

facts. I hope the committee will proceed expeditiously. But had I had the opportunity to vote, if it were a matter before this body that required a yes or no vote, I would have voted "no."

Mr. HATCH. What is the regular order, Mr. President?

The PRESIDING OFFICER. The conference report on S. 735 is the order of business.

Mr. HATCH. Soon we will proceed on that. But while we are waiting for Senator BIDEN to come, I want to say that I have sat on the Whitewater committee. I have to say I think it has been conducted very fairly. Senator D'AMATO has bent over backward to do it fairly. I know our counsel has done a fair and decent job. In fact, I have never seen two better counsel than the two we have on both the minority and majority sides on the Whitewater matter.

I also have to say that I hope it is resolved in favor of the President and First Lady. But there are a lot of things that are very much up in the air, matters over which we have a great deal of concern. You cannot just sweep them under the rug because it has taken time. There have been obfuscation, delays, and there have been deliberate refusals to give documents, and documents have suddenly appeared. These types of things do not ordinarily happen. It has been filled with all kinds of incidents and occurrences that literally would cause anybody to say, "What is going on here? If there is nothing wrong, why all these problems?" Personally, it is bothering me.

I have to say that I am glad we are getting this on the way to a resolution. I hope we can expedite it and do it in a fair and proper way, and get it over with one way or the other. I intend to do what I can to insist on doing that.

With that, I would like to go to the regular order, and I yield to Senator BIDEN.

TERRORISM PREVENTION ACT— CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I offer a motion to recommit the conference report with instructions to add provisions on wiretap authority for terrorism crimes. I send the motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before "or section 1992 (relating to wrecking trains)" the following: "section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports);"; and

(B) by inserting after "section 175 (relating to biological weapons)," the following: "or a felony violation under section 1028 (relating to production of false identification documentation), sections 1541, 1542, 1543, 1544, and 1546 (relating to passport and visa offenses)."; (2) by striking "and" at the end of paragraph (c), as so redesignated by section 512(a)(2);

(3) by redesignating paragraph (p), as so redesignated by section 512(a)(2), as paragraph (s); and

(4) by inserting after paragraph (o), as so redesignated by section 512(a)(2), the following new subparagraphs:

"(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

"(q) any violation of section 46502 of title 49, United States Code; and".

The PRESIDING OFFICER. The time is 30 minutes equally divided.

Mr. BIDEN. Mr. President, I yield myself such time as I may consume within my allotted time.

Mr. President, before I begin on this amendment, I want to just tell you, and all of my colleagues who may be listening back in the offices, that while the last vote was going on a colleague of ours, Senator WENDELL FORD, came to the floor and said, "Let me show you something my staff just downloaded from the Internet." While you were all voting on whether or not to prohibit people from being able to teach people how to make bombs knowing or intending they be used to violate the law, let me read what was downloaded. This is roughly at 3:20 p.m. today.

Attention all Unabomber wannabes. You will first have to make a mild version of thermite. Use my recipe but substitute iron filings for rust. Mix the iron with aluminum filings in a ratio of 75 percent aluminum, 25 percent iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to the next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!!

Now to light it. This is the tricky part, and hard to explain.

I am still quoting now.

Just keep experimenting until you get something that works. The fuse is just that torch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette, then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the torch explosive is torn, or even squeezed hard, it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite did not blow up, it would at least burn your enemy (it does wonders on human flesh).

You all just voted to keep that legal—to keep that legal—because of the fear, apparently, or concern that we would not be able to convince 35 recalcitrant House Members to make that illegal. That is what you did. That is what you did.

I ask unanimous consent that this be printed in the RECORD along with the baby food bomb by Warmaster, also taken off the Internet.

For all of you who are concerned about the pornography on the Internet, as I am, how do you explain banning that, which we should, and not this? Pornography deforms the mind. These bombs burn the flesh.

I ask unanimous consent that these recipes available to our children and the demented people out there in the public, the few that exist, be printed in the RECORD to know what we have just done.

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

ATTENTION ALL UNABOMBER WANNABES

You will first have to make a mild version of thermite. Use my recipe, but substitute iron filings for rust. Mix the iron with aluminum filings in a ratio of 75% aluminum to 25% iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to our next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section, where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!! Now to light it . . . this is the tricky part and hard to explain. Just keep experimenting until you get something that works. The fuse is just that touch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette and then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the touch explosive is torn or even squeezed hard it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite didn't blow up, it would at least burn your enemy (it does wonders on human flesh!).

BABYFOOD BOMBS

(By Warmaster)

These simple, powerful bombs are not very well known even though all the materials can be easily obtained by anyone (including minors). These things are so powerful that they can DESTROY a car. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of the house out if you mess up while building it. Here's how they work.

Go to Sports Authority or Hermans sport shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or adult. They don't keep it behind the little glass counter or anything like that. It is \$2.96 for 25 shells.

Now for the hard part:

You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gunpowder. The place where you cut it is CRUCIAL. It means the difference between it blowing up in your face or not.

You must not make the cut directly where the gunpowder is or it will explode. You

must cut it where the pellets are. When you cut through it, empty the pellets out and the white stuff (called buffer) that surrounds the pellets. There is a layer of wadding that separates the gunpowder from the pellets and that must be cut through VERY CAREFULLY! Don't use a drill! Whatever instrument you use (knife, screwdriver, etc.) you must work very slowly and don't make big movements. Friction can set it off. You now have a nice supply of gunpowder.

