryant campus, and by Rhode Island Project AIDS. Classes that day will also be devoted to discussion of the medical, social, and financial impacts of the AIDS pandemic.

Bryant College is a leader in AIDS education efforts. The official unveiling of the new AIDS awareness stamp and its accompanying commemorative cancellation will focus attention on the Bryant's efforts to combat the scourge of AIDS and promote preventive measures to avoid exposure to the HIV virus.

Bryant will conduct AIDS education programs for its residence assistants and staff over the next several months to help them answer confidential questions from their peers. Bryant's fraternities and sororities have worked to raise awareness of a number of AIDS-related issues, and are sponsoring speakers and funding programs on the AIDS crisis.

To quote Bryant College President William E. Trueheart,

AIDS does not discriminate. The HIV virus that causes AIDS can strike anyone, regardless of income, age, gender, race, or sexual orientation. Young people are especially vulnerable, and we need to help them understand that they are at risk, despite their youth, health, and vitality.

President Trueheart's words of warning are confirmed all too alarmingly by figures released by the Centers for Disease Control and Prevention which show that AIDS is the leading cause of death among American men aged 25 to 44, and the fourth leading cause among American women of that same group.

In 1990, CDC analyzed blood samples from 35 universities throughout the country and found that 1 of every 500 students tested positive for HIV, the virus which leads to AIDS. And while CDC cautions that this statistic does not indicate students' chances of being infected with HIV, CDC does warn that the chance of infection depends on their age, sex, and location—and most importantly, on their behavior.

The risk of exposure shows no sign of abating. Yet, as Doris Horridge, a health educator at Bryant, noted, "The risk can be minimized through awareness and education."

Mr. President, Bryant College has been widely recognized as one of the finest business education schools in the United States. The college has built a proud record of educating men and women who have become leaders in the field of business, industry, government, and society. I am very pleased that the school is now undertaking such an aggressive program in student health.

As we prepare to debate the merits of the various health care proposals which are before this Chamber, I would point out that Bryant College's health care system contains many features

that will be critical to include in any national reform plan: it is available to all, at a reasonable cost, and engages in an active program of health education to foster preventive care.

I commend Bryant College for their efforts to raise the issue of AIDS awareness and education to the forefront of their college community's discussion. I urge other institutions of higher education to follow Bryant College's example in protecting the men and women who will lead this country into the next century.

**COSPONSORSHIP OF S. 1614, THE BETTER NUTRITION AND HEALTH FOR CHILDREN ACT OF 1993**

Mr. DURENBERGER. Mr. President, I rise today to announce my cosponsorship of S. 1614, the Better Nutrition and Health for Children Act of 1993.

S. 1614 was introduced by my distinguished colleague from Vermont, Senator LEAHY, on November 2. This bill amends the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy nutrition for children and authorizes full funding for WIC.

Mr. President, I have always supported responsible legislation that promotes better nutrition and better health for children. The programs targeted for increases by this bill have proven to be successful and worthwhile investments of public funds in dealing with child nutrition.

That is why in my 15 years as a Senator I have consistently supported both programmatic improvements and increased funding levels for these programs, including my cosponsorship earlier this year of the sense-of-the-Senate resolution on the Every Fifth Child Act.

The WIC Program provides nutritious supplemental foods to low-income pregnant, postpartum and breast feeding women, and to children up to age five who are determined to be at nutritional risk. Recipients also receive nutrition education, advice and assistance on the importance of breast feeding, and referrals to the health care system.

The WIC Program also has fiscal benefits. A Department of Agriculture study found that for every dollar invested in WIC up to \$4 is saved by the Federal Government.

While I fully and wholeheartedly support these programs, I must also say I have severe concerns about its funding expectations. I believe deficit reduction is just as vital an investment in our children's future as direct program expenditures. So, while I have cosponsored this legislation, I cannot emphasize enough the need to address our growing national debt, as we strive to deliver on the funding expectations of this bill.

I also believe, Mr. President, that we must view expansion of valuable pro-

grams like WIC in the larger context of governmental reform and welfare reform.

During this coming year, the Congress will be asked to consider a major initiative from the Clinton administration to create new incentives for able bodied low-income persons to become self-sufficient.

We may also be asked to shift more authority to States and local communities for establishing priorities for spending money now earmarked for dozens of categorical programs that serve families and children.

Both of these initiatives represent opportunities to not only achieve the goals and potential of WIC, but to do so in a more effective and efficient manner.

Overall, Mr. President, I believe that this legislation establishes sensible priorities that will expand the effectiveness of the WIC Program.

I look forward to working with my colleagues on both sides of the aisle to create an environment in which we can work together on these and other pressing human needs in a fiscally responsible manner.

I yield the floor.

**AN INTERNATIONAL MORATORIUM ON LANDMINE EXPORTS**

Mr. LEAHY. Mr. President, last week I introduced in the United Nations a resolution on behalf of the U.S. Government calling on all countries to agree to an international moratorium on exports of antipersonnel landmines. I am pleased to say that yesterday the resolution was passed by consensus by the U.N. Disarmament Committee. From there it goes to the General Assembly, where I am confident it will also pass by consensus.

This resolution is based on the U.S. moratorium on exports of antipersonnel landmines which became law last year. Two months ago, the Senate unanimously extended the U.S. moratorium for another 3 years. That amendment will become law when the President signs the 1994 Defense authorization bill.

Thanks to the strong support and hard work of Ambassador Madeline Albright, Ambassador Karl F. Inderfurth, and their staffs, over 70 countries cosponsored the U.S. resolution in the United Nations. This resolution, for the first time in history, puts all 184 U.N. member nations on record supporting a global halt to the trade in antipersonnel landmines, which have killed and injured hundreds of thousands of innocent people around the world.

Over 100 million of these weapons are scattered in over 60 countries. A landmine is not itself a weapon of mass destruction, but millions of millions of mines waiting to explode have the same effect over a period of years. I

doubt many people realize that more civilians may have been killed or maimed by landmines than all the chemical and biological weapons combined.

Mr. President, there are two challenges ahead. First, is to get rid of the millions of mines lying in wait for unsuspecting victims, in many places long after the conflict has ended and the reasons for it have been forgotten. Clearing the mines is an enormously costly, dangerous, and time-consuming task. For \$3 you can buy a landmine that will kill or horribly maim a child. Or a child. Yet to get rid of that one mine in countries like Cambodia or Angola or Bosnia costs upward of \$1,000.

Recently, U.N. Undersecretary General for Humanitarian Affairs Jan Eliasson, wrote an article on the scourge of landmines and makes the case for a concerted, international effort to deal with it. I ask unanimous consent that the text of Mr. Eliasson's article be printed in the RECORD at the end of my remarks.

The second challenge is to ensure that the old mines are not replaced with new ones. An international moratorium on exports is an important first step, and yesterday's action in the United Nations is very encouraging. But it is only a first step. Next we must deal with the difficult issues of production, possession and use of landmines. Our own troops have as much to gain from this as the people in the countries where mines are used, and where U.N. and U.S. peacekeeping forces may be sent in the future. According to retired Marine Corps Commandant, Gen. Al Grey, "We kill more Americans with our mines than we do anybody else."

Mr. President, every month thousands of innocent people become the latest victims of landmines. If they are lucky enough to survive, their lives are shattered. We can stop this.

The Congress has made it clear that it wants the United States to be a leader in stopping this senseless slaughter. Last week at the White House I spoke with President Clinton. He shares this goal. So do Vice President GORE and Secretary of State Christopher. People everywhere want this.

Let us work together so that by the end of this decade—by the beginning of the next century—innocent people will no longer have to live in fear of landmines.

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

[From the Herald Tribune, Nov. 4, 1993]

THE LAND-MINE PLAGUE

(By Jan Eliasson)

UNITED NATIONS, NY.—The United Nations General Assembly turned its attention recently to the legacy of death from 100 million land mines sown across the globe. Calling for a report by next year on improving

international mine-clearing efforts, the Assembly formally recognized the need to assist the estimated 62 countries afflicted by this scourge.

Eighty-eight countries co-sponsored a resolution, introduced by the European Community, focusing on the human tragedy caused by the failure to remove mines.

Land mines have turned large areas of the world into a permanent no-man's-land. Most mines lie buried and unmarked, part of a deliberate strategy to terrorize civilians, continuing to kill innocent people long after wars end. (Mines laid in Poland during World War II killed 4,000 people after 1945.)

Many of the world's 19 million refugees and 25 million displaced persons are unable to return home for fear of death or dismemberment by these weapons. In Cambodia, people are still dying because of the 4 million mines left after two decades of civil war. In Angola, fertile lands lie fallow because farmers fear to tread on them. More than 20,000 Angolan amputees—most of them women and children—bear witness to the danger.

Mines continue to be planted all over the world. To slow the proliferation, some manufacturing countries have imposed export bans, and the United States is calling for a worldwide export moratorium. But 35 countries continue to manufacture these indiscriminate weapons—many of which are designed to maim rather than kill.

Little research has been done to develop new technology for mine clearance. Mostly people must still prod the ground, sometimes assisted by dogs sniffing out the explosives, to locate mines; a slow and dangerous process. In Kuwait, where up to 7 million mines were sown during the Gulf War, 84 demining experts were killed or injured while clearing them. At least 30 people have died in UN demining operations in Afghanistan.

A 1980 UN treaty prohibits the use of land mines against civilians, and directs governments to destroy mines after conflicts end. But only 39 countries have ratified the treaty. Many governments are calling for it to include verification measures and a clause to ensure that mines are built to be detectable and easily removed once a war is over.

Most urgent is the need for development of new mine-clearing technology and local training campaigns to detect and disarm mines. The international community must join to bring the plague to an end.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 1607 which the clerk will report.

The bill clerk read as follows:

A bill (S. 1607) to control and prevent crime.

#### POLICING GRANT PROCEDURES

Mr. HOLLINGS. Mr. President I would like to take a few minutes to clarify the application process for the community policing and cops on the beat programs with regard to communities with a population less than 150,000. It is my understanding The Violent Crime Control and Law Enforcement Act of 1993 provides that local governments with a population less than 150,000 must initially submit their application to the State office, as designated in section 507. It is this State office which will perform the initial review.

Mr. BIDEN. Exactly. That is my understanding.

Mr. HATCH. The Senator from South Carolina is correct.

Mr. HOLLINGS. As I understand the bill, this initial review by the State office will proceed pursuant to regulations and criteria specified by the U.S. Attorney General. After this initial review, the State office will submit to the U.S. Attorney General a list of all applications and all supporting materials, in order of their likelihood of achieving the program's goals. I would like to stress that all applications must be forwarded to the Attorney General. The State office is not to determine which communities will receive grants, rather they are to perform only preliminary reviews for the U.S. Attorney General.

In this regard, I want to emphasize the need to institute safeguards which assure that every application and all supporting materials received by the State office are forwarded to the Attorney General. Recently, in my own State of South Carolina, a grant application made pursuant to the Police Hiring Supplement, was lost between the State office and the Department of Justice. It is imperative that the regulations promulgated by the Attorney General institute measures to ensure that this cannot occur.

Mr. BIDEN. I agree with the Senator from South Carolina.

Mr. HOLLINGS. Additionally, it is my understanding that although the State offices may, on a voluntary basis, recommend specific applications which they believe are particularly meritorious, they may not recommend that some applications not be funded.

Mr. BIDEN. The Senator from South Carolina is correct, the State office is required to forward all applications to the Attorney General. The State office does not have authority to pick and choose which applications will be submitted.

Mr. HATCH. That is my understanding.

Mr. HOLLINGS. Once all applications, supporting material, and the State office's list are submitted, then the U.S. Attorney General makes the determination which communities will receive grants. This decision is completely within the discretion of the Attorney General. Having broad latitude, the Attorney General is not bound by the rankings provided by the State office. That is my understanding.

Mr. BIDEN. That is correct.

Mr. HATCH. That is exactly how I understand the procedure to work.

#### PRISONERS MUST WORK SENSE-OF-THE-SENATE RESOLUTION

Mr. BROWN. Mr. President, I rise to thank my colleague, the Senator from Delaware, for agreeing to accept my sense-of-the-Senate resolution on expanding work opportunities for able-bodied Federal prisoners. I will insert at another point in the RECORD a short statement on this resolution, but for the moment I wanted to propound a question to the Senator.

Mr. BIDEN. I would be pleased to respond to the Senator's question.

Mr. BROWN. I thank the Senator. Is it the intention of the Senator from Delaware to have the Judiciary Committee review the matter of Federal prison inmate employment?

Mr. BIDEN. I would say to the Senator from Colorado that it is this Senator's intention, as chairman of the Judiciary Committee, to review this matter once the Attorney General makes her report to the Congress and to take all necessary and appropriate action at that time.

Mr. BROWN. I thank the Senator and yield the floor.

Mr. BIDEN. Mr. President, I ask unanimous consent that a letter be printed in the RECORD.

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

NATIONAL ORGANIZATION OF  
BLACK LAW ENFORCEMENT EXECUTIVES,  
Alexandria, VA, November 10, 1993.  
Senator JOSEPH R. BIDEN, Jr.,  
Chairman, U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: On behalf of the membership of NOBLE, I write to commend you for your untiring efforts with respect to the most significant comprehensive anti-crime bill that has ever been considered in the United States.

Furthermore, we urge Congress to include a ban on the manufacture and sale of military-style assault weapons. Candidly, we are puzzled as to why anyone would consider to do otherwise, unless they were directly involved in the manufacturing and/or sale of weapons of that type.

Also, we strongly support the inclusion of boot camps, innovative drug programs, and creative efforts to negate the violent activity of youths.

Keep up the good work and let us know what we can do to assist in getting the crime bill passed now.

Take care and best regards.

Sincerely,

JOSEPH M. WRIGHT,  
Executive Director.

Mr. DECONCINI. Mr. President, I rise today to express my support for S. 1607, the Violent Crime Control and Law Enforcement Act of 1993. I look forward to the day this legislation, combined with the crime packages already passed by the House of Representatives, will be signed into law by President Clinton.

I am especially pleased to see some of my proposals contained in the final version of this bill. Included in the crime package will be an amendment

to provide funding for native Americans, an amendment creating a task force to help locate missing and exploited children, a resolution regarding the exemption of Federal law enforcement personnel from budget cuts, and an amendment creating a gang resistance education and training program. I would like to take this opportunity to enter my statements regarding all of the above into the RECORD.

#### FUNDING FOR NATIVE AMERICANS

Mr. President, I rise with my distinguished colleagues, Senators DASCHLE, REID, INOUE, and CAMPBELL, to speak on an amendment regarding funding for native Americans that was accepted last week.

As the Senate continues consideration of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993, we will hear numerous proposals, ideas, and solutions, from both sides of the aisle, aimed at fighting the rising tide of crime plaguing our Nation today.

Some of the most important provisions that will be offered would increase the number of police officers on our Nation's street corners and authorize funding for State and local law enforcement to support police, rural anticrime efforts, and drug treatment in the criminal justice system.

But I want to take this opportunity to turn the focus of these efforts in a different direction. While crime in our inner cities and other communities is a familiar sight to us all, not so visible is the plight of the equally crime-ridden Indian reservations.

The need for more law enforcement personnel and funding in Indian country is desperate and immediate. Due to the geographic size of many reservations, it is difficult, if not impossible, for tribal police officers to effectively combat crime.

For example, the Navajo Nation—land comparable in size to the State of West Virginia—has only 337 commissioned Navajo tribal police officers and 28 criminal investigators to cover the entire area.

For many tribes, the situation is even more dangerous. Three years ago, in my home State of Arizona, two of the smallest Indian tribes in my State faced a similar dilemma. Two reservations, located next to each other and spanning 1.1 million acres with a combined population of 2,200, shared one law enforcement agent. This agent worked around the clock, 24 hours a day, 7 days a week, until we could finally get the tribe a portion of money to hire a second officer.

Mr. President, this is appalling. Because of these shortages, tribal law enforcement agents have no choice but to put crime prevention on Indian land secondary to responding to everyday calls for service. And, preventive law enforcement on most Indian lands by the Bureau of Indian Affairs and tribal police officers is non-existent.

The incidents and types of crimes that occur in Indian country are not unique. Nor is having an insufficient number of law enforcement personnel. But what is unique are some of the obstacles that stand in the way of Indian tribes' easy access to Federal funds for law enforcement purposes. Our amendment that was accepted last week will begin to eliminate some of these obstacles.

For example, if an Indian tribe wished to submit a grant application to apply for funds under the "Cops on the Beat" provision of S. 1607, the application would need to be submitted through a State office. State review would be required even though Indian tribes are distinct sovereign governments and are not part of any State governmental system or subject to State authority.

Our amendment would allow for Indian tribes to apply directly to the Attorney General for funding.

A second obstacle that may prevent Indian tribes from receiving the funding they deserve is the inability of tribes to meet the matching requirements required by most Federal funding programs.

Practically all funding for law enforcement programs on Indian lands comes from congressional appropriations to the Department of the Interior. As a result, Indian tribes have little—if any—non-Federal sources of funds with which they can meet matching requirements.

Our amendment would provide Indian tribes with the same abilities to meet matching requirements as the District of Columbia now possesses. The District of Columbia can use funds appropriated by Congress for law enforcement purposes to provide the non-Federal share of the cost of certain programs or projects. Indian tribes should be accorded this same privilege.

Mr. President, the extraordinary need for more law enforcement personnel in Indian country is clear. I would like to commend President Zah, leader of the Navajo Nation, in his efforts to make Congress aware of the dire situation that exists in Indian country today. It is imperative that obstacles to funding be removed and that any application for funding from an Indian tribe for law enforcement purposes be given the utmost consideration.

Mr. President, I would also like to mention that I am a cosponsor of an amendment of my distinguished colleague and friend, Senator INOUE, chairman of the Indian Affairs Committee, which was also accepted last week.

Senator INOUE's amendment takes the provisions of our amendment and applies them across the board to ensure that native Americans benefit from these provisions to the highest degree. I am glad that Senator INOUE and I were able to work together to coordi-

nate our joint efforts for native Americans.

The adoption of these amendments will ensure that the Violent Crime Control and Law Enforcement Act of 1993 will be as effective a tool to Indian nations in combating crime as it will be in fighting crime nationwide, and I thank my colleagues for their support.

#### INTRODUCTION OF THE "MISSING AND EXPLOITED CHILDREN TASK FORCE ACT OF 1993"

Mr. President, on September 30, 1993, around 10:30 at night, 12-year-old Polly Klaas and two of her girlfriends had just settled down for a late night card game at a spur-of-the-moment Friday night slumber party. Not more than an hour later, Polly's mother was awakened by one of the girls who stood by her bedside, wide-eyed and terrified, and related a story of how a man, armed with a knife, had broken into the Petaluma, CA home, forced the girls to lie on the bed, covered their heads with pillowcases, tied their wrists behind their backs, and then fled the house with Polly. Only a month before, on the other side of the country in a small town in New York, another 12-year-old girl disappeared while biking the mile-long trip between her home and the church where her father is pastor. Police found Sara Anne Wood's pink-and-white mountain bike abandoned in a nearby ditch, along with some papers she had been carrying.

Polly Klaas and Sara Anne Wood are just two of the estimated 4,600 children abducted each year by nonfamily members. Neither of the girls was more than a mile away from their small-town homes when the abductions occurred, and, in both instances, the small communities from which they came mobilized immediately to assist local law enforcement in the investigations. Merchants from both areas immediately donated space and resources including phones, fax machines, copy machines, and supplies, while townspeople from all over took vacation time to donate endless hours stuffing envelopes, making phone calls, posting signs, and knocking on doors. In spite of these efforts, helpful leads in both cases have been few and far between, and resources and manpower are slowly diminishing.

Mr. President, the victimization of children in our Nation has reached epidemic and terrifying proportions. Recent Department of Justice figures show that in 1988, 4,600 children were abducted by nonfamily members, 450,700 ran away, and over 354,000 were abducted by family members. It is painfully clear that the time has come to increase and unite our efforts to solve and prevent such savage crimes against our children. I rise today to introduce a bill that will assist in the resolution of such crimes against our Nation's children and, ultimately, aid in the prevention of future and repeated crimes. The Missing and Exploited Children Task Force Act of 1993

would create a team of active Federal agents who would work with the National Center for Missing and Exploited Children [NCMEC] in assisting State and local law enforcement agents in their most difficult missing and exploited child cases.

The task force would be headed by a representative from the Federal Bureau of Investigation and would be comprised of two representatives from each of the following Federal agencies: The Federal Bureau of Investigation, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, the U.S. Customs Service, the Postal Inspection Service, the U.S. Marshals Service, and the Drug Enforcement Administration.

Each participating agency would nominate agents who possess some area of specialized expertise, including behavioral sciences, crimes against children, sex offenses, forensics, international investigative experience, and other areas that would be particular value to investigations of this nature. Each member would serve a 1-year term, with an option to extend for a year, and would be compensated by their respective agencies. Most importantly, task force members would retain full authority, be on active duty status, and retain access to appropriate data bases.

Precedent for the implementation of such a program—where Federal investigators and other law enforcement agents are assigned for a period of time to other agencies and offices in order to lend their support and expertise—has been established in other successful programs. One example is the Organized Crime Drug Enforcement Task Force [OCDETF] Program, established in 1983. The OCDETF Program consists of a nationwide structure of 13 regional task forces which utilize the combined resources and expertise of its member Federal agencies in cooperation with State and local investigators and prosecutors to target and destroy major narcotic trafficking and money laundering organizations. Since its implementation, the program has experienced immense success. Through their comprehensive and orchestrated attack on crime, the task forces have been successful in initiating 5,101 investigations, which resulted in 13,995 indictments and an 84.6 percent conviction rate.

Another program, Project Alert, which Senator ALFONSO D'AMATO, Treasury Secretary Nicholas Brady, Representative Matthew Rinaldo, and I helped develop in June 1992, enlists retired law enforcement officials from around the country to help police officers investigate some of their toughest missing children cases and bridge the gap between the NCMEC and police departments. Project Alert volunteers are certified through the NCMEC and have been extremely valuable in assisting active law officers in evaluating

leads, investigating long-standing, unsolved cases, promoting community awareness and prevention programs, and using the latest in scientific technology to help track the swelling ranks of missing children. Members of the Missing and Exploited Children Task Force would have similar responsibilities.

Task force members would use their expertise, data access, and official authority to work on cases chosen and updated by NCMEC as their most difficult cases. Members would also be available to go on location to assist local or State investigators, but only after a full prior consultation with the lead investigator on the case, local, State, or Federal in no instance would task force members attempt to take over an investigation, nor would they be allowed to agree to do so if faced with such an offer.

If such a task force had been in place at the times of the Klaas and Wood abductions, members would have been immediately assigned to begin assisting the NCMEC and local law enforcement agents in both Petaluma and in Litchfield, NY. Task force members—such as the FBI, the Secret Service, and the Drug Enforcement Administration—would have been able to use their extensive databanks to pool information on missing persons, disturbed people, and convicted criminals—information that may not be so readily available to State or local law enforcement personnel. Once leads were found, the authorities of the U.S. Marshals Service may come into play, and if the Postal Service is used in any manner, Postal Inspection Service agents would have immediate access to a myriad of resources.

It is this sort of collaborative effort that would make such a task force invaluable and indispensable in the fight against the victimization and exploitation of our Nation's children. While local and State law enforcement agencies are to be commended for their efforts in such cases, missing children investigations would benefit highly from a coordinated law enforcement effort. By supplementing our Nation's 17,000 police departments—a majority of which have 10 or fewer officers—with task force members and resources, we can unite our Nation's best in the fight against such reprehensible crimes and increase the chances of our Nation's missing children being returned to their homes and families.

#### GREAT PROGRAM

Mr. President, every law enforcement, education, and social agency in the Government is scrambling to find ways to address the ever-growing problem of violence among this country's young people. We all realize that there is no single answer or magic formula to cure this dilemma.

One solution that is working as a preventive measure is the Gang Resist-

ance Education and Training Program—known as the GREAT Program. I highly endorse and support this program as a way to educate schoolchildren encouraging them to repudiate the negative aspects of gangs.

In 1991, the Bureau of Alcohol, Tobacco and Firearms [ATF] and the local law enforcement officers in Phoenix, AZ, began a pilot program as an educational, school-based gang prevention effort. The GREAT Program is designed to help seventh-graders set goals for themselves, resist peer pressure, learn to resolve conflict without violence, and understand how gangs and youth violence impact the quality of their lives.

For the GREAT Program in fiscal year 1993, ATF entered into cooperative agreements with police departments in the Phoenix and Albuquerque metropolitan areas, as well as the State of Hawaii. Funding to educate the local police officers and support the agreements was provided by the Federal Government. In total, 99 police officers in those areas received training, and over 100,000 schoolchildren were exposed to the program.

Other police departments have started implementing the GREAT Program without funding. ATF has supported these efforts with training programs for a total of approximately 300 police officers from nonfunded cities.

The successes of the GREAT Program are not just measured in numbers. The Arizona State University recently completed its evaluation of the program. This evaluation produced several findings showing that methods used in the GREAT Program are highly effective in teaching children responsibility, and giving them the life alternatives and law enforcement role models needed to deter their participation in gang violence.

The successes of the GREAT Program lead me to recommend its expansion into a nationwide program to prevent gang violence. I recommend that the top 80 highest-crime metropolitan areas in this country be included in this program. I recommend that the Federal Government assist these cities through training of their police officers and through funding of their efforts. This is time and money well-spent for our children of today and the future of this country.

The amendment I am offering to this bill, along with my colleague from Missouri, Mr. BOND, would authorize no less than 50 additional GREAT projects to be funded around the country. This would bring to 58 the total number of GREAT instruction projects available in communities selected by the Director of ATF because of the high prevalence of gang activity. The amendment requires the Secretary of the Treasury to provide up to \$800,000 per project, subject to appropriations, to be allocated 50-50 between the Federal sponsoring agency and the State and local

law enforcement and prevention organizations. The amendment authorizes \$40 million a year and 225 full-time equivalent positions for this purpose.

This amendment also authorizes \$30 million and 300 full-time equivalent positions for the Bureau of Alcohol, Tobacco and Firearms for expanding investigations into juvenile and gang criminal violations involving firearms and for enhanced firearms tracing and compliance activities. Finally, the amendment authorizes \$6 million a year for the U.S. Secret Service for enhancing its investigations in counterfeiting, fraud, and other illegal activities.

I urge the adoption of this amendment.

SENSE-OF-THE-SENATE RESOLUTION ON  
FEDERAL LAW ENFORCEMENT PERSONNEL

Mr. President, we are losing control of our streets and our neighborhoods to gangs, drugs, and violent crime. Americans should not have to tolerate a level of violence 5 times that of Canada and 10 times that of England. Americans should not have to tolerate a murder rate, which—if unabated—will see 100,000 Americans murdered in the next 4 years.

I think it is encouraging that our political leaders are beginning to understand that the crime problem in this country needs to be addressed.

President Clinton has mandated a reduction in the Federal work force of 252,000 positions over the next 5 years. These actions dovetailed into the National Performance Review recommendations to reinvent Government. I applaud these initiatives as I believe the Federal Government has an obligation to make sacrifices, streamline its operations to make it easier for the public to deal with the Government, and reduce the Government's costs of doing business. However, what these initiatives fail to recognize is the burden they are placing on law enforcement and the criminal justice system as a whole.

These executive actions contradict the President's plan to put 100,000 more police officers on the beat and the authorizations we have included in this crime bill. I don't know how we can look the American public in the eye and say we are serious about reducing crime and drug trafficking in this country and then turn around and cut the very agencies who are charged with carrying out these responsibilities. It just doesn't make sense.

I see no way that we can dedicate \$22 billion to Federal grant programs, law enforcement, regional prisons, and boot camps, without making a conscious policy decision to exempt law enforcement from personnel cuts. There is no way that I know of to effectively implement antierime programs without people.

For this reason, I am proposing a sense of the Senate resolution which calls upon the President to exempt

Federal law enforcement personnel from executive actions mandating reductions in the Federal work force and I urge its adoption.

SENSE-OF-THE-SENATE RESOLUTION THAT ABLE-BODIED CONVICTED FELONS IN THE FEDERAL PRISON SYSTEM WORK

Mr. KENNEDY. Mr. President, the managers' package of amendments includes a sense-of-the-Senate resolution offered by Senator BROWN to express the Senate's concern that all able-bodied prisoners in the Federal prison system should work. I commend my colleague for addressing the problems of prison overcrowding and idleness by encouraging the work programs of the Federal Prison Industries and other systems. But the resolution does not take into proper account the concerns of business and labor. We must accomplish these goals in ways that do not mean that private sector businesses will lose their contracts and free working men and women will lose their jobs.

The national unemployment rate is 6.9 percent. The expansion of prison labor should not contribute to that unemployment. The Federal Prison Industries must address the real concerns involved in any program expansion. That means intensive consultation with the Departments of Labor and Commerce, and with the Small Business Administration. It means serious and careful consideration of the interests of private business and free labor, so that expansion of the Federal Prison Industry Program will not cause the unemployment in the private sector. Without careful oversight of the activities of prison industries, prison workers will replace free workers.

Last month, a small furniture manufacturer testified before the Senate Labor and Human Resources Committee. He said that in November 1992, he had submitted a bid, along with 22 other furniture manufacturers, to provide dormitory furniture to Michigan State University for 1,600 rooms. He made the low bid—of the private sector companies. But he was underbid by Michigan State prison industries by 20 percent. As a result, the employer laid off more than half of his 65 employees.

Several years ago, the Federal Prison Industries sought to produce leather footwear for the Army at wages of approximately \$1 per hour. It claimed that since footwear was no longer a significant domestic industry, the prison industry would not be competing with the private sector. We all know that a reduced but viable domestic leather footwear industry continues to exist. A coalition of business and labor unions worked together to stop this effort, and it was stopped. But as this case and other cases indicate, Federal Prison Industries sometimes overreaches in its efforts to secure work for prison inmates, and enters into unfair competition with the private sector.

The recent 1993 summit on Federal industries addressed some of these is-

—but its findings and recommendations were frequently disputed by a number of participants. No consensus was reached, so substantial additional work on this issue is needed.

Any report produced as a result of this provision on the expansion of Federal prison work must address the current marketing practices of Federal Prison Industries and ensure that any expansion of the programs is carefully assessed. I look forward to working with my colleagues to achieve a fair resolution of these complex issues.

Mr. THURMOND. Mr. President, I rise today in support of final passage of the Violent Crime Control and Law Enforcement Act of 1993. Working with our colleagues on the other side of the aisle in a bipartisan spirit, we have produced an antierime bill worthy of the American people.

Central to this proposal is extensive funding for putting additional police officers on the streets to protect the law-abiding citizens from the violent criminal. Also, we have authorized \$6 billion for construction of regional prisons and for the maintenance and operation of State prisons.

The Senate has moved decisively to hold the violent offender accountable for his actions. This legislation provides mandatory minimum sentences for drug felons and violent criminals who use firearms and mandatory minimum sentences for selling drugs to minors. Additionally, we provide life imprisonment for three time violent offenders and drug traffickers.

Our distinguished Senate Republican leader, Senator DOLE, offered an amendment which I cosponsored to extend Federal law to gang violence. This amendment, which was adopted, authorizes additional funding for prosecution of cases involving criminal street gangs. This provision also makes it a Federal crime to recruit juveniles into a gang.

Mr. President, there are many provisions in this bill which I believe will provide valuable assistance to law enforcement in their efforts to keep our communities and neighborhoods safe from violent crime.

While I do not agree with every item contained in this legislation, overall it is a significant step to address the growing crisis of violence across this Nation. We have worked together and this proposal contains many provisions to reduce crime, including enforceable death penalties, drug treatment and prevention programs, grants to public schools for safety measures, rural crime task forces and prohibition on transferring firearms to juveniles.

Mr. President, there is no room for retreat in our fight against the violent predators who prey on the law-abiding citizens. This legislation will provide law enforcement additional resources to allow them to do their job and I support its adoption.

Mr. HATFIELD. Mr. President, few things are more certain than the need for this Nation to come to grips with the violent crime problem that is suffocating our citizenry. The crime bill before us today contains many worthy provisions which resulted from the hard work of the chairman, ranking member, and other members of the Judiciary Committee. I support the Violence Against Women Act now included in this bill, which enhances penalties and authorizes resources to improve the safety of women. I am also pleased that the Senate agreed to include the Domestic Violence Community Initiative Act of 1993 which I introduced last month. This act attempts to disrupt the cycles of abuse in the home by creating a coordinated community-based response to domestic violence. And, I am gratified that this bill includes a program called Safe Return designed to assist local law enforcement authorities in locating victims of Alzheimer's disease who have wandered from home.

But, I must emphasize that I have serious concerns about the course the Senate is choosing to take with this bill. In my view it relies too heavily on shallow symbols like the death penalty which only serve to further pummel the battered fabric of our decreasingly civilized society while focusing the debate away from the real issues at stake.

As the bill managers noted last week, the Federal Government can only aim to influence a small portion of the crime in America. Many penalties in this bill would apply only to the 1 percent of crimes which fall into Federal jurisdiction. In this way, many proposals in this bill are mostly symbolic. This dangerous trend focuses the debate away from the real problems facing neighborhoods all across this country.

Using symbols to fight crime can be dangerous in another way. Researchers have documented over 400 cases of people wrongly convicted of capital offenses in the United States, with 23 of these actually executed. Such a gruesomely barbaric proposition is so abhorrent to us that we do not like to admit that it is even possible. Yet, it is possible. It is utterly reprehensible. And, worst of all, this mistake cannot be corrected.

This bill takes an extremely misguided step by creating almost 50 additional capital offenses. Many times have I noted the immorality I find in the notion of a government that kills for revenge. But, in very practical terms: there is no logical reason for the death penalty. State-sponsored executions have never been shown to have a deterrent effect, and they cost us more money to administer than life in prison without parole. Why do we keep pretending that the emperor is wearing clothes here? To continue this charade of State-sponsored killing when most

industrialized nations in the world recognize the futile brutality of it is a true travesty of justice. It is plain wrong.

Earlier, I expressed my concern about creating a crime trust fund that has no outside source of funding, puts programs on automatic pilot, and endangers other priorities of domestic spending. Of course all of us support wise expenditures for criminal justice programs. But, new funds for police, just as new death penalties, will do little by themselves to fight crime in this country of 250 million people because by the time these tools are applied it is already too late. As Camus wrote:

Society proceeds sovereignly to eliminate the evil ones from her midst as if she were virtue itself. Like an honorable man killing his wayward son and remarking: "Really, I didn't know what to do with him."