I have also tried this with Quail Shot. The only difference between buck and quail is that quail has very small pellets and buck has big ones.

It is strange but almost all shotgun shells have a different interior. Some have very powdery powder and some have flakes for powder. Also some have plastic wadding and some have cardboard. Usually the smaller the pellets the less gunpowder and more cardboard wadding. The smaller pellet sizes are the ones with the flakes. Also that white stuff called buffer is only used in heavy buckshot and is not found in Quail and Dove shot or other bullets with small pellets.

[Contents deleted from original.]

I would like to stress once again that this is EXTREMELY dangerous and can very easily kill you. I've done this once and it scared the—out of me and I am never doing it again. These are very destructive. If you are stupid enough to do it, wear two or three pairs of safety glasses and thick clothes to protect you from the glass. The—can still hurt you from 100 feet away. The blast is also deafening. But if you want to spread some chaos, this little bomb is the way to go.

Did I mention that this is also highly illegal?

Unimportant stuff that is cool to know:

They rate shotgun shells by two numbers. Gauge and pellet size. With gauge the smaller the number the bigger the bullet (12 gauge is bigger than 14 or 16 gauge). The biggest I know of is 10 gauge, but that is very hard to find. The other number is the pellet size. The bigger the pellet the less can fit in the bullet. The advantage of a big pellet is that it is more powerful but cover an area very scarcely. The smaller pellets have a much lower velocity but there are many more pellets in the shell. Here is how the system goes: 000 buckshot (triple 0) is the very biggest. There are only 10 pellets in it but they are huge. Then comes 00, 0, 1, 2, 3, 4, 5, 6, 7. Number 7 has about 200 pellets in it. It is used for squirrels and small birds. Generally the 000, 00, 0, 1, 2, 3, and 4 have the best powder. Anything higher up has this weird flakey gunpowder that doesn't work so well.

Some Other Things That Smart People Do That Don't Want To Get Killed:

Other things you can do with the powder other than use it in a babyfood jar is to use it in a smaller jar. You will get less bang out of it but it is much safer. Some good jars to use are very small makeup jars and those little TESTORS paint bottles. The paint bottles have thick glass and it might be more dangerous. Another thing you can do with the powder is wrap it up tightly in some paper and stick a fuse in it (it is easier to put the fuse in before you wrap the paper).

Typed by the Warmaster.

The author accepts no responsibility for any misuse of information in this file. This is for information purposes only, and reading enjoyment only, and is meant to show how at any time any lunatic with a mile long police record can legally make a highly powerful bomb with almost no equipment. The author is not advocating the use of explosives in any way.

Mr. BIDEN. Mr. President, what I would like to speak to in an indirect

way covers this. We have had several votes on wiretaps, and I know people are asking why am I introducing the other wiretap provision that was taken out of the Senate bill. The reason I am is I refuse to believe that, if you all hear this enough, you will not eventually decide to do the right thing on this.

The provision that I have proposed is not original with me. It was in the Senate bill that we passed. The provision would add a number—the bill we have before us, the conference report—would add a number of terrorism-related offenses to the law. I will go into those in a minute. What I have sent to the desk, if adopted, would instruct the conferees to add the same number of offenses that we are adding to the bill, to the law, to those categories of things for which the Government, with probable cause, can get a wiretap. It was in the Senate bill as introduced by Senators HATCH and DOLE. It was part of the terrorism bill reported out of Representative HYDE's Judiciary Committee. Unfortunately, by the time the bill had made it to the House, the provision was dropped.

I think it is worth talking a moment about how a wiretap statute works, the one that is in place now in the law, for it seems there is a lot of misunderstanding about it these days. I am repeating myself again to eliminate the misunderstanding. As some people tell it, you would think the FBI and BATF and the local and State police are tapping our phones left and right, that they are riding down the streets in vans with electronic devices eavesdropping into our windows and houses—which they have the capacity to do, by the way. But that is just not the way it works.

First and foremost, it is not an FBI agent but a U.S. attorney, or even the Attorney General herself, who has the power to authorize the wiretap. No. Actually, that is not quite true. The ultimate authority to issue a wiretap sits only with a Federal judge. The U.S. attorney has the power to petition the court for a wiretap, but only a judge, a judge who cannot be fired, whose salary cannot be docked by any of us in Washington, who cannot be affected in any way, only a judge may disagree with something that the Attorney General does or does not do. It is that judge who must determine that there is probable cause to believe that a specific crime—not a general crime—a specific crime has been—not is about to—has been committed; that specific people are committing that crime, and that they are doing it at a specific place. The affidavit that the U.S. attorney takes to the court, to the judge, must also satisfy what is called the necessity requirement. The judge must be convinced that other less intrusive investigative procedures have been tried and failed—that is infiltration, that is eavesdropping in a conversation, walking by, any other method—has to be convinced that they have been tried

and failed or that they are unlikely to succeed in any reasonable circumstance.

That necessity requirement is meant to ensure that wiretapping is not the normal investigative technique, like physical surveillance or the use of informants. These are very serious protections, Mr. President. I believe that interposing a court between the prosecutor and the wiretap is a citizens' best protection.

But even before we get to the judge who makes his decision, there is a very painstaking, stringent process within the Justice Department for determining when to seek a court authorization for a wiretap.

First, the agent in the field, under the supervision of his or her supervisor, must write an affidavit, a sworn affidavit, that they must sign that sets out all the particular facts relating to probable cause, because even if an order is granted based on the agent, if he is lying, then that information is gone even if the judge issued the wiretap order.

So, on the front end, you have to have a sworn law enforcement officer swear that the information they are writing down as to why they think a crime has been committed is true. They are liable. An assistant U.S. attorney then must take that affidavit from the FBI agent and draft an application and a proposed order for the court to sign. The package then must be sent from the U.S. attorney in Wilmington, DE, or in Manchester, NH, and sent down to Washington. The U.S. attorney cannot just walk into the courtroom of the Federal judge or to any of the judges, and say, "Judge, I want a wiretap." They must send it down to Washington. Once the package is sent to Washington, the Criminal Division of the Justice Department takes a look and scrutinizes the affidavit and discusses any necessary changes or additions or questions they have with the U.S. attorney that is handling the case back in Manchester, Wilmington, or Salt Lake City.

Then a detailed memorandum summarizing the facts and legal issues and addressing the application's compliance with each statutory requirement is sent to the Assistant Attorney General. All these materials are then sent to the Assistant Attorney General or Deputy Attorney General for final review and final authorization, and then it is sent back to Manchester, sent back to Wilmington, sent back to Salt Lake City. The U.S. attorney then petitions the court and then goes in and sees a judge.

This is painstaking. It is time consuming, as well it should be, for we want to make sure that wiretaps are used in only the most serious cases. We want to make sure that they are used only as a last resort when all other less intrusive techniques have failed, and we want to make sure that the Government is not making unwarranted intrusions into our privacy. But we also

need to make sure that law enforcement has the tools, if they meet all these hurdles, to catch the bad guy.

Now, this provision that I have offered, that we already voted on, will provide an important tool. Let me just point out there is currently a very long list of crimes for which a wiretap can be authorized. Let me make this point because a lot of nonlawyers or people who do not practice criminal law are not aware of this as well.

You cannot get a wiretap, even if you do all the things I just said, unless you turn to the Criminal Code, and you have all these crimes listed in the Criminal Code. OK. You may find a crime in one section, and then you have to turn to another section, section 251, of the Criminal Code entitled, "Authorization for Interception of Wire, Oral or Electronic Communications." And then you have to find there in subsection (c) the list of offenses for which you can get a wiretap. Not every crime is entitled to have a wiretap attached to it.

So it is a two-step process. First, you have to prove there is a crime being committed that is a violation of the Federal law. Second, you have to go through all these procedures that I outlined to safeguard that it is not willingly used by the Government to intrude on your privacy. And then, in that process, you have to make sure it is a listed crime for which you can seek a wiretap. OK.

Now, some of those crimes for which you can seek a wiretap are murder, kidnaping, robbery, extortion, bribing public officials, witnesses, or bank officials, obstructing justice, criminal investigations or law enforcement, all manner of fraud and embezzlement, destroying cars, wrecking trains. They are all listed, all listed. And this list goes on.

The provision I am suggesting here does only one minor thing: It would add a very serious and potentially deadly terrorism offense to that list, including new offenses that are added in this legislation. The legislation we are voting on, the conference report is this thing, and in here, to the credit of the chairman and I believe to me and others who worked on this, we add new crimes, new Federal crimes, terrorism crimes for which the Federal Government can go after you if you do these bad things. But we miss one important step. We do not take these new laws and add them to the list of those things for which you can get a wiretap. This would do that, would allow wiretaps with all the procedures for the new crimes of terrorism we have in here.

It is ironic. At first I thought it was an oversight, but obviously it is intended that you not be able to use wiretaps to deal with terrorism as we outlined in the bill.

I assume my time has expired.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BIDEN. I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized for 15 minutes.

Mr. HATCH. We have been doing this for a year. We are trying to pass a bill here that will make a difference against terrorist crimes. I can say categorically that there is virtually always a way to get wiretaps if the prosecution wants it, if the law enforcement people want it. To just add the word terrorism, that would be efficacious, but it still would not stop anybody—if you do not add it, it still would not stop anybody from getting the necessary wiretaps in the case of suspected terrorists.

We can overdue these technicalities to the end of the doggone Congress. The fact is, this bill contains alien terrorist removal provisions that will make a real difference. It contains designation of terrorist organizations that we do not have right now, neither of these provisions, that will make a real difference today. We have Hamas people in this country who want to murder our Jewish citizens, just to mention a few. We have Abu Nidal people in this country who want to murder our Jewish citizens and others, do anything to disrupt our economy. We have other terrorist organizations in this country. We have at least 1,500 known terrorists and organizations in this country. And we are standing here debating whether or not we should put a word into the bill.

Now, I agree I would love to put it in, but in this year-long set of negotiations and work with the other body, they did not want it put in that way. They are concerned that we are expanding wiretapping too far. It is a legitimate concern.

This world is turned upside down. When I got here 20 years ago, the conservatives wanted the wiretapping because they wanted to stop all crimes. The liberals did not want it because they were concerned about civil liberties. I can remember the battles we had in the Judiciary Committee, and they were heated and intense.

Today, it is the opposite. The conservatives, some conservatives, especially those on the far right—and I might add, the far left liberals still do not want wiretapping, but the far right conservatives are concerned because they feel like justice went awry in Waco and Ruby Ridge, the Good Ol' Boys roundup and other matters. Those are legitimate concerns that they bring.