Once again, we are focusing on the wrong end of the problem. By the time a child is old enough to wield a gun and shoot someone over a vial of crack or over a pair of basketball shoes, we have already lost them. The death penalty will not outweigh their concern about the bullets of a rival gang member. They are not going to stop and think about the death penalty any more than they stop and think about spending their prime of life going nowhere in a crowded Federal prison like the one I visited last week in Sheridan, OR.

If we are going to face the realities of neighborhood crime, we are going to have to quit clinging to symbolic gestures and admit the frightening truth that there is only so much the Government can do with penalties and prisons. More importantly, the Federal Government may not possess the tools needed to address the real cause of crime in society: namely, the erosion of our moral fiber. Large sums of money and penalties affecting small numbers of offenders will not halt the deterioration of a society that not only tolerates but embraces violence in all of its forms.

We may need more police on the streets at this time. But, how did we get here? We haven't been taking them off the streets in most places. We just have more criminals. That face should not surprise us because we are breeding criminals—criminals that start as lookouts or couriers at age 8, criminals without families, criminals without an education, criminals without moral foundation, and criminals without remorse—but, criminals with Uzis, with expensive cars, and with cellular phones and pagers for instant accessibility at anytime.

Of course we should focus on supporting strong law and order; we should firmly prosecute wrongdoers and help build the necessary prison space to hold them. But, we can not take on those daunting tasks at the expense of trying to stop the cycle of despair. The only way to cut away at this mon-

strous vine is to attack it at its roots. We can keep building jails, and we will keep filling them up. We can shrug our shoulders and call it a deterrence or detention or incarceration problem. And, we could keep throwing billions at this problem for the rest of our lives. But, where would that leave us? Perhaps with more people wasting away in prisons. But, it would not leave us with more people who have a family structure, a decent public education, a well-paying job, and a moral direction to their life.

I live right across the street from the Nation's Capitol Building. But, I know I cannot safely take a stroll at night in my neighborhood. I know that people are mugged and raped and killed within blocks of this Chamber. These are not isolated incidents; these are regular events. We hear the sirens every night.

As Americans, we zealously protect our rights and freedoms. But, I begin to wonder what type of freedom we want in this country. Freedom to bombard our children with violent television images? Freedom to idolize movie stars who die of drug overdoses of rap singers who degrade women and glorify cop killing? This does not stir me with patriotism. And, freedom to peer through the bar covered windows of our self-imposed prisons in urban neighborhoods offers little solace.

The responsibility belongs to each of us, individually, to stand up for the values that have been the bedrock of this Nation and have seen it through all of its crises for over two centuries. We can no longer tolerate dehumanization in our communities. We have a tradition of rising to all challenges. And, confronting the crisis of spirit which underlies the horrible violence in our society may be our biggest challenge yet.

Mr. CHAFEE. Mr. President, when the Senate began consideration of the crime bill, I announced my intention to offer an amendment to ban the possession of firearms by persons who are subject to certain restraining orders. I am pleased that my amendment was accepted, and is part of the crime bill package that the Senate will approve today.

Under current Federal law, certain persons are banned from possessing a firearm. These "prohibited persons" include convicted felons; drug addicts; illegal aliens; those who have been found mentally incompetent; those who have been dishonorably discharged from the Armed Forces; and those who have renounced their U.S. citizenship.

My amendment adds to this category those individuals who are subject to a court restraining order for harassing, stalking, threatening, or engaging in other such conduct; and whom the court has deemed a credible threat to another person's safety.

There have been far, far too many dreadful cases in which innocent people—and usually they are women—have

been wounded or killed by a former boyfriend or girlfriend, partner, or other intimate using a gun—despite the fact that the attacker was subject to a restraining order.

All of us were shocked and saddened by the terrible death of young Kristin Lardner, who was shot in Boston last year by an ex-boyfriend against whom a permanent restraining order had been issued 2 weeks earlier. Ms. Lardner, just 21 years old, had received the restraining order against Michael Cartier on May 19, and a friend said "she felt very relieved that she had [it]." Another friend said she was "the most optimistic and happiest she'd been in months." But in the late afternoon of May 30, as she returned to her workplace to meet a friend, she was shot from behind by Cartier, and died instantly. This bright, intelligent young woman—killed by a man who had been stalking her for weeks, and who had been found to be a danger to her by a court. Apparently he had bought the murder weapon—a Colt .38—for \$750 about 2 weeks before the murder.

As horrible and dreadful as Ms. Lardner's death is, even more appalling is the fact that Ms. Lardner's case is not unique. Just 3 weeks ago, on October 19, 25-year-old Kimberly Globis of Chicago was shot and killed by her former boyfriend, against whom a restraining order was pending. Ms. Globis applied for and received a court order of protection against him in August, after he entered her apartment with a knife and after she filed two battery complaints against him. She was due in court the day after she was shot to seek an extension of the order.

In my State of Rhode Island, all of us were horrified by the shooting death of 30-year-old Marie Willis, of Middletown, earlier this year. Mrs. Willis was living in South Carolina with her husband, an enlisted man at Myrtle Beach Air Force Base. She left him and returned to Rhode Island with her 6-year-old son after her husband repeatedly abused her—abuse that included twice choking her in front of her son, and burning her legs with a propane torch. At the urging of the Bristol police, Mrs. Willis obtained a restraining order against her husband.

On January 3, Marie Willis flew to Myrtle Beach to testify at a military evidentiary hearing for a possible court-martial of her husband. At 8:15 a.m. on January 4, Senior Airman Willis walked into the hearing with a 9-millimeter pistol and opened fire. Mrs. Willis was hit twice in the head and once in the chest; she was pronounced dead at the hospital at 11:30 a.m.

Bristol police described this as "a tragedy that never should have happened." At the funeral, Marie Willis' family said "words cannot express or describe the amount of grief we feel for the loss of our only daughter and sister, Mary Ann Raffa Willis." What a

terrible loss for her family and her young son.

The deaths of these women are tragedies. And it is particularly tragic that in each of these situations, the woman knew that she was in danger of physical attack and had sought legal protection in the form of a restraining order. Yet they remained vulnerable.

I might note that it is not easy for women to receive a restraining order. Many women file for a restraining order as a last resort, when there seems to be no other way to ensure their safety. In part this may be a result of the distinctive nature of these disputes: these emotionally charged situations often involve two people who were intimately related and whose relationship has ended or is in the process of ending. Or they may involve an individual obsessed with another person, be they a friend, an acquaintance or a stranger.

Moreover, the very nature of the conduct—following, harassing, threatening—does not automatically result in a restraining order. This is because an action that is quite alarming still may not be illegal; in fact, it may be constitutionally protected action. That means that women must suffer distressing or even frightening treatment that cannot be legally prevented until it crosses the line into harmful conduct. Even after a court restraining order is issued, this may still be the case: the courts and law enforcement agencies often cannot act until the harasser violates the restraining order by attacking the woman—and then, especially when a gun is involved, it may be too late. What a terrible catch-22.

It is that situation—where there is a restraining order in force against someone who poses a clear threat—that my amendment is intended to address. Restraining orders are issued for the express reason that a woman sincerely believes—and a court agrees—that she is in imminent danger of being harmed, attacked or killed. It therefore is nothing short of insanity for Federal law to allow such dangerous persons to possess a gun. And it has led to the senseless and horrible deaths of many, many young women in this country.

My amendment is simple and straightforward. It would ensure that a person whom the court says is a threat may not have a gun during the time that he or she is subject to the restraining order.

For those who may argue that a harasser will simply use another weapon, I would say first of all that that is a ludicrous rationale for arguing in favor of allowing the potential attacker to have a gun.

Second, consider this: Guns are just about the most lethal and efficient weapon around. In fact, studies of weapons involvement and injury outcomes in family or other intimate assaults show that chances of being

killed if a gun is involved are 12 times greater than if another weapon is involved.

Moreover, a gun can be fired from far away, with some anonymity, and without much visual warning. A knife or other weapon requires that the attacker actually approach the victim, which may mean the intended victim has a chance to recognize the attacker and react.

There simply is no rational reason whatsoever to allow persons who have been deemed a clear and present danger to another person, usually a woman, to have a gun. None at all. Hence my amendment.

My amendment by itself cannot solve the problem of stalking or harassment, nor provide an absolute guarantee of a woman's safety. But it will remove weapons that are extremely lethal from the reach of these dangerous persons, and give law enforcement one more tool to combat this terrible problem. And it will give women some assurances that the law will provide some definite protection—and that the law takes their safety and well-being seriously.

I thank the managers of the bill for their support of this amendment.

Mr. DURENBERGER. Mr. President, I have watched a number of my colleagues come to the Senate floor over the past several days to decry the problem of crime in America. I share their frustration. I do not believe there is a household in America that has not been touched in some way by the consequence of violent behavior and by crime.

It's not new. It has grown substantially in one generation. We're aware of it as brothers, sisters, parents, partners, neighbors, news definers, and representatives.

We want desperately to tell the American people that the U.S. Congress is doing something about crime. So the Senate is considering a piece of legislation called the crime bill. But I am afraid we are trying to sell our constituents a political placebo, not a cure for crime.

We see senseless acts of violence. The temptation is to react with anger. We have to get tougher on crime, it is said. Build more prisons. Toughen sentences. Federalize crimes. Have more death penalties. Or maybe it would be enough just to put more police on the streets.

My quarrel with this whole line of reasoning is that it fails to address the problem at its most basic level. To use an analogy from health care, it's like saying we could cure disease if only we had enough hospital beds.

And make no mistake—crime as a disease of the social organism is not that different from a disease of the human body.

In an even more literal sense, violence in America is a public health crisis—just as certainly as the AIDS epidemic. The second leading cause of

death among American young people is homicide. For young black males, it is the leading cause of death.

We will not be able to deal with crime and violence effectively until we consider strategies to prevent crime in terms of America's public health.

I have a deep conviction that matters of public health are dealt with most effectively at the local level—in States, cities, and communities—where the people closest to the problem are able to tailor the solutions.

This conviction comes from serving and observing the people of my home State. Minnesota has a long tradition of finding innovative solutions to problems. The area of criminal justice and crime prevention is no exception.

First, there is a recognition in my State that an investment in crime prevention strategies is more effective than incarceration as a crime-fighting tool. In a 1991 poll of Minnesota residents, 80 percent responded that education, job training, and community programs were the best investments to reduce crime. Sixteen percent chose prisons.

Among industrialized nations, the United States ranks first in the rate of incarceration—and first in the percentage of children living below the poverty line. Can this be a coincidence?

Is it a coincidence that participants in preschool programs like Head Start are 40 percent less likely to be arrested as teenagers?

Or that participants in the Job Corps are one-third less likely to be arrested in the year following their Job Corps experience?

Minnesota has discovered that a wise investment in children, youth and family yields higher returns than spending on prison beds. Minnesota ranks high in graduation rates and high in overall child well-being—but low in violent crime. In fact, of the States with a major metropolitan area—and 60 percent of Minnesotans live in the Minneapolis/St. Paul metropolitan area—only Wisconsin ranks lower in the rate of violent crime. At the same time, States which have responded to crime by investing most heavily in prisons are the States with the greatest increase in violent crime over the past 12 years.

The creativity of Minnesotans on this issue is far from exhausted. There is a growing movement in Minnesota toward a concept called Restorative Justice.

Restorative Justice is a framework for looking at the criminal justice system in a different way. It focuses on injuries to the victim and the community as well as punishment of the offender. In my view, all three should be included in the response to crime.

The outcome of a criminal case, therefore, is measured not solely by how much punishment was inflicted, but by how much reparation has been

made to the victim and the community. In order to restore wholeness, the offender must accept responsibility for the harm and must take action to repair it.

The community must support the process of healing for the victim, and enable the offender to repair the harm. And the role of government is to ensure community safety and protect individual rights during the process of restoration.

In this model, the importance of the victim is elevated. Restoration of the victim—and the offender's acceptance of responsibility—are higher priorities than punishment of the offender. Restorative justice involves the entire community in holding the offender accountable, in acknowledging community responsibility for the social conditions which affect the offender's behavior, and in starting the healing process.

The Minnesota Citizens' Council on Crime and Justice has been a leader in advocating principles of restorative justice. As a result, our criminal justice system has become a model for States across America. Our State prison system has been reserved for violent offenders who are a danger to the community. Nonviolent offenders are eligible for intermediate sanctions that are less costly, more effective at reducing recidivism, and more beneficial to the victim and community.

Promoting innovative State and local solutions like those that are working in Minnesota by adapting them to every community via categorical programs is not the best Federal role in reducing the problem of crime. National mandatory sentencing rules don't work any better to cure or deter locally experienced criminal activity. But there are important national strategies that could help in more effective ways. The bill does contain some provisions that work thoughtfully to that end.

I am especially pleased that the bill contains that Jacob Wetterling Crimes Against Children Act, a piece of legislation that I first introduced in 1991. I believe the Wetterling bill will help communities break the vicious cycle of child sexual victimization, by requiring people who are convicted of sex offenses against children—and these offenders are a group especially prone to recidivism—to register with law enforcement agencies every time they change address, for a period of 10 years after their release.

I am also grateful for the adoption of an amendment I proposed to prevent children from becoming the indirect victims of their parent's crime. This amendment is based on a bill I introduced earlier this year—the Family Unity Demonstration Project Act—which would authorize demonstration projects that would allow nonviolent incarcerated mothers to serve their sentences in supervised community programs with their children.

These programs will provide the children with pediatric care and an environment supervised by child development specialists. The offending parent will participate in parenting classes, substance abuse treatment, support groups and individual counseling, as well as educational and vocational training.

This amendment is a serious solution to a serious problem. Children who are separated from incarcerated parents have a high risk of developing social and emotional problems, of dropping out of school—and of becoming criminals themselves. These demonstration projects will minimize the trauma to children—and place them in a stable, caring, healthy environment.

In addition to being a more cost-effective alternative to incarceration, these supervised programs produce results. According to testimony presented to the Judiciary Committee, the participants are much less likely to repeat their crimes and more likely to emerge from the program as better parents and productive members of society.

Make no mistake about it, the bottom line on crime prevention is predictable consequences. And let me be absolutely clear on this point. People should be required to pay for their crimes. Communities have to protect themselves from threats to their safety.

That's why I believe in a strong and well-trained law enforcement community. But I also believe that the general tone of the debate on this bill has cheated the American people out of equally real and equally important solutions to crime.

Mr. President, I ask unanimous consent that a Washington Post article from this morning be printed in the RECORD at the conclusion of my remarks, describing Supreme Court Justice Harry A. Blackmun's recent reevaluation of whether the death penalty can actually be constitutionally imposed.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. DURENBERGER. Nowhere has the tone of the debate on this bill gotten more carried away than on the whole question of the death penalty. There is no evidence that the death penalty is a deterrent to crime—yet this bill began by expanding the Federal death penalty to nearly 50 offenses and the list kept growing.

Similarly, there is no evidence that increasing the rate of incarceration decreases violent crime. In fact, an unbiased look at our current system of incarceration would indicate that prisons accomplish little more than teach less experienced criminals to become more proficient criminals.

On this bill, we have been out to prove that we are tough on crime. Any

amendment that sounds tough on crime has been likely to pass—by a wide margin, and without any thoughtful debate. It somehow makes us feel better, but it is a terrible way to legislate.

I am particularly disturbed by the way we frantically moved to federalize crimes on this bill. My good friend Judge Paul Magnuson, a distinguished Federal judge, pointed out to me that he has tried 33 jury trials so far this year, and only two of them were civil cases. And he believes his caseload is an exception because many judges have probably handled no civil cases.

The point is, of course, that as we load up the Federal courts with more and more criminal matters, we are approaching the point where we do not have a civil judiciary in this country.

We have hundreds of State court judges in Minnesota and only five Federal judges. Shouldn't we be leaving a few crimes for our State judiciary system to handle?

And let me point out another portion of this bill that I believe was ill conceived. One night during debate on a crime bill authorizing \$12 billion in Federal expenditures, we created a \$22 billion trust fund for crime that will require corresponding cuts in our discretionary spending caps over the next 5 years.

I applaud that we are trying to find ways to pay for our legislation. But I cannot endorse this course as responsible or effective.

The trust fund is supposed to be financed by implementing a provision of the administration's "reinventing government" proposal that imposes caps on the Federal work force. Unfortunately, CBO has estimated that "reinventing government" scheme will save much less money than the administration had estimated. OMB had claimed that the entire proposal would save \$9.1 billion over 5 years, but the CBO estimates that only \$305 million will be saved.

It wasn't wise to adopt this kind of funding mechanism, late at night, without the benefit of any hearings. It is clearly possible that we will be diverting dollars into the trust fund that might be more effectively spent in discretionary programs like Headstart and job training that do a better job at preventing crime. Over the next 5 years, those proven programs will have to compete for a smaller pot of money because we fell all over ourselves one night to show our commitment to the problem of crime.

To conclude, then, Mr. President, it looks to me like this bill is coming up with a lot of wrong answers. And it has been my experience over nearly six decades that when you consistently get wrong answers, it's a sign that you are probably asking the wrong questions.

In this case, we are looking to Members of Congress to do things that the

average American citizen can do much better than a politician: Love and support our children. Look out for our neighbors, and care about what happens to their kids. Take an interest in our community.

Congress can provide some leadership and resources, but we can't legislate that sense of community.

So what are we left with? Every year, the crime bill becomes a competition to see who can talk the toughest on crime. But often, the most courageous voices are not the ones appealing to our lust for vengeance.

Rather, the voice of courage is the one that finds the answer not in a Federal crime bill—but in ourselves. Our communities. Our families. And our own creativity.

Our best hope—and the proper focus of our efforts in Washington—lies in enabling communities to develop creative strategies to present and respond to crime. The death penalty—to take the most egregious example—is not a creative strategy. It is not even an effective strategy. In fact, it would not be an exaggeration to call it a demagogic strategy.

To illustrate the environment of the debate on this bill, a colleague suggested jokingly that he had an amendment to require severing hands from thieves.

I will vote against this bill because it is a wrong-headed approach. Let us find the courage to look for what works. Not what works in focus groups, not what works in poll numbers—but in plain facts and in the truth that is written in our hearts. Until we find the courage to do this, I think the prudent course would be to rely on the communities across this country that are taking the lead.

Perhaps—if those in Minnesota and elsewhere continue to lead—someday the men and women of this Chamber will follow.

#### EXHIBIT 1

[From the Washington Post, Nov. 19, 1993]

#### BLACKMUN REEVALUATING HIS DEATH PENALTY STAND

Supreme Court Justice Harry A. Blackmun is reevaluating his views on capital punishment and is no longer "certain at all that the death penalty can be constitutionally imposed," he told ABC's "Nightline" last night.

Blackmun's reconsideration of the death penalty would not produce a change in the law; the majority of justices, including Blackmun, has since 1976 voted to uphold it with no sign of reversal. But it is unusual for justices to voice their views about issues in public interviews.

"I'm not sure the death penalty as administered is fairly administered," Blackmun said. "I think it comes close to violating the Equal Protection Clause of the Constitution. . . . I haven't taken that position yet, but I'm getting close to it," he said, according to a transcript of the interview that was taped in advance.

Blackmun, 85, said he is particularly concerned about studies suggesting that blacks

disproportionately suffer from application of the death penalty. There are "disturbing statistics that come in when one considers race. . . . And, of course, some people can rationalize that to their satisfaction. But there it stands, and I'm bothered by it. I don't like death penalty cases," he said.

"I cringe every time we get them, and in some states particularly Texas, they're moving along so that in some weeks we have more than one."

Asked if he thought innocent people were executed, Blackmun responded: "Yes." Asked how he could live with that belief, he said: "Well, you stay awake, there's no doubt about it, but there's just not much you can do except make a noise about it probably."

"On the other hand, I can understand and sympathize completely with the victims, if they have survived, or with the victim's family and the anguish that they have gone through. And I can understand why our legislator at the state level and the Congress on occasion have imposed the death penalty."

Over the past two decades, only Justice William J. Brennan Jr., now retired, and the late Justice Thurgood Marshall have voted to strike down capital punishment as a violation of the Eighth Amendment's ban on cruel and unusual punishment.

Blackmun said he never agreed with Marshall and Brennan, because the Fifth Amendment specifically makes reference to capital crimes, thus in his view giving sanction in the Bill of Rights to the death penalty. "But it always bothers me," he said. "These cases are wretched."

Mr. KENNEDY. Mr. President, I intend to vote for final passage of this measure, because it contains major steps forward in the fight against crime: a ban on semiautomatic assault weapons, new Federal support for community policing, the creation of a far-reaching Police Corps, efforts to deal more effectively with domestic violence and violence against women, and a welcome emphasis on drug treatment for nonviolent criminals.

I am also pleased that the bill now includes a reauthorization of the Community Development Corporation program. Economic development is the first line of defense against crime.

On the other hand, there are aspects of the bill that deeply trouble me. It would effectively override States' laws by extending the Federal death penalty to homicides in all 50 States. It would create new mandatory minimum sentencing laws, and limit due process in deportation cases. These are tough sounding policies, but they will do nothing to prevent crime and make our streets safer.

We will have an opportunity in conference to address the ill-advised aspects of this bill, while strengthening the provisions that will really promote public safety. I intend to do all I can to see that this outcome is achieved.

Our current anticrime strategy is characterized by the same excessive emphasis on incarceration that marred the war on crime in the 1980's and that clearly has not worked. During the last decade, the Nation's prison population more than doubled. The total number of Americans in jails and prisons now

exceeds 1 million, and the United States has surpassed South Africa and the former Soviet Union in the rate at which we incarcerate our citizens.

It is not the case that our prisons are bulging at the seams with violent criminals. In 1991, the National Council on Crime and Delinquency found that less than 20 percent of the State prison inmates had been convicted of violent crimes. Fifty-three percent were sent to prison for minor theft or drug crimes. At the same time, studies show that over 70 percent of defendants in some jurisdictions test positive for drugs after their arrest.

So we have unwittingly adopted a national policy of packing prisons to the rafters with nonviolent drug addicts, many of whom had no access to drug treatment in the community. This policy is not only expensive and ineffective—it actually jeopardizes public safety. To make room for the surge of nonviolent prisoners, some States have cut sentences served by murderers, rapists and robbers by as much as 40 percent. As a result, the rate of violent crime continues to rise, especially among juveniles.

Lengthy incarceration should continue to be the sanction for violent career criminals. But for many other offenders, there are less expensive, more constructive approaches. Prisons are a scarce and costly resource. While it may be necessary to devote a portion of the \$22 billion trust fund to prison construction, we cannot spend our way out of a crime wave with bricks and mortar. Prison cells must be used in a way that reflects a rational set of priorities in an effective battle against crime.

If we really want to be tough on crime, we will do what it takes to prevent crimes before they occur, instead of just ratcheting up punishment for the few criminals who are caught. That means getting guns off the street, putting more police on the street, and getting drug addicts into treatment. Those three goals will do more to protect public safety than all the death penalty laws we can possibly pass.

The crime bill before us today makes progress on all three fronts. First, it contains serious restrictions on the manufacture, sale, transfer and possession of assault weapons.

The causes of crime are complex, but there is no doubt that the easy availability of firearms contributes to the mounting toll of death and injury. And no weapons bear more responsibility for the continuing carnage than military-style assault weapons.

These weapons have no legitimate sporting purpose. They are instruments specifically designed to kill other human beings with speed and efficiency. They have their place in the Armed Forces and on the battlefield, but they have no place in schoolyards, on the streets of our cities, or in our

towns, and neighborhoods. The assault weapons ban is a genuine breakthrough in the war on crime, and it should have been enacted long ago.

Community policing is another major crime fighting tool. It was pioneered by Lee Brown, who is now serving as Director of National Drug Control Policy. This innovative strategy has led to measurable declines in crime rates in Houston, New York and other cities in which it has been used. Boston's new police commissioner, William Bratton, has brought community policing to his department, and the early results are encouraging.

Community policing means more than just more police. It means officers walking the beat and having a stake in the neighborhoods they patrol. It means asking the police to recognize the early warning signs of crime, and encouraging them to take steps before a crime is committed, before an arrest is necessary.

This bill contains \$8.9 billion for community policing over the next 5 years, and it will be money well spent on crime prevention.

One of the most important features of the community policing initiative is the creation of the police corps. Under this program, which is modeled after successful public service scholarship programs like the National Health Service Corps, participants will receive Federal aid to attend college, in exchange for a pledge to spend 4 years as a police officer after graduation. The plan will expand educational opportunities for disadvantaged youth and add thousands of well-qualified, well-trained young men and women to the ranks of overburdened local police.

The third worthwhile initiative in this bill is the new emphasis on reducing violence against women. The act offers a comprehensive approach including new Federal offenses, a new civil cause of action for victims and increased funding for prevention and victims' services. I am pleased that the bill includes funding for a national, toll-free domestic violence hotline, an idea that started in Massachusetts.

The fourth major crime prevention initiative in the pending bill is a requirement that Federal prisoners receive drug treatment if they need it, and support for State programs in this area.

As chairman of the Senate Labor and Human Resources Committee, which has jurisdiction over the Federal effort to support and improve drug treatment, I have heard firsthand from the foremost treatment professionals in the country. The evidence is clear: treatment works.

Like many medical interventions, drug treatment is not a panacea and does not have a 100-percent success rate. But treatment is especially useful in the criminal justice system. Two-thirds of drug addicts who complete a

therapeutic community program in prison remain drug-free and arrest-free for at least 3 years. But if addicts get out of prison without undergoing treatment, two out of every three will commit new crimes and be back in prison within 3 years.

It is disappointing that this bill does not pledge more Federal support for community-based drug treatment, so that we can treat more addicts before they are ever arrested. It will be a strange irony if the only way an addict can get off a waiting list and into treatment is by committing a crime. This is one of the flaws in the bill that must be addressed in conference.

There are other problems in the bill. The Senate's bold actions to prevent crime through gun control, community policing, the police corps, and drug treatment have not been matched by a willingness to face reality in other areas.

I oppose the wholesale expansion of the death penalty contained in this bill. It is wrong for the Federal Government to impose this penalty, let alone do so in a way that tramples federalism by imposing it on States like Massachusetts that have refused to enact it.

The Nation's history is replete with instances in which innocent persons have been put to death because of mistaken or perjured testimony. The death penalty also carries a shameful legacy of racial discrimination that this bill does not address.

And there is no convincing evidence that the death penalty deters crime. In general, States that authorize capital punishment have higher murder rates than those that do not. If anything, Government sanctioned killing actually fosters the culture of violence that plagues our society.

Another unwise and unfortunate feature of the legislation is its expansion of mandatory minimum sentencing. The Senate is simply ignoring the growing outcry against mandatory sentencing from judges, prosecutors, including the Attorney General, and defense lawyers. These laws do not mandate punishment at all—they just shift the key decision from judges to prosecutors, who determine what offenses will be charged and what plea bargain will be accepted.

These cases are clogging our courts and prisons with small-time, non-violent defendants serving 10- or 20-year sentences. Meanwhile, many dangerous, career criminals serve less time.

There is a better way, and in fact Congress found it 10 years ago. In the Sentencing Reform Act of 1984, we abolished parole, established the U.S. Sentencing Commission, and created a strict guideline system for Federal sentencing.

The guidelines provide an appropriate degree of uniformity and toughness. They also give judges the tools

they need to avoid injustice and disparity, subject to appellate review.

Now that we have an effective guideline system, mandatory sentencing laws are unnecessary and counterproductive.

Our head-in-the-sand unwillingness to abandon these self-defeating laws—and our foolish expansion of them in each new crime bill—are making judges ask whether the memory of Congress is so short that we have forgotten the system we created in 1984.

At a recent conference, Chief Justice Rehnquist pointed out that mandatory minimum sentences “frustrate the careful calibration of sentences, from one end of the spectrum to the other, that the guidelines were intended to accomplish.” And no one thinks Chief Justice Rehnquist is soft on crime.

Several weeks ago, Senators SIMON, THURMOND, SIMPSON, LEAHY, and I introduced a bill to create a so-called safety valve exemption from mandatory sentencing for low-level drug offenders. Even this minimal improvement has not survived consideration of the bill in a meaningful form. This is another matter we must address in conference.

The bill is also a radical departure from traditional allocations of responsibility for enforcing criminal laws. By creating Federal jurisdiction over every crime committed with a gun, this bill abandons basic principles of federalism. It requires States to substantially revise their criminal laws and enact mandatory sentencing laws as a condition of Federal aid.

These presumptuous and unjustifiable assertions of Federal power are as unwise as they are unworkable. The Federal Government's power to print money does not give it the expertise or the legitimacy to rewrite the criminal codes of the 50 States.

There are many other objectionable provisions in this bill. I voted against, and I continue to oppose, the provision to try 13-year-old children as adults in Federal courts.

I oppose the immigration provisions of the bill that establish secret administrative tribunals to deport aliens suspected of terrorist offenses. And while I strongly support the Violence Against Women Act included in the bill, I regret that it was amended in a closed door agreement to provide criminal penalties for transmission of the AIDS virus, and to expand AIDS testing based on irrational fears.

We all agree that inaction is unacceptable in the face of the epidemic of violent crime plaguing the country, and so this bill must move forward. The worthwhile proposals in this bill should be strengthened in conference, and the bad provisions dropped. I look forward to the conference, and to enacting a bill that will make the Federal Government a constructive partner with States and local governments

in a war we have to win—the war on crime and violence in our society.

Mr. LEVIN. Mr. President, it does not take someone on Capitol Hill to explain to people throughout the country what crime is and the effect it is having on the daily lives of millions of Americans. They know it can make their elderly parents prisoners in their own homes, make their young children victims in their own schools, and make themselves casualties in their own neighborhoods. They know that crime is all too likely to be something that happens not only to someone else, but also that can happen to themselves and their loved ones.

The bill we are passing today is not a cure-all. It cannot replace a stable family life. It does not deal with the poverty of material goods or the poverty of the spirit which foster crime. It can assist State and local governments, but it cannot replace them in their primary role on the frontlines in the battle against crime.

But, within those limits, the bill before us includes some provisions that can make a meaningful difference in preventing and punishing criminal activity.

First and foremost is the authorization and actual Federal funding to assist local communities in putting more police on the streets. It has been proven that increasing the number of police on the streets reduces crime. By increasing police visibility in communities, this bill does more than send the signal that we want to take our neighborhoods back. It increases the tools to do it.

Second, the bill includes an assault rifle provision, which restricts the manufacture, transfer, and possession of certain semiautomatic assault weapons by specifying 19 weapons that would be restricted along with other weapons which meet specified characteristics. At the same time, the amendment makes clear that it does not place restrictions on the firearms that are used for hunting and sporting purposes.

I was pleased to work with Senator FEINSTEIN in getting this provision included through a floor amendment. It is critical component of this crime bill. Any legislation worthy of the title “crime bill” must have this provision in it that allows us to stand with our police in the all too real battle that they face every day on the streets. We have not successfully defused the nuclear arms race with the former Soviet Union only to lose it in the streets of our cities and towns.

Third, this bill contains initiatives to reduce gang violence through increasing penalties and through grants to encourage young people to direct their energies to alternative associations and activities. It also takes steps to improve the safety in our schools so that students can concentrate on

learning for the next century instead of worrying about the violence in the next hallway.

Fourth, this bill includes a provision to stop the illegal use of ephedrine tablets in the production of methcathinone, commonly referred to as CAT. CAT is a highly addictive drug and is a more potent stimulant than cocaine. Its use is growing at an alarming rate across the Upper Peninsula of my home State of Michigan and threatens to spread to other areas of the country as well. I have introduced a freestanding bill embodying the substance of this provision.

Fifth, the bill also includes an amendment that I offered requesting that the FBI report to the Congress by June 1994 regarding how it can accelerate and improve automatic fingerprint systems at the State and Federal level in order to use fingerprints found at the scene of a crime to identify more criminal suspects more quickly and effectively. I believe that improving the technology in this area may offer significant promise in preventing crimes because it could make it more likely that the criminal who commits one crime will be apprehended before he or she can commit too many more.

Sixth, I am pleased that the crime bill recognizes the important role that boot camp prisons can play in the corrections system. The bill adds two major opportunities for Federal funding of State boot camp prisons. I have been an early supporter of boot camp prisons because they offer an innovative approach to punishing, young non-violent offenders. These facilities offer a tough program that teaches discipline and responsibility as well as keeps young offenders away from hardened career criminals. The bill before us includes an amendment that I offered with Senator COATS to improve the Boot Camp Grant Program by ensuring that States offer appropriate postincarceration programs to make sure that the lessons of boot camp stick.

As a consistent opponent of the death penalty, I wish this bill did not contain the new provisions to impose the death penalty. As I indicated when I offered the amendment to replace the death penalty provisions with life in prison without the possibility of release, I oppose the death penalty because the irreversibility of the death penalty is inconsistent with the possibilities of error in the criminal justice system. Each year that we have debated this issue has added to the list of cases in which individuals who had been put on death row were later released because the evidence would no longer support their conviction. The death penalty doesn't deter crime. In fact of the 14 States with the highest murder rates, 13 have the death penalty and 1 State does not have the death penalty.

Mr. President, since on balance, I believe this bill will improve our capacity to fight crime and merits our support, I will vote for it.

Mr. CHAFFEE. Mr. President, today I will be voting in favor of S. 1607, the crime bill. In many ways it is a good bill and it incorporates a number of provisions which I support.

First of all, the bill includes an amendment to Federal firearms law that I authored. My amendment ensures that those persons who are subject to a restraining order for conduct such as stalking and harassing, and whom the court has deemed to be a threat to another person, are prohibited from possessing or buying a firearm. It makes no sense whatsoever for these dangerous persons to have a gun; and I am pleased my amendment was adopted.

The bill also contains a number of other measures of which I am a strong supporter, and indeed a cosponsor. It includes the Violence Against Women Act, which I believe represents a good first step toward curtailing the terrible violence and fear that women endure every day.

It includes the Feinstein assault weapons ban amendment, which bans these lethal military-style weapons, which in my view have no place in a civilized society. And it includes the Kohl amendment, a commonsense measure to keep handguns out of the hands of children and teens.

The bill also provides funds to help local law enforcement agencies put more police on the streets and to establish alternative incarceration facilities for first-time nonviolent offenders.

I must say, however, that I vote for this bill with some real reservations. It authorizes the spending of billions of dollars to be drawn from savings which we have not yet achieved. Furthermore, I am deeply concerned about amendments, adopted during the course of the debate, which are intended to curb various violent crimes simply by federalizing them. This seems to me to be an extremely unwise course to take and I hope that these amendments will be removed from the bill in conference.