Let me just say this. I would not mind putting this in the bill if I could at this point, but I cannot and still have a bill. We have a bill that has alien terrorist removal provisions. It would help this country all over the world. It would help other countries all over the world. Designation of terrorist organizations, we start to put a stop to terrorist organizations. It would certainly stop the fundraising. We have language that will stop the raising of funds in the United States of America

that are sponsoring terrorism all over this world.

These are big provisions. These are things that can make a difference. We can get around these other technicalities, and we can get wiretaps if we need them. But we cannot get these things without this bill.

Summary exclusion of alien terrorists, we have a right to do it because of this bill. These were provisions we had to fight to get back into the bill that we had written in the Senate, provisions that will make a difference, not some technicality that is important and I would like to have in, that the Senator from Delaware would like to have in, and rightly so. I do not have any problem with that. We have not been able to get those technicalities in, but there are ways around those technicalities today without having them in. There are no ways around these provisions, none. We cannot do these things without this bill. Without this bill we could not stop many major terrorist problems in this country that could happen in the future.

We have language in here on biological weaponry, something that is critical. Every one of us is concerned about that, and rightly so. We succeeded in getting the House to tighten up and toughen up those provisions dealing with the transportation and sale of human biological agents. That needs to be done. We should not wait a day longer; we should not wait an hour longer to get that done. We have criminal alien removal procedures. When these criminal aliens get convicted, the minute their sentence is over, they are moved. We get them out of this country so they cannot just waltz out of the jail and go and start doing further terrorist activities.

We have \$1 billion in authorization money in this bill, to go to work tomorrow, if we pass this bill and as soon as the President signs it, to go to work to fight against this terrorist activity.

We have language in here that goes a long way toward tagging explosives. I could go on and on. I could talk for 4 or 5 hours on what is in this bill and why it is going to make a difference against terrorism.

I have to say my colleague from Delaware deserves his reputation as a very fine lawyer and somebody who is bringing up very good points here. Most of the language he has brought up, I wrote. Naturally, some of it I would like to have in the bill. But we can get around most of those problems with current criminal law. We cannot get around these problems I am discussing with regard to terrorism.

Let me just say on wiretapping alone, just so people understand how serious this is, in 18 United States Code, section 2518, it says:

Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, [any, by the way] specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General or by the principal prosecuting attorney of any State or subdivision

thereof acting pursuant to a statute of that State, who reasonably determines that—

(a) an emergency situation exists that involves—

(i) immediate danger of death or serious physical injury to any person,

(ii) conspiratorial activities threatening the national security interest, or

(iii) conspiratorial activities characteristic of organized crime,

that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained. . . .

I would like all this clarifying language in. I would not mind having it. We had it in the Senate bill and we have worked for a year to try to get it back in and almost every major, big provision we have gotten back in. Some of this we have not. But we have ways to get around those problems.

I will repeat it. Talking in real terms, realistically, there is always a way to do it if it has to be done, to get a wiretap. But there is not always a way to remove terrorist aliens. There is not a way right now to designate terrorist organizations as terrorists and to start branding them for what they are all over the world and start using the force of American power and law against them. There is no real way to stop fundraising today for terrorist organizations in this country.

I might say there is no summary exclusion of alien terrorists today. We do not have any aspects against biological weapons.

I was the one who held the hearing just a month or so ago, showing where you could get—anybody if they were clever enough, could get human pathogens that could cause major diseases all over this country.

I might add, we do not have any current criminal alien removal procedures. This bill grants all of that.

We do not have habeas corpus reform, death penalty reform in this country. That alone, the people who have suffered, the victims of the Oklahoma City bombing would be enough to justify this bill. But I am giving you big-time stuff that will make a difference against terrorism. These other matters, we can get around those in most instances.

I am telling you, I will just say one other thing. I am committing right here on the floor today I will do everything in my power, as chairman of the Judiciary Committee and as one of 100 Senators here, to try to correct some of these matters in the future, after we have these studies that help us to know how to correct them and after we can get rid of some of these perceptions that law enforcement is too intrusive and is not protective of the civil rights and liberties of people in this country.

I believe it is. I believe our law enforcement people are the best in the world. We have occasional mistakes, but I think the FBI is the best in the world. I think our Justice Department is the best in the world. I think ATF does a very good job and they are cleaning up a lot of problems that have

existed in the past in the eyes of most people who own guns in this country, and they are doing it, I think, in an expeditious and good way. I am proud of the law enforcement in this country. I want to give them the tools and I want to work hard to make sure we have them. But we have to give them these tools now. We have to start fighting terrorism, instead of really babbling, here, on the floor of the U.S. Senate.

The longer we go the more difficult it is to get this through over in the House. If we change one word of this and go back to conference, I can tell you right now we are in danger of losing the bill. So, sure I can improve any bill. Just make me a dictator and let me write whatever I want to and I guarantee you it will be perfect. At least that is the idea of some people in this body. But we have to live in the real world of bringing 100 Senators, 435 Representatives—535 minds together and, by gosh, we have done a pretty good job.

When the Senator read the Internet bomb description, had his idea—and I might add even I would agree with the idea—been the law, he might have been in violation of his own law. The fact of the matter is, there are still ways of getting around that problem. We can go after bomb makers, under this bill. We can make a difference.

I just wanted to mention a few things that we are really fighting for here, major issues, major issues that can help us against crime, against terrorism, that will help to prevent future terrorist activities. Do we have everything in this bill? I said from the beginning, no, we do not, because we have to bring together at least half of the 535 people serving in both Houses of Congress. But we have a lot of things in this bill I never thought we would get there, through 535 people. This is a bipartisan bill. It is a bill that both Republicans and Democrats have fashioned. Frankly, I am proud of it and I would like to get about passing it.

In that regard, then, on behalf of Senator DOLE and myself, I move to table the Senator's motion and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, may I make a suggestion? There are several colleagues who apparently will have difficulty getting here in the next 5 minutes for this vote. Senator KENNEDY is on the floor, ready to proceed with an amendment. Maybe we could just stack the two? I have been opposing stacking them all day.

Mr. HATCH. Mr. President, I ask unanimous consent we stack the next two votes to occur immediately after the time expires on Senator KENNEDY's amendment.

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

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 60 seconds on the bill. I have two responses.

My distinguished and able colleague has mixed up apples and oranges here. The section he read from the wiretap statute related to emergency wiretaps that do not require a court order at the front end.

What we are talking about are wiretaps where they want to go in and we want to prove they have probable cause to get the wiretap in the first case.

Second, I agree with everything that he says about the good parts of the bill. They were in the same bill I introduced, most of those things. I am for them. But the problem is, he mentioned there are 1,500 terrorists out there, or whatever the number. Under the bill now we create a new crime relating to providing material support for terrorists, if you send money to Hamas and provide material support or an automobile or a train ticket or whatever it is, and it is not a crime. It is a Federal crime now, but one for which you cannot get a wiretap. That seems to make no sense to me and that is why I have introduced this amendment.

I yield the floor to my friend from Massachusetts.

Mr. HATCH. Mr. President, if my friend from Massachusetts will just allow me to respond for 15 seconds, I will just make the statement again. Realistically, in this real world, if law enforcement wants to get a wiretap, whether emergency or otherwise, it is going to be able to get it. That has been my experience and I think it has been the experience of every prosecutor, I think, in this country.

Mr. BIDEN. I yield myself 15 more seconds on the bill. That is the very thing we do not want to happen. We want prosecutors to operate under the law. We do not want to further ignite the imagination of those folks over in the House. We want them to do it by the numbers, not with imagination.

Mr. HATCH. Mr. President, I would just add, they will do it by the law, but realistically they can do it. I have also said that I will work with the distinguished Senator from Delaware to try to resolve these problems in a formal bill in the future, as we examine this more carefully. I think we can do that job. But it is misleading, to think the American people are not going to be protected, from a wiretap standpoint, when I know the law enforcement officials can use wiretaps and can get them, realistically, in almost every situation.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may speak on the conference report without the time being charged to the remaining 20 minutes of the general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, it is a year since the tragic bombing of the Federal building in Oklahoma City, and 10 months since the Senate passed a bill to give Federal law enforcement agencies the effective assistance they need to deal with these crimes.

Unfortunately, the conference report before us is a far weaker bill than the measure we passed last year. All that is left now is the hollow shell of a terrorism bill, a mockery of the strong bipartisan legislation passed by the Senate. Most of the meaningful antiterrorism measures passed by the Senate have been stripped out by the House, so that this bill is far less likely to deter terrorist crimes or aid in the apprehension of terrorists.

Using the phony label of antiterrorism, the bill achieves two reprehensible goals: it denies meaningful habeas corpus review to State death row inmates, and it makes it easier to turn away refugees and victims of political persecution from America's shores.

Everyone knows what happened to this bill. It fell victim to the anti-Government assault of the National Rifle Association. After the Senate passed a tough, effective terrorism bill, the NRA stepped in and prevented House action for months. Then the NRA's supporters in the House stripped the bill of key provisions to strengthen Federal law enforcement.

As a result of the NRA's maneuvering, the conference report before us is completely inadequate to meet the needs of law enforcement. The Senate still has a chance to insist on a real terrorism bill, and not a sham bill. We should send this bill back to conference, and insist that the conferees restore the tough Senate provisions.

There are numerous glaring gaps in the conference report:

It does not include the expanded wiretapping authority that the FBI has said is necessary to keep up with current telecommunications technology.

It does not address the dangerous reality that bomb-making information is now freely disseminated on the Internet.

It does not include a Senate-passed provision extending the statute of limitations for serious firearms offenses.

It does not include a necessary exception to the posse comitatus laws so that military experts can provide technical assistance to law enforcement in terrorist attacks involving chemical or biological warfare.

Each of these measures was included in the Senate bill, but has been stripped out of the conference report at the insistence of the NRA.

And while the bill is clearly deficient in these respects, it includes other provisions that are too extreme in limiting the rights and liberties of individuals:

It eviscerates the ancient Writ of Habeas Corpus, denying death row inmates the opportunity to obtain even one meaningful Federal review of the constitutionality of their convictions.

It returns to the discredited cold war guilt-by-association policy of the McCarran-Walter law, excluding individuals from our shores based on mere membership in an organization. Current law already contains authority to exclude members of known terrorist organizations. The far broader sweep of this bill is unnecessary and excessive.

It places excessive restrictions on the ability of refugees to obtain asylum in the United States. This provision was never considered by the full Senate, and it ought to be debated on the immigration bill, not the terrorism legislation.

Mr. President, I point out here what has been happening. Asylum claims decline 57 percent as productivity doubles in 1995. What we have seen is the dramatic reduction in terms of the asylum claims. In 1994, there were 122,000; 60,000 completed.

In 1995, 53,000; 126,000 were completed. The Justice Department has a handle on this issue. It is doing it in a conscientious, fair, and disciplined way, and we ought to retain it and not be caught up with other facts and figures.