As an opponent of the death penalty, I also am troubled by the vast expansion of Federal death penalty in this bill. About five dozen existing and new Federal crimes specified in the bill, now will be punishable by death.

And finally, I am concerned about the continued use of mandatory minimum sentences. These laws may sound tough on crime, but they tie the hands of our judges; waste the scarce resources of our court systems; and overcrowd our jails, often forcing the release of far more dangerous criminals. Moreover, they can result in punishment which is grossly disproportionate to the crime. Consider this example: a man could receive a mandatory

10-year sentence without parole for growing marijuana for his own use. Yet another man apprehended for selling heroin—albeit in a much smaller quantity—would draw only a 3-year sentence.

In sum, I will be voting for the crime bill this morning, but with the reservations noted above.

Mr. PELL. Mr. President, today the Senate has reached agreement on a comprehensive crime bill for the first time in over 8 years. It could not come at a better time and indeed, is long overdue. The levels of crime and violence in this country are staggering and the stories of tragedy that take place daily in our streets and neighborhoods are appalling and demand attention. With this bill, we will take a meaningful and serious step forward in the fight against crime and while issues that have been left out of this bill must also be addressed, I applaud what is accomplished here. I would add that Senator BIDEN did a brilliant job of managing it.

In particular, I was very pleased that the bill contains funds which can be used for an innovative alternative incarceration program for juveniles developed by Chief Judge Jeremiah Jeremiah of the Family Court of Rhode Island and JOIN, a collaboration of local public and private agencies. This program, which combines the rigors of the Outward Bound Program with extended supervision and proven rehabilitation techniques, and which is much less costly than incarceration, would be available for young, first-time offenders. Its goal is to provide a rehabilitative alternative to prison life, which all too often simply creates career criminals out of our wayward youth. We need programs like this so that we can provide such opportunity to delinquent youths who can be reformed. After working with the Judiciary Committee, I entered into a colloquy with the chairman, Senator BIDEN, to secure the availability of funds distributed to States under the boot camp and drug court portions of this bill for this program. As a result, Rhode Island will have the resources to implement this creative proposal. At the conclusion of my remarks, and per my colloquy with Senator BIDEN, I will submit materials relating to this program for the RECORD.

With regard to the broader provisions of this legislation, I am pleased that this bill commits sufficient resources to place up to 100,000 additional police officers on our streets. Studies have shown that the presence of officers on the beat reduces crime in troubled neighborhoods. Crime is prevented and the crime that does occur stands a better chance of being prosecuted and punished. Moreover, local jurisdictions are currently strapped for the money to keep adequate personnel on their payrolls and this will provide a big boost

to make sure we have the police protection we need.

I am also pleased that the bill contains the Violence Against Women Act of which I was an original cosponsor. This provision represents the first time that a comprehensive effort has been made on the Federal level to address the growing problem of domestic violence and crimes against women. Too often, such violence has been either ignored or trivialized and it is time that we do something to recognize and act to eliminate it.

I was also pleased that two amendments, which I cosponsored, to prohibit the possession of firearms by minors and to ban the manufacture and sale of assault weapons in the United States were included in this bill. While we will address further the issue of gun control at a later date, I believe that these measures are important steps forward in the effort to get some kind of control over the weapons which proliferate in our society.

I am also pleased that we are including funds for innovative drug court programs which stress followup supervision and rehabilitation for young, first-time, nonviolent drug offenders. The bill also contains money to support safe schools programs so that anticrime, safety, and drug prevention efforts will restore some sanity in our schools. And as I have indicated, I am pleased that the bill includes money for boot camp programs which offer alternative means of incarceration with the aim of providing an environment which aims to provide discipline and structure that prisoners may take with them after they leave. These measures focus on prevention and rehabilitation and will assist in the crime fight. I must state that I wish there were more provisions of a similar nature in the bill, but these are good, innovative beginnings.

There are things about the bill, however, that I do find disturbing and were it not for the inevitability of their inclusion and the countervailing good done by the rest of the bill, I would be inclined to oppose this measure. Two of them are particularly troubling. First is the drastic expansion of the death penalty contained within this bill. I am opposed to the death penalty, do not believe it serves as a deterrent, and regret that this country continues to endorse it as a means of punishment. While punishment must be sure, swift, and commensurate with the crime—including life imprisonment without parole—the death penalty is irreversible and, I believe, should not be part of our criminal justice system.

The second area of concern, and one which I addressed earlier, was my discomfort with the extreme focus on committing billions and billions of dollars to prison construction and the housing of ever-increasing numbers of criminals while failing to consider

using some of those resources for prevention efforts aimed at the root causes of crime. By providing education, opportunity, and alleviating poverty, we will go a long way toward preventing crime from happening in the first place. It seems to me that prior to expending such exorbitant sums of money to house and guard criminals, we should dedicate some of those resources in effort to prevent criminal behavior in the first place.

But ultimately, the good of this bill outweighs the bad and given the pervasive and unavoidable reality of crime in this country we must act to stem the violence. I believe that this bill will begin that process and I commend the leadership and the Judiciary Committee for their excellent work. With this and other subsequent crime measures, such as the Brady bill, we in the Senate are facing up to our responsibility to really do something about crime and I look forward to continuing this work.

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

[From the Family Court State of Rhode Island and Providence Plantations for the U.S. Justice Department, September 30, 1993]

PROPOSAL FROM JOIN (JUVENILE OFFENDERS; INTERVENTION AND NEW ALTERNATIVES)

1. SUMMARY

Herein follows a collaborative, government and private sector, series of creative strategies dealing with juvenile delinquency in the State of Rhode Island. The proposal will involve three inter-related subdivisions aimed at Rhode Island black, Hispanic, white and Southeast Asian gangs.

The subdivisions include (a) a caseworker and outreach program aimed primarily at intensive follow-up of offenders and closely maintaining their behavior contracts; (b) innovative programs especially involving the schools, police, and family court for status and first offenders; (c) an alternative for the Rhode Island Training School.

The program will involve 60 individuals, especially high risk youth under 17 years of age, active in the streets and in crime in Rhode Island; the program includes 20 serious voluntary status offenders, and 40 adjudicated delinquent individuals who will be given the opportunity to choose under court mandate this program. These individuals, court mandated felons, would return to the Training School if they break their contract.

This is a comprehensive, collaborative, multi-ethnic group proposal from Rhode Island under the leadership of the Rhode Island Family Court and may serve as a model for other cities and states searching for ways to deal with gangs and juvenile delinquent. Generally the ethnic background of the participants will be multi-racial.

The major focus of this program will be to enhance inter-ethnic respect and cooperation. For instance, the staff will train together and meet regularly. So too the participants will have an opportunity to deal with their own racial rivalries and build a team cooperative commitment.

The projects theoretical model will depend heavily upon the Outward Bound experience, involving Outward Bound experts with a long history in the treatment of status and adju-

dicated felons. The staff, the serious second or third-time offenders, and the adjudicated delinquents all will be involved in the Outward Bound experience.

The innovation here involves a very close relationship with the indigenous case managers and Outward Bound experts, and the Family Court and members of JOIN, the police school and community.

JOIN may form a 501-C-3 status, to serve as fiscal agent.

The Outward Bound program which will be subcontracted originates from Thompson Island in Boston Harbor. Peter Willauer, an early Outward Bound founder with extensive experience throughout the entire east coast, treating status and adjudicated felons will be the overall Outward Bound coordinator. He has assembled a team of Outward Bound staff that will combine the Outward Bound philosophy of self-discovery by stretching limits and by building trust and cooperation while developing compassion. Outward Bound will have a consultative staff team involving many of the founders of Outward Bound.

The intensive aftercare in Providence will be significantly important and continue for a minimum of at least a year, depending upon court mandate. This is an holistic model in that the Providence case manager staff will often be visiting the Outward Bound experience and the enrolled individuals, and the Outward Bound staff will often be in Rhode Island visiting particular participants, either before or after the actual Outward Bound experience.

Finally, it cannot be said enough that the success of this program depends upon the interaction and cooperation of the Family Court with private agencies and the Outward Bound program. Of course this includes an ongoing cooperative relationship with the staff of the state Training School.

FAMILY COURT OF THE  
STATE OF RHODE ISLAND,

Providence, RI, September 29, 1993.

Hon. JANET RENO,

Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: Attached is a proposal that was developed through a collaborative effort by private and public agencies and the Rhode Island Family Court. This pilot project has been developed to provide a comprehensive treatment program that meets the needs of status offenders and adjudicated juvenile offenders.

The Rhode Island juvenile justice system is struggling to provide the juveniles referred to the Family Court with meaningful sanctions and alternatives to incarceration.

Unfortunately, the state does not have all the necessary treatment slots available to meet the needs of these young offenders. This proposal will provide the juvenile justice system with an appropriate rehabilitative option.

I appreciate your consideration of this proposal, and I strongly encourage you to support this effort. The implementation of this proposal will provide juvenile offenders with an appropriate alternative to help them bring about change in their lives.

Sincerely yours,

JEREMIAH S. JEREMIAH, JR.,

Chief Judge.

THOMPSON ISLAND,

OUTWARD BOUND EDUCATION CENTER,  
Boston, MA, September 28, 1993.

Judge JEREMIAH S. JEREMIAH, JR.,  
Chief Judge, Family Court of Rhode Island,  
Providence, RI.

DEAR JUDGE JEREMIAH: Thompson Island Outward Bound Education Center is pleased to support the effort your group has undertaken to develop alternatives to the Training School program for male delinquents and provide interventions for male status offenders involved with the Family Court of Rhode Island.

We expect great success for the programs you are proposing based on the Outward Bound model which has been proven to reduce recidivism in a cost effective manner.

I look forward to continued cooperation with your Juvenile Offenders program.

Kindest personal regards,

PETER O. WILLAUER,

President.

Mr. SIMON. Mr. President, I want to address two aspects of S. 1607, the Violent Crime Control and Law Enforcement Act of 1993. Title X of S. 1607 includes the DNA Identification Act of 1993, a provision I authored to encourage the use and databanking of forensic DNA tests.

In 1989, I held the first ever congressional hearings on forensic DNA tests. The testimony received at that hearing convinced me of the scientific soundness of these tests and their immense crime-fighting potential. The DNA Identification Act passed the Senate twice last Congress as part of anticrime legislation. This provision is strongly supported by the FBI and the Illinois State Police.

As included in S. 1607, the DNA Identification Act directs the Director of the FBI to appoint an advisory board on DNA quality assurance methods and, after taking its recommendations into account, to issue quality assurance standards including standards for proficiency testing of forensic laboratories and analysts. The bill specifies that the advisory board shall include as members, scientists from State, local, and private forensic laboratories appointed from among nominations proposed by the head of the National Academy of Sciences.

Private sector representation on the advisory board was added in recognition of the fact that a growing number of for-profit laboratories have entered the field of forensic DNA analysis. This was done with some hesitation, however, because of the legitimate concerns about the potential for ethical and conflict of interest problems which would arise from the presence of a board member who has a financial interest, or whose employer has a financial interest, in a particular DNA analysis method, protocol or product. This concern, of course, is not limited to board members from the private sector.

Consequently, in making appointments to the advisory board on DNA quality assurance methods, it is my expectation that the Director of the FBI

will adhere strictly to all applicable conflict of interest and ethics laws. In particular, the FBI Director must take appropriate steps to ensure that no member of the board has a commercial or proprietary interest in matters addressed by the board. This may require the Director to obtain disclosure statements from board nominees. A review of any potential conflict of interest or ethical questions should be conducted with the assistance of the Bureau's Legal Counsel Division, with the Director retaining final authority over appointments to the board.

Mr. President, the development of quality assurance methods and standards is critical to the performance of high quality forensic DNA analysis. According to a 1990 Office of Technology Report, "setting standards for forensic DNA analysis is the most urgent policy issue and needs to be resolved without further delay." I wanted to take a moment to address this issue because of the importance of the task facing the DNA advisory board and the necessity that any decisions it makes are free from even the appearance of a conflict of interest.

Finally Mr. President, the DNA Identification Act also directs the National Institute of Justice to study the feasibility of establishing and, if appropriate, to undertake to establish, a blind external proficiency testing program. It is the intent that any blind external proficiency testing program established through the National Institute of Justice would become self-sustaining, through fees paid by public and private laboratories participating in the program. It is not the intent to require participation in such a blind, external proficiency testing program by State, local and private laboratories—participation would be voluntary for such laboratories. Furthermore, State and local laboratories receiving grants under the bill and any laboratory which submits data to the national DNA index would not be required by this legislation to participate in any blind, external proficiency testing program. It is expected that most laboratories would voluntarily choose to participate in such a program. That decision, however, remains outside of the scope of this legislation.

Mr. President, I want to commend the chairman of the Senate Judiciary Committee, Senator BIDEN, for his extraordinary efforts these past few weeks in bringing the crime bill to a final vote. He has been forced to walk through a minefield, artfully moving between controversies from gun control to habeas corpus reform. He has shown once again that few, if any, Members of this body can match his breadth of knowledge about crime and violence in America.

Having said that, I must admit that I do not find this vote to be an easy one. On one hand, there is much in this bill that I believe in strongly.

The bill includes many provisions that I have sponsored, including legislation that would impose tough new restrictions on gun dealers, another that would require during testing of all Federal prisoners, a measure that would permit the Government to more easily trace drug money, and a grant program to evaluate whether alternative programs for nonviolent offenders would help reduce recidivism and save money.

Moreover, the bill includes other provisions that I have long supported, such as the Violence Against Women Act. It includes funds for 100,000 additional police on the streets of our Nation, which will surely help in the fight against street crime across America. It provides grants for certain innovative enforcement projects—such as a drug court for nonviolent substance abusers and a boot camp program for young offenders. And, the bill enacts long overdue gun control provisions, such as a ban on assault weapons.

And yet. And yet, I am troubled by the package that lies before the Senate today. I am troubled because, in too many ways, this package represents an approach to crime control that I sincerely believe is misguided and ineffective. In large measure, this package rests on the seductive belief that we can fight crime simply by passing tougher and tougher sentencing laws.

What have we done?

First, we have passed 50 new death penalties to show that we will be ruthless with murderers and drug dealers. I have spoken out in the past about my opposition to the death penalty. But even supporters of the death penalty must recognize that these 50 new death provisions represent little more than posturing. Studies show that, in general, the death penalty has negligible, if any, deterrence effect. At the Federal level, the death penalty will assuredly have no more than symbolic value, since the provisions will apply only to an exceedingly small number of offenders.

And the symbol that we have conveyed is one of ruthlessness. In our rush to be tough, we have pushed aside meaningful habeas corpus reform, increasing the risk that a tragic error will occur. I am troubled deeply that our desire for revenge is not matched by our desire for justice.

Second, I am troubled by the extraordinary funds we have authorized for new regional prisons. Over \$3 billion, Mr. President. In 1970, we had 134 people per 100,000 in our prisons and jails. Last year, we had over 500 per 100,000. Is Washington, DC, safer as a result? Is Chicago safer? New York? Los Angeles? As our prison rates have mushroomed, so have violent crime rates, increasing by over 75 percent during the past decade.

It is a fantasy to think that the regional prisons will relieve prison overcrowding in our State systems. The

strict truth in sentencing provisions that the States will be forced to accept in order to use the regional prisons will likely increase prison populations far beyond the 25,000 additional beds promised in this proposal.

Indeed, the best and most cost-effective way to reduce overcrowding in the State systems is to become smarter about the way we use our scarce prison resources. For the past 10 years, we have wasted prison space on an increasing number of nonviolent offenders. Between 1980 and 1990, the number of offenders sentenced to prison for drug crimes increased from 9,000 per year to 108,000, rising from 7 to 32 percent of all prison admissions. At the same time, the percentage of admissions for violent offenses fell from 48 to 32 percent.

We are not going to reduce overcrowding by building regional prisons. We will do it only by being smarter about the way we spend our prison resources.

In the long run, violent crime will fall only when we begin to bring some semblance of hope and opportunity to our inner cities. To that worthy objective, this crime bill offers crumbs. Indeed, by carving out a separate trust fund for these prison building measures, we have guaranteed that future cuts in discretionary spending will be taken out of programs like education grants and Head Start. In a very real sense, then, we have begun the process of turning our schools into prisons.

Third, I am troubled by the Senate's rush to federalize crimes that historically have been prosecuted as State offenses. One notable provision in the crime bill, for example, provides that any crime committed with a weapon is now a Federal offense. The chairman of the Judiciary Committee observed last week that this could potentially reach hundreds of thousands of firearm offenses now treated in State courts. Another provision will criminalize certain gang crimes, such as murder, robbery and arson.

No one has made a persuasive case for why these cases should come before a Federal court. I fear that in our desire to sound tough on crime we will simply overwhelm the Federal system with cases that are more appropriately—and more commonly—heard in State court. I fear that we will spend enormous sums of taxpayer dollars in the hope of appearing tough on crime regardless of the effectiveness of these policies.

Finally, I am troubled by our preference for punishment over prevention in dealing with illegal immigration. Amidst the current fervor over immigration, we have threatened to deny local and State governments help in crime prevention if they do not identify and locate undocumented aliens. Rather than force school teachers, public health nurses, and even playground directors to turn over the names of

people suspected of being undocumented aliens to the Immigration and Naturalization Service, I believe that we should more effectively enforce our immigration laws at the border and find ways to reduce illegal immigration altogether.

Another unwise provision would impose jail sentences of up to 4 years on people who enter the United States after they have been deported on the grounds of overstaying their visa or illegally getting married. It also authorizes additional penalties upon a finding that an individual is an "aggravated alien felon," a finding that may be based on the existence of a criminal conviction in a foreign country as far back as fifteen years ago.

With my colleagues on the Immigration Subcommittee, I have worked to address immigration enforcement issues. It is my hope that the objectionable provisions can be dropped from this bill, studied and modified by subcommittee members and other interested Senators and added to comprehensive asylum reform legislation that would have bipartisan, bicameral and administration support.

Mr. President, I believe that we can do better. The public is rightfully fearful about crime. They sense that the fabric of their community is frayed and insecure. But I am afraid that our response to those fears has been ill-considered and precipitous.

We will not cultivate individuals who value justice, if we continue to sanction the death penalty without just procedures. We will not reduce violent crime in our communities, if we continue to waste prison space on non-violent offenders serving long mandatory minimum sentences. We will not stop the use of guns in our streets, if we do not take further steps to limit the sale of firearms and counter the despair that ravages our youth.

Someday I hope we will have another debate about crime. A debate about the need to match punishment with prevention, retribution with justice. That day, clearly, has not yet come.

I will cast my vote against S. 1607.

Mr. DOLE. Mr. President, one of the most accurate reflections of our society and our culture is the newspaper.

Open up any newspaper, on any day, in any city, and crime is there—in our neighborhoods, on our streets, even in our schools. And crime is not just a problem limited to our cities and our suburbs. It's a rural problem as well. In Wichita, KS, for example, the number of drive-by shootings—one of the most cowardly and vicious of all crimes—is at an all-time high.

Mr. President, this bill will obviously not end crime in America. It will not stop the bleeding on our streets, but it is a much needed bandage, a tourniquet, some short-term relief to help restore order to our streets and communities.

It is fitting that this bill has been drafted—and will pass—on a bipartisan basis. Although we have our differences, crime prevention should not be a partisan issue: a mugger does not ask you if you are a Democrat or a Republican before he sticks a gun in your ribs.

From day one, Republicans have insisted that any anticrime bill we pass must be fully paid for. Security has a price and it is a price we at least attempt to pay by establishing a violent crime reduction trust fund. In the months ahead, we will see whether we live up to the trust fund commitment.

Like President Clinton, Republicans also believe that more cops on the street means more security in our neighborhoods.

That is why the Neighborhood Security Act, introduced by Senate Republicans last August, proposed to put more police on the streets through a Community Policing Program, a Troops-to-Cop Program, and the Police Corps. And that is why we support the adoption of these programs as part of the bipartisan anticrime package.

I am also pleased that the package contains the Republican truth-in-sentencing proposal, which would encourage each of the States to adopt laws requiring that their most violent criminals serve at least 85 percent of their prison sentences.

All too often, vicious criminals enter our criminal justice system, only to slide through its revolving doors—legally, and with tragic consequences.

It is no secret that a criminal kept behind bars will not terrorize a single—not one—law-abiding citizen. So, it is my hope that the Republican truth-in-sentencing plan will take off at the State level, for this is one area where the States should follow the Federal Government's lead.

In addition, I am pleased that many of the proposals originally introduced in the Women's Equal Opportunity Act of 1991, and earlier this year, in the Sexual Assault Prevention Act of 1993, have become part of this package.

These proposals include doubling the maximum penalties for recidivist sex offenders; authorizing the HIV-testing of sex offenders and disclosing the results of these tests to the victims; amending the Federal rules of evidence to allow the admissibility of similar past offenses in sexual assault and child molestation cases; and the establishment of a 12-member National Commission on Violence Against Women.

The package also includes additional funding for important programs designed to prevent, and provide assistance to the victims of, sexual assaults and domestic violence.

And, Mr. President, I would like to acknowledge the leadership of both Senator BIDEN and Senator HATCH in giving the issue of violence against

women the national attention it deserves.

The bipartisan package contains other important provisions—a Federal antigang statute crafted by myself, Senator HATCH, and Senator BROWN; the death penalty for drug kingpins, sponsored by my colleague from New York Senator D'AMATO; the three-time loser provision offered by my colleague from Mississippi, Senator LOTT; Senator DOMENICI's amendment on after-school mentoring programs; and, of course, the amendment offered by my distinguished colleague from Iowa, Senator GRASSLEY, that ultimately forced the Justice Department to reverse its position on the enforcement of our child pornography laws.

These proposals are important steps in the right direction. They can make a difference.

But, Mr. President, when all is said and done, the most effective deterrent to crime is not police or a prison cell, but a strong family and the values that strong families transmit to their children.

Values count. Character counts. Families count. And they count far more—and are far more effective—in reducing and stopping crime than any law enforcement proposal Congress can devise.

This is our next and more difficult challenge—as illegitimacy rates reach historic highs, Government at all levels must focus not only on building prisons, but also on developing sensible strategies to build—and rebuild—families. In too many of our communities, the two-parent family is the tragic exception, rather than the rule—and the result has been a generation of children without families and without values.

If we want to go to the root causes of crime, we need to go to the deepest root of all—the family.

Finally, Mr. President, I want to commend my distinguished colleagues, Senator HATCH and Senator BIDEN, for their hard work and perseverance in managing this bill.

There are few Senators who are more committed to effective and tough law enforcement than my friend and colleague from Utah, Senator HATCH. With the passage of today's anticrime package, America owes him a debt of gratitude.

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will proceed to the immediate consideration of H.R. 3355. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3355) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

The ACTING PRESIDENT pro tempore. Under the previous order, all

after the enacting clause is stricken and the text of S. 1607, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.  
Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is on passage of the bill as amended.

The clerk will call the roll.

The bill clerk will call the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN], is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 95, nays 4, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—95

Akaka	Feinstein	McConnell
Baucus	Ford	Metzenbaum
Bennett	Glenn	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Mosley-Braun
Bond	Gramm	Moynihhan
Boren	Grassley	Murkowski
Boxer	Gregg	Murray
Bradley	Harkin	Nickles
Breaux	Hatch	Nunn
Brown	Heflin	Packwood
Bryan	Helms	Pell
Bumpers	Hollings	Presler
Burns	Hutchison	Pryor
Byrd	Inouye	Reid
Campbell	Jeffords	Riegle
Chafee	Johnston	Robb
Coats	Kassebaum	Rockefeller
Cochran	Kempthorne	Roth
Cohn	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Coverdell	Kerry	Shelby
Craig	Kohl	Simpson
D'Amato	Lautenberg	Smith
Danforth	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Thurmond
Dodd	Lott	Waltrop
Dole	Lugar	Warner
Domenici	Mack	Wellstone
Exon	Mathews	Wofford
Faircloth	McCain	

NAYS—1

Durenberger  
Feingold

Hatfield  
Simon

NOT VOTING—1

Dorgan

The bill (H.R. 3355), as amended, was passed.

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 is agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senate will insist on its amendments, request a con-

ference with the House on the disagreeing votes, and the Chair is authorized to appoint conferees on the part of the Senate.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that S. 1607 be indefinitely postponed.

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

Mr. BIDEN. Mr. President, let me thank Senator HATCH particularly. This piece of legislation started off—and I will be very blunt about it—in an atmosphere of partisanship in that I just wrote a crime bill and I did not consult with my Republican friends in any way because, quite frankly, in my view they had filibustered the last crime bill for 2 years.

I figured that there was no way we could get to the end point. There was no desire to cooperate. But as we introduced the Biden bill, endorsed by the President, and we started this process, we found there was a great deal more cooperation.

So I would like to ask unanimous consent now that on the underlying bill that we passed, the lead sponsor listed as myself, the Biden bill and others, I would like to list as the Biden-Hatch bill, if we can.

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

COMMENDATION OF THE STAFF

Mr. BIDEN. Mr. President, I would also like to—I know we always go through this, and the public listens to this and probably thinks this is all perfunctory.

I want to talk 3 brief minutes to thank the staff who worked on this bill. Even those who have observed this gigantic bill as it was wended its way through here—I think appreciate may be the wrong word—understand this was an incredibly time-consuming, complicated process.

So I want to start off by thanking first and foremost the chief counsel of the Judiciary Committee, Cynthia Hogan, who has been the mastermind behind all of this. I cannot thank her enough, and to be very blunt about it, I do not think that the Senate could thank her enough. For all those who voted for this bill, they got a chance to do it because of Cynthia Hogan.

Also, I would like to thank, with the permission of the majority leader, John Hille. John Hille is the best I have ever worked with. Were it not for leadership coming out of the majority leader's office—

The PRESIDING OFFICER. Would the Senator from Delaware please withhold? The Senate is not in order. Those who have business other than that currently before the Senate, please move to the Cloakroom.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I also want to thank, as I am sure Senator HATCH will—and this may hurt his rep-

utation—Mark Disler, who is Senator HATCH's chief of staff; and Manus Cooney, who I worked with when he ran the similar operation for Senator THURMOND. Both these men are bright, tough, and absolutely, totally, completely honorable. I have never once had a discussion—there have been some very difficult discussions that we have had on this bill, that I have not been able to walk away from the conversation knowing what they told me would precisely happen. For that I thank them.

I also want to thank Sharon Prost, Ed Whelan, and Victor Cabral of Senator HATCH's staff.

I want to thank Anita Jensen, who is the majority leader's staff person who handles criminal justice issues, and many other issues. I think that her reputation has been damaged because she has been with our staff so much lately they think she works with me. I wish she did. She is absolutely first-rate.

I would like to thank the entire floor staff for helping me bumble through the parliamentary snags that I know a lot less about than I do about the criminal justice system.

Also, Jim English of the Appropriations Committee, and Dorothy Seder. Again, they probably thought she was on my staff. She sat here on the floor the entire time these last so many days until 12, 1 and 2 at night.

Also Larry Stein, of the Budget Committee and Bill Dauster of the Budget Committee.

Last, but not least, my staff: Chris Putala, who has worked with the police organizations; Demetra Lambros, a woman who has come on in the last 8 months in this office, and probably will not regret if she never, ever sees a crime bill again—all the work she has put in—for years; and Cathy Russell, who has had the dubious and difficult job of having to satisfy, I think, something on the order of 45 Senators by getting their amendments negotiated and in the managers' package, a job you would not wish on anyone, but a job that I would give to her again because I know no one else could do it.

James Cooper, who is a first-rate lawyer, who has handled a major portion of this; and Tracey Doherty, a young woman not even out of law school yet. She is going full time to George Washington University. She is working full time on the committee staff. She is one of 12 children, an incredible kid—incredible woman. She is not a kid any more. She is so young, and I want to thank her.

Also Lisa Monaco, Dave Long, Nancy Solomon, and John Earnhardt of my staff.

Last, but not least, I want to thank the majority leader for his graciousness and being willing to let me take another massive bill to the floor, not knowing where in God's name it was likely to go.

Mr. President, I ask unanimous consent that the Senate amendment to H.R. 3355 be printed as passed by the Senate.

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

Mr. BIDEN. I yield the floor. I thank the Chair.

Ms. MOSELEY-BRAUN. Today, Mr. President, the Senate has passed a crime bill that, for the first time in years, has a very real chance of becoming law. This could not occur at a better time. As we have heard over and over again during the past 3 weeks, violent crime is simply out of control. Each day in America a violent crime occurs every 22 seconds. That includes one murder every 22 minutes, one rape every 5 minutes and one aggravated assault every 28 seconds.

Fifty-nine percent of city residents and 57 percent of suburban residents fear becoming a victim of a crime. Sixty percent of all Americans limit the places they travel alone. We are in danger of becoming a society of victims.

But I truly believe that the crime bill passed today will make a very real difference in the daily lives of all Americans. This bill will put 100,000 additional police on the streets and build more prisons for hard-core criminals. It will establish boot camps for first time offenders and expand treatment for drug addicted prisoners.

In addition, this bill will increase penalties for a number of offenses, ranging from hate crimes to arson. Finally, the bill signals the Senate's intention to get serious about gun violence, by banning both the possession of handguns by minors and the manufacture and the sale of deadly semiautomatic weapons.

I would like to take this time to pay tribute to the chairman of the Judiciary Committee, Senator BIDEN. It is largely through the efforts of the Senator from Delaware that we have a crime bill at all. I want to thank him today for his steadfastness and his dedication in ensuring that this bill passed the Senate.

I am also pleased that I was able to make a contribution to the crime bill, by offering a number of amendments to deal with the most disturbing trend in America's crime wave, the rise in violent juvenile crime.

Almost 2 weeks ago the Senate adopted—by a vote of 64 to 23—an amendment I offered, directing U.S. Attorneys to try juveniles 13 years and above who commit a murder, attempt a murder or use a firearm in the commission of a violent crime as adults. I would like to take this moment to briefly discuss what this amendment does and doesn't do.

This amendment was not intended to abolish the juvenile justice system. As a matter of fact the first juvenile court was started in my home State, in Cook

County, IL, in 1899. I am proud that it was my home State that saw a need for a separate court system to function as a surrogate parent for wayward youth. I am proud that my State sparked a revolution that quickly spread throughout the country, forcing States to focus individualized attention on the needs of each child, to spare children the trauma of contact with the criminal justice system and to avoid stigmatizing a child by branding him or her a criminal.

At the same time, I believe we must realize that the nature of the juvenile criminal is changing. In 1903—or even as recently as 1963—a youth in the juvenile justice system was most likely charged with shoplifting, truancy, simple assault or burglary. However, in 1993 that crime can just as easily be aggravated assault, forcible rape or even murder. The fact of the matter is that there is a small but rapidly increasing group of violent juvenile offenders who arm themselves with handguns, sawed-off shotguns or semiautomatic weapons and roam the streets with absolutely no respect for human life. The juvenile justice system simply was not created for this growing population of youths committing adult crimes. It is those juveniles—and those juveniles only—that my proposal was intended to address. But that amendment was just one small part of a larger package I offered to extend a helping hand to those youngsters and their families who are in need of assistance. We must never forget that it is always better to prevent a crime than to punish a criminal. For that reason, I proposed an amendment specifying that 20 percent of juvenile drug trafficking and gang prevention grants must be used to provide parenting classes to high risk families and nonviolent dispute resolution to junior high and high school students. These classes can teach our children a very important lesson, one that is all too often lacking among today's youth—that every dispute need not be settled with a gun.

However, we must also recognize that the schools—or the Government or society—can go only so far in teaching children to avoid a life of crime and violence. Juvenile violence has not reached epidemic levels simply because the schools are not doing their job. Juvenile violence has reached epidemic levels because parents have failed in their basic duties to supervise their children, and to teach them right from wrong.

Along with my distinguished colleague from Arizona, Senator MCCAIN, I proposed an amendment to the crime bill that will impose civil fines or community service on the parents of juveniles who commit Federal crimes. The purpose of this amendment is simple—to make parents accept greater responsibility for the actions of their children.

Of course, no parent can control every action of his or her child, and at times, even children of the best parents will make mistakes. But parenting requires more than merely feeding or clothing your children. We can no longer allow parents to distance themselves from responsibility for their minor children who terrorize entire communities. I firmly believe that if the Government is going to be successful in the fight against juvenile crime, it must have the aid of the Nation's parents. My amendment is designed to give parents an added incentive to exercise proper control and supervision over their minor children.

Another critical step in controlling youth violence is getting guns out of the hands of our 17-year-olds, our 16-year-olds, and yes even our 12 and 13-year-olds. The fact of the matter is that, today, our Nation's schools are looking less and less like halls of learning and more and more like armed camps. We cannot expect our children to learn or thrive in that environment.

I am proud to have been a cosponsor of Senator KOHL's legislation to ban the transfer or possession of a handgun by a minor. I worked with Senator KOHL to strengthen this ban, by including an enhanced penalty for adults who provide a firearm to a juvenile to be used in a crime. We can no longer afford to be lenient on adults who are arming our children, cynically using them as mules and lookouts to earn their drug money. This legislation sends a very important message. If you are a kid with a gun, or you give a kid a gun, you will be punished.

Finally, because of the strong evidence that minority youth receive disparate treatment in many juvenile justice systems across the country, I have sponsored a provision to allow the Attorney General to intervene where a pattern and practice of discriminatory treatment of can be shown. Unfortunately, in many jurisdictions, blacks are much more likely than whites to be referred to court, formally charged, and institutionalized in the juvenile justice system. While whites account for 70 percent of juvenile arrests nationwide, they make up only 35 percent of youth in custody. Blacks account for only 25 percent of juvenile arrests, yet account for 44 percent of the youth in custody. This provision provides a method for the Attorney General to ensure that, to the extent that this crime bill causes more youth to come into contact with the juvenile justice system, it will affect all youth equally, and not discriminate on the basis of race.

I would also like to speak about an amendment I cosponsored with two of my colleagues, Senator DURENBERGER of Minnesota and my Senior Senator from Illinois, Senator SIMON. This provision incorporated within the crime bill will establish five demonstration

projects—four at the State level and one at the Federal level—where non-violent female offenders can reside with their young children. In these centers, women can not only bond with their young children and keep their families together, but they can receive parenting classes, drug treatment, job training and other educational opportunities.