Every omnibus bill requires Members of Congress to weigh the good provisions against the bad ones. I voted for the Senate bill even though it included the objectionable limits on habeas corpus. But the balance has changed, now that the Senate bill has been seriously weakened. There is too little to place on the scale against the shameful trashing of the writ of habeas corpus and the Nation's asylum system.

It is unfortunate that the unrelated and controversial subject of habeas corpus was injected into this bill in the first place. Proponents say that habeas corpus is relevant because the suspects in the Oklahoma City bombing are charged with a Federal capital offense. But that fact is no justification for changing the rules with regard to State prisoners.

The habeas corpus proposals do not strike a fair balance. The bill denies death row inmates a full opportunity to raise claims of innocence based on newly discovered evidence. It will therefore increase the likelihood that innocent people will be executed. The proposal to limit inmates to one bite at the apple is sound in principle. But surely the interest in swift executions must yield to new evidence that an innocent person is about to be put to death. As Supreme Court Justice Potter Stewart once wrote, "Swift justice demands more than just swiftness."

Also, the proposal would unwisely require Federal courts to defer to State courts on issues of Federal constitutional law. A Federal court could not grant a writ habeas corpus based on Federal constitutional claims, unless the State court's judgment was "an unreasonable application of Federal law."

It is a serious mistake to require a Federal court to defer to the judgment of a State court on matters of Federal constitutional law. The notion that a Federal court should be prevented from

correcting a constitutional error because it was a reasonable error is unacceptable, especially in a capital case. Ever since the days of Chief Justice John Marshall, the Federal courts have served as the great defenders of constitutional protections, and they should remain so.

The asylum provisions in this bill are equally misguided.

The Senate-passed bill did not address this subject, because it is more appropriately dealt with as part of immigration reform. But the conferees adopted House-passed language that drastically limits the ability of refugees to claim asylum if they arrive without proper documents. This provision undermines the fundamental treaty obligations of the United States by subjecting legitimate refugees to persecution and even torture.

It is often impossible for asylum seekers fleeing persecution to obtain a valid passport or travel document before they leave. Even the effort to obtain a travel document from the same government that is the persecutor may result in further danger to the asylum seeker. People may die or may be tortured while waiting for the proper papers. Accepting this reality, the U.N. High Commission on Refugees has recognized that circumstances may compel a refugee to use fraudulent documents to escape persecution.

This fact has long been recognized under international law. The United States has international obligations to protect refugees and asylum seekers who use fraudulent documents to escape persecution abroad. Article 31 of the U.N. Convention Relating to the Status of Refugees imposes an obligation on the United States not to penalize refugees and asylum seekers who are fleeing persecution, and who present fraudulent documents or no documents at all.

Under current practice, when asylum seekers arrive in the United States without valid travel documents or a passport, they are placed in detention. Generally, they are released from detention only if an asylum prescreening officer believes they have a sound case. That is the dramatic change in the way the Justice Department is considering the asylum seekers at the present time and how they were considered a number of months ago. Otherwise, they must pursue their asylum claim while in detention.

The pending bill significantly changes this process. It gives the prescreening officer the authority to deport an asylum seeker who enters with false or no documents. The office can deport the asylum seeker without a full hearing. An immigration judge never sees the case. In addition, the asylum seeker has no access to the assistance of counsel or even an interpreter.

As we consider this unprecedented proposal, we should remind ourselves of Raoul Wallenberg, the hero who saved countless lives during the Holocaust by

issuing false travel documents so that Jews could escape Hitler's persecution. If this bill had been law in 1946, those Jews could have been returned to Europe without so much as a hearing.

Finally, the bill is flawed because it excludes foreigners from our shores based on mere membership in a disfavored organization.

In the days of the cold war, distinguished writers, professors, and others were excluded from the United States based on their mere membership in a Communist organization. Finally in 1990, we repealed the notorious McCarran-Walter law and set exclusion criteria based on individual actions, not their words.

This bill is a giant step backward. It explicitly sets excessive exclusion criteria based on membership in an organization, even though it would be grossly unfair to assume that all or even most members of the organization are terrorists.

Current law already gives broad authority to exclude members of terrorist organizations in such cases, and the blunderbuss provision in this bill is unneeded. If applied to American citizens, it would be a violation of the first amendment.

The harm caused by the habeas corpus, asylum, and exclusion provisions of this bill is severe, and the good accomplished by the antiterrorism sections of the bill is minor. I urge the Senate to send this defective bill back to conference with instructions to do the job right—and produce a real antiterrorism bill that gives law enforcement the tools it needs to get the job done.

I thank the chairman and the ranking minority member of the committee for letting me address the Senate on this issue.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my distinguished colleague and friend, and he would like to restore the Senate bill. We just cannot do that. I was very proud of that Senate bill. I wrote most of it and, frankly, I think our colleagues worked together to come up with a good bill. When it went to the House, the House enacted a bill which really was much less than the Senate bill. We have gone to conference and have brought most all of the Senate bill back.

The distinguished Senator from Massachusetts says that this bill we have today is a hollow shell. Now, come on. Let me just go through some highlights of this bill.

We have most everything back, and the things we do not have back, we can probably, in the real world, solve anyway, under current existing law. I have to say, yes, I would prefer the original Senate bill, but let me give you one illustration.

In the fundraising provisions, I might add that the Antidefamation League, and others of similar mind—and I am of similar mind—believe that our fund-

raising language is far superior in this bill than it was in the Senate bill. I know it is far superior.

We were able to work that out with our colleagues in the House. That alone is a reason for preferring this bill over the Senate bill, plus the added promise that I have made here that I will try to work out these wiretap and other issues, or at least the wiretap issues, in the Senate Judiciary Committee.

But just look at the highlights of this antiterrorism bill. Capital punishment reform, death penalty reform, something that has been needed for years, decades. It is being abused all over the country. There are better than 3,000 people who have been living on death row for years with the sentences never carried out, the victims going through the pain every time they turn around. This will solve that problem while still protecting their constitutional rights and every right of appeal that they really should have. It is written well.

The international terrorism prohibitions, prohibitions on international terrorist fundraising. As I have said, the Anti-Defamation League, AIPAC, and a whole raft of others that are concerned in this area, like the language in this bill much better than the language in the Senate bill.

This subtitle adds to Federal law prohibitions which provide material support to, or raise funds for, foreign organizations designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to be terrorist organizations.

We have the Terrorist and Criminal Alien Removal and Exclusion Act in this bill. We remove alien terrorists, and we provide very good language that was very much the same as the Senate language.

We have the exclusion of members or representatives of terrorist organizations, the alien terrorists exclusion, if you will. This permits, as a new legal basis for alien exclusion, the denial of entry into the United States of any person who is a representative or member of a designated terrorist organization.

We have a whole title on nuclear, biological, and chemical weapons restrictions. These are not picayune provisions. This is big-time stuff. This is something this country has needed for years and the whole world needs. We have it in this bill.

We have the expansion of scope and jurisdictional bases of nuclear materials prohibitions and a report to Congress on thefts of explosive materials from armories. We require the Attorney General, together with the Secretary of Defense, to undertake a study of the number of thefts of firearms, explosives, and other terrorist-type materials from military arsenals. We will make them get on these things.

We have biological weapons restrictions, enhanced penalties, and control of biological agents. We have chemical

weapons restrictions, chemical weapons, and biological weapons of mass destruction. We provide for a study of the facility for training and the evaluation of personnel who respond to the use of chemical or biological weapons in urban or suburban areas.

We have the implementation of the Plastic Explosives Convention in here. We have the marking of plastic explosives. We have studies on the marking of other explosives and putting taggants on them.

We have made a whole bunch of modifications in criminal law to counterterrorism, increased penalties for conspiracies involving explosives. All this talk about explosives. We provide language in here that will help to solve those problems.

Acts of terrorism transcending national boundaries, we have language on that. We have criminal procedure changes in here that would make a real difference with regard to certain terrorism offenses overseas, the clarification of maritime violence jurisdiction, increased and alternate conspiracy penalties for terrorism offenses, clarification of Federal jurisdiction over bomb threats. The expansion and modification of weapons of mass destruction statute is in here, the addition of terrorism offenses to the money laundering statute.

We have the protection of Federal employees in here mainly because it is needed now in this day and age with some of the vicious people we have to put up with in our society. We have the protection of current and former officials in here, officers, employees of the United States.

We have the death penalty as an aggravating factor. We solve that and add multiple killings to the list of aggravating factors in the imposition of the death penalty. We have detention hearing language in here and directions to the sentencing commission.

I have to say, we have a whole raft of other things that I do not have time to mention. Look, it is time to pass this terrorism bill. It is time to let the people in Oklahoma City know we mean business here.

Is the time expired on both sides? On behalf of the majority leader and I, I move that we table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question occurs on agreeing to the motion to table.

Mr. HATCH. Mr. President, do we have motions to table on both of these amendments? And will they be back to back?

The PRESIDING OFFICER. There is only one amendment. The Senator from Massachusetts did not offer an amendment.

Mr. HATCH. He did not. I am happy to then proceed with the vote on the Biden amendment.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—56

| | | |
|-----------|------------|-----------|
| Abraham | Faircloth | McCain |
| Ashcroft | Feingold | McConnell |
| Baucus | Frist | Murkowski |
| Bennett | Gorton | Nickles |
| Bond | Gramm | Pressler |
| Brown | Grams | Reid |
| Burns | Grassley | Roth |
| Campbell | Gregg | Santorum |
| Chafee | Hatch | Shelby |
| Coats | Hatfield | Simpson |
| Cochran | Helms | Smith |
| Cohen | Hutchison | Snowe |
| Coverdell | Inhofe | Specter |
| Craig | Jeffords | Stevens |
| D'Amato | Kassebaum | Thomas |
| DeWine | Kempthorne | Thompson |
| Dole | Kyl | Thurmond |
| Domenici | Lott | Warner |
| Exon | Lugar | |

NAYS—43

| | | |
|-----------|------------|---------------|
| Akaka | Glenn | Mikulski |
| Biden | Graham | Moseley-Braun |
| Bingaman | Harkin | Moynihan |
| Boxer | Heflin | Murray |
| Bradley | Hollings | Nunn |
| Breaux | Inouye | Pell |
| Bryan | Johnston | Pryor |
| Bumpers | Kennedy | Robb |
| Byrd | Kerrey | Rockefeller |
| Conrad | Kerry | Sarbanes |
| Daschle | Kohl | Simon |
| Dodd | Lautenberg | Simon |
| Dorgan | Leahy | Wellstone |
| Feinstein | Levin | Wyden |
| Ford | Lieberman | |

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SMITH. Mr. President, I rise to commend Senator HATCH and the other members of the conference committee for incorporating what originated in this Congress as my bill, S. 270, the Alien Terrorist Removal Act of 1995, into the conference report on S. 735, the Anti-Terrorism and Effective Death Penalty Act of 1996.