By allowing nonviolent offenders to live in the community with their children, we can help maintain more stability than if the mother and the child were separated. This serves two very important purposes. First, by allowing the mother to form strong bonds and attachments with her child, we can give the mother a strong incentive to go straight, and help make it less likely that she will become a repeat offender. And second, we can prevent the child from being shuffled endlessly through the foster and group home system that we all know creates so many problems for young children.

The majority of women prisoners are nonviolent offenders, jailed for property or drug crimes. These women can serve their time in the community, alongside their children, without posing any risk to society. I do not mean to say that these women should not pay for their crimes—of course they should. But why should their innocent children also be made to suffer, particularly when keeping a family intact can give a solid foundation for a happy and productive life.

Two other amendments which I have proposed and have been included in the manager's package also merit a brief mention here. The first bill will provide assistance to States to increase the level of access to the justice system for witnesses, victims, and ordinary citizens, by establishing decentralized court facilities in individual neighborhoods. Simple common sense tells us that residents will take a much more active role in the justice system when the local courthouse is across the street, not across town. The second amendment provides that any study of the role of race in a State's criminal justice system will expressly consider the role that race plays in the jury selection process.

Before I conclude, I would like to speak for a moment on one provision I was not able to place in the crime bill, expressing the sense of Congress that all incarcerated juveniles should receive education at least equivalent to the standards of the local school district. According to the Department of Justice, only 55 percent of all juveniles in detention facilities receive an adequate education. That means 45 percent of all incarcerated juveniles—slightly less than half—are not receiving an adequate education.

We cannot afford to give up on a child merely because he or she has had a brush with the law. If we truly want

these young people to have a chance at reforming themselves, we must provide them with a quality education. Individuals who do not receive a quality education are much more likely to return to the juvenile justice system, or to be committed to adult prisons later in life. When the Senate returns next year I intend to call for hearings on this problem, with the help of Senator KOHL, who chairs the Judiciary Committee's Subcommittee on Juvenile Justice. We must act quickly to correct this deficiency, before an entire generation of incarcerated youth is wasted.

In closing, I would like to once again commend Senator BIDEN for his leadership in this area. The time has come for us to reclaim our streets. I believe the crime bill passed today represents a significant step in that effort, and I am proud to have played a part in enacting this legislation.

#### BRADY HANDGUN VIOLENCE PREVENTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 414, which the clerk will report.

The legislative clerk read as follows: A bill (S. 414) to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, parliamentary inquiry: Am I correct in my understanding that, pursuant to the previous order, it is now appropriate for me to offer an amendment in the nature of a substitute in my behalf and that of Senator DOLE?

The PRESIDING OFFICER. The majority leader is correct.

#### AMENDMENT NO. 1218

(Purpose: Substitute amendment)

Mr. MITCHELL. Accordingly, Mr. President, I offer an amendment in the nature of a substitute for myself and for Senator DOLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself and Mr. DOLE, proposes an amendment numbered 1218.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. Mr. President, I have just presented, and there is now before the Senate, an amendment in the nature of a substitute which was offered by myself and Senator DOLE.

This is the culmination of several days of negotiation and discussion, and represents the best way that we could devise to bring this matter before the Senate and to a conclusion.

At the outset, I want to make it very clear that when I agreed to cosponsor this compromise, I fully reserved my right to vote to eliminate two new provisions in this compromise with which I wholly disagree.

The provisions are those which preempt State and local laws, and the so-called sunset provision. I agreed to go forward in this way, reserving my right to work to eliminate those two provisions in the interest of moving the Brady bill through the Senate at this time.

Mr. President, as attempts were made over the past several days to reach agreement on a procedure by which the Senate could debate the Brady bill, it became clear that unless some mechanism were found to move forward on a bipartisan basis at least procedurally, it would not have been possible to complete the Brady bill this year.

It was, therefore, a choice between seeking some form of compromise, or not completing action on the Brady bill in any form this year.

Rather than allow yet another year to elapse without Senate action on the Brady bill, I agreed to join Senator DOLE in fashioning this means of moving the Brady bill to the Senate floor so that the areas in which there are irreconcilable differences between us can be determined, as they should be in a democracy, by a vote.

Therefore, I will move to strike from this substitute the preemption language which is now in the substitute.

The agreement under which we will debate the bill provides that a later motion to strike or amend the so-called sunset language is also in order, and I intend to vote for that effort as well.

Mr. President, the agreement provides that if either or both of these efforts to eliminate these provisions are successful—in other words, if we strike the preemption of State laws, or if we strike the sunset language, or if we strike both—then we will face a filibuster by our Republican colleagues. They have made it clear that if we succeed in eliminating either of these provisions, they will filibuster this bill. And, therefore, we will need to have 60 votes to end the filibuster to pass the bill and send it to the House.

Mr. President, I will shortly move to strike the language which would preempt State laws, and I would like to address myself to that subject now. The underlying Brady bill, without the preemption language and without the automatic cutoff date, is one of the best known and most broadly supported pieces of anticrime and antiviolenence legislation in this country. Public opinion polls find that 92

percent of Americans favor a required 5-day waiting period so that purchasers of handguns may undergo a background check; 68 percent of members of the National Rifle Association favor passage of the Brady bill requiring a waiting period and a background check; 84 percent of all gun owners favor the Brady proposal to require a waiting period and a background check.

Let me repeat those figures for the benefit of the Senate. Polls show that 92 percent of all Americans, 84 percent of all gun owners, and 68 percent of National Rifle Association members favor the waiting period for the purchase of handguns.

Public opinion polls have consistently shown that among gun owners and non-gun owners alike across the entire country, in every State, substantial majorities of Americans agree that keeping handguns out of the hands of convicted felons is something that makes sense and should be done. Disagreement over reaching that goal was, for many years, stalled as two alternatives were presented, which some claimed were mutually incompatible. The first was to demand a waiting period for prospective handgun purchases. The second was to institute an instant check system of buyers to weed out convicted felons and others not eligible to own firearms.

But in 1991, the Senate demonstrated, by a large margin, that these two alternatives were not mutually incompatible. A bipartisan group of Senators, including the leadership and colleagues with strongly held views on both sides of the issue, developed a measure which would have achieved both goals more certainly and more quickly than either side had so far done alone. The result was a 1991 Senate version of the Brady bill, sponsored by myself, Senator DOLE, Senator METZENBAUM, and Senator KOHL. Senator METZENBAUM has been the leader of this effort for years and was the prime author of that amendment, and Senator KOHL was one of the most valuable contributing members to that process.

That 1991 compromise demonstrated its broad appeal when 67 Members of the Senate, on a bipartisan basis, voted for it. Its premise was simple. There would be a waiting period of 5 business days during which police would check existing records to determine if a buyer was ineligible to purchase a handgun; specifically, if the buyer was a convicted felon.

Simultaneously, a carefully drawn timetable and a system of grants to States would enable the Attorney General to move the States toward a fully automated criminal record system, accessible on a national basis. When that national instant check system was on line, the waiting period would no longer be necessary and would be terminated.

The 1991 Senate compromise Brady bill contained incentives and penalties designed to move both the National Government and the States to reach this goal in a timely and realistic and achievable way. It protected the rights of buyers wrongly denied the right to purchase. It was not an unfunded mandate on the States, since it authorized funds for the upgrading of criminal records and, most important, it contained achievable and reasonable standards to judge when a background check system was so reliable that a waiting period was no longer necessary.

It is my judgment, despite what we now have as new objections to that bill, that very broad and substantial areas of agreement still exist. Americans still support the idea of keeping handguns out of the hands of felons. So does every Member of the Senate. A majority of Americans supports the idea of a waiting period to allow a background check as a reasonable way to achieve that goal. So does a majority of the Senate. An overwhelming majority of Americans is angry at the escalating gun violence in our society. So are Senators.

So, despite the new provisions which have been put in this package, the basis for compromise and reaching a favorable result remains strong. But there can be no compromise on the question of preempting State laws. There was no preemption of State law in the 1991 bill, for which 67 Senators voted. There should be no preemption of State law in this bill either.

I ask those Senators who voted in 1991—the 67—for a bill without preemption, why do they now feel it is necessary to include a provision that is to back off from the position taken then? The provision which I will move to strike provides that, notwithstanding any provision in the law of any State or political subdivision—and that means every city, every town, every county, every unincorporated district in America; anyone who has chosen to require a local waiting period for handgun purchases or other weapons purchases—that the Federal law will supersede all of those laws as soon as some version of a national instant check system is in place.

The language in this package further provides that no State, no city, no town—no one—is permitted, even if they want to, to reinstate such a requirement until at least a year has gone by.

I want my colleagues, every Member of this Senate, to be very clear about the meaning of this provision. It means that, notwithstanding what your State legislature may have found to be appropriate for your home State, notwithstanding what the citizens of your States and cities may have decided about the conduct of their affairs, this provision says their views do not mat-

ter; their decisions do not count. It is hard to imagine a more inappropriate inversion of the proper role of the State and Federal Governments.

Supreme Court rulings as recently as 1983 have refused to overturn local ordinances directed at firearms and the public safety. Despite what may be the wishes of some Members of the Senate, the Supreme Court has implicitly said that it is the business of local residents, if they choose to do so, to regulate local commerce in firearms.

Mr. President, let us not be mistaken about this. The target of this provision is clear. It is States like California, which have chosen to adopt and preserve a waiting period for gun purchases. It is cities like Atlanta, GA, which has adopted a handgun purchase waiting period.

Proponents of this provision are asking the Senators from Georgia to tell the people of Atlanta that how they want to regulate their own affairs does not matter. They are asking the Senators from Alabama to tell their State residents that they do not have a right to make decisions about their own actions. And they are asking the Senators from Florida to tell every Florida citizen who voted for the handgun waiting period referendum in December 1990 that their votes do not count.

The people of Florida—and that is a State with an instant check system that has been held up as a national model—nonetheless, in 1990, by voter referendum, chose to amend their State's constitution and add a waiting period to the instant check. The people of Florida changed their constitution by a vote of the people of Florida, and this preemption language now would override Florida's constitution and the clearly expressed will of the people of Florida.

I cannot believe the Senator from Florida would vote for that or would say to the people of his own State: What you want to do does not matter even in a referendum of all of the voters of the State, even when you amended your constitution.

The preemption language of this bill is squarely directed at the citizens of about 20 States. A majority of those States disagree with those who want this preemption provision, and those States include Connecticut, Oregon, Delaware, Florida, Hawaii, Iowa, Illinois, Indiana, Massachusetts, Maryland, Minnesota, Missouri, Nebraska, North Carolina, New Jersey, New York, Pennsylvania, South Dakota, Tennessee, and Washington. Every one of those States has chosen to implement some form of purchase delay for some class of firearm. The proponents of this preemption provision are saying that what the people of those States want to do in their own business, in their own commerce, does not matter.

Are Senators from these States going to say to their own constituents: You

do not know what you are doing; you do not know what is good for yourself; we know here, and we are going to override anything you decide to do?

Further, Mr. President, incredibly enough, this provision says that the State legislatures of those 20 States can come back into session at least a year or more from now and rewrite the State laws that they never wanted to repeal in the first place.

Talk about unfunded mandates. Adoption of this preemption provision would mean that we are not only directing what local laws a State can pass, we are telling them when they can do it.

Can anybody here remember that? Not only are we dictating to States about what they can and cannot pass, we are telling them when they can do it.

The States which have chosen to apply laws to the commerce on firearms within borders run the gamut. They are urban and rural. They are Eastern and Northern. They are in the heartland and the Deep South. They are representative of every region of America. And their citizens have chosen on their own to implement some form of waiting for guns, handguns, and in some cases for all gun sales.

Mr. President, this preemption language ought to be stricken from the bill. I will move to strike it, and I urge my colleagues to support the motion to strike.

The people of the States have a right to decide for themselves what to do in this area. Many of them have chosen to do so. Others have chosen not to do so. Let us let permit the States to exercise their judgment when they choose to do so.

Mr. President, I reserve the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, first let me express my appreciation on behalf of all of those concerned in passing the Brady bill to the leader because the leader has been resolute, not alone in this session but in previous sessions as well, in providing the helpfulness in order to bring about the passage of the Brady bill. Time and time again it is he and his staff that have walked into the breach in order to keep this issue alive and it is he who has been a real force to bring us to the point that we are at today.

Mr. President, before I address myself to the substance of the Brady bill, I will take a short moment to comment on the procedural situation we have agreed to today.

We have taken some unusual steps to que up the series of votes we will soon take—steps well worth taking in an effort to bring debate on this important matter to a close before we recess.

The chairman of the Judiciary Committee has been also extremely helpful

staying here late hours into the night working as hard as anybody could possibly work in order to bring us to this point today in his support for the Brady bill. So I publicly acknowledge the help and the assistance that both the leader and the chairman of the Judiciary Committee have given us during the most fractious moments of these negotiations.

But quite often in the U.S. Senate when we conclude a measure we at that point arise and indicate our appreciation to the staff that had been involved. The staff of Senator MITCHELL and Senator BIDEN have indeed been extremely helpful but no single individual has worked harder to bring us to this point that we are at at this moment than my administrative assistant Joe Johnson, who is seated beside me. The night before last he was in the meetings until 4:30 in the morning, last night until 2:30 in the morning. I only say publicly to his wife my apologies, but I think in the long run you would agree that his efforts have been in the country's interest and I know how supportive you have been of him, and I am very grateful to him and the country owes him a great debt of gratitude.

At times, these talks were as difficult and tortured as any attempt at a Bosnian cease-fire. And while the Republican leader and I will cross swords shortly on two of the provisions of this substitute, it is safe to say we would not be in a position to pass this bill today if he did not want to allow it, and I am appreciative of that.

And even though the procedure today might seem a bit confusing—the drill is really very simple if you support the Brady bill—vote with the leader on a motion to strike the preemption provision, vote to strike the sunset provisions of the Dole substitute, and vote to invoke cloture on the bill. Three votes, and at the conclusion of those three votes, the President will take pen in hand and make the Brady bill the law of the land, because I do not anticipate any problem in the conference with the House on this subject.

Let us talk about the substance of why we are here and why we need the Brady bill. Mr. President, over 177,000 handgun deaths ago, I first introduced the Brady bill in the Senate—that was 6 years ago, on February 4, 1987.

It was about that time that Jim Brady and his wife Sarah—Jim who had paid with such a high price at the time during the Reagan administration when he himself was personally shot—came forward to provide the leadership to pass what we now call the Brady bill.

There are few bills in the Congress that have the names of a particular individual or individuals. When they do have such names usually they are the name of some Senator or some Congressman, but in this instance these two individuals have given of so

much of their time and effort and dedication in order to get the American people aware of what the issues are about and the need to pass the Brady bill.

I for one speak for all Americans when I say we express our gratitude and appreciation to both Sarah and Jim Brady. Without you we would not be where we are today. This is the fourth consecutive Congress in which we have debated this bill. In 1987, there were a limited number of original cosponsors. Some have claimed that there were no original cosponsors, and I am not sure of that fact.

Today, 31 Senators have joined as cosponsors of this bill. In the last Congress, 67 Senators voted in favor of the Brady bill. And now, in this Congress, the House has already passed the Brady bill.

Every year in this country, over 24,000 people are killed with handguns. That means that about 65 people are killed with handguns per day, or almost 3 per hour. Every year, handguns are involved in an average of 9,200 murders; 12,100 rapes; 210,000 robberies; and 407,600 assaults. Thousands more are killed in handgun suicides. Some of these tragedies could have been prevented if a waiting period had been in effect. And that is all we are saying. We are not claiming that all of them would have been eliminated, but a substantial number of them would not have occurred had there been a waiting period in effect.

Some people's lives would have been saved if Americans would be willing just to wait a few days to get a gun. As Senator MITCHELL has already pointed out the overwhelming majority of Americans, the overwhelming majority of Americans, are willing to wait, and the overwhelming majority of gun owners in this country are willing to wait. The Brady bill would do nothing more than that, provide for a national 5 business day waiting period prior to the sale of a handgun, during which time local law enforcement would be required to conduct a background check on the potential purchaser.

This waiting period requirement would be removed once a computerized nationwide instant background check systems is operational.

I think the American public is fed up with the refusal of the NRA and some Members of Congress to finally give the people the bill they have demanded for years. As previously stated, polls show that nearly 95 percent of the American people support the Brady bill. Eighty-seven percent of gun owners support it. Every single major law enforcement organization in the country supports it.

Dozens of leading labor, medical, religious, civil rights, and civic groups support the Brady bill.

Four former Presidents—Presidents Reagan, Carter, Ford, and Nixon—support it. And President Clinton certainly supports it in the strongest possible way.

I can think of no other piece of legislation that enjoys such support from such a broad cross-section of the American public. The broad and always growing support for the Brady bill should come as no surprise. Very simply, it is sensible public policy. It is absolutely incredible that we have had such a hard time over the years trying to make someone wait a few days to get a deadly weapon so that the police could make sure he or she is not a dangerous criminal.

Finally, we have a President who is not afraid of the NRA. Finally, we have a President who has said to Congress: "If you send me the Brady bill, I'll sign it."

We have a President who calls a press conference in his office, with Jim and Sarah Brady and the chairman of the Judiciary Committee and I and a few others, to indicate how strongly he feels about the need to pass the Brady bill. This is a President who says, "I want the Brady bill. Send it to me." I believe we should do exactly that and do it as quickly as possible. We cannot prolong the waiting period for this legislation any more. Somewhere, somehow, at some time, someone's life depends on it.

I know that by now many of you are familiar with the Brady bill. Some of you may be less familiar. Let me take a few moments to explain exactly what the Brady bill would do.

When the Brady bill is the law of the land, if an individual wishes to buy a handgun, he or she merely walks into a gun store, picks out the gun, and shows a photo ID with the person's name, address, and date of birth. The buyer then is asked to fill out a form stating whether he or she falls under any one of the categories that would, under current Federal law, prohibit possession of a firearm, such as felons.

The purchaser signs this form and leaves the store without a handgun. The dealer then sends the form to the local police. The police then have 5 business days to perform a background check on the purchaser. In that time, the police must check criminal records to see if the purchaser has a felony record. If, after 5 business days, a gun dealer has received no information from law enforcement which indicates that the sale would be illegal under Federal, State, or local law, then the transaction may go through. If the police can conduct this background check in less than 5 business days, then the sale can go through sooner.

If the police find that the purchaser lied on the form and is in fact prohibited from possessing a firearm, they would so notify the gun dealer. The dealer would then be prohibited from

selling a handgun to the would-be purchaser.

The Brady bill applies only to handgun sales by licensed dealers to non-dealers. It would not affect secondary transfers. In addition, the Brady bill does not apply in States that require their own background checks.

And that has to do with the preemption issue that we are talking about on a Mitchell amendment knocking out the preemption issue.

I also want to make clear that the Brady bill waiting period does not apply in situations involving a known threat to personal safety. Should an individual require access to a handgun because of a threat to his life or the life of a member of his household, he may obtain a statement from local law enforcement that would exempt him from the waiting period.

What the Brady bill will do is help reduce handgun violence. It will stop thousands of illegal handgun purchases.

No one argues that a national waiting period will stop all criminals determined to get a handgun, just as America's drug laws don't stop all drugs, but stronger laws will put a significant obstacle in the criminal's path to the tools of his trade. Enactment of the Brady bill will go far in stemming the flow of guns into the black market.

The NRA claims that there is no evidence of this, that there is no evidence to show that the Brady bill will keep guns out of the hands of criminals. As usual, the truth is just the opposite.

Law enforcement officials from across the Nation report that felons and other prohibited persons are caught by the thousands in States which currently have waiting periods and/or background checks.

For example, California has a 15-day waiting period that has prevented 5,659 illegal firearm sales during 1991 and 5,783 during 1992. Those stopped from buying guns since 1991 include 71 murderers; 14 kidnapers; 203 rapists; 141 under restraining order for domestic violence; 884 burglars and robbers; 1,283 convicted of dangerous drug offenses; 5,772 convicted of assault, and 537 juveniles.

A lot of numbers, a lot of mumbo jumbo, but, in fact, reality is it stopped a lot of people who have criminal records from getting guns and probably keeping them from causing more harm and more deaths in our society.

New Jersey has required a background check for handgun purchases for more than 20 years. According to the New Jersey State Police, more than 10,000 convicted felons have been caught trying to buy handguns.

Maryland has had a 7-day waiting period since 1966. In 1990, more than 750 prohibited persons were caught trying to buy handguns.

So the Brady bill will help reduce gun violence in this country. It is the

least we can do. If you cannot do it for yourself, do it for your children and your grandchildren, who would live in a little safer world with the Brady bill as a part of our national laws.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 1219 TO AMENDMENT NO. 1218

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 1219 to amendment No. 1218.

On page 15, strike lines 4 through 18.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we are engaging in a very important debate this morning and into the afternoon of the final days of this session of the U.S. Congress. It is an important debate but it is not an unfamiliar debate to most Senators and certainly to any citizens of our country who may be listening or watching. The Brady bill itself, by name, as most people understand it today, is reasonably well understood. And, as you have heard this morning from the Senator from Ohio and the Senator from Maine, most people say, when asked, "Do you support the Brady bill?" and the answer is "Yes."

But it is interesting to me that to be able to even get to the floor to pass or to become close to being able to pass a Brady-like bill, the majority leader and the minority leader had to largely rewrite the entire bill.

I say that because S. 414, which the Senator from Ohio on many occasions has introduced, really is a shell. It is a shell that has created a political image that largely will not serve what most Americans believes the Brady bill might accomplish. I think all of us have tremendous respect for Sarah and Jim Brady and all that they have been involved in and all that has brought them to this debate and what they have done nationwide to raise the consciousness of Americans as it relates to violence and criminal activity in this country. But I think it would be a tremendous disappointment, in passing legislation and creating an illusion that somehow Americans were going to be safer tomorrow, if the President were allowed to sign a Brady bill that really did nothing but create a 5-day waiting period.

So, through the course of the debate this morning, I will, I believe, provide

ample information that is factual, that certainly can be backed up, that would demonstrate that unless you go after a thorough background check, that unless you go after the knowledge of who is buying the weapon, that you really have accomplished nothing and that the streets of America will not be any safer.

Senator KOHL, who is on the floor, and I joined in what I believe was a very historic effort over the course of the last several days to put meaningful law in place to deter criminal activity. We were able to do that in a variety of ways, but one of the most significant and one of the ones that is bothering Americans today is the fact that juveniles are gaining phenomenal access to firearms and in so doing—I think I have used the quote and Senator KOHL has used the quote that over 200,000 handguns a day come into the public schools of this country. And we know that is wrong. But tragically enough the debate over the next couple of hours would have done and would do nothing, if it became law, to deter that, because most of those young people are buying guns illegally off the streets and out of the trunks of cars that are on the streets of America. I say that because it is a fact. It is a documentable statistic.

We will use a lot of statistics today. Certainly my colleagues have already engaged in that gamesmanship—and it is appropriate. But, doggone it, if we are going to tell the American people that we are treading on their constitutional right, we ought to do it in a way that in fact works, that is real, that makes sense. We have historically taken away rights of American citizens under the Constitution. We can do that. But we must be awfully careful in doing it. And, when we do, clearly the majority of the American people must respond by saying it was worthwhile; you have done it because it was worthwhile and it worked.

S. 414 will not work. The reason it will not work is because it does not even require—oh, it speaks to a background check, but it knows under the 10th amendment of the Constitution it cannot force it. It can bring about a waiting period of 5 days. But attorney after attorney who at least we think know something about our Constitution and State law and Federal law have said you can say you can do it, but—even the Senator from Maine said today that court decision after court decision has said you cannot tell local communities and States to do something from the Federal level.

So the alternative, the Dole-Mitchell gun control measure—because it is a form of control but it is really a background check—says to States that, if you are willing to engage in this, we will help you. We will work with you and pay you to bring about an instantaneous record check that will produce

what we need. It will produce the background information on the person who is out there to purchase a handgun through legal means, an understanding of whether he or she is a felon or not. And that is what Americans want. That is what this argument is all about.

Fear of violent crime is rising in this country; 57 percent of our American citizens are now concerned about becoming a victim of crime. Americans do not believe, though, that guns are the major cause of crime. Yet, day after day as we debate gun issues on the floor of the United States Senate, somehow we always get to that point where it is the gun that creates the crime or that causes the crime.

Americans know better than that. They say that erosion in moral values create 59 percent of our crime rate, that economic conditions create another 15 percent of our crime rate, and then, when asked about solutions, they say that 7 percent of our crime rate is a result of guns.

What are they saying is the most effective solution? The Brady bill is not at the top of the list. What is at the top of the list are prevention programs and education. What is also at the top of the list is what we have been doing for the last several days here, putting tougher penalties into the prosecution of that law and the enforcement of that law.

Just a few minutes ago we did pass a historic crime bill. There is tough language in it—three times up, three strikeouts and you are out as a citizen. You are out as a citizen if three times you become a felon.

That is tough and that is what the American citizens are saying really brings about quality crime control of the kind that we want. Teaching values, believe it or not, is 16 percent. Gun control—that is what we are talking about today—the American citizens when polled as recently as 6 months ago said, well, that is about 9 percent. It might work. But only 9 percent of them believe that it would work.

So when anyone stands on the floor and says that S. 414 will work and the streets of America will be safer, the American public does not believe it. That is why we are not even going to debate that one today. Yet it has tied us up year after year. Yet we know and the American people know it will not work because it does not require a background check, it plays games with a waiting period, it does some other things, but it is a political shell.

What will work? Let us talk for a moment about what will work. Will the Mitchell-Dole or the Dole-Mitchell substitute amendment 1218 work? It has a 5-day waiting period for the purchase of a handgun after the 90 days from its enactment. States with instant check systems are exempt. Does it preempt States? Yes, it does. But those who have instant checks it does not.

It is also interesting, when you hear this strong argument about preemption that the Senator from Maine made, why, he says, it wipes out State law. What about those States who have no waiting period? It preempts their choice not to have it. In other words, it forces them to have a waiting period just as much as it forces those who do have a waiting period to conform to a 5-day period. It cannot be good for one and bad for the other. You cannot play the preemption game for just some without admitting that, when you put in a mandatory Federal 5-day Federal waiting period on those States that do not have it, that is a preemption of State law, because we must assume—and I think properly so—the State legislatures have already considered the idea of a waiting period in almost all of our States, and many have said no—while others have said yes.

What we do by preemption is exactly what the Brady bill proponents have argued for years now—a uniform Federal law or a uniform law. So I am a little confused by the Senator from Maine and the Senator from Ohio when they talk about how terrible a preemptive clause is in the substitute when in fact for a good number of years they have said uniformity is the key.

We all know we live in or around the District of Columbia, and part of the frustration in the movement of guns in a city that has some of the strongest gun control language in the Nation is—and we have heard it said—“Well, they come in from Virginia, and if we had the same laws in Virginia that we had in Washington, DC, it would be different.” Or, “They come in from Maryland.” In other words, there is no uniformity within the area in which the crime rate is the highest in the Nation.

So I think we better be awfully careful when we are talking about preemption this morning, that we are contradicting ourselves because, as I mentioned, the argument by the Brady bill proponents for years has been standardization, uniformity. Those were key. That is what the substitute offers: The building of uniformity as we move toward what will accomplish keeping handguns out of the possession of criminals, and that is an instantaneous background check.

Let me walk with you for a few moments down through what the Dole-Mitchell substitute should be able to accomplish.

As I mentioned, there is a 5-day waiting period. But that begins to short-circuit very quickly when States develop a master name list and move toward an instant background check, so that we can bring up nationwide a computerized system so that truly we can get at those who are acquiring guns through a gun store as felons in an illegal way.

Twenty-four months after the enactment, or whenever the computer system contains State records covering 80

percent of the U.S. population and violent crimes with 70 percent accuracy of case disposition within the last 5 years, when their records are up and doing that, they are exempt from this law; they are on their own; they are doing the instant background check. They are bringing that kind of thing on line.

Instant check preempts State and local waiting periods, as we have mentioned, except waiting periods that are enacted 12 months later. In other words, to create the uniformity that the Senator from Ohio has always talked about, we are saying we will bring up the instant check and we are preempting State law, but after the period of time that you have seen it working, if it does not work, you have the right to go back and reinstate a waiting period.

We have worked hard at trying to create the uniformity that we want so that we have a nationwide grid of informational flow that really will be able to check whether a person who is acquiring a gun is in-State, where he or she ought to be, and whether they are a felon or not, whether they comply with what constitutes legal in relation to acquiring a handgun.

The Attorney General will review the statutes and criminal records of the States and set a timetable for each State to provide the records to the national system. That is Attorney General Reno we are talking about. Why is this possible to do? Because for the last 5 years, the Congress of the United States has put Federal tax dollars to building a unified informational system.

The Brady bill, as was mentioned, S. 414, creates a mandate but does not put any money with it. It says to the States, "You do it." But it also is saying, when it says you do it, it says you pull law enforcement officers off the streets and send them to their desks to devise the computer system and to go through the current informational systems to bring up a master name list.

What we are saying is, no, you do not have to do that. It is very important we say that. We just said we are going to put 100,000 new law enforcement officers on the streets when we voted for the crime bill. Senator METZENBAUM, by his bill, would say: Take them off the streets and put them at the desks to do these informational checks. We are saying, no, we are going to give you, provide for you \$200 million in grants to States to update your criminal records, to bring them up to standard, to fit into the instant check, to do the kinds of things that are necessary.

It is a mandate with money, and that is the way mandates ought to be if we collectively believe that this is for the general good of our country. State and local law enforcement grants may be cut because of the failure of a State to establish a timetable within the necessary period of time. If instant check

is not operating within 24 months, the Justice Department may then administer funds by a reduction of 5 percent, and after 36 months, a reduction of 10 percent.

The reason this timetable is put in place is that we are pushing States toward bringing the instant check up because this bill has a 5-year sunset provision in it, as does the House version of Brady. In other words, we are saying after 5 years, it goes away. But what we are doing is putting money and the force of law in a cooperative effort with State and local law enforcement agencies to bring about what we want, and that is the ability, in an instant way, to find out whether that person who is attempting to acquire a handgun has a record, a felonious record.

Americans do not believe gun control measures to be effective in the battle against crime. Eighty-two percent believe a waiting period will only affect law-abiding citizens and that criminals will still be able to purchase guns. The American people are a bright lot. They do not read the polls. They have a gut instinct, and their gut instincts are accurate.

Here is a statistic to tell you how accurate it is: 86 to 90 percent of people in our prisons today serving time, felonious records, admit that they do not acquire or did not acquire their handguns legally. Is it not interesting that criminals do not walk boldly through the light of day into a gun shop and say, "I want to buy a firearm"? The reason they do not is because of current systems that cause some effort at a background check and, most important, criminals just simply do not play by the rules. I think that is how you define criminal: Somebody who breaks the law. So he or she goes to the streets of America or to the back alleys where there remain an abundant supply of handguns and other forms of firearms, and that is where they buy them.

So American citizens say, "Well, yes, we do support Brady, but it won't work. You have to do some other things."

What they do support is a screening mechanism, an instant background check that says: Identify us; do not prohibit us, do not restrict us, but identify those who are attempting to acquire firearms to see whether they, in fact, have a record.

I believe that is the substance of the debate. There will be ample opportunity to discuss other issues as we work this debate today. But what I do believe is important is to try to understand what we want to accomplish versus what is the politically popular thing to do. So if you decide to vote to strike State preemption today, you are deciding to vote against uniformity. You are saying to those who have waiting periods, you can keep them. And you are saying to those who said, "We

do not want a waiting period," but you have to have one.

So I hope if anyone comes to the floor to use their arguments again, they need to be a little broader in their explanation.

What we are saying in a State pre-emptive clause is uniformity, and we are setting in motion a very strict and exacting timetable to move us toward an instant background check.

All 50 States and the District of Columbia have established central repositories for their local and State criminal records. That started happening 5 years ago when we put money behind the ability of States, along with the FBI, to begin to clean up their record systems. In all those States, criminal justice agencies are required to report arrests and the disposition of the data to a central repository for all serious offenses.

Mr. President, 45 million individuals are on the criminal history files now; 60 percent of the records are automated; 47 States and the District of Columbia have some automation already up right now.

Why am I giving you these statistics? Because they are important to understand when we argue instant background check and the ability to bring it on line in a reasonably short period of time by the establishment of a master name index.

How many of you—probably all of us—have pulled out your credit card and watched that clerk run it through the machine and almost instantly your credit history is before them in the form of saying you are qualified or you do not qualify for the amount of the purchase. That is computerism today. That is modern society. What we are saying is that in nearly that form, within 24 months, with the money we have provided, it is reasonable to assume, based on where we are today and with the 5 years of effort that have already been underway and the money the Federal Government has put behind it already, it is possible to have that kind of, or nearly that kind of automated screening system for the average citizen, and the substitute provides that.

The Dole-Mitchell substitute recognizes the importance of that. S. 414 does not. It does it in a way that, as I mentioned, offers the carrot and offers the stick and moves us clearly as a nation in a direction of uniformity for the purpose of building that kind of an informational base so that we can truly screen out those citizens attempting to acquire their handguns who might have a record or who might attempt to use that gun for illegal purposes.

There are a good many others who are here to debate this important issue. It is an important issue. None of us make lightly of it. It is clearly our responsibility to attempt to create a

safer society. None of us deny that. But it is also our responsibility to do it in a way that is not illusionary but that works, that the citizens say, "That's working. Congress, you did a good job. There are fewer crimes being committed today. There is less violence in America. And Congress and U.S. Senate, you were able to do that without treading all over the rights we hold dear, these constitutionally important rights that say we can be what we are and we can do certain things."

One of those happens to be the second amendment. And while I stand on this floor and defend it, I also recognize that we are smart enough, we are good enough, we are far enough along in the world of automation and information that we do not have to tread on rights anymore to be able to create a background check system to allow our citizens the security of understanding that fewer criminals might be unable to get handguns.

I reserve the remainder of my time.

Mr. KOHL addressed the Chair.

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

Mr. METZENBAUM. I yield the Senator from Wisconsin 5 minutes.

Mr. KOHL. I thank the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. KOHL. Mr. President, I rise today to urge my colleagues to strike the language of Senator DOLE's substitute that would preempt State waiting periods. Simply put, I believe that preemption would in fact turn the Brady bill upside down. Let me tell you why.

The Dole language would preempt at least 25 existing State waiting periods. It would shatter, for example, the 15-day waiting period in California which has helped stop 16,000 illegal gun purchases since January of 1991. It would demolish the 20-year-old waiting period in New Jersey which has helped stop 18,000 illegal gun purchases. And it would destroy the 2-day handgun waiting period and background check in my own State of Wisconsin, which has prevented more than 500 convicted felons from buying guns over the last 2 years.

Wisconsin's legislature enacted a waiting period in 1986, long before it established a background check for handgun purchases, because it knew that cooling off periods indeed help save lives. Congress should not strike down this crucial Wisconsin law.

No one is more sensitive to the evils of Federal preemption than my good friend, Senator ALAN SIMPSON of Wyoming. Let me tell you what he said about preemption during our last Brady bill debate just 2 years ago:

The Federal Government should never preempt State laws without strong and compelling reasons to do so. When we preempt, we wipe out a State law—erase it—nullify it. We

substitute our judgment for the decisions made by the duly elected representatives of State government. When we preempt, we are, indeed, big brother. Only in most rare and extreme circumstances should we exercise that awesome Federal power over the States.

Senator SIMPSON and I may disagree over the merits of this Brady bill, but I believe he is right on point when he says we should not substitute our beliefs for those of our colleagues in the States.

Finally, Mr. President, thus far Senate debate on crime policy has been the embodiment of bipartisan cooperation. We ought to make sure it stays that way. I know there are good things in the Dole modification to Brady, and I am certain that we can accept some of the provisions of his proposal. But Jim Brady would not stand behind this attempt to preempt State laws. He would repudiate it because, if the Dole language remains, this will not be a Brady bill anymore. Instead, in my opinion, it would be anti-Brady bill.

I urge my colleagues to support this amendment to strike the Dole preemption language.

I thank the Chair. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I yield to the Republican leader such time as he may need.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank my colleague.

Mr. President, this is a very important debate. Many of us know what gunshots will do to a person. I had intended to offer an amendment to the crime bill which would have dealt with a number of real problems, what I call access to firearms. In fact, I think we want to keep in mind this is a very broad amendment. It is not limited to preemption or sunseting. There are a lot of features in this substitute that are very good.

Had we offered this to the crime bill, it would have been subject to amendments that included bans of certain types of firearms, restrictions on obtaining ammunition, requirements of securing liability insurance, on and on and on.

I believe it is time to separate fact from hysteria and do something about the real problem of firearms—keeping the wrong people from getting access to them.

So I wish to say just a word about the amendment that was adopted on so-called assault weapons, the Feinstein amendment, before moving ahead.

For the first point I am going to make, let us separate all firearms into two categories: Those that fire a stream of bullets when the trigger is

pulled and those which fire only once per trigger pull.

There is a lot of confusion about this on this Senate floor.

The first category are called automatics or machine guns. We began regulating them in 1939. Then since that time there is no evidence that even one legally owned machine gun has been used in the commission of a crime.

Let me repeat that so we can discuss facts. Since 1939, no legally owned machine gun has been used in a crime.

But that was not good enough for some, so in 1986 we banned the future manufacture of these firearms that were not and still are not being used in crimes. Then we patted ourselves on the back for that stroke of genius. We banned guns not being used in crimes. "Boy, wasn't that a great thing we did."

Some have begun to call firearms in the second group, those which fire only one shot when the trigger is pulled, automatic weapons—they are not automatic weapons, but that does not make any difference; Members do not make any distinction. So there is a lot of hysteria out there—or machine guns or machine pistols. Well, they are not automatic or machine anything, but they are used in crime and we need to find some way to reduce the chance that they will be.

Now, one line of thinking is that we can somehow wrongly label a firearm in group two, we can somehow ban it and end crime in America.

Unfortunately, injecting falsehoods only guarantee failed results. We can ban all the group 2 guns we want and new ones will appear. That approach is quite simply again a dog chasing its tail. There are other ideas, like "Let them keep their guns, we'll ban the bullets." Mr. President, maybe we should go ahead and debate the real issue. We ought to repeal the second amendment that has been referred to by my colleague from Idaho. Let us have that debate, and get it behind us once and for all. The last time I checked, the second amendment is still part of the Constitution. So like it or not, there are going to be guns around. There are going to be guns around.

But we still have the problem of guns being used in crime. We still have to find some way to address that problem not with hysteria but with a reasoned approach that addresses reality.

We have heard a lot about something called the Brady bill. I know Jim Brady. He is an outstanding person. I knew him when he worked for the distinguished Senator from Delaware [Mr. ROTH]. I knew him when he worked for President Reagan in the communications office.

Some really believe that passing the Brady bill, whatever is in it, is going to end crime because it has the name "Brady" on it. There are two problems with that line of thinking.

First, it is not exactly clear what the Brady bill is. I doubt if anybody here can—well, maybe a few could.

Second, whatever it is, it is not going to end the use of guns in crime.

We have had a lot of changes in Brady bills over the years. They have gotten better. The first one was nothing more than a Federal waiting period prior to the purchase of a handgun, but, unfortunately, a waiting period in itself does not do anything.

I was opposed to the first Brady bill because I genuinely believe it is better to do nothing than to do something that will have no useful impact and no useful effect. To the contrary, with the Drug Enforcement Education Control Act of 1986, Congressman BILL McCOLLUM and I added an amendment calling on the Department of Justice to begin gathering information to assemble a nationwide computer background check on potential firearm purchasers. We have been at that now since 1986. It has been discussed at length by the distinguished Senator from Idaho [MR. CRAIG].

Ever since that time, I have insisted the first step in corraling gun violence is to enforce a law we already have on the books, the 1968 Gun Control Act. That law was passed in response to America's outrage at gun violence in the deaths of Bobby Kennedy and Martin Luther King, Jr. Unfortunately, the key provision in that law has remained virtually unenforced; the provision that prohibits criminals from buying firearms.

In most of America today, a convicted felon can walk into a gun store, check a box on a paper form saying he is not a felon and walk out with a gun. Mr. President, man first walked on the moon a year after the 1968 Gun Control Act became law. Yet, 25 years after the law was passed the key provision remains unenforced and violence committed by those who misuse firearms has become rampant. That must change, and our priorities must change.

In 1991, I sponsored a plan that eventually became known as the Brady bill.

An amendment was offered with the distinguished majority leader just as we have done today. Today, we have just two differences. In all of this legislation in the entire package, we have just two, I think, differences. In all of this legislation in the entire package, we have just two, I think, differences that ought to be worked out so everybody could support this legislation—only two differences, minor differences. We made exceptions to the so-called preemptive statute.

But in any event, in 1991, we sponsored this bill but instead of a simple waiting period, it called for a nationwide computer file of convicted felons and others who cannot legally obtain firearms. Further, it required that once operational, that file had to be checked

before the purchase of any handgun would be allowed.

Now it is applied to all firearms, any gun—any gun. If you go in to buy any kind of a gun, you put your little card in there, and if it says "tilt," just like your credit card would say "tilt," you do not get any credit, you do not get any gun. That is the instant check. That is the check we ought to have. Finally, prior to the system becoming operational there would be a Federal, 5 business day waiting period, but the Federal waiting period and all other State and local waiting periods would be eliminated once the background check system started operating.

So, that too was called the Brady bill. The first part of the amendment I am now offering is also called the Brady bill. I have not sought the support or endorsement of Jim Brady.

But I think he would be happy at least for the first part of it, I think with most of it, except one little area called preemption. I think the rest of it is not objectionable to anybody. I would like to support whatever the name of this bill is. If we can prevail on preemption and sunset, there will be a big, big vote for this bill. It will send a much stronger message than might be sent otherwise.

So what we have done today, working with the majority leader and other Senators who are on the floor today on both sides of the aisle, we have tried to craft a bill where we could bring in some new measures, new provisions, and still have a strong gun bill.

So this amendment preserves the structure in the Brady bill I offered last year. It also requires the Justice Department to work with the States to update criminal records.

In fact, it is going to provide \$200 million to do that. We had \$100 million in the bill. The distinguished Senator from Kentucky [MR. FORD] said it ought to be increased. So we raised it to \$200 million. So we have the money in the bill.

It requires the Justice Department to work with other Federal agencies to update records for illegal aliens, those dishonorably discharged from the military, Federal felons, and all others who have given up their right to own a handgun. There are six or seven categories, and maybe eight now.

It then requires an instantaneous computer background check prior to the purchase of a handgun.

During the estimated 24 months of record collection, there would be a 5-business day waiting period. However, once the instant check was up and running, the Federal waiting period and all State and local waiting periods would be preempted. It is very similar to the provisions of last year's Brady bill which eventually passed this body overwhelmingly.

The most divisive remaining issue on the Brady bill is whether to preempt

State and local waiting periods. But, it should not be divisive at all. The backers of the other Brady bill have already agreed that once a computer check is in place, no waiting period is necessary. And, if any State has an instant check system, it needs no waiting period. So, if we pass a law that requires a computer check for every handgun purchase, regardless of location, why would we need a waiting period in some areas of the country and not the others? The fact is, waiting periods do not work, they don't accomplish anything. So why should not we put that issue behind us, and join together and pass this commonsense piece of legislation.

I think this is the point that I do not want people to overlook, my colleagues to overlook. We significantly reduced the preemption in this amendment. People should take a look at it. So it includes only waiting periods.

I met with Congressman SCHUMER in the cloakroom the other night to see if we could not work out something in conference yet this year. We would like to see it done this year before we leave here tomorrow or Monday.

So we were out there just visiting. How can we do this? How can we put this together? We have reasonable people on both sides of the aisle. This cuts across party lines, philosophy or anything else.

He told me that it was not only the waiting periods that take time. He mentioned fingerprinting, licenses, permits, safety courses, a whole list of things that are exempt from the waiting period. They are not preempted.

So the States can still do those things. State and local governments are free to impose new waiting periods. Also, after the interest check goes on line, which we think would take about a year, if the States want to go back, reimpose the waiting periods, they certainly have that right.

So we have tried to change it in every way to satisfy the opposition. We recognize that States have rights. We recognize that other communities have rights.

Mr. President, I hope the people will read the language carefully because we have sought to address the primary concerns that have been expressed.

We hope that the amendment to strike "preemption" fails. We hope the amendment to strike "sunset" fails. If that is the case, under the agreement, the bill is agreed to, and it goes to conference, we could complete action before we leave late tonight or tomorrow.

Let me tell you what else is in this substitute offered by the majority leader and myself. The Brady bill was drafted in this amendment, if we are still calling it the Brady bill. It has gone far beyond the original Brady bill—the Federal waiting period. It is going to help reduce some access to handguns by those who want handguns

for criminal purposes. But most violent offenders do not obtain handguns in retail establishments. If you want a gun and you are going to commit a crime, or if you are a criminal to start with and have repeated offenses, you are not going to worry about what is legal or illegal. You will find a way to complete your task.

So we have added a number of other provisions to this amendment which recognize other avenues by which handguns find their way onto the streets and are involved in crime.

First, current law requires that if a gun dealer sells more than one handgun to an individual in any 5-day period, notification must be sent to the Bureau of Alcohol, Tobacco and Firearms. The problem we have is that these postcard notifications are filed away in shoe boxes at a warehouse in some out-of-the-way location—they are not used for anything other than an occasional after-the-crime review.

The amendment I am offering changes that. It proposes adding the requirement that State and local police departments be notified. It also requires that no record can be kept at the State and local police departments, which eliminates the concern that this would be back door gun registration.

There is a growing business in black market gun sales. It works in various ways—using straw man purchasers, using counterfeit or deceptive driver's licenses, and on and on—but, to be profitable, it always involves multiple sales.

This provision—which is a new provision and one you ought to look at carefully—would allow police to get a better handle on the individual who buys four or five handguns this week and sells them on the street for an inflated price, and then buys eight handguns next week and sells them on the street for an inflated price. Someone ought to knock on the door of that fellow and ask him if he is a legitimate collector or a trafficker.

Let me say clearly that there is nothing wrong with multiple handgun purchases. It is legal, proper, and should be allowed to continue. It is the illegal activity of reselling the handguns to those bent on the improper use of handguns we must stamp out.

The amendment includes a section on updating Federal firearm licenses—so-called FFL's—and related materials. A number were included in the Simon-Bennett amendment and have been deleted from this amendment.

To address the real problem of gun theft, the first part of the title includes several provisions concerning the theft of firearms which are not contained in current law. The first relates to a requirement in current law that dealers and manufacturers must notify interstate carriers when packages contain firearms. This has led to the carriers requiring that the packages contain la-

bels and tags to clearly identify that firearms are inside. Well, if you ever wanted an invitation to somebody, just put on there "firearms inside." If you are a thief and you want to steal some firearms, you have the box already marked for you. And you guessed it—these packages have been disappearing in ever-increasing numbers. The amendment prohibits these labeling requirements, since it is already against the law to send loaded firearms, and the only real effect of the labels is to invite theft.

Second, it requires a "paper trail" when firearms are sent by carrier. Regardless of industry, most businesses require paper trails on important documents. It seems reasonable to us to require that the same be done on firearms. At least then, we would know if these firearms are stolen and know when they enter the black market.

Third, BATF interprets a part of the current law to require dealers from different States to use common carriers in all sales. The amendment allows the direct, face-to-face transfer of firearms when dealers are from different States. This would reduce the chance of theft while the firearm is in the possession of the carrier.

Fourth, current law prohibits the knowing sale or transfer of stolen firearms. The law does not prohibit stealing the firearms from a dealer or a manufacturer in the first place. This amendment changes that and establishes the penalty for theft from gun stores at 10 years in prison, \$10,000, or both. These are all very good provisions, all part of this bill. Call them what you will. Call it the Brady bill, or call it modified Brady bill.

I almost cannot believe it, but there are criminals out there, who rob gun stores. They do not burglarize, but commit armed robbery. I cannot think of a more violent criminal. Obviously, the clerk in the gun store has a high probability of being armed; yet, these criminals shoot their way through the theft knowing in advance that this violence will occur. For those criminals and those stealing firearms in a riot, the penalty is 30 years, and life with no parole if the crime results in a loss of life.

Finally, this part of the FFL title explicitly allows States to prosecute—under State laws—these same violations, which we think is satisfactory.

The next part of the FFL title eliminates the current distinction between pawnbrokers and dealers and raises the fees to \$200 for the initial application and \$90 for renewal.

The following section will reduce the number of individuals who need FFL's by updating the definitions for "antique firearms." Current law exempts these individuals from needing a dealer's license, and this amendment moves the date forward in the definition of these guns.

In an effort to ensure that dealers follow all of the rules and fully assist the BATF in our efforts to reduce firearms falling into the wrong hands, BATF is required to send the new regulations to all FFL's. The cost of this provision is offset by the new higher fees.

Mr. President, the original amendment ordinary by myself and the majority leader also included a youth handgun safety provision, a concept originated by the Arizona Governor, Fife Symington. That part was similar in nature to the Kohl juvenile handgun amendment. It is a good amendment, and I congratulate the Senator from Wisconsin for adding that to the crime bill. We think it ought to be in this bill because this bill is going to pass, we hope, today and become law this year. But it is in the crime bill, and I think it will stay there.

Mr. President, finally I say this: We should move this debate forward in a nonpartisan way. Gun violence is calling out for realistic answers. They do not separate Republicans from Democrats when somebody is out there with a gun firing away at somebody. They do not ask your party affiliation—well, maybe in some rare case they might. They do not ask if you are an independent, or a Republican or a Democrat. This is not partisan issue. It seems to me that we can take a big constructive step forward.

Up front, I will say that some may want to make an issue over State and local waiting periods. I do not think they should. The waiting period concept has already been abandoned in other Brady bills. We ought to allow that issue to pass and get on with addressing the real problems.

I am going to speak a little later on preemption, specifically, and sunset. The House has adopted a sunset provision, and we have cleaned it up a little. We thought it lacked something. I do not think that is a big issue in the Senate. I do not think there is much question about what will happen on the sunset. I think it is going to pass.

On preemption, take a careful look at the amendment. Do not look at the newspapers, take a look at the amendment, and take a look at the summary and the analysis of the bill, which should be on everybody's desk. If you do not have the amendment, take a look at all of the exemptions we have offered. Try to make it acceptable.

We believe that if we can come together sometime today, we can pass a bill out of this Chamber, maybe by a unanimous vote, 99 to 0, or 100 to 0. To me, that would be the strongest signal we can send as we wrap up the Congress—that we came together on a bill that everybody supports—almost everybody. Maybe some would not vote for it, but almost everybody supports it. I think it would and should have the

support of the Bradys, who have done good work. But we would like to have them just take a look and give a little bit, just give a half inch, and there would not be any debate on this floor—except the debate we are having now, which is constructive. We would not debate sunset and preemption. We should not be debating those issues. I hope when the time comes, my colleagues will not strike preemption from the bill offered by myself and the distinguished majority leader and will not strike sunset.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I say to the Senator from Ohio that I know the Senator from Nevada wants to speak. I will try to do it in 3 minutes.

Mr. METZENBAUM. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I rise to support the Mitchell amendment, which opposes the Federal preemption, for several reasons.

First of all, I support the Mitchell amendment and a strong Brady bill out of deep respect for Sarah and Jim Brady and all they have done.

Second of all, I support the Mitchell amendment because handguns were used to murder 13,220 people in our country, the United States of America, in 1992, and we ought to make this as strong a bill as possible.

Third of all, I rise to support the Mitchell amendment because when I talk to law enforcement people in my State and when I talk to law enforcement people in the United States of America across the board, there is a strong consensus to pass as strong a Brady bill as possible. It is not the be-all or end-all, but all law enforcement people tell us they need it as a tool to fight crime and make our streets safer. I think we have to respect that judgment.

I rise to support the Mitchell amendment and a strong Brady bill because we passed on the floor of the Senate the other night important legislation that deals with domestic violence, that says when there is a history of a conviction within a family because of violence against a spouse or a child, that person cannot own or obtain a gun. There is no way we can protect women and children unless we have the Brady bill to enforce this. For many, many women the difference between being a battered woman and a dead woman is a gun.

Finally, I rise to support this amendment because in my State of Minnesota we have a 7-day waiting period, and it has worked well. We went through the sharp debate in the 1970's, but since about 1976 we have had essentially the

Brady bill—7 days. You can talk to sportsmen, you can talk to owners of gun shops, you can talk to people in Minnesota. They will tell you it worked well because it enabled us to do the check on people with a history of violence.

I support the Mitchell amendment. I think it is vital that we pass the Brady bill intact. People in the country have responded for it, and we should respond.

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

Mr. REID. Mr. President, I ask the Senator from Ohio to yield me 6 minutes.

Mr. METZENBAUM. I yield the Senator from Nevada 6 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 6 minutes.

Mr. REID. Mr. President, I never visited with Jim or Sarah Brady or even talked to them on the telephone.

For many years the National Rifle Association has exerted a significant political influence in the State of Nevada, and I say that in a positive sense. I have supported the NRA in my 11 years in Congress without exception.

But there comes a time when a person's conscience will not let him walk that plank anymore. Today, I am announcing that I am not going to walk the plank on the Brady legislation that is now before the Senate.

I voted with the NRA in this matter previously, and at that time the NRA indicated to me and another Senator that the vote was appropriate. We later learned that whoever we talked with was speaking without authority.

Mr. President, in 1969, when I was a freshman legislator in the Nevada State legislature, I introduced legislation that created a waiting period in the largest county in Nevada, Clark County, where Las Vegas is located. I introduced that legislation on behalf of the Clark County Sheriff Department. That legislation passed. Clark County has had for 25 years a waiting period for the purchase of a handgun.

The main reason I introduced that legislation was to provide a cooling-off period to prevent people from buying a gun in the heat of passion and using it improperly. It was not just to stop those with criminal records, even though that was a reason, or to stop those who had mental problems from purchasing a handgun.

As I indicated, my legislation 25 years ago was supported by the largest police organization in the State of Nevada, the Clark County Sheriff Department. They still support legislation dealing with the cooling-off period for the purchase of handguns. To vote to preempt this law in Nevada would, to me, be irrational. To vote against a waiting period would be irresponsible and contrary to my previous record and contrary to my belief.

The last time this legislation was before this Senate, there was a debate. I did not participate in that debate. The people, as I have stated, in the largest county in Nevada have lived with a waiting period for 25 years, and it has worked quite well. This has not affected the sale of handguns.

Even Ronald Reagan supports this legislation. I also support this legislation. I will today vote with the majority leader in this instance. I will vote to invoke cloture. I will vote against State preemption. I will vote for the laws for State control after the sunset period takes place. This is done by me with a great deal of thought. It is something that is very difficult for me to do, but I feel that it is the right thing to do. Whatever political consequences flow from this, I am willing to accept them.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, first, I congratulate the Senator from Nevada for the statement. It took a lot of courage. It was a very difficult one to make. I think all of us in public life owe a great deal of gratitude to the Senator.

Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. MATHEWS. Mr. President over the past few legislative sessions our colleagues have proposed and passed a flurry of measures intended to drive crime—especially gun-related crime—from the fears of Americans. Many times over those days, our debate has centered upon one issue: How to keep guns out of the hands of felons.

Before us now is a measure that turns its whole intent to that purpose: S. 414, the Brady bill. This bill takes two long overdue and highly deserving steps. It requires a 5-day waiting period in which law enforcement officers can conduct background checks to identify felons and prevent them from purchasing handguns.

And it provides grants with which States can upgrade and computerize record systems to make a point-of-sale determination more effective and more immediate. Under the guidance of the Attorney General, this computerized confirmation system would produce a nationwide system for preventing handgun purchases by felons.

Mr. President, this bill is important, vitally necessary, and vastly popular among the majority of the American people. That's why we must not agree to language in this bill that would sterilize its effectiveness. The bill as presented calls for sunset provisions that would terminate the bill's waiting period requirement after 5 years regardless of whether the national confirmation system is operational.

Also, it calls for a preemption provision that would make Federal standards supersede State standards, even when State standards are more stringent. Mr. President, adopting these provisions would negate everything this bill can accomplish.

This bill would require each State's computerized system to contain the disposition of 80 percent of arrests made during the preceding 5 years. We must not include an unrealistic sunset provision in this measure because it is a virtual certainty that all 50 States cannot meet that requirement by 5 years from now.

At present, only 11 States meet the minimum requirement of the national system. Only four States regularly computerize the name of a felony arrest within a week of the arrest. Only 11 States computerize felony arrests within 2 weeks. In many States, it takes a year or more to enter felony arrest information.

Like many States, Tennessee has a backlog in recording specific data about violent crimes. The reasons are common. Like New York and Illinois, we have small, sparsely populated counties and large metropolitan areas. They have very different capacities for keeping prompt track of violent crimes. Tennessee is eager to get a statewide felon-check system up and running to meet the requirements of this bill.

But having the necessary hardware and software won't speed the process. Helpful as the grant provisions will be, grants will not buy our way to a satisfactory solution. Getting an adequate system in place will take long, grueling data entry by hand to get current information into the system.

Yet a restrictive sunset provision disregards the burden of compliance. It says, "No matter if the system isn't ready. Five years from now the waiting period expires." And if at the end of 5 years the system isn't up to speed, felons will be buying guns and using them on the street before the system even records they were arrested.

The original bill contained a provision for the 5-day waiting period to fade once the computerized system is adequately operating. But everything the Brady bill accomplishes will be voided if we banish the waiting period before the computerized system meets its potential.

The most effective way to prevent that from happening is to maintain the one method that will screen out ineligible handgun buyers—the waiting period that gives local officials time to conduct a check. The importance of local officials enforcing local laws is also the reason why we must exclude a preemption provision from this measure. I believe it is entirely appropriate for Federal legislation to set minimum standards. It does so in countless matters affecting every aspect of our national life.

But it is not acceptable for the Federal Government to set a maximum allowable standard when local citizens want higher standards.

In effect, that's a Federal preemption provision added in this bill would do. My home State of Tennessee is an excellent example. We were the first State in the Union to pass a waiting period for the purchase of handguns. We established a 3-day waiting period back in 1959 and our current 15-day waiting period became law in 1961.

Citizens in many States don't share the emphasis we've placed, and the Brady bill would bring them to a higher plateau. But the people of Tennessee have set a standard more stringent than theirs and a standard more stringent than the Brady bill. It's a standard we've honored for 30 years. Along with citizens in many States, the people of Tennessee have chosen to be leaders in handgun restraint.

It's not right when the Federal Government effectively revokes Tennesseans demand for a higher degree of accountability and control in the sale of handguns.

Mr. President, the arguments in favor of the Brady bill are clear, and Americans know it. Nationwide polls repeatedly show that 90 percent and more of Americans favor 5-day waiting periods for checks of handgun buyers. The arguments against provisions that make this bill rickety are equally clear.

There's no point in mandating a computerized felon identification system if we abort that system before it can work. There's no merit in forcing local citizens defining their interests to accept less stringent standards.

If we do our job, the Brady bill will do its job. Let's pass S. 414 and turn aside sunset provisions and preemption clauses that weaken it.

I thank the Chair.

Mr. President, I rise this morning to ask that in the process of setting a minimum standard, that this body not also set a maximum standard.

My home State of Tennessee, I believe the RECORD will show, was the first State in the Union to adopt a waiting period for the purchase of handguns.

In the year 1959, our State adopted a 3-day waiting period, and this served us for a couple of years until the lawmakers of our State decided that perhaps that was too short, and at that period of time we increased that 3-day period to a 15-day waiting period. For the last 35 years our State has chosen to maintain this period of time, and it has served the citizens of our State well.

The preemption amendment that is before us is going to say to Tennesseans, "You cannot have that type of waiting period. Your program that has been effective in selecting sales of handguns is going to be decreased. Instead of your being able to effectively

control this measure, we are going to pull it down to 5 days, and in addition to that, if you do not get your record—you have 24 months to get your records in order and then we are going to start cutting out even more."

Mr. President, in all the Federal programs with which I am familiar, in none of the others have we set maximum standards. I think we as the Federal Government have a duty, a responsibility, to set minimum standards for the performance of services in this country. We have done that in areas such as the underground petroleum storage tank; we have done that in clean water, in ADA; we have done it in EPA and any number of services. But to the best of my knowledge we have never said to a State, "You cannot get above mediocrity. You cannot move higher than the lowest standard in this country."

Mr. President, I will support the Brady bill as it was introduced. I will resist with every ounce that I have these two amendments, the preemption and the other one.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER (Mr. MATHEWS). The Chair recognizes Senator FEINSTEIN from California.

Mrs. FEINSTEIN. I also thank Senator METZENBAUM very much for his generosity in yielding me time. Thank you, Mr. President.

Mr. President, I rise to support the Brady bill and to oppose any "poison pill" provisions, or any other measure, that would diminish its effectiveness. Mr. President, I come from a State, California, which already has a 15-day waiting period for the purchase of a handgun. There are those who would say that the Brady bill will not work. To determine whether they are correct, all one need do is examine the experience of States that have waiting periods. All we need ask is whether a waiting period keeps guns out of the hands of the criminals? Out of the hands of juveniles? And out of the hands of people with a history of mental incapacity?

Mr. President, I want to present the truly impressive results from one State, California. The chart beside me has been prepared by the State's Department of Justice.

It reflects these facts: Between January 1991 and September 1993, California's 15-day waiting period kept "handguns" out of the hands of 8,060 people previously convicted of assault or homicide. It kept handguns out of the hands of 1,859 people convicted of drug offenses; 1,752 people convicted of theft, burglary, robbery or who had prior weapons offenses; 827 people with records of mental disorder or mental

illness; 720 minors; and 618 persons convicted of kidnaping, sex crimes or who had restraining orders entered against them. And it has kept handguns out of the hands of 2,584 people convicted of having made other illegal purchases.

Mr. President, I ask unanimous consent that a table listing this data be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, I would submit that the data summarized in this chart makes a myth of the suggestion that handgun purchase waiting periods do not work. A 15-day waiting period in the largest State in the Union kept guns out of the hands of some 16,420 criminals in just 33 months. These are not my figures. These are not the Senate figures. These are the figures from the California Department of Justice. They are accurate, and they are persuasive.

Make no mistake. The crime rate in California is unacceptably high. I would like to see it go down. What these statistics prove, however, is that it could have been much worse.

Mr. President, I would just like to say this. The people of America, in overwhelming numbers, want both Houses of Congress to take action that keeps weapons out of the hands of those who are most apt to commit crimes. I believe, as many Americans do, that if you are a law-abiding, stable citizen you should be able to purchase legally a handgun, rifle, or shotgun.

But present law does not facilitate the adequate screening of gun purchasers. Adoption of a national minimum waiting period can, has, and will do just that. In California, a waiting period of 5 days successfully kept more than 16,000 unstable people who committed murder, assault, robbery, kidnaping, sex crimes, and other felonies from buying handguns.

Of course, California is not alone in its experience with a successful waiting period.

New Jersey's 20-year-old waiting period law has thwarted more than 10,000 attempted handgun purchases by criminals.

Atlanta's 15-day waiting period and related checks stop almost 5 percent of all handgun sales attempted there each year.

Maryland's 7-day waiting period bars roughly 4 percent of all sales every year. In 1990, that meant that 750 persons who should not have had—or were already legally barred from owning—a firearm were appropriately prevented from getting one.

Illinois, Nebraska, and Oregon report similar experience with their respective waiting period laws.

I am opposed to any amendment today that weakens the Brady bill or prevents States from adopting stronger provisions.

California's attorney general wrote to me just 10 days ago that my State's 15-day waiting period has: "Been responsible for keeping guns out of the hands of 350 persons with severe mental health problems. During the same period, it also has denied these deadly weapons to over 2,200 persons who have been convicted of violent misdemeanors and over 210 persons who were already forbidden firearms possession by domestic violence restraining orders."

The House resisted efforts to encumber the Brady bill with a preemption clause. I feel very strongly that the Senate has the opportunity and the responsibility to do the same.

I am also opposed to prematurely phasing out the 5-day waiting period required by the Brady bill.

It just is not realistic to expect that a national instant check system will be ready in 5 years. Only 15 States today have fully automated criminal record histories, just 11 have fully automated master name indexes and only 30 identify which criminals in their databases are felons.

As Attorney General Reno recently wrote to Congressman SCHUMER:

"\*\*\* It is an absolute certainty that a national instant check system is more than five years away from becoming operational because enormous tasks remain.

Why should Congress deliberately create a gap in the protection provided to the public by a reasonable handgun purchase waiting period?

There is absolutely no reason to tolerate that risk and, therefore, absolutely no reason not to strike the sunset provision of this bill.

Second, I am not at all convinced that an instant check system is an acceptable substitute for a reasonable waiting period.

An instant check system, once up and running, will give gun sellers access to computerized State and Federal criminal history records. It would not, however, provide access to other information routinely checked by State law enforcement authorities, such as: "Noncomputerized files; local arrest information not yet entered into State or Federal databases; noncriminal records, like the mental health data that in California has barred more than 800 handgun sales since January 1991; and fingerprint data—automated and not."

The bottom line on sunset is simply this. If the American people could cast a vote in the Senate they would not accept any law engineered to permit more felons and mentally unstable people to readily obtain handguns.

That is what the arbitrary sunset clause in this bill will do. The Senate should vote to strike it.

Passage of the Brady bill—an undiluted Brady bill—is years overdue.

The American people have said so loudly and clearly.

A 5-day waiting period for the purchase of handguns has the unqualified

support of 92 percent of the American public, and 84 percent of gun owners according to a March 1993 CNN/USA Today poll.

The Brady bill also is backed by every major national law enforcement organization.

Fraternal Order of Police; National Association of Police Organizations; National Sheriffs Association; National Association of Black Law Enforcement Executives; Police Executive Research Forum; International Association of Chiefs of Police; The Police Foundation; and Federal Law Enforcement Officers' Association.

They are joined by:

Five former Presidents; Six former Attorneys General; the National PTA; American Association of Retired Persons; the NAACP; National Organization for Women; American Medical Association; American Nurses Association; and the American Academy of Pediatrics, which notes that one in six pediatricians has treated a child for gun-related injuries.

Religious groups, such as:

The American Jewish Congress; United Methodist Church; U.S. Catholic Conference; and Southern Christian Leadership Conference also overwhelmingly support a strong Brady Bill.

The Children's Defense Fund, the National League of Cities, Urban League, and the U.S. Conference of Mayors also support the Brady bill.

The Brady bill's time has come. The Senate should have the wisdom and the grace, indeed has the responsibility, to enact the strongest and most effective version of it possible.

I strongly urge my colleagues not only to support the bill itself, but to vote with me to strike what the attorney general of California so accurately called the poison pill amendments with which it has been burdened.

EXHIBIT 1

TABLE 1. ILLEGAL GUN PURCHASES STOPPED BY CALIFORNIA'S 15-DAY WAITING PERIOD (JANUARY 1991 THROUGH SEPTEMBER 1993)

Prior conviction	Purchases denied
Assault/homicide	8,060
Drug offense	1,859
Theft, burglary, robbery, weapons offense	1,752
Mental disorder/illness	827
Under age 21	720
Kidnaping, sex crime, subject to restraining order	618
All other violations	2,584
Total	16,420

Source: California Department of Justice.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair. The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield 3 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS], is recognized.

Mr. STEVENS. Mr. President, as a former California resident, I have listened with interest to my good friend from California, and I find it interesting that there is still this concept of support for waiting periods. California's homicide rate went up 132 percent despite the waiting period in California law.

What we have been talking about now for some time is to have the information generated from a national system that would eliminate the need for waiting periods, would have instant background checks, and could have additional information that would even keep guns from people who otherwise should not have them beyond some of the restrictions that are even in the California law.

I find no incidents that increasing the waiting period in California decreased the crime rate. That is really the basic problem here.

But what is more deep seated in those of us who believe in the second amendment, is the feeling that what people are doing with this bill is, they are not really interested in the waiting period, they are building up a Government base of the information necessary to determine who owns guns in this country. An armed citizenry, people who have the ability to defend themselves, are not going to become an oppressed citizenry. That has been our basic assumption throughout this whole concept.

There is really no great correlation between gun ownership and crime. There is a correlation between criminal possession of guns and crime. And that is what we have been trying to do. We have been trying to make certain that there is a system that will give us the information on those who seek to acquire guns.

I would say that the concept of such an information base has been supported. Two years ago, I stood out here and offered an amendment quite similar to that now offered by the Senator from Maine and the Senator from Kansas, our two leaders. It was defeated.

The real problem we have now is that there are provisions in this bill that has been introduced by the two leaders, both the sunset provision and the preemption provision. Clearly those of us who do not believe in waiting periods at all, we do not believe in it for the reason they do not accomplish anything. What accomplishes something is giving information to the person who has the gun and the ability to sell it as to whether the person who wants to buy it ought to be able to buy a gun.

Now, the waiting period is not going to give them any more information, but the new system will.

I hope Members will keep in mind that without the sunset provision and without the preemption provision, this is a bad bill. Clearly, it is a bad bill and ought not to even be considered for a final vote. And I say that advisedly.

I am going to withhold my final support for this bill to see what it looks like after a series of amendments that are being offered here now.

But, clearly, if there is a mood here in the Senate to try to get a compromise that might work, the sunset provision and the preemption provision must stay in the bill.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I ask unanimous consent that 15 minutes of time on the pending amendment be under Senator LEAHY'S control and that such time be available to Senator LEAHY, notwithstanding the pendency of the amendment.

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

Mr. MITCHELL. Mr. President, I have discussed this with the distinguished Senator from Idaho. All this means is that even though this time was not used on the amendment—we have been taking time off the bill—it will be available after the amendment is disposed of. It does not add to the time. It simply means the time will be used in a properly allocated manner.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, as debate has progressed this morning, I think it becomes quite obvious that there are some very real and different distinctions between what we attempt to accomplish here today, between those who will still argue that a waiting period has some value versus those of us who recognize that what is important is making sure that those who acquire firearms are legitimate and legal and that we would propound to devise as quickly as possible an instant background check that would provide that flow of information.

Why do we do that? You have heard the Senator from California speak to a waiting period in her State and a frustration that what we would do today might cause some limits to the State of California.

Yet, what is very interesting in that argument is that if we have a waiting period, which is an artificial barrier, versus an instant background check which seeks to sort out the individuals, here is what happens. I reference a quote from USA Today, Los Angeles. We all remember those horrendous riots they had out there and the great damage they did, the number of lives that were lost, the looting that went on and the destruction of private property. Let me read from that article.

Many hundreds of people, alarmed by law enforcement's inability to control chaos, took up weapons throughout the riot. Police were grateful. "You get a guy standing over you with a gun and you are not going to loot his property."

That is a quote from one of the police—George Wright, Sergeant, Los Angeles police.

The rush to weapons began almost immediately after the riot's first vivid images went out across television in the Los Angeles area. Shopkeepers said some gun buyers were lifelong gun control advocates running to buy an item they thought they would never need, only to find out that the legislation that requires Californians to wait 15 days had blocked them from acquiring a firearm to protect themselves or their property.

What happened at that point though, and I found it was interesting, because in the State of California that waiting period does not affect antique weapons, they bought older weapons so they could have a firearm.

Why do I make that point? I make that point to argue that waiting periods have never served the purpose. They are obsolete in all arguments. What we are attempting to do is what the American people want us to do, and that is to keep firearms out of the hands of criminals and in the hands of law-abiding citizens who know how to use them properly.

Why should we do that? Here is a reason we should do it. Gary Kleck, who is a known criminologist from Florida State University who, by the way, is no gun-toting criminologist, who believes in forms of gun control, has looked at this objectively. Here is what he said.

He estimates there were about 645,000 defensive uses of handguns against persons per year, excluding police and military uses. Kleck said that the use of long guns also was a part of that, in the protection.

But the point he is making is that adding it together, Kleck estimates that guns of all types are used for defensive purposes about a million times a year. That is called folks protecting themselves, protecting their property, stopping a perpetrator of crime as that person enters their property or might attempt to take their life. That is what we are saying. And that guns of all types are used substantially, more often defensively than criminally.

Kleck estimates that annually, gun wielding civilians, in defense or some other legal, justified cause, kill between 1,500 and 2,300 felons a year. Not innocent people, but felons who are attempting to do that individual wrong. And 2½ to 7 times as many criminals are shot by police. You see, there is a legitimate use of weapons in this society. Law enforcement does break down, and we know that.

We also have citizens arming themselves at an extremely high rate today and finding ways to train so they can understand the responsible and effective use of firearms. Kleck estimates there are 7,800 to 16,000 responsible uses a year. That is what the second amendment is all about.

So we ought not be limiting the responsible use. We ought to be going at the criminal. And the substitute to the Brady bill, offered by the Republican leader and the Democratic leader here in the Senate, does just that. It creates

a mechanism that moves us very rapidly in that direction. And I will tell my colleagues, if preemption stays in to create uniformity and if sunset stays in, we have a bill.

We have the potential of doing good here today. And if it is out, then this bill will probably fail and that would be a tragedy, at a time when we are now nearly ready to bring instant background check on line and we can create this kind of uniformity to do the responsible screening that I think all of us would expect, and certainly the American people want.

The PRESIDING OFFICER. Who yields time? The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the preemption provision is totally unacceptable. A preemption feature failed in the House and if it were adopted, it would effectively destroy the Brady Bill and the States' efforts to combat gun violence.

This provision would have the national instant check system preempt State regulation of handgun purchases.

For a very good reason, the Brady bill would not preempt State laws that would supplement the instant check system. When the national instant check systems is established, it only will be able to check computerized criminal history files at the State and Federal levels.

It will not check noncomputerized criminal history files kept by the State, which local background checks can search.

The national system also will not check noncriminal records such as mental health records, which can be checked by local authorities.

And the national system will not check fingerprint identification, which is only possible through local background checks.

It may be amazing to many Americans to know that there is no way of having a national fingerprint check system in place.

Even if this provision only preempted State and local waiting periods, rather than all types of handgun regulations, it would still abolish laws in 25 States.

It would wipe out a waiting period by any State or locality no matter how severe the crime problems may be in that State or locality. It would wipe out State or local background checks designed to stop the sale of guns to non-criminals who are prohibited under Federal or State law from purchasing a gun, including drug addicts, illegal aliens, the mentally defective, spouse abusers, and minors using false identification. And it would wipe out some gun licensing requirements that seek to screen out felons through fingerprint identification.

So an instant check system is a valuable law enforcement tool, but it is no substitute for local background checks. A national instant check system will never have access to as much informa-

tion as is available to local law enforcement officials. Supplemental State and local regulation is necessary to establish a fully effective nationwide means of reducing gun violence. This amendment would deal a major blow to the States.

Madam President, how much time does the Senator from Ohio have remaining on the amendment?

The PRESIDING OFFICER (Mrs. BOXER). There is no time on the amendment; there is 22 minutes and 52 seconds on the bill.

Mr. METZENBAUM. No time on the amendment?

The PRESIDING OFFICER. That is correct. The Senator is correct. There is no time left on the amendment on either side. The Senator has 22 minutes left on the bill. The Senator from Idaho has 22 minutes left on the bill.

Mr. BUMPERS. Parliamentary inquiry, Madam President?

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BUMPERS. Under the unanimous consent agreement, would the Senator from Ohio be allowed to yield time off his second amendment before it is presented?

The PRESIDING OFFICER. That would require unanimous consent.

Mr. STEVENS. You can use the bill.

Mrs. KASSEBAUM addressed the Chair.

Mr. METZENBAUM. I yield 5 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I would like to state a few points I think are particularly important. There is no one on this Senate floor who would think that a 5-day waiting period for the purchase of handguns will stop all violent crime. On the other hand, I think we all recognize that crime is a complex problem and has to be approached from many different angles.

We have just passed this morning a tough crime bill which I strongly supported. More money for prisons, more money for community police, tougher enforcement of laws, tougher sentencing.

It seems to me that this 5-day waiting period for the purchase of handguns, until instant check is nationally available, is a complement to that tough crime bill we just passed this morning. They are not mutually exclusive. They address the same subject but from different angles. What the Brady bill attempts to do and what we would hope that it would do is to keep guns out of the hands of criminals.

For the life of me, I cannot understand why this does not make good sense. I cannot understand why we would not believe this was a very small, tiny step to take as one component of addressing a problem, escalating violent crime. This is not a camel's nose under the tent, and I am amazed at the argument of those who would

like to see preemption of State and local law, something that we have always tried to protect here with great caution. Preemption is not an answer to what I think should be a very strong and clear vote in support of a 5-day waiting period for the purchase of handguns.

Mr. President, I rise today to speak in support of the legislation commonly known as the Brady bill.

As we all know, the purpose of the Brady bill is to give law enforcement officials an opportunity to check whether or not a person attempting to buy a handgun is mentally ill, a convicted felon, or a minor. While purchases by such persons are already prohibited under Federal law, there is no enforcement mechanism.

The Brady bill would remedy this situation by establishing a 5-day waiting period during which time a background check on the handgun purchaser would be conducted. Persons who require access to a handgun because of a threat to their life or the life of a member of their household may be exempted from the waiting period by local law enforcement officials. The 5-day waiting period will sunset once the nationwide instant felon identification system becomes operational and is used by dealers. Individual States can be exempted from Brady prior to completion of the nationwide system by establishing their own instant check or permit-to-purchase system.

The Brady bill is not an unreasonable restriction on the ability of law abiding citizens to obtain firearms. The law would only apply to handgun purchases, therefore persons wishing to buy shotguns and rifles would not be affected by its provisions. For those who need a handgun immediately for personal safety reasons, the law provides an exemption. Requiring others to wait 5-days for their handgun so that we can help prevent incidents such as the August shooting at the Federal building in Topeka does not seem an undue burden. In that incident, a felon purchased several handguns at a retail store the day before he entered the Federal courthouse and killed a guard.

Over the years, many constituents have stated that a waiting period and background check will not keep all criminals from obtaining handguns, and therefore no such legislation should be enacted. I reject this argument, just as I reject the argument that, if drug users are able to buy drugs illegally, we should make drugs legal. No law is going to be completely effective. However, if passage of the Brady bill prevents even one death, I believe it is worthwhile.

I have also heard from a number of constituents who say that the answer to violent crime is tougher law enforcement, not gun legislation. I strongly agree that law enforcement is important, and I supported virtually every

get tough amendment offered to the crime bill. But I have never viewed law enforcement and the Brady bill as mutually exclusive.

Crime is a complex problem, and it must be attacked from a number of different directions. That is why I believe the Brady bill should be enacted in addition to, not instead of, other law enforcement measures.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Will the Senator from Ohio yield me 5 minutes?

Mr. METZENBAUM. I think I only have about 22 minutes.

Mr. BUMPERS. I will try to cut it down.

Mr. METZENBAUM. Three minutes?

Mr. BUMPERS. Three minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I have not customarily engaged in the debate over this amendment. I voted for it. I voted to eliminate assault weapons, and I intend to keep doing it until both of these times are secure and placed in law.

I must say that in my mind, I find it difficult to believe that we have to debate something like the Brady bill. I find it even more incredulous that we have to debate a preemption clause. We have granted California the right to have stricter environmental standards than we have; we grant all kinds of States' rights to States to have almost anything, if it is more stringent than the Federal standard. And yet, when it comes to guns, solely because of the National Rifle Association, and solely because the people around here are scared to death of that organization, we have to debate this issue while the American people cry out for some sane, rational resolution of violence in this country. The Brady bill can hardly be considered a panacea. People asked me on the street: "Do you really think that bill is going to be effective?" "I don't know what you mean by 'effective.' If it will save one life, it is worth all the time we have spent on it."

To suggest, as the National Rifle Association has, that this is another "nose under the tent" to keep guns out of the hands of people who want to protect their families, is the same debate that took place when I first came here. At that time the debate was: "All you poor little hunters out there are going to get your rifles and shotguns taken away from you." Now 19 years later, we have 200 million handguns floating around the country, and they are saying, "Don't let them take your right to protect your family away from you."

The truth of the matter is, it is those very families that are most in danger when a lunatic can walk into a gun shop and say, "No, I'm not a felon; where do I sign?" He can be 30 minutes out of any prison in Arkansas.

I never will forget when I was Governor, we had an escapee from one of our mental hospitals. He stole a car, drove 1 hour north of Little Rock, AR, walked in, bought one of the most lethal weapons that could be bought and 1 hour later, three people in Harrison, AR, were dead in a random killing.

The PRESIDING OFFICER. The Senator's 3 minutes has expired.

Mr. BUMPERS. I regret my time is up, Madam President. I will just close by saying that I cannot envision anybody not voting for the Mitchell proposal to strike the preemption clause in this bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Madam President, we have just heard a very passionate plea from the Senator from Arkansas, and I think all of us are tremendously concerned that we see crime rampant on the streets of America today; that American citizens are frightened and frustrated because the law enforcement community seems unable to respond in a way that the average citizen wants them to and expects them to keep their property, their life, and their families safe.

Does a waiting period create safety? The answer in all those States that have them in which all of the crime rates are going up at astronomical rates says no, it does not work. Again, it creates that illusion, if you will, that there is some level of safety out there.

What does work is the crime bill we just passed, real teeth, real law which says criminals will be treated this way and they will not be back on the streets of America. But it is also true that what will work is a mechanism, a method by which we can detect those criminals who are using the legal avenues to acquire a handgun or a weapon, and that is the instant background check. That is how you do it.

They are doing it in the State of Virginia with reasonable success now in a new system that is coming up to speed. They are doing it in the State of Delaware and in a lot of other States. They are bringing their records up to speed today so they can make those kinds of informational decisions and fill in the background.

That is what the substitute is all about. It says there is a timeframe—5 years—in which we will have a 5-day waiting period, but we are going to create uniformity. We are going to say that during that period of time, all States will be alike.

Let me tell you, putting in the preemption clause says to California, we are going to bring you down a little, but it says to my State of Idaho, we are going to reinstate something on you; we are going to bring you up to a 5-day waiting period. I do not like that. I have never supported waiting periods

because I read the facts and the facts say: "Don't do it because it doesn't work."

But what I am willing to do, during this hiatus in which we put together and force with \$200 million to bring this informational service up, that we will create equity across the board and uniformity. That is important because that is what the Brady advocates have been saying for a decade: Give us uniformity in the law. And now that we argue uniformity, they say, "Oh, no, don't do that, we can't do that, that is unfair, that is preempting State authority."

What about the State that said no waiting period and we are just putting one on them? What does that do to State authority? I do not like it either, but I think we have a common mind here and the common mind is to get the gun out of the hand of the criminal. That is what the substitute will do with preemption in it and with the sunset in it.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. CRAIG. Only briefly.

Mr. BUMPERS. It will be very brief. I understand the argument the Senator closed with that if a State normally has something less than the Federal standards, we do not permit that; we preempt it. But it is only when there is a common purpose and a national goal and it is for the benefit of the public that we do that. There are instances where we allow the States to continue with something—we grandfather States in all the time—where the national purpose is thwarted. It is really not a question but an observation.

Mr. CRAIG. The Senator from Arkansas is absolutely right. We do it both ways. We also say to States you cannot do things, as often as we say you can do that at that level or more. So we do it both ways.

This time we are saying that for the good of what we are attempting to accomplish here—and that is a national informational network—uniformity is extremely valuable and we make that choice.

Mr. BUMPERS. If I may make one other observation—

Mr. CRAIG. Only on the time of the Senator from Ohio.

Mr. BUMPERS. Will the Senator from Ohio yield me 30 seconds?

Mr. METZENBAUM. Yes.

Mr. BUMPERS. Many of the letters I receive point to the murder rate in Washington, DC, which has one of the highest murder rates in America. That point taken alone is legitimate.

It just so happens that the District of Columbia is surrounded by States, most notably Virginia, which has some of the most lax gun laws in the United States, and you only have to drive 5 minutes to get there. That is one of the most important reasons to do this on a national basis.

The PRESIDING OFFICER (Mrs. MURRAY). Who yields time?

Mrs. BOXER. I wonder if the Senator from Ohio will yield me 1 or 2 minutes?

Mr. METZENBAUM. I yield the Senator from California 2 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I want to thank the Senator for his continued leadership on this issue. I know it was lonely for him for quite a while, but he has some good company.

I just want to say to my colleagues that the idea that we would preempt a longer waiting period makes me outraged.

Mr. President, I wish to tell you that in the State of California we have seen death from people who have no right to have firearms, who walked into restaurants, who walked into post offices, who walked into children's areas in schools, law offices. My son lost his best friend. And what you are saying to me is that California should go from 15 days to a 5-day waiting period so it puts more pressure on; they might miss someone and some crazy lunatic can get a gun in that 10 days that you are taking away from my State.

For the NRA to shout and say the background checks do not work, we know in California they work. From January 1991 through September 1993, California's waiting period stopped 7,000 convicted felons and 7,000 people convicted of misdemeanors from purchasing guns. Maybe the Senator from Idaho does not know that.

From January 1991 to September 1993, 16,000 illegal gun purchases were stopped by California's 15-day waiting period, and over 8,000 of those denials were due to homicide convictions, 2,000 because of drug convictions, 2,000 due to theft, burglary, robbery, and weapons offense convictions, 1,000 due to mental illness, another 720 were under age, and 618 kidnapping.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I ask for 20 additional seconds.

Mr. METZENBAUM. I yield the Senator 20 seconds.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. In summary, the idea that we would stop the States from adding a longer waiting period is an absolute outrage, and we will have blood on our hands if we do not support the Senator from Ohio and the Senator from Maine.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

Mr. CRAIG. Madam President, as we continue the debate on this important legislation, I think there is something that has to be understood about the unanimous consent agreement that was brought about by our leadership.

We are, in a few moments, going to have a motion to strike preemption, and I would certainly hope that as key to this legislation we are able to keep in preemption. But if it fails or if we are not able to keep the sunset provision in, there will be a cloture vote, and I hope that we can retain that. That cloture vote will happen sometime following those motions to strike. That would then move us, if we can deny cloture, to another cloture vote sometime late this evening.

What the unanimous consent agreement that put this together is silent to is what happens to the bill after the second cloture if we are able to block the cloture effort. What I would like, and what I think most of us would like to see happen is that we set in motion an additional negotiation to resolve this issue. Certainly this is not now tied to the crime bill. It was the option of the Republican leader to do that. He chose not to do that in cooperation with the majority leader and the Senator from Ohio, that this be a free-standing piece of legislation so that it can go to conference with the House because I think all of us are extremely concerned that we get at the criminal and that law-abiding citizens not be prohibited in their right to exercise their constitutional right and to be able to do so in a way that is unfettered by some extraneous law, for example, like a waiting period.

That is what we are trying to accomplish today, and I hope we can get that done. Certainly the debate is valid, but we all know that if we strive for uniformity and we force those issues and we put some money behind the mandate—and we have, \$200 million to go out to States under a formula to allow them to bring up their systems. The Senator from Ohio knows, and we have worked cooperatively on this; we both supported legislation over the past 5 years, we have put over \$20 million already into the refinement and the modernizing of these records.

So when he suggests that is somewhere off in the undeterminable future, everyone who is dealing with it down at the FBI and everyone across the States dealing with it says if we put our minds to it within at least 24 months we can have pretty much running across the Nation the kind of informational service that brings about the instant background check which I think all of us would like to see, be-

cause we have already heard the facts on the waiting period.

In every State that has had them, whether they have had them for 5 years or 10 years, all crime rates are going up. Crimes in which a handgun, an illegal handgun is used, are going up.

Why, if we are sitting here debating a waiting period as the most fundamental and important thing to deter crime in our Nation, is it not working?

The reason it is not working is because they cannot effectively check the background of these individuals. Tragically enough, the gentleman who fired the shot that hit Jim Brady, which has started all of this in motion—it has been argued if we just had a background check, we could have caught him.

No, we could not have because he was in and out of one address or another. Yes, he had a Texas driver's license. He bought the gun in Dallas, but he was living in Lubbock.

No, it would not have caught him. That is a false argument. But what we have found, if he had a criminal record, there would have been a quality background check.

We even add in this bill those who have mental conditions, that have been so adjudicated, become part of the national recordkeeping system. That is what is extremely valuable about this process. That is why we need uniformity which is created by State preemption, why we need the sunset provision to force our FBI and the Attorney General, the Justice Department to bring all these on board and to work with our States to create this kind of informational flow. We have States that are doing it now because they put their mind to it and it worked.

That is what this is all about. It is not about waiting period, and it should not be about waiting period. But if that becomes the debate and if State preemption goes down and sunset goes down, then I think we have effectively lost the opportunity to create a measure to take criminals with illegal guns off the streets.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Madam President, I yield the Senator from Rhode Island 2 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. CHAFEE. I thank the Chair. I thank the managers of the bill.

I find this preemption very confusing. Maybe the Senator from Idaho would give me a hand here.

As I understand it, in the State of Rhode Island where we now have a waiting period of 7 days which applies to all guns, not just to handguns, this preemption clause, as I understand it, would not only wipe out the 7-day period that we have but would also wipe

out the provisions that apply to other than handguns. Am I correct in that? In other words, our provision of 7 days applies to all guns. Now if you preempt from the Brady bill, if that goes into effect, we would be cut down not only to 5 days, but it would eliminate the waiting period for all guns except for handguns. Am I correct in that?

Mr. CRAIG. The bill reads only in the case of handguns. And it also goes on to avoid, and expressly states, that any other processes that States have put in place, like fingerprinting or tests or any of that, are not preempted.

Mr. CHAFFEE. So as I understand it, what you are telling me—

Mr. CRAIG. It would be from 7 to 5 in your case.

Mr. CHAFFEE. The Senator is saying there could be a 7-day waiting period for rifles?

Mr. CRAIG. As I read the legislation. Mr. CHAFFEE. But we have chosen in our State to have 7 days waiting for handguns. Why should we not be able to do that? Why is Big Brother in Washington, DC, telling us we cannot have the longer period?

Mr. CRAIG. I think the Senator, and I, and others have always been engaged in trying to decide how we create uniformity when we have a national situation on our hands—

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. CHAFFEE. Let me just say—if I could have 30 seconds, Madam President; I know we are short of time here—that I find it distressing that here in Washington, DC, we are telling my State, which chooses to have a 7-day waiting period, carefully considered by the legislature, that is what they want, and yet here we are saying, oh, no, you cannot have that. You can only have 5 days. I do not see that it is necessary in the interest of national unity to cut back Rhode Island's waiting period.

So I am not in favor of that provision and will vote contrary to it.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Madam President, I suggest the absence of a quorum and ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. METZENBAUM. Madam President, I yield the Senator from Washington 3 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Madam President.

Madam President, I rise in support of S. 414, the Brady bill, and the Mitchell amendment that is in front of us. For more than a week, the opponents of this commonsense measure have tried to delay it.

I had planned to be in Seattle yesterday to welcome President Clinton to the Asian Pacific Economic Cooperation Council meeting—a historic trade meeting with 15 heads of Asian nations. But I stayed here because of the Brady bill. All day yesterday, we were promised the bill would come up. We waited late into the evening. I am glad we can finally have a full and open debate on why we need this bill.

We need this bill because every 14 minutes, someone in this Nation dies from a gunshot wound.

We need this bill because every single day, 14 children are killed with guns, and more than a quarter million of them take guns to school each day.

We need this bill because there are already 71 million handguns in this country.

We need this bill because gun violence, especially among our Nation's youth, is out of control.

We need to restore some sanity to our society. We need to stop settling disputes with guns instead of dialog.

We need to start talking about the responsibility of owning a gun, not just the constitutional right to own one.

Gun violence is also costing our health care system at least \$3 billion a year. At Harborview Hospital in Seattle, both the number of gunshot victims and the cost of treating them have doubled in the last 7 years. Every one of us pays the cost of gun violence through higher taxes, increased insurance fees, or in money not spent on other health care needs. Taxpayers should not have to subsidize 80 percent of the health care costs of gun violence.

That is the point of the Brady bill. Like a similar law in my State of Washington, the Brady bill requires a mandatory, 5-day waiting period and background check for anyone seeking to buy a handgun in this country. It will provide funds to law enforcement agencies to perform these checks.

Alone, the Brady bill will not stop the violence. But it is an important step. It requires a cooling-off period so that someone in a rage cannot get immediate gratification by buying a gun. What we really need is a nationwide ceasefire, but at least the Brady bill will give us a national cooling-off period.

Like everyone I know, I want to be able to go home and say to my own family—the world is a safer place.

The Brady bill, together with Senator FEINSTEIN's ban on assault weapons and Senator KOHL's ban on the possession of guns by children under 18 years old, are steps in making some headway against gun violence in this

Nation. We still have a long way to go, but these first steps are critical.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Madam President, I have discussed the matter with the distinguished managers and with the minority leader staff. I believe that we are at the point where we can proceed, or just about at the point where we can proceed, to a vote on this matter.

So for the information of Senators and their offices, this vote will occur at 12:45. Indeed, Madam President, I now ask unanimous consent that a vote on the Mitchell amendment occur at 12:45. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. MITCHELL. 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. MITCHELL. So we will now await if any Senator wishes to comment during this period. The vote will begin at 12:45. For the moment, I suggest the absence of the quorum, the time to run against each side.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. STEVENS. Madam President, I wonder if the Senator from Idaho will yield me some time.

Mr. CRAIG. Madam President, I yield such time as he may need to the Senator from Alaska.

Mr. STEVENS. Madam President, I mentioned an amendment that I offered in a previous Congress, and I think it is important to note that this is an amendment offered by both leaders trying to find some way to meet the objectives of those who want a waiting period and those of us who want an instant check.

It does appear to me that there may be some misunderstanding. If the sunset provision and the preemption provision stay in the bill, those of us who have opposed this bill because of the failure to have the support necessary to create the national instantaneous check provision—that will provide us the ability for a gun dealer to literally be able to check the background of the person that seeks to buy a gun instantly, eliminating the need for a waiting period—have agreed to the waiting period in order to get this bill to conference. I think people ought to keep in mind that the bill still has to go to conference and will be substantially reviewed in conference. But we

are looking to get the bill to conference.

The two provisions to get it to conference are the sunset and preemption provisions. If the people who have been talking about delay and opposition want to try to work out a fair compromise between the House and Senate and all of us on this and satisfy the demand for this kind of a concept, then they should support getting the bill to conference. I hear people say "they take out the two provisions that have led us to the point where we have agreed to go to conference and still they want to force us to conference." I think everyone ought to be fully aware—and if I can count—this bill is not going to go to conference if sunset or preemption come out. If they stay in, we are willing to go to conference and try to work out a bill that will meet the objectives of those who sought a waiting period under the Brady concept and a national instant check concept, such as I introduced with the assistance of the NRA in drafting it 2 years ago, and such as my colleague from Idaho has done this year. Is that not correct?

Mr. CRAIG. That is correct.

Madam President, I yield myself 1 minute.

Let me repeat again what the Senator from Alaska, [Mr. STEVENS], has just said that is very important. If we are to in fact build an instant check system and a national informational system to be able to screen citizens who attempt to buy firearms—in this case handguns—and if the preemption motion to strike is successful, we have started a very long process that ultimately will defeat this legislation. If preemption stays in, and if the sunset clause stays in, we move this legislation to conference with the House, and we will have a bill that produces that instant background check and that national informational service that all of us are seeking. That is what this argument is all about. As the majority leader said to me a few moments ago, we can oftentimes agree 99 percent or 98 percent on public policy, and it is the 1 or 2 percent that makes the difference.

Madam President, it is the 1 or 2 percent in this instance that may kill this bill if everyone votes for a motion to strike.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MITCHELL. Madam President, I ask unanimous consent to be able to proceed for 1 minute.

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

Mr. MITCHELL. I merely point out that 2 years ago we went through a similar process. Senator DOLE and I had long negotiations, and we reached a compromise. It did not include preemption, and 67 Senators voted for it; 67 Senators voted for a compromise that did not include preemption.

What has occurred in the intervening time to cause those Senators now to insist that preemption be in the bill? No objective criteria, no facts—merely a change as a result of pressure being put on.

So I say that if a Senator voted for this bill without preemption in 1991, that Senator should be consistent and vote for this bill without preemption in 1993.

I yield the remainder of my time.

Mr. BIDEN. Mr. President, I want to clarify a point that was raised earlier in this debate by Senator MITCHELL. States such as Delaware, which already have an instant background check system in place, are exempt from the national waiting period and will not be affected by preemption.

Mr. SIMPSON. Mr. President, this is an issue filled with passion. Many of us know Jim Brady personally. He is a bright, fine, sensitive man who has suffered a great tragedy. His recovery has been near miraculous.

We have also come to admire his wife, Sarah Brady as one of the most diligent, sincere and articulate advocates of any legislation. She and Jim are delightful people and lovely friends. I commend them both for their many talents—particularly in the legislative arena.

We genuinely disagree on whether this bill will accomplish what the sponsors say it will; but we do communicate in a most cooperative manner. That is often too rare in this town with folks who disagree on controversial issues.

I rise in support of the substitute legislation offered by our distinguished Republican leader.

I am very much aware of how the great majority of my constituents—who also happen to be very sincere and sensible gunowners, feel about the bill offered by Senator METZENBAUM. They are just as concerned as most Americans about preventing felons from being able to purchase handguns over the counter.

Most gunowners who I know are good, honest, and thoughtful people. I believe they would eagerly support a Brady bill if it accomplished what our leader's would do: It would create a system of instant background checks and provide the financial assistance to the States to do exactly that. Anything less is simply another unfunded mandate that we have all harshly criticized these past few weeks.

Without that assistance, many States will be unable to adequately update their record systems in order to comply with any background check: whether the State is given 5 days or 5 weeks.

This substitute would have the effect of temporarily preempting some laws which require longer waiting periods. However, once a national instant check system is on line, all waiting periods will be lifted.

I believe that if the Federal Government is going to enact a uniform law in this area, then it should truly be uniform.

But this is not preemption in the way we commonly use that term. This provision will allow States to come back—if they wish—after the bill is enacted and adopt longer waiting periods. They can do that under this bill.

This legislation simply affords an opportunity for the States—all of the States—to examine the true effectiveness of this waiting period and compare it with the instant check system to see which works better.

It is my hunch that those few States which currently have longer waiting periods will realize that an instant check system will be more effective in identifying felons who are trying to purchase handguns—if the infrastructure is there in the first place. If a State or locality wants to enact longer waiting periods afterwards, they will be able to subsequently enact them.

In addition, it is important to recognize that it is only a waiting period that would be temporarily lifted under the terms of this legislation.

If any State wants to enact other procedures which delay the purchase of a handgun, such as fingerprinting, permitting, licensing, and the like, those States can do that, as they have done traditionally, and those procedures are not affected one bit by this substitute.

So, Mr. President, this is not a preemption in the sense that the Federal Government is permanently and completely taking away the jurisdiction over the matter completely away from the States.

Instead, this substitute simply tells the States to pause and consider whether this might not work out better for you. If not, the States will be able to extend their period.

In the meantime, we provide the financial assistance to allow the States to establish fair and reasonable systems to conduct instant background checks.

What is equally important, Mr. President, is that we will be complying with the goal that our distinguished chairman of the Judiciary Committee suggested yesterday: "Truth in legislating."

I strongly urge my colleagues to join with us to adopt the Dole substitute.

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 1219 offered by the majority leader.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—54

Akaka	Glenn	Mikulski
Biden	Graham	Mitchell
Bingaman	Harkin	Moseley-Braun
Boren	Hatfield	Moynihan
Boxer	Inouye	Murray
Bradley	Jeffords	Nunn
Bryan	Kassebaum	Pell
Bumpers	Kennedy	Pyrry
Byrd	Kerrey	Raid
Chafee	Kerry	Riegle
Danforth	Kohl	Robb
Daschle	Lautenberg	Rockefeller
DeConcini	Leahy	Sarbanes
Dodd	Levin	Sasser
Durenberger	Lieberman	Simon
Exon	Lugar	Warner
Feingold	Mathews	Wellstone
Feinstein	Metzenbaum	Wofford

NAYS—45

Baucus	Domenici	Mack
Bennett	Faircloth	McCain
Bond	Ford	McConnell
Breaux	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grassley	Packwood
Campbell	Gregg	Pressler
Coats	Hatch	Roth
Cochran	Heilin	Shelby
Cohen	Helm	Simpson
Conrad	Hollings	Smith
Coverdell	Hutchinson	Specter
Craig	Johnston	Stevens
D'Amato	Kempthorne	Thurmond
Dole	Lott	Wallop

NOT VOTING—1

Dorgan

So the amendment (No. 1219) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1220

(Purpose: To strike the sunset provision)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. KOHL, proposes an amendment numbered 1220.

Mr. METZENBAUM. 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:

On page 2, lines 10 through 12, strike "either on the day before the date that is 60 months after such date of enactment or".

On page 2, lines 14 and 15, strike "whichever occurs earlier".

Mr. METZENBAUM. Mr. President, the amendment I just sent to the desk on behalf of myself and Senator KOHL would, if adopted, strike a major blow against the Brady bill.

This provision would prematurely sunset the waiting period and background check provisions of the Brady bill, which would result—which would result—in people being killed by persons who would have been denied a handgun.

The Brady bill that I have introduced in this Congress itself contains a sunset for this waiting period, which would be phased out as soon as a nationwide instant felon identification system becomes operational. The Attorney General is directed to review each State's criminal recordkeeping system and to establish a timetable for each State to link those records with the national system.

The Attorney General would certify that the national system is operational as soon as, but not before, the system is ready and the States are in compliance with their timetables. At that point, the national system goes into effect and the waiting period is superseded for all States that are in compliance with their timetables. For States not in compliance with their timetables, the waiting period would continue to apply until they achieve compliance.

Under the Brady bill, the earliest possible time that the national system could go into effect is 30 months after enactment. But it actually will take much longer than that because most States are way behind in their criminal recordkeeping. The best estimates are that the national system will not be ready for at least 5 years, and it may be much longer than that.

But this provision would prematurely sunset the waiting period after 5 years and automatically switch to the national system regardless of whether the national system was ready or not.

The premature sunset would cripple the effectiveness of the Brady bill. What would happen is that people would start relying on a national instant check system without regard to the adequacy of State criminal record reporting. We would have a bogus national instant check system that would instantly check nothing. Thousands of felons and other prohibited purchasers would continue to elude detection and purchase guns.

It makes no sense to rely on an instant check system that is not reliable. We cannot let the waiting period and background check sunset until the instant check system is ready. It is as simple as that.

I urge all friends of the Brady bill to reject this provision and strike it from the bill. On behalf of Sarah and Jim Brady, I urge you to strike the automatic sunset.

More important than Sarah and Jim Brady, on behalf of your children and your grandchildren, I urge you to strike the sunset. It is the right thing to do.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield the Republican leader as much time as he may desire.

Mr. DOLE. Mr. President, I almost cannot believe we are having a debate on this matter. Let me set the stage. All parties supposedly agreed that we would have a computer check of all potential purchasers of firearms beginning 24 months after enactment of this bill. However, that date could be delayed if the criminal records for States covering at least 80 percent of the U.S. population, representing at least 80 percent of the reported violent crime were not at least 70 percent accurate.

That goal is within reach. We can, especially with the \$200 million provided for State record upgrades, meet that goal. However, I know first hand that, for reasons I have never been able to determine, the U.S. Department of Justice has resisted checking criminal convictions of potential purchasers.

We already have, today, the computerized records of over 18 million offenders—it is in one place, it is called the felon identification in firearms sales [FIFS] file in the FBI's NCIC computer system. I have repeated several things today, but this really bears repeating. We have the criminal files on over 18 million people—many of whom are already prohibited from buying firearms. But we are not checking, we are delaying.

To get this compromise, we had to agree not to begin checking whether these 18 million were buying firearms for at least 24 months. That is right—today we could be checking on whether these 18 million individuals were buying firearms, but the other side says "no" we must have at least 24 months for a waiting period. So, the criminals walk in, buy guns, and we wait, and the American people wait.

We already agreed to wait 24 months—24 months in which we could be stopping the sale of firearms to criminals. But to wait more is unconscionable. What those on the other side are for is to just wait and wait and wait—never act—just wait.

In the negotiations on this compromise, they proposed inserting language they admitted would force us to wait at least 5 years. Why? We can check now. We can check on 70 percent of the population, representing 70 percent of reported violent crime with 70

percent accuracy. Asking us to wait at all seems unbelievable, but we agreed so we can get to the check, get to keeping guns away from criminals as fast as possible.

Let me be as clear as I know how. Those voting to extend the wait, those favoring no check just wait, are voting to keep the computer records locked away from the public being preyed upon. We know who most of the violent offenders are, we have their names in the computer today, we have the potential to stop them from getting guns now. Do not make us wait any longer than 24 months.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. I yield to the Senator from Arkansas 4 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, back in August a poll was conducted by Time and CNN. That poll indicated that some 92 percent of the American people at this time in our country "support a 5-day waiting period." A CNN/USA Today poll conducted during the month of March this year found that 84 percent of the gun owners of America support a 7-day waiting period before a purchase of a pistol can take place.

A poll recently conducted by L.H. Research, Inc., found that 68 percent of the NRA respondents—those who belong to the National Rifle Association—supported a 7-day waiting period before a pistol can be bought.

I think this speaks for itself.

Mr. President, I think today we have a critical decision to make because I think we can stand here all day and all night, all weekend and all next week, if necessary, and talk about the need or the lack of need for some form of sanity to be breathed into our gun purchasing in America. I am willing to have that debate.

I do not think that there is one Member of the U.S. Senate who today wants to take away the guns of sportsmen or hunters. I do not think that there is one Member of the U.S. Senate today—this Senator, of course, included—who desires to take away the right of any American to protect themselves.

But the time has come for us to talk some sense about gun ownership and the ability for anyone at any time, with no checks and no system, to walk in and purchase guns, especially handguns.

Just the other day in the mail, I received this little publication, this little poster: "Citizens of Arkansas, U.S. Senator David Pryor wants to take away your guns. Vote against him at the next election."

There it is. I do not know who put that out, but it is said it was done by a hunting club. Senator PRYOR does not want to take away the gun of any legitimate hunter. He does not want to disarm any citizen who is there to pro-

tect himself. This poster is 100 percent wrong—make no mistake about it.

We have a rare opportunity right now to take out of this legislation this sunset provision which would be extremely detrimental to the final passage of this gun legislation—the Brady bill—that we are now supporting.

Let's be clear about this vote. This is a vote for the Fraternal Order of Police; the National Association of Police Organizations; the National Sheriffs Association; the National Organization of Black Law Enforcement Executives; the Police Executive Research Forum; the International Association of Chiefs of Police; the Major City Chiefs of Police Organization; the Police Foundation; and the Federal Law Enforcement Officers Association.

Let us not be sidetracked. Let us vote to remove this 5-year sunset from this proposal that is today before the U.S. Senate. This 5-year sunset in the bill simply means criminals will be allowed to buy handguns 5 years from now. This is not progress. I support the amendment to strike the sunset provision.

Mr. President, I yield the floor and I yield back the remainder of my time to the distinguished Senator from Ohio.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. CRAIG. Mr. President, I just heard the Republican leader make what I think is a statement that has to be repeated: Why take away this sunset provision? This is the stick. This says to States: "Here is the money, get in line."

Why are we denying to move this issue forward with some rapidness and some force? The FBI is sitting downtown right now with 18 million names in a computer, and what we are saying by this amendment is do not use it. I thought we wanted to get the guns out of the hands of criminals instead of play political games about a waiting period. That is what we are talking about.

This is not an impossible goal. Just a couple of years ago, the State of Virginia went on line with an instant background check. It cost them \$310,000 to bring it up, and they are up and running today and they are able to screen nearly instantly the background of an individual who walks into a gun shop and says, "I want to buy that pistol." That is what this debate is all about. Anything that deters us from moving a national detection system of the kind we are talking about is beyond me, unless you are just hung up on a debate that has gone on way too long about an issue that does not make a lot of sense anymore.

Purchasers complete the purchaser's section of the Virginia firearms transaction form; consent to a criminal history record check; provide at least two forms of ID, and the process begins to work. Nonresidents of Virginia must

request the check in writing. The Department of State Police notifies the dealer within 10 days for the nonresidents, but the dealer on the instant background check for the residents begins to move directly. If the ID's match, however, the computer responds, the sale goes forward. If they do not, the sale does not go forward. That is in the State of Virginia. It is working.

The State of Florida has a similar kind of thing. They can do an approval in 3 to 5 minutes to know whether that person has a felonious record or not. Are we just wanting States to amble along and the Attorney General just to kind of plod along here, all in the name of a waiting period and all in the name of a Brady bill? Or do we really want it in the name of keeping criminals with guns off the streets and pushing the mandate with the money to all of these States to assist them in the law enforcement communities of those States to get their records up to speed?

The State of Florida did it; the State of Delaware has done it. Dealers call an 800 number that provides the purchaser the demographics. The State bureau then checks all the criminal files. The purchaser is denied if he has been convicted of a felony or a drug or assault misdemeanor. That is all done in a very short period of time in the State of Delaware. They are doing it.

In the State of Illinois, the dealers are required to call the State police for the approval of a firearms sale on a 900 number. It costs \$2 and it lasts about 52 seconds on the average. That is really getting to the root cause of our problem and yet, the Senator from Ohio, by his amendment, says no, let us just kind of move it along, just a little bit. Let us not put teeth in it, let us not enforce it, let us not bring this together.

We now have ample information based on what I mentioned some time back in the earlier debate that the \$20 million we started spending in 1988 has produced a record system across this country, it has helped law enforcement, it has helped the FBI, and we moved a long way along.

As I said, all 50 States and the District of Columbia have established a central repository as a result of that effort. Forty-nine million individual criminal history files are now up, but the key to this that a lot of people do not understand as to why we can move it quickly and why we ought to force quick movement—how many of you remember some years ago going into a store using your credit card and they picked that booklet out from under the cash register and flipped through those names, those lists to see if you were on the list? That was before they had their computer systems up to where they could do it instantly. They wanted to see if you were a violator and they flipped through the list.

You call that a master name index, but it was a check. What we are talking about being able to do almost instantaneously is building and producing that master name index list, the equivalent to flipping through that little book on credit card violations.

That can be done within 24 months. That way then those checking the background have the name and then they can revert to the record if that name comes up. Until all of the records are fed into the system, with the money we are providing in this legislation, we have the ability to move quickly.

So anybody who argues that it cannot be done is not arguing fact because there is now clear evidence the material is there, the information is there. The FBI is ready to do it. What we need to say is do it, not wait and wait again and wait a little more.

I agree with the Senator from Ohio, Sarah and Jim Brady need the satisfaction of us moving quickly so that they know they will have been part of making the streets of America safer not because we restricted law-abiding citizens from their rights but because we took the guns out of the hands of criminals.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. METZENBAUM. Mr. President, I yield to the Senator from Wisconsin 4 minutes.

Mr. KOHL. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise today to urge my colleagues to vote for the amendment which is on the floor.

Our amendment would strike the provision in the Dole substitute that automatically sunsets the waiting period after 5 years, regardless of the status of the instant check system.

Mr. President, the waiting period, as envisioned by the authors of the Brady compromise, is a core component of the Brady bill. Americans of widely divergent backgrounds have embraced the waiting period in the Brady bill, and so have I. Let me tell you why.

First, I believe a reasonable waiting period of 5 business days will help reduce crimes of passion and other impulse killings. Do not just take my word for it. Many, many people agree. Former Presidents Nixon, Ford, Carter, and Reagan have endorsed this legislation, every major business organization has backed it, and over 80 percent of gun owners across the country support it.

Mr. President, even the NRA once recognized the value of waiting periods. In 1976, a publication by the NRA entitled "On Firearms Control" stated the following:

A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

NRA was right then, and I believe it is wrong now.

Second, as a practical matter, we need a waiting period until an accurate instant check system is established on a national basis. Because if criminal records are not fully computerized, police will therefore not be able to perform a reliable immediate background check.

The Dole language, however, would sunset the waiting period in 5 years, whether or not we have developed an accurate instant check system. That does not make sense, and I believe it would undermine a key premise of the original Brady bill compromise.

Let me point out, Mr. President, that the newest Dole substitute already lowers the standards under which the waiting period would end and the instant check system would go into effect. By my count, the minority leader has tried to terminate waiting periods by sunseting them, by preempting them, and by plunging the standards under which they would expire.

What then does his support for the Brady bill mean?

Third, the Dole language would leave us with a bill that does not meet the expectations of the American people. Polls and surveys consistently indicate that a majority of the American people believe that the Brady bill contains a waiting period for handgun purchases. In fact, a recent Time/CNN poll found that 92 percent of Americans support a 5-day waiting period. Let me assure my colleagues that the American public would not approve of a watered-down bill that terminates the waiting period before the instant check system is up and running. In fact, I believe the American people will someday come back with a vengeance if we lose on this amendment. They will demand a waiting period on handguns that is permanent, uniform, and very long.

Mr. President, we all know that the House has passed its version of the Brady bill and that the House-approved measure contains a 5-year automatic sunset provision. I am sure—and it is only natural—that many Members of this body feel we should just go along with this amendment to put a quick end to this whole debate.

However, we should not. The Senate should not slavishly follow the whims of the House.

The waiting period is a fundamental part of this legislation. It allows us to phase in the instant check system; it allows for a cooling off period; and perhaps most importantly, it is what an overwhelming majority of the American people expect to be part of this legislation.

I, therefore, urge my colleagues to strike the provision that would sunset the waiting period.

I thank the Senator. I yield the floor. The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield the Senator from New Jersey 5 minutes.

Mr. LAUTENBERG. I thank the Senator from Ohio.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank the Chair.

I rise as an original cosponsor of the Brady bill to express my strong support for the original bill and for the amendment to eliminate the sunseting of the waiting period.

Now, last year handguns were used—last year—to murder over 13,000 people in this country. I think it is an outrage, and I think it is time to fight back. That is what the American public wants from us.

Mr. President, waiting periods cannot eliminate all handgun violence, but they can help prevent the purchase of guns by people acting in the heat of passion or in the depths of depression. We should have a permanent waiting period. And I urge my colleagues to support the Metzenbaum amendment.

While I have the opportunity, Mr. President, I also want to point out that there is a weakness in even the strongest version of the Brady bill.

The Brady bill is intended to keep guns out of the hands of felons. But while felons generally are prohibited from owning guns, there is a loophole—a loophole that would not be closed by the Brady bill.

If the felon's criminal record has been expunged, or his basic civil rights have been restored under State law—that is, rights like the right to vote, the right to hold public office, and the right to sit on a jury—then the conviction is wiped out and all Federal firearm rights are restored automatically.

Now some of my colleagues may think that's OK, and that even convicted violent felons should be able to get their guns back if they are reformed. But even for those inclined to be lenient with convicted murderers, rapists, and the like there is a problem.

The problem is that many states now expunge the records or restore the civil rights of convicted felons in an automatic fashion. Sometimes this happens immediately after the felon serves his or her sentence. Sometimes, the felon must wait a few years. But too often, there is no individualized determination that a given criminal has reformed.

As a result of this loophole, which was added with little debate in 1986, even dangerous criminals convicted of violent felonies can legally obtain firearms. And that will still be true even if the Brady bill is enacted.

Mr. President, according to the Justice Department, of State prisoners released from prison in 1983, 62.5 percent

were rearrested within only 3 years. Knowing that, how many Americans would want convicted violent felons carrying firearms around their neighborhood?

This guns for felons loophole also is creating a major obstacle for law enforcement. ATF officials report that many hardened criminals are escaping prosecution under the Armed Career Criminal Act, which prescribes stiff penalties for repeat offenders, because the criminals' prior convictions automatically have been nullified by State law.

The presidents of the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers also have written that the loophole is having terrible results around the country, and rearming people with long criminal records.

Mr. President, I have worked hard in an effort to offer an amendment to the crime bill and the Brady bill to close this guns for felons loophole. Unfortunately, there are those among us who apparently want to keep the loophole open, and I have been told that even offering such an amendment would interfere with efforts to pass both the crime bill and the Brady bill. I think that is unfortunate, but there's no way I want to risk passage of either bill.

In any case, Mr. President, I wanted to bring this loophole to my colleagues' attention, and I hope we can close it before long.

But the most important point to make today is that we should support the strongest Brady bill possible.

And, in particular, we should reject the proposal to sunset the waiting period prematurely. Too many gun crimes are committed by people in the throws of passion. A cooling off period is critically important.

I have a report that we have all probably seen: In 1990, handguns killed 22 people in Great Britain, 13 in Sweden, 91 in Switzerland; in Japan, almost two-thirds our size, 87 people were killed; but in the United States, 10,500 people in 1990 were murdered with handguns. In light of these figures, how can any of my colleagues object to the adoption of a waiting period to provide a cooling off period and to provide an opportunity to ensure that a prospective buyer is not a convicted felon, or someone else who should not have a gun?

And, incidentally, how can we have a law on the books that requires the Bureau of Alcohol, Tobacco and Firearms to go out and spend thousands of dollars searching backgrounds so that they can give some poor felon his gun? That is another loophole we ought to close. Senator SIMON and I have succeeded in blocking the use of appropriated funds for this purpose in fiscal year 1994. But we ought to end that program permanently.

Mr. President, some of the arguments we have heard for sunseting the waiting period prematurely are really silly. I am especially skeptical of arguments that we should just have blind faith in the instant check system.

Mr. President, I come from the computer business. Everybody here knows about that. I hear about this wonderful system that is set up in Virginia, and I give Virginia credit for trying to deal with it. But I also know that it has been common for gunrunners to go to Virginia and buy a carload of weapons, and then take them to New York and New Jersey or other States around the country.

When I was in the computer business, we had thousands of people working on keeping the records up to date every minute. But we knew very well that there was a chance of error, even though it was reduced, because that was the principal nature of our business.

How many people ever had a false vehicle registration attributed, or received a ticket or a summons that did not belong to them, or received a bill from the tax collector that was not theirs?

It is a constant problem with our technological society. And this again, Mr. President, comes from someone who has the reputation for having been a founder of the computer service industry. My name is not in a hall of fame that excites people, but it is in the Information Processing Hall of Fame in Dallas, TX. I happen to be a member. My distinguished colleague from New Jersey is a member of the Basketball Hall of Fame and that gets a lot of attention. But New Jersey has two Members in the Hall of Fame, Mr. President.

The fact is, I know something about recordkeeping. That company I started provides 14 million people a week their paychecks, 14 million each and every week. So when I hear about how good these instant checks are going to be and how you will be able to pull up somebody's character, somebody's background before you give them a weapon of destruction that could wipe out a life—well, I think it is silly.

What we ought to do is establish an instant check system and then evaluate how it works. If it is really working well; maybe the proponents of the sunset provision would have a stronger argument, though I still believe there is value in maintaining a cooling off period. But at the least, we should keep a waiting period until then, to let every criminal, every felon know that we are serious about checking their background.

In New Jersey, there have been thousands of gun permits denied because when checking the background of applicants we found out that they were convicted felons, or they were not stable people, and they did not deserve to have a gun.

No one wants to take away the weapons from the sportsman or the hunter or those people who can, I assume, wait 5 days—5 days—to get their mitts on a gun. I do not understand what the rush is, I must tell you. But I come perhaps from a different part of the country, from New Jersey, where we have had more than enough gun violence in our society.

So, Mr. President, I wish to commend the Senator from Ohio. We are grateful to him for his diligence about so many things, his ever watchful eye. We are going to miss him when he retires at the end of this session.

The PRESIDING OFFICER (Mr. LIEBERMAN). The time allocated to the Senator has expired.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, I inquire how much time remains on this side of the issue?

The PRESIDING OFFICER. Nineteen minutes 15 seconds.

Mr. COCHRAN. On the other side?

The PRESIDING OFFICER. Twelve minutes 26 seconds.

Mr. COCHRAN. Mr. President, with the authority of the manager on this side, I yield myself such time as I may consume.

Mr. President, not having participated in the debate on this specific issue until now, I am reluctant to discuss all the reasons why we oppose the amendment of the Senator from Ohio for fear I will retrace ground that has already been covered. But let me make a few points even at the risk of saying some things that might already have been said.

The Senate seems to agree that there ought to be identity and background checks of those purchasing firearms from dealers. The argument is over whether or not we are going to do it as quickly as possible with an instant or nearly instant check to see if the person seeking to buy the gun is obviously dangerous to the community, mentally imbalanced, or has had a record of violence. We all support the notion that a background check is important to undertake.

But this issue raises a different question. Do we put pressure from the Federal level on developing the data base and the technology and the capability to make that check as quickly as possible? That is what this issue is about. On this side of the issue, we say, "yes." We support putting the force of a deadline, the force of Federal incentives and encouragement behind the effort to develop and use the modern technology we have, the record base that has been accumulated in the States and at the local level and at the FBI. By doing that, we can do a better job of finding out, who is dangerous, and who should not be able to buy a gun, because these individuals would be prohibited persons under the terms of existing law that

was passed back in 1968. The Gun Control Act of 1968 suggested that there are persons who ought to be prohibited by law, and are, in fact, from buying guns at retail outlets. Inquiries ought to be made under the intent of this law.

So, what we are saying is not that we have to get ourselves locked in forever to a waiting period of any particular duration. We are referring now, of course, to the 5-day waiting period under the so-called Brady version.

I hope the Senate will look at the amendment and decide that we do not want to back away from the commitment to force local jurisdictions and the Federal authorities at will to do everything necessary to have the capacity to do instant or nearly instant background checks. It seems to me that everybody ought to agree that that is a worthy goal. That is the purpose of the provision in the bill.

I know that it is not persuasive evidence, necessarily, just because the House has agreed to it. But because the other body supports it and included it in this bill, this provision would be a part of the law if it remains in the Senate bill.

But this amendment seeks to take it out. The Senator from Ohio is saying "no" to the pressure and the incentives that are included in this bill.

The substitute offered by the leadership, Senators MITCHELL and DOLE, give the States resources to do this job; \$200 million for records improvement is included in the Mitchell-Dole substitute. This is just another point of pressure and an incentive necessary to have the threat of sunset hanging over the process.

I hope that if other Senators want to express themselves on the subject of the Metzzenbaum amendment, they will let us know. I do not know how many speakers the other side may have or whether we are compelled to try to use all the time allocated under the agreement. But until other Senators express their interest in speaking on the issue, Mr. President, I will reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time? The Senator from Ohio has spoken 32 minutes and 26 seconds, the Senator from Idaho, 13 minutes 52 seconds.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that a quorum call be entered and the time be charged against both sides.

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

The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. METZENBAUM. Mr. President, there may be some who are not clear as

to what this amendment does. Let me spell it out as clearly as I can.

If the sunset provision is adopted, there will be a felon 5 years from now who could get a gun that he would not have gotten if the Brady waiting period and background check were still in effect. He will kill someone, maybe more than one, maybe some tourists, maybe a child.

When you make this vote, just remember, what we are talking about is having in effect this whole provision with respect to checking for 5 years and then for some reason eliminate it. Well, if we can live with it for 5 years, if it does not work, we can come back and change the law. But my opinion is it will work. My opinion is it is the right way to go, but if it does not work, we will come back here and change it. Why should we provide for a sunset provision for it automatically to go out of effect? I just believe if we can live with it for 5 years, we can live with it for far longer than that. If not, the Members of Congress are certainly in a position to change the law at that time. But to have an automatic sunset on a provision of this kind, in my opinion, is absurd, and I hope the Members of this body will see fit to adopt the amendment that Senator KOHL and I have sent to the desk.

Mr. COCHRAN. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, Virginia has a back-check system, and it is working. As a matter of fact, they are exempted from the bill because it works.

We find a situation that there are some people here that believe in a waiting period. They do not want a check; they want a waiting period because they want to amass a whole array of information about gun owners. And over a period of time, if the waiting period stays in place, there would be a whole array of information about gun purchasers that is not required under the 1968 law.

What we are seeing here now—and my friend from Ohio demonstrates it—is a commitment that we put up \$200 million and put into effect an instant check, and after it is working the waiting period ends. Mind you, the sunset is unnecessary if the system works, right? But the system only works if the money is provided and if the people in the administration make it work. It has already been made to work in Virginia, and it can work nationally. But some people in this administration do not believe in that system.

This sunset is there as a trigger stating: Get this system up and make it work within 5 years, or else take down the waiting period and stop this rhetoric. We do not believe waiting periods keep guns from criminals. We believe instant checks will keep guns from criminals. We do not believe waiting

periods decrease crime, and we can show that is the case. We believe instant checks decrease crime, and we can show that is the case.

The people who want to take out this sunset want to defeat this bill. That is all there is to it. They do not believe in an instant check. Otherwise, they would not be against a sunset. The Senator from Ohio says, why do we have to have this sunset? It is to test the bona fides of the people trying to work out a compromise.

My amendment, 2 years ago, did not have any waiting period. It had an instant check. Now we have a temporary waiting period which comes down when the instant check works. It is erased automatically.

Suppose the administration will not put it into effect; suppose they will not spend the money; they will not make it work. It works in every store. You just put a credit card in and dial a few numbers and, guess what? Out comes the information about a individual. It is as simple as ABC to have an instant check. It depends upon the people enforcing this law, and they can make it work. It works in Virginia and it will work nationally if they will spend the money. If they want to keep up this business about a waiting period and keep the waiting period in effect forever, they will not make it work. That is the simple answer. The Senator from Ohio wants to know why the sunset is in there. It is to make you keep your word.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. STEVENS. Certainly.

Mr. METZENBAUM. I want to be clear as to the position of the Senator from Alaska. When he first spoke on the floor, he talked about the preemption provision and this provision that I am attempting to knock out as being important to remain in the bill. My question to you is: If the preemption provision was eliminated, do I understand the Senator to say if the amendment of the Senator from Ohio is not adopted, he intends to vote for cloture.

Mr. STEVENS. If I did not make myself clear, let me make it plain: No, that is not the case. I still will not support the bill, but I hope that the Senate might reconsider its position on preemption before the day is over. The people who want to get this bill to conference, and to have the House and Senate—remember, there are different points of view in the House. We are willing to take this bill to conference with sunset and preemption. I think the Senate, in its wisdom, may reconsider preemption.

The PRESIDING OFFICER. Who yields time.

Mr. COCHRAN. Mr. President, may I inquire how much time remains on both sides.

The PRESIDING OFFICER. The time controlled by the Senator from Idaho is

8 minutes 53 seconds. The time controlled by the Senator from Ohio is 9 minutes 13 seconds.

Mr. COCHRAN. I thank the Chair.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SMITH. Mr. President, I rise in opposition to the underlying legislation—S. 414, Senator METZENBAUM's Brady bill.

Mr. President, the Senate just passed a major, comprehensive crime bill that includes highly significant—indeed, historic—steps in the right direction. Our crime bill includes stronger, tougher mandatory minimum sentences for violent criminals who commit crimes with guns. The Senate-passed crime bill also provides a strong incentive to the States to adopt the same approach by providing new Federal regional prisons to which States that adopt truth-in-sentencing and tough sentences for violent crimes can send their prisoners.

In view of the fact that we just passed that tough crime bill, Mr. President, I find it a bit ironic that the Senate would immediately take a step backward by turning to the consideration of a gun control bill that takes exactly the wrong approach to the crime problem.

With all due respect to my colleagues on the other side of this issue, the basic premise of the Brady bill is fundamentally flawed. That premise is that criminals who want to buy guns with which to commit crimes are going to line up at their local gun stores, dutifully comply with the identification requirements of the Brady bill, and then wait patiently for 5 business days before they can go back and pick up their guns.

But criminals do not buy guns that way now, Mr. President, and they certainly will not buy them that way if the Brady bill becomes law. No, Mr. President, by and large, criminals buy their guns on the black market and they steal them.

What the Brady bill really would do, Mr. President, is to force millions of law-abiding Americans to go through a bureaucratic hassle and then wait for 5 business days to get their guns. Many of these Americans, Mr. President, may well be harmed by this waiting period because they may have an urgent need for a gun to protect themselves against an immediate threat.

Mr. President, I want no part of the Brady bill charade. It is about time

that the Congress fully realized what the American people, in their wisdom, already know. We need to control crime by cracking down on criminals, not guns.

Criminals commit crimes, Mr. President. Guns do not commit crimes. It is the criminal intent of the criminal who uses the gun that causes the crime.

Mr. President, because roughly 80 percent of all illegally used firearms are acquired illegally, gun control legislation will do little—if anything—to curb the incidence of violent crime on America's streets. That reality is illustrated even more clearly by the fact that virtually every jurisdiction that has enacted or extended a waiting period for a firearm purchase—including States such as Connecticut, California, and Washington—has witnessed an increase in violent crime substantially exceeding the national average.

So if the waiting period approach works, Mr. President, why has it not worked in Indiana, California, Minnesota, New York, and Connecticut—all of which have waiting periods? For the period between 1967 and 1989, these waiting period States all witnessed homicide increases exceeding the national average. In Indiana, homicide rates rose 70 percent; in California, they rose 82 percent; in Minnesota, homicide rates were up 56 percent; in Connecticut, they rose 146 percent; and in New York, the Citadel of the gun control States, the homicide rate rose 131 percent.

Mr. President, let us consider the homicide rates over the same period in States with no waiting periods. In Alaska, the homicide rate dropped 16 percent. In Nevada, they were down 24 percent. Prior to the adoption of its waiting period, Delaware's homicide rates dropped 35 percent. Vermont's rate was down 39 percent and Idaho's rate dropped 40 percent.

Violent crime statistics, Mr. President, tell the same story. States with waiting periods have experienced vast increases in violent crime compared to States without them. In New Jersey, violent crime rose 223 percent between 1967 and 1989. In Massachusetts, 429 percent. And in Connecticut, the rate of violent crime soared 434 percent.

To put it simply, Mr. President, waiting periods do not work.

Worse than that, however, Mr. President, waiting periods may well be more dangerous to the law-abiding public than they are helpful. An exhaustive study by David B. Kopel published by the Independence Institute of Denver, CO, illustrates this point. Mr. Kopel's study shows that complying with bureaucratically cumbersome waiting period law requirements actually distract law enforcement officials from what ought to be their real focus—catching criminals and getting them off the streets.

Let me quote briefly from the Independence Institute's introduction to Mr. Kopel's study:

A waiting period has strong initial appeal. The tradocfs appear positive: relatively small costs in exchange for significant gains in public safety. But an exhaustive study of the issue by attorney and gun control expert David Kopel concludes that this perception is misleading. When all the evidence is dispassionately weighed, all the consequences traced, Kopel finds that there is a very real possibility that waiting periods threaten public safety. The reason: law enforcement resources diverted and law-abiding citizens disarmed.

In conclusion, Mr. President, let us show the American people that the Congress has gotten the message that it is time to crack down on criminals, not guns, by rejecting the misguided Brady bill.

Mr. METZENBAUM. Mr. President, with the understanding that the manager of the other side is prepared to yield back his time, I am to prepared to do the same.

Mr. COCHRAN. We are happy to yield back our time on the amendment.

Mr. METZENBAUM. 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. The question is on agreeing to the amendment of the Senator from Ohio.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. I announce that the senator from North Dakota [Mr. DORGAN] is necessarily absent.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—43

Akaka	Harkin	Mitchell
Biden	Hatfield	Moseley-Braun
Boxer	Inouye	Moynihan
Bradley	Jeffords	Murray
Bumpers	Kassebaum	Pell
Byrd	Kennedy	Pryor
Chafee	Kerrey	Reid
Danforth	Kerry	Riegle
Daschle	Kohl	Robb
Dodd	Lautenberg	Rockefeller
Durenberger	Levin	Sarbanes
Fehlgold	Lieberman	Simon
Felstein	Mathews	Wellstone
Glenn	Metzenbaum	
Graham	Mikulski	

NAYS—56

Baucus	Conrad	Gregg
Bennett	Coverdell	Hatch
Bingaman	Craig	Heflin
Bond	D'Amato	Helms
Boren	DeConcini	Hollings
Breaux	Dole	Hutchison
Brown	Domenici	Johnston
Bryan	Exon	Kempthorne
Burns	Faircloth	Leahy
Campbell	Ford	Lott
Casta	Corton	Lugar
Cochran	Cramm	Mack
Cohen	Grassley	McCain

McCConnell	Roth	Stevens
Murkowski	Sasser	Thurmond
Nickles	Shelby	Wallop
Nunn	Simpson	Warner
Packwood	Smith	Wofford
Pressler	Specter	

NOT VOTING—1

Dorgan

So the amendment (No. 1220) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is advised that the time remaining on the bill: 14½ minutes controlled by Senator CRAIG, 2 minutes controlled by Senator METZENBAUM, and Senator LEAHY has 15 minutes reserved by unanimous consent.

The Senator from Ohio.

#### CLOTURE MOTION

Mr. METZENBAUM. Mr. President, I send a cloture motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:  
CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mitchell-Dole substitute amendment to S. 414, the Brady Bill:

Joe Biden, Dianne Feinstein, Christopher Dodd, George Mitchell, Harlan Mathews, Barbara Boxer, Edward Kennedy, Frank R. Lautenberg, Carl Levin, Howard Metzenbaum, Herb Kohl, Bill Bradley, John Glenn, Claiborne Pell, J. Lieberman, Patty Murray.

The PRESIDING OFFICER. Under the previous order there is now 30 minutes equally divided on the motion to invoke cloture.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum with the time to be equally divided.

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

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Mr. President, I want to note my support for the Violent Crime and Law Enforcement Act for 1993. I voted for this because we need to take strong steps to address the violence that plagues our country. I want to compliment Senator BIDEN for his impressive and tireless work. He moved the crime bill with great dispatch. That is obvious when the Senate voted with such bipartisan support for it.

This bill does many, many good things. It is going to put 100,000 police on the streets. It includes my computer abuse bill. It includes innovative programs like drug court, boot camps, the Police Corps, the Violence Against Women Act. That is an essential piece of legislation. And one of the most important provisions for my State is the title on rural crime.

I commend Senator BIDEN for including this provision in his bill which I have cosponsored in the past. I commend Senator HATCH for his fine amendment which would increase funding for rural law enforcement. Well before Senator HATCH and I held a field hearing on rural crime in Montpelier VT, his dedication and leadership in this area was unquestionable.

I should note we always focus, and the press always focuses, on the crime in our cities. But crime is rising faster in rural America than anywhere else in this country. Those of us who live in rural America are justly concerned. The \$10 million grant program for rural States that I sponsored to develop cooperative projects will please prosecutors, victim advocates and others. It is very, very important.

My amendment creates a program to fund rural domestic violence and child abuse enforcement.

This amendment establishes a grant program for rural States to develop cooperative projects between police, prosecutors, victim advocates, and other related parties such as counselors or relevant State agencies to investigate, prosecute and treat child abuse and domestic violence.

These funds can also be dedicated to developing community-based strategies to prevent family violence and educate the public about its causes, results and cures.

The police components of these projects can be funded by the authorized grant money or by the community policing funds.

These are just a few of the many worthwhile provisions this crime bill includes.

There are some provisions in this bill that were added to show how tough we could be on crime. I think they were unnecessary.

I do not speak to this from some abstract perspective. I spent nearly a decade as a prosecutor. I am one of the few people in this Chamber who has actually prosecuted murder cases. I am one of the few people in this Chamber who has actually prosecuted armed robberies, assaults, rapes, and child abuse. I probably am one of the few people in this Chamber who have had attempts made on his life because of his role as prosecutor.

Provisions in this bill would impose a Federal death penalty for virtually any homicide committed with a firearm. For a State which does not have a death penalty, like mine, that means

we here in the Senate said: Goodbye with your legislature, goodbye with your laws; we have just overridden your State.

Some of these who have voted for that provision speak strongly of their conservative nature and their protection of individual States' rights. But they ignored it in that regard. They also ignored it when they made burglary to gas station stickups Federal offenses, even though the States always handled this. They overrode the States again.

As a former prosecutor, it troubles me. We need Federal law enforcement to do what it alone can do: Prosecute large-scale interstate and international drug trafficking, complex white collar crime, racketeering and money laundering, take on organized crime, and savings and loan crime. Let the local authorities do the rest.

I will vote for this bill because, on balance, it contains many, many more good provisions than bad.

This is a bill in process. I think it is a good start. As one who will be a conferee on it, I hope to make it better. I am voting to move this significant legislation forward so we can take the strong steps needed to make our cities and towns safe.

Let me say a few more words about gun control. As I spoke about my experience as a prosecutor before, I also speak from my experience as a gun owner. I own a lot of guns. I own handguns and long guns, semiautomatics, and single actions. I have fired virtually every type of weapon that we have heard described on this floor.

I have owned guns since I was about 12 or 13 years old. I was a champion shooter in college. In fact, it helped put me through college, and I am proud of that.

I have been skeptical about the practical effect of gun control measures that we debate in the Senate on reducing violent crime. That is not a fashionable, politically correct position. But it is what I think. I am one of the relatively few Democrats who does not support the Brady bill.

I feel very much for those who are concerned about the terrible crime on our streets. But let us face it, as a matter of policy, Brady is a symbol.

There is no waiting period, as we know, for criminals. In this city which has the toughest gun control laws, I believe, in the country, every one of us could walk out of here dressed in any type of clothes we want, with enough money in our hand, and buy handguns. We know we could do it. We would not buy them legally, but we could do it.

When Brady is signed into law, as we know it will be, criminals will still have ready access to handguns. They will get friends who have no criminal record to buy guns for them in gun stores, they will buy them out of the trunk of a car or from the guy on the

street corner. Let us not kid ourselves, there will be no wait and therefore no background check, for the criminal who wants a gun.

So I do not think that the waiting period portion of the Brady bill will really do anything.

The Brady bill also requires the creation of a national system of instant background checks. Let me say that I am not thrilled about this either. I am concerned about giving every gun dealer in the country access to people's private lives. Doing a background check on a person purchasing a handgun is appropriate. My concerns are that access to the background check system may be abused and not limited to these purposes.

Or somebody is a neighbor and says, "I really don't care too much for those people who moved down the street. Check them out for me." I find that a little bit unsettling.

I also have concerns about the costs to the States. My State is not a wealthy State. We have a lot of gunowners in my State. We also have the second lowest crime rate, I should point out, in the country. Let me emphasize that. We have probably the highest percentage of gunowners, but the second lowest crime rate in the country. I wonder how many Vermonters there are who feel as I do, that they would like to see their money going into cleaning up Lake Champlain, improving their schools or whatever.

I want to be very clear. I do not doubt the significance of the symbolism. I said the other day on this floor, as we were having one of our late-night sessions, that we necessarily had to have because of the press of business, a lot of us leave here at midnight or 1 o'clock in the morning and we go right down these well-lit steps surrounded by armed police officers, get into our car, lock the doors, drive like a bat out of hell and get out of here. None of us are willing to walk 4 or 5 blocks if our car is parked there. Sometimes we might ask ourselves why we are willing to let our staff do that. We should be concerned about that. So people are concerned about their safety. They do not want to have armed fortresses as our cities have become.

I do not question the motivation of those who want to give a symbol of hope, but if we are going to expend this kind of energy and effort, why not have substance instead of symbolism?

I will vote, obviously, against this symbol. I will vote against the Brady bill. I will not vote for a filibuster. Instead, I will vote for cloture because we ought to have a chance to vote up or down on the merits of this legislation. This issue has been fully debated. There is not a person in this Chamber who does not know how he or she is going to vote. We ought to vote, but let us not slap ourselves on the back and

say we have done something wonderful to stop crime, because we have not. The Brady bill will pass, but we will have passed a symbol. We will not have passed anything substantive to stop crime.

I want to mention the Feinstein-DeConcini assault weapon amendment. It is a measure that goes beyond symbolism. A semiautomatic, incidentally, is not a machinegun. I own a lot of semiautomatics; I do not own a machinegun. A semiautomatic is a lot different than that. People use it for everything from skeet shooting to hunting.

There are other weapons, however, whose only purpose is for killing people: the Street Sweeper, for instance. There is no need whatsoever for any individual to own a weapon like that. These are weapons that have no place outside of a target range or a battlefield. Those kinds of things should be kept out of an individual's hands. It is not going to trample the rights of law-abiding gunowners who spend their whole lives around guns but never would even dream of pointing one at a human being.

I was speaking to a policeman here in DC the other day. He said, "You know, when I am out on the street in my uniform, I draw a lot of attention. Usually I don't mind it; it is part of the job. But sometimes it is scary to stand out like that. That is why I think you guys should do something about these kind of weapons."

I agree. We do need to reduce the firepower on our streets, firepower too often used by kids out of control, kids who make the sorry results of their crimes so tragic and lethal, kids with too easy access to too much firepower. I thank the good Lord that this is a problem that has not afflicted Vermont the way it has other parts of the country. But everyday people in our cities—rich people, poor people, old, young, famous and unknown—walk in fear. And we cannot ignore that.

One subject I know about and feel comfortable with from a lifetime of experience is guns. Some will say they have a right to have whatever gun they want as a matter of absolute principle. I do not agree. Our country faces a terrible crime problem. The carnage in our cities has made them fortresses of fear. We as Vermonters cannot just stand by pretending it is not our problem.

Incidentally, it is not a position I would have taken 19 years ago when I came to the Senate. But ours is a different country than it was 19 years ago. That is why I supported the Feinstein-DeConcini amendment. It is not going to solve all violent crime but it will make people's lives safer.

That is also why I oppose the Brady bill. It is a symbol, a misguided message that will not make people's lives safer even though it will make some of us feel happier in passing it.

Mr. President, do I have time remaining of my 15 minutes?

The PRESIDING OFFICER. Three minutes remaining.

Mr. LEAHY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield myself such time as I might consume.

Mr. President, we now have a cloture motion filed at the desk. Of course, this is to force the whole of the issue on this very important debate. I appreciate the experiences of my colleague from Vermont and his observations, but I think it is important to say in my relationship with owning guns and with the gun community and those who strongly believe in our second amendment rights, that in all of those instances, with all of those people and with a vast majority of the American citizenry, there is one thing that we all agree on, and that is that criminals ought not have guns, convicted felons, and that we really need to work to try to devise a reasonable system that provides us with a quick check.

We are in the days of computers. We are in the days in which we can retrieve information instantaneously if it is put together in a coordinated way. That is, frankly, what this legislation is really about now. We have debated Brady for years. As many have said, it went from a waiting period, but that really broke down because crime kept moving on and criminals kept getting guns and they were able to slide through waiting periods. But, of course, we know nearly 90 percent of them do not wait, they just go to the street and buy one; that it was really inflicting upon the private law-abiding citizen a new law, a new regulation that was stylistic, if you will, or symbolic, but it did not work.

Finally, as this issue has evolved, now we are down to really putting it in action. By that I mean putting the money and the mandate and the technology together to do a background check.

I know that my colleague from Vermont worries about the building of those kinds of records—privacy and all of that type of thing—and yet we say very quickly in all of this that those records will not stand. It is a matter of law that they should not stand once the background check is done, so that there not be a fear that somebody were compiling a master list of guns and gunowners. That is not the intent and the law clearly understands that.

As proposed, the intent here is to find out who is legally eligible to own a gun and who is not. It is amazing that we would argue in effort to deny the technology that is now available, and that could more than likely be brought up to speed within 12 to 24 months. We denied sunset just a moment ago, and the reason we denied it

is because that is the club tied with the money and the mandate that forced the States to work together to come into compliance.

The Senator from Vermont talked about a concern for cost for a small State like Vermont, not much larger or smaller than a State like Idaho. What I would say to the Senator from Vermont, we are handing your law enforcement community the money to put their records together in a systematic way with the Department of Justice to have that system. That is the importance of bringing this together.

But what is the cloture all about? It is important for Senators to understand that if we could bring preemption back to this bill we would be off to conference right now, we would be moving for final passage on an instant background check Brady bill with all of the provisions in it that we have all talked about and that ultimately this legislation has evolved to over the last 5 to 6 years.

But the reason we are at cloture now is because some of us say you have to put it all together. Let us quit the PC stuff, the politically correct symbolism, that has become so embodied in this legislation. Let us get down to doing what Americans want done, and that is putting a system together that produces that check. Why? Because 90 percent of American citizens—90 percent—believe they have the right to own a gun; 76 percent believe that the Constitution guarantees that right; 57 percent believe that the Brady bill contains a background check, and we know it does not. You cannot trample on 10th amendment rights unless you handle them appropriately; and 43 percent say, "Well, it will not work."

That is why we are here. That is why this issue is very important, and that is why cloture says let us come to terms. Let us come to terms by putting preemption back in this legislation, by bringing all of this together in a narrow timeframe—5 years—when all States are uniform, when we have the background check.

That is a tough call for me, Mr. President, because I would argue States rights. But I also know this as an overpowering national issue. Instead of sending out the mandate without the money, I am one of those who says if you are going to require the mandate, put the money with it. Work with the States, cooperate with the States. They want this kind of informational background. They want to use it for their purposes. They want a comprehensive, criminal, instant, informational retrieval system. They want a master name list. They are all working for it now, and many States are very nearly there.

So what we are saying by this legislation and what the Republican leader, when he worked with the majority leader to craft this legislation, was in-

sistent upon is that we quit playing the political game, that we quit, year after year, coming to the floor and talking in great round terms about our concerns and what ought to be and what ought not to be. But let us, in a very sensible and practical way, provide an informational system that protects constitutional rights of the law-abiding citizen and says to the person with a felonious record or a person who has an adjudicated mental record, that guns are off limits to you, and we have the mechanism by which to assure that.

I reserve the remainder of my time.  
The PRESIDING OFFICER. The Senator from Idaho has 6½ minutes remaining.

Mr. BUMPERS. Does the Senator from Idaho yield the floor?

Mr. CRAIG. Yes, I yield the floor.  
The PRESIDING OFFICER. The time is controlled by the Senator from Ohio and the Senator from Idaho.

Mr. METZENBAUM. The Senator from Ohio has 15 minutes?

The PRESIDING OFFICER. The Senator from Ohio has 14 minutes.

Mr. METZENBAUM. I do not know where I used one. I will not argue about it. I yield 4 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, first of all, why are we debating a cloture motion? For one thing, we just got through voting by a pretty good majority not to preempt cities, counties and States who have laws on the sale of weapons that are more stringent than the Brady bill. If Little Rock, AR, had a 7-day waiting period, it is preempted because the Brady bill is 5 days.

Think about that. Think about a filibuster being conducted on this floor saying the people of Arkansas do not have the right to do what they want to do in order to try to curb crime—a filibuster to stop a minuscule effort to stop violence, or at least make some impact on the violent nature of this Nation.

Not one nation on Earth, not a Third World, first world or any other world, would even think about allowing people to buy weapons the way we do in this country. So what do you think has happened? Of roughly 170 nations on Earth, who do you think is No. 1 in crime? That is right, the good old U.S. of A. Stand up at the Fourth of July picnic and talk about what a great patriot you are and then tell them what has happened in this country just in the past 20 years—200 million handguns floating around.

They say it is too late now; the cow is out of the barn.

People in the inner cities of this country are as frightened as the citizens of Sarajevo. They would not dare walk alone in certain areas of Washington, DC. They cannot go to the grocery store after the Sun sets, and we cannot even pass a little amendment that said you must wait 5 days to buy a handgun.

I used to practice law in a small town. I had people walk in my office and say, "I am going to get him before the Sun goes down," because of an insult that had passed within the past 30 minutes. Give them 5 days and they would forget what was even said.

After 5 years of debate, those who filibuster this bill say, we want that guy to be able to buy a gun in the heat of passion. You read every day, every single day, where somebody is mad so he went and bought a gun and killed somebody, all within an hour or two. The people who filibuster this bill say that is just fine.

Dwight Eisenhower said that the people of this Nation are going to demand peace one of these days, and when they do the politicians better get out of the way and let them have it.

The American people are demanding a stop to the violence, and do you know who is thwarting the will of the American people? The U.S. Senate. It has become so gross I can hardly talk about it. Every law enforcement organization in America favors the Brady bill. I see those signs and bumper stickers which read, "Support Your Local Sheriff." What a joke. The Senate is not supporting the local sheriff. It is not supporting the local police. It is not supporting the people who go out and bare their chests to these guys in the inner cities. It is not just the inner cities. It is rural America, too.

One of these days people are going to say we want the violence stopped, and they are going to turn a lot of people out, and you better get out of the way and let the American people have peace.

We are not talking about legitimate hunting weapons. I am a hunter. I have a shotgun. That is not what we are talking about. We have never talked about those types of weapons. That has been a diversion, a distraction designed to keep the Senate from addressing the real problem.

We are trying to talk about sense, sanity, and civilized conduct. Surely to God there are enough men and women in the Senate to do their duty in voting for cloture and letting the Brady bill pass.

Surely to God we can get cloture on a very simple, minimal requirement at a time when the biggest cause of death among black males in this country between 18 and 34 years of age is murder.

Think of it. We have rapidly become the most uncivilized nation on Earth, and you cannot stop it in the Senate. Why? Because they are scared to death of the National Rifle Association. Just call it what it is.

Surely to God the Members of the Senate are ready to stand up and do their duty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I yield the floor.  
The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself 4 minutes.

Mr. President, it is a rather sad commentary, and I do not know whether I feel anger or I have a tear in my heart because here we are in a country where the American people say the most significant, the most challenging problem in our country is crime, and we in the Senate are using the right to filibuster to keep this from being voted on up or down. What a sad commentary that is, that there are some in this body who would use the right to speak and debate and not actually do that but just stall, in order to keep Members of this body from having a chance to vote on the Brady bill.

What are we really talking about? What kind of a body are we? We talk about passing a major crime bill to do something about crime, and then when it comes to getting guns out of the hands of kids and out of the hands of criminals, out of the hands of crazies, we are not willing to step up and vote no. We want to filibuster. We want the right to debate and debate and debate and talk.

I probably have been a party to that on occasion, but never against something as absurd as this. Here there is an effort by the Members of this body, by Sarah and Jim Brady, by decent people all over the country, some of whom have paid with their lives. This young lady, Michelle, who lost her husband rather recently, lobbying in the Halls of Congress. What a beautiful human being; what courage she has trying to say we need the Brady bill.

Yesterday, I had in my office a gentleman who came all the way from Japan with I think 1.7 million signatures because his son, who did not speak English that well and was studying in this country, went to the door—was not involved in doing anything—walked away from the door when the man did not answer, saw somebody finally, came back to the door. It was Halloween night. He came back—saw him—came back to the door, and the individual took his gun and shot him and killed him.

This Mr. Hatori, who was in my office, was saying he could not understand—and I cannot understand, the rest of the civilized world cannot understand—what is wrong with the U.S. Senate that they are not willing to vote up or down on the question of a 5-day waiting period.

What a tragedy. What a travesty it is. We ought to have the courage of our convictions. But no. We are worried about the NRA; the NRA will not like us.

I noticed in the morning paper just today, about how one of the big gun manufacturers is out urging their people, urging their customers, urging the gun sellers to help the NRA get more members. Is that not a wonderful thing? A large gun manufacturer, out

using tax-deductible dollars for the purpose of urging people to join the NRA.

I think it is a challenge to us here today. I think it is a question of whether we have the courage to stand up to the NRA and to say to them: We are going to pass in this Congress the Brady bill, a bill to make a major step forward in controlling the number of guns in the streets of America.

I hope that this issue will not be lost by reason of the fact we do not have 60 votes.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I am not sure who controls the time.

Mr. METZENBAUM. I do. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BIDEN. Mr. President, there used to be an expression related to age and attitude. They say someone is awfully long in the tooth. Well, this issue is long in the tooth. We have been banging this around for the last several years. We have been banging it around almost since President Reagan was shot.

On this issue, the Brady bill, those being in opposition to the Brady bill—notwithstanding the fact that a majority of the Members of the U.S. Senate and a clear majority of the House of Representatives support the Brady bill—for a year and a half have prevented us from passing a crime bill.

So obviously, there are those who oppose the Brady bill, who feel very, very strongly about it, strong to the point that it took us 2 years to get a crime bill, a bipartisan crime bill, I might add. Once the Brady bill was not in the crime bill, the world changed. We passed a crime bill, a gigantic crime bill.

The reason I bother to mention that is that as a matter of fact one of my colleagues today, who is one of the major architects of the crime bill, pointed out today that we had no crime bill; and an opponent of the Brady bill pointed out today in the press that there was no crime bill for all this time because of Brady. But with Brady out of this, we could now have a crime bill.

The point I am trying to make is the toll that is exacted for not allowing the U.S. Congress to work its will, the entirety of the Congress. By the way, although we stop action here in the Senate, we should put this in perspective. This is a filibuster not in terms of the Senate acting, a filibuster in terms of the Congress acting, in terms of the President being able to act; the effect of this—everyone knows the outcome if we are allowed to vote, if we are allowed to get a vote.

Now we have to go through—and I acknowledge that my Republican friends

have yielded part of their rights, which would be they could have stopped us from having this cloture vote for 2 days instead of allowing it to come within several hours.

But that really begs the question. By whatever name one calls it, this is a filibuster. The only time we need 60 votes is when there is a filibuster, requiring a supermajority.

My colleagues on the other side, and the NRA—and I make a distinction “and the NRA”—my colleagues on the other side and the NRA have basically said, well, we can accept the Brady bill if two things happen. One, if we have a sunset provision in the Brady bill relative to the time that a waiting period would be in effect, prior to, or all the checking coming on line.

The second is they said we want to be able to preempt our States, and tell our States what they can and cannot do relative to the waiting period. They won on one of those issues.

The Brady folks, like me, do not like the sunset provision. We do not like the preemption provision. They like preemption; they like sunset. They won one of the two. But we are getting down to the point of, well, if I cannot win both, I am taking my ball and going home. The fact of the matter is, they won one of the two.

Ordinarily, the way this body works is it is a matter of compromise. There is now a bill before us that the pro-Brady supporters would have accepted a month ago, would have accepted 2 months ago, would have accepted 5 months ago. Because it has sunset in it, we do not want that. But we lost. We lost straight up and down. It lost in the House. Preemption lost in the Senate; it lost in the House.

So what we have here is a bill that is a compromise. But apparently it is not pure enough still and the NRA is telling Democratic Members, that I know of, and I suspect telling Republican Members: You cannot vote for this.

This is a filibuster, clear and simple. We have to break the filibuster. We need 60 votes. If we do not get 60 votes, the Nation, the House of Representatives, the President, all of whom support this, and a majority of Senators, are denied the right to do something about handguns, felons, and waiting periods.

I sincerely hope we will move to bring an end to the debate on this issue with 60 votes.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired on the debate controlled by Senator METZENBAUM. The Senator from Idaho is recognized for 6½ minutes.

Mr. METZENBAUM. Mr. President, the Chair told me that I had 14 minutes. I gave 5 minutes to the Senator from Arkansas; 4 minutes for himself and 5 minutes—

The PRESIDING OFFICER. Five to the Senator—

Mr. METZENBAUM. I guess that is right. I think the addition is right.

[Laughter.]

Mr. CRAIG. I yield 5 minutes to the minority leader.

Mr. DOLE. Mr. President, I would be happy to yield 2 of those minutes to the Senator from Wisconsin.

Mr. KOHL. I thank the minority leader very much.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 2 minutes.

Mr. KOHL. Mr. President, I want to make clear what we are doing here. We are now trying to get 60 votes to go to a Brady bill, which consists of a background check on firearms and a 5-year waiting period which we will then sunset.

I daresay if you put this to the American people, you could get probably 95 percent, 90 percent, of the people who want to see that sort of a Brady bill enacted.

I cannot imagine that the U.S. Senate, faced with this sort of a proposition, would turn it down. It seems to me that if we turn that down, every one of us needs to go back and explain that to the people in our home States; I do not care if you are from Wisconsin, Kansas, California, or wherever. It is almost inexplicable to try to make the American people understand why we turned down a Brady bill which sets up a background check on all firearms, and a temporary—to be sunsetted in 5 years—waiting period on the purchase of a handgun.

That is the proposition before us. I think all 100 Senators have to make a pretty strong decision on this. I cannot imagine us not getting 60 votes, Mr. President.

I think we ought to get 80 or 90 votes on this sort of compromise. I am looking forward to the vote.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas, the Republican leader, is recognized.

Mr. DOLE. Mr. President, I have listened to the debate carefully, because I would like to vote for this legislation. In fact, I do not know why we had the first two votes. This bill would have been out of here an hour or two ago, with a 99-0 vote, had we not had the two votes on preemption and sunset. Sunsetting is still in the bill. Preemption should be in the bill. We have modified it and taken care of some of the concerns.

As I indicated, one of our colleagues from the House raised this with me the other night in the Cloakroom. We tried to take care of those concerns when it comes to licensing, construction, checking someone's mental health, and a number of things that actually delay. We thought we would take care of that. So we did that. We also provide that once the computer check is on line, you can go back and reenact waiting periods if States still desire to do that.

It seems to me that we provided the agreement. And had this amendment not been stricken—the other amendment—under the UC we entered into, the bill would have been agreed to, and we would have been out of here. If cloture is not obtained, there is a good chance between now and 11 o'clock—the time of the next cloture vote—that this very, very small difference can be resolved. I think it could be with the Senator from Ohio in 5, 10, 15, 30, 40 minutes. I do not want to leave the impression that you have to get cloture or this bill is dead. That is up to the majority. There is still one other cloture vote at 11 o'clock or, hopefully, earlier.

In the meantime, we are prepared to discuss, have dialog, whatever, to see if there is any way we can reach any agreement. The bottom line is that this is a good piece of legislation. It would be better with preemption in it. So I urge my colleagues not to invoke cloture, give us an opportunity to pass a strong bill.

A lot of things in this particular so-called Brady bill—and it is a much modified Brady bill, but keep in mind the original Brady bill was nothing but a Federal waiting period. That has been changed in 1991 and changed again today. There are a number of provisions that were not in the Brady bill in 1991 that are in the bill today. It is much stronger legislation. We ought to leave the preemption in, go to conference, work it out and get it back here late tonight, or early tomorrow, so we can have action on this bill before Congress adjourns.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho has 2½ minutes remaining.

Mr. CRAIG. Mr. President, let me compliment the Republican leader for the time and effort he has put into getting an instantaneous background check out to the American people. He has persisted over the last several years and has forced a lot of different interest groups to come to terms over a very important issue. We are here debating in a very substantive way a very important piece of legislation today, because of the leadership of Senator DOLE, who has said this is an important issue, but it is not so important that we ought to trample on the rights of citizens.

So let us do it in a way that does not destroy those rights but goes after the criminals. Let us make sure that States have adequate resources by which to implement this, and let us force the States to do it. He is absolutely right that this bill would have passed a few moments ago and would have been off to conference if we had been able to hold preemption in there. That is an important part of the enforcement mechanism that brings States on line with an instantaneous background check.

In other words, like he said a few moments ago, let us quit waiting and waiting and waiting. Let us vote the cloture down; let us get preemption back in and move this legislation to conference.

Mr. MITCHELL. Mr. President, I am going to address the subject on my leader time. I am aware that the time on this side has expired.

Mr. President, and Members of the Senate, the U.S. Senate finds itself, unfortunately, in a familiar position. According to the public opinion polls, 92 percent of the American people favor the Brady bill; 84 percent of those Americans who own guns favor the Brady bill; 68 percent of the members of the National Rifle Association favor the Brady bill; the President of the United States favors the Brady bill; a majority of the House of Representatives favors the Brady bill; a majority of the U.S. Senate favors the Brady bill; yet, we cannot even vote on the Brady bill because the rules of the Senate permit a minority, using the filibuster to delay and prevent action, from voting on something that 92 percent of the American people favor. That is where we find ourselves.

We have just heard the suggestion made that why do we not pass it with preemption? The House of Representatives debated preemption and voted it down. The Senate debated preemption and voted it down. Now our colleagues say "let us put preemption in." What kind of democracy is that? We debated it, we voted, and we rejected it—both the House and the Senate. Now our colleagues say, "but it has to be in the bill."

Is there any American civics course, or is there any school in America that says when you have a debate and you vote, the losers win? The answer is no, that is not democracy. Only in the U.S. Senate would such a fantastic suggestion be possible, let alone be accepted—that after you just lost, you say that the price is that I must prevail. The fact of the matter is this really ought not to be controversial.

In 1991, 67 Senators voted for this bill without preemption. What has happened to those Senators between then and now that they suddenly say that preemption must be in the bill? What has caused them to change their minds, to reverse their position? We have not heard an explanation of that; not a single word has been said. No response to the question has been made. There is no reason.

It is an effort to kill the bill. That is what the preemption is. Everybody on this floor knows that. This is an effort to do by indirection that which cannot be done directly, because 92 percent of the American people feel the other way, because 84 percent of gun owners feel the other way, because 68 percent of the members of the NRA feel the other way, because a majority of the

House of Representatives feels the other way, because a majority of the Senate feels the other way. The only way they can defeat it is to use the rules of the Senate which, in effect, give the minority power to prevent action on legislation. And so here we are again on an issue in which there is majority support in the Senate, in the House, and overwhelming majority support among the American people; and we cannot act because Republican Senators are once again filibustering. That is where we are. Let no American misunderstand the result. If this bill dies, it dies because of the Republican Senators' filibuster.

I hope it will not die. We have come a long way. We have worked out a lot of differences. We have reached agreement on a lot of provisions. But there cannot be any inclusion of preemption in this final bill.

I must say, Mr. President, I have never been more astonished when I saw some of the great States rights speechmakers here voting for preemption, Senators who time after time—and I am not going to embarrass them before the Senate. But I have prepared a long group of excerpts from the CONGRESSIONAL RECORD of some of our colleagues on the other side about States rights. I am not going to identify anyone by name but, my gosh, these are dramatic reasons.

I cannot support this because it is the Federal Government telling the States what to do.

States ought to be left to determine what is best for them.

It is offensive to the States.

It ought to be offensive to those of us who really believe in the principles of Federalism.

There are page after page after page after page of States rights quotations by Senators who then voted to preempt States rights. They have one set of principles on guns and one set of principles on everything else. It is selective States rights.

Well, we all know what the story is. Everybody here knows what the story is. This is an effort to kill the bill, and it is going to be up to Senators here today to decide whether we are going to pass a bill or whether we are going to kill a bill. And the cloture vote will determine that.

Mr. President, I urge my colleagues for once let us stand up and do what we know to be right, what the overwhelming majority of the American people want, what the House has voted by a majority, and what the majority of this body wants.

There is no doubt about it. There is no dispute about it. The American people want it. The House wants it. The Senate wants it by majority, but the minority is preventing it from happening because of the filibuster.

Let us for once do the right thing, and let us vote cloture. Let us end this filibuster. Let us pass this bill, and let

us take this small step to protect Americans from the random violence which now so dangerously and in such deadly fashion affects our streets and cities.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, let me tell you about four Milwaukee teenagers—two of them 13-year-old girls—who were executed in a gangland style killing last winter. When you hear their story, you may understand why I support the Brady bill and other reasonable restrictions on firearms.

Last December these two girls and their 14-year-old girl friend went over to a young man named Frank Cook's apartment for a party. One of the girls—they were not yet old enough to be called young women—was dating Mr. Cook. Simply put, they went to the wrong place at the wrong time. Frank was a 17-year-old drug dealer who was using an apartment as his drug house. He was in competition with a rival drug gang, one of whose members lived next door. The leader of the rival gang was a man named Elliot House.

On December 19, House decided to brutally eliminate his competition and cover up unrelated gambling losses. So that evening he and his companions, including an associate named Emmett Ezra White, killed Frank Cook. They used an AK-47, a Tech 9, an additional semiautomatic, and a handgun. Tragically, they also killed the three girls: Ayshia Lewis, age 13; Patricia Simmons, age 13; and Kizzy Holt, age 14. There was no evidence that any of the girls was involved with illegal drugs.

At the time of their death, the girls were playing Nintendo and eating pizza. The four kids were shot at least 27 times, mostly in the back. When she sentenced White to four consecutive life terms, Circuit Court Judge Janine Geske stated:

Those young girls were ordered to the floor face down, and we've heard testimony during the trial how the two girls huddled together like frightened lambs. They were so close together that ultimately when they were shot, the quarter that was in the clothing of one of the girls embedded itself in the neck of one of the other girls.

Mr. President, it is difficult to fathom what kind of twisted minds could gun down these young people. But it is also difficult to fathom what kind of government could fail to enact a simple piece of legislation that calls for a waiting period on handguns and a background check on firearms.

We all know that there is no panacea for this senseless violence. And we all know that nothing that we can do here will ever make the families of these slain children whole again. We need tougher laws, more cops on the beat, more certainty of punishment and more hope where there is now only hopelessness. The crime bill that we just passed will only begin to address these problems.

But there is one more crucial step we can take to reduce at least some of this

carnage. We can enact the Brady bill. It is supported by 90 percent of the American people and it will not infringe on anyone's constitutional rights. It will not infringe on the law-abiding rights of hunters.

Mr. President, more than 2½ years ago the majority leader, Senator AL GORE, and I took the original Brady bill and combined it with the best elements of the so-called instant check system proposed by the NRA. In brief, our compromise measure had three major components: Mandatory background checks on all firearms purchases; a uniform 5 business-day waiting period for handgun buys that would remain in effect until an accurate instant check system was in place; and \$100 million for States to upgrade their computerized criminal history records. Our approach enjoyed broad support: It was endorsed by both HOWARD METZENBAUM, who has led the fight for Brady since its original introduction, as well as by the distinguished minority leader. The amendment, which passed the Senate by a substantial 67 to 32 margin, forms the basis of the proposal we are debating today.

Yet, Mr. President, during the 2½ years since we failed to move the Brady bill beyond the Senate, firearms violence has continued to rage in our communities and on our streets. According to Dr. Robert Froehke of the Center for Disease Control in Atlanta, "In some areas of the country it is now more likely for a black male to die from homicide than it was for a U.S. soldier to be killed in Vietnam."

Indeed, it may actually be more dangerous to live in a major American city than to serve your country in a foreign war. Fewer than 85,000 Americans were killed in Vietnam and Korea combined, but more than 150,000 Americans have been killed by firearms since the Brady bill was introduced in 1987. And while fewer than 300 Americans died during the Persian Gulf conflict, more than twice that many Wisconsinites were killed by firearms over the past 7 years. That is not just disturbing, Mr. President, it is unacceptable.

Of course, this is not a perfect piece of legislation: It is a compromise. In an ideal world, the Brady bill before us would have a permanent waiting period, which I believe is critical to giving people consumed by violent passion time to cool off. Wisconsin, which has a 2-day waiting period and background check on pistols, has prevented more than 500 convicted felons from buying handguns in the past 2 years. Even the NRA once believed that waiting periods have value. In a 1976 publication entitled "On Firearms Control," the NRA stated:

A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

But I am absolutely convinced that the bill before us today represents the

best deal we could make to get the votes we need. And I believe that when the American people realize that the waiting period will expire in several years, they will urge us to enact one that is permanent, uniform, and lengthy.

Mr. President, in the past 2 years I have made more than a dozen floor statements on the Brady bill; I have talked about the Brady bill in several meetings in Wisconsin; I have sat through countless hours of strategy meetings on this legislation. But I am tired of talking about the Brady bill; we need to enact it this year.

I believe that this Congress will enact the Brady bill. We will enact the Brady bill because, by an overwhelming majority, the American people now recognize that the need for it has never been so compelling and that the consequences created by its absence have never been so destructive.

Enacting the Brady bill will help save lives. And, hopefully, it will help restore the American people's faith in their Government. I urge my colleagues to support the cloture motion.

#### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Mitchell-Dole substitute amendment to S. 414, the Brady bill:

Joe Biden, Dianne Feinstein, Christopher Dodd, George Mitchell, Harlan Mathews, Barbara Boxer, Edward Kennedy, Frank R. Lautenberg, Carl Levin, Howard Metzenbaum, Herb Kohl, Bill Bradley, John Glenn, Claiborne Pell, J. Lieberman, Patty Murray.

#### CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

#### VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on the Mitchell-Dole substitute amendment, as amended, S. 414, the Brady bill, shall be brought to a close. The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. DORGAN] is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 387 Leg.]

#### YEAS—57

Akaka	Ford	Mikulski
Baucus	Glenn	Mitchell
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Hatfield	Nunn
Bradley	Inouye	Pell
Bumpers	Jefords	Proxmire
Byrd	Kassebaum	Reid
Chafee	Kennedy	Riegle
Conrad	Kerry	Robb
Danforth	Kerry	Rockefeller
Daschle	Kohl	Roth
DeConcini	Lautenberg	Sarbanes
Dodd	Leahy	Sasser
Durenberger	Levin	Simon
Exon	Lieberman	Warner
Feingold	Mathews	Wellstone
Feinstein	Metzenbaum	Wofford

#### NAYS—42

Bennett	Domenici	Mack
Bond	Patrick	McCain
Breaux	Gramm	McConnell
Brown	Grassley	Murkowski
Bryan	Gregg	Nickles
Burns	Hatch	Packwood
Campbell	Heflin	Pressler
Coats	Helms	Shelby
Cochran	Hollings	Strom
Cohen	Hutchison	Smith
Coverdell	Johnston	Specter
Craig	Kempthorne	Stevens
D'Amato	Lott	Thurmond
Dole	Lugar	Wallop

#### NOT VOTING—1

Dorgan

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 57, the nays are 42.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. MITCHELL. May we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the Senate proceed to executive session to consider the nomination of Janet Napolitano to be U.S. attorney for the District of Arizona (Ex. Cal. 387); that the majority leader is authorized to file a cloture motion on the nomination; that there be 20 minutes, equally divided and controlled in the usual form, between the chairman and ranking member of the Committee on the Judiciary, or their designees; that following the conclusion or yielding back of time, the Senate, without any intervening action, vote on the cloture motion; that if cloture is invoked, the Senate, without any intervening action, proceed to vote on the nomination; that, if confirmed, the President be informed of the Senate's action; and that the Senate return to legislative session.

Mr. LOTT. Mr. President, I object.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi objects.

Mr. MITCHELL. Mr. President, I had been advised by our colleagues this had been cleared on the Republican side.

Mr. LOTT. Will the distinguished majority leader yield for a question? Is it the intent of the majority leader that, if this unanimous-consent request is agreed to, that he would go to this nomination immediately, there would only be 20 minutes of debate, and then a final vote? Exactly what is the process that the leader is recommending here, that he is asking for?

Mr. MITCHELL. First, this is the product of lengthy negotiations and discussions between the leadership on both sides. This is one of some number of nominations to which there have been objections made by some Senators. We want to try to proceed to it. We have been unable to do so.

So, this is an agreement under which we will proceed to it, debate for 20 minutes, and then have a cloture vote. If cloture is invoked, we approve the nomination. If it is not invoked, then we would proceed back to NAFTA.

If we are not able to do that, then obviously under the rules I could move to proceed, file the cloture motion, and it would then ripen in the second legislative day from now and we would proceed in accordance with the rules.

Mr. LOTT. Is it the majority leader's intent to do the same thing with the nomination for the NLRB, Gould?

Mr. MITCHELL. I have made no decision in that regard.

Mr. LOTT. You have made no decision in that regard?

Mr. MITCHELL. I have not, either to do it or not to do it. We have discussed the matter, have discussed it both with the Republican leader and with Senators who support that nomination.

I have not made any decision as of now.

Mr. LOTT. If the majority leader will yield further, the majority leader is saying he has discussed this with the Republican leader, but that there has been no discussion or agreement with regard to this particular one?

Mr. MITCHELL. That is correct.

Mr. LOTT. Mr. President, if it is still in order, I withdraw my objection on this particular unanimous consent.

The ACTING PRESIDENT pro tempore. Is there any other objection? Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### NOMINATION OF JANET ANN NAPOLITANO, OF ARIZONA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF ARIZONA

The bill clerk read the nomination of Janet Ann Napolitano, of Arizona, to