I also want to thank Senator SPENCER again for the opportunity to testify before his Judiciary Subcommittee on Terrorism last summer regarding my alien terrorist removal bill.

My bill—now the alien terrorist removal section of the conference report on S. 735—essentially embodies the Smith-Simpson amendment that the Senate passed unanimously as part of the crime bill in the last Congress. Unfortunately, certain House members of the conference committee on the 1994 crime bill insisted on the deletion of the Smith-Simpson amendment from that legislation.

After I introduced S. 270 early in the first session of this Congress, the Clin-

ton administration proposed its own substantially identical version of my bill as part of its omnibus antiterrorism legislation. Then, in the wake of the Oklahoma City bombing, Senators DOLE and HATCH introduced S. 735, which incorporated the substance of my bill, S. 270. S. 735, of course, passed the Senate by a vote of 91 to 8 last June.

Unfortunately, when S. 735 reached the House, the alien terrorist removal provisions of the Senate-passed bill were removed from the legislation. Commendably, however, Senator HATCH steadfastly insisted that the conference committee include an alien terrorist removal section in its conference report on S. 735. Fortunately for our Nation, Senator HATCH succeeded in that effort.

Let me summarize briefly for the benefit of my colleagues what the alien terrorist removal section of S. 735 is all about. The alien terrorist removal provisions of the bill would establish a new, special, judicial procedure under which classified information can be used to establish the deportability of alien terrorists.

The new procedures that are established under section 401 of S. 735 are carefully designed to safeguard vitally important national security interests, while at the same time according appropriate protection to the necessarily limited due process rights of aliens.

Under current law, Mr. President, classified information cannot be used to establish the deportability of terrorist aliens. Thus, when there is insufficient unclassified information available to establish the deportability of a terrorist alien, the Government faces two equally unacceptable choices.

First, the Justice Department could declassify enough of its evidence against the alien in question to establish his deportability. Sometimes, however, that simply cannot be done because the classified information in question is so sensitive that its disclosure would endanger the lives of human sources or compromise highly sensitive methods of intelligence gathering.

The Government's second, and equally untenable, choice would be simply to let the terrorist alien involved remain in the United States.

Sadly, Mr. President, what I have just described is not a hypothetical situation. It happens in real cases. That is why the Department of Justice, under both Republican and Democratic Presidents and Attorneys General, has been asking for the authority granted by my bill—now section 401 of S. 735—since 1988.

Utilizing the existing definitions of terrorism in the Immigration Act of 1990 and of classified information in the Classified Information Procedures Act, section 401 of S. 735 would establish a special alien terrorist removal court comprised of sitting U.S. district judges designated by the Chief Justice of the Supreme Court of the United States. This new alien removal court is

modeled on the special court that was created by the Foreign Intelligence Surveillance Act.

Under section 401 of S. 735, the U.S. district judge sitting as the special court would personally review the classified information involved in camera and ex parte.

Where possible, without compromising the classified information involved, the alien in question would be provided with an unclassified summary of the classified information in order to assist him in preparing a defense.

Ultimately, the special court would determine whether, considering the record as a whole, the Justice Department has proven, by a preponderance of the evidence, that the alien is a terrorist who should be removed from the United States.

Finally, Mr. President, any alien who is ordered removed under the provisions of section 401 of S. 735 would have the right to appeal to the U.S. Court of Appeals for the District of Columbia Circuit.

Mr. President, the most serious national security threat that our Nation faces in the post-cold-war world is the scourge of international terrorism. That threat became reality in 1993 with the terrorist attack on the World Trade Center in New York City. Tragically, with the Oklahoma City bombing 1 year ago this week, we learned the bitter lesson that we face the threat of terrorism from domestic extremists as well.

Now, this historic 104th Congress is responding, strongly and effectively, to address the twin terrorist threats that we face. I urge the prompt adoption of the conference report on S. 735 by the Senate and, once again, I commend the conferees for incorporating my alien terrorist removal bill into their landmark legislation.

Mr. LEAHY. Mr. President, I am encouraged that the conference report includes important provisions that I proposed back in June 1995, when the Senate began consideration of antiterrorism legislation. These provisions were adopted by the Senate and then passed as part of the original S.735 and passed a second time last year by the Senate as part of H.R. 665, our version of the mandatory victim restitution legislation. They are now included as sections 231 and 232 of the conference report. It is astonishing that at the time I added these provisions to the bill there were no victims-related measures in any antiterrorism legislation.

When the bomb exploded outside the Murrah Federal Building in Oklahoma City last year, my thoughts and prayers, and I suspect that those of all Americans, turned immediately to the victims of this horrendous act. It is my hope that through this legislation we will proceed to enact a series of improvements in our growing body of law recognizing the rights and needs of victims of crime. We can do more to see

that victims of crime, including terrorism, are treated with dignity and assisted.

The conference report incorporates the provisions of the Justice for Victims of Terrorism Act, which will accomplish a number of worthwhile objectives. They include a proposal to increase the availability of assistance to victims of terrorism and mass violence here at home.

We, in this country, have been shielded from much of the terrorism perpetrated abroad. That sense of security has been shaken recently by the bombing in Oklahoma City, the destruction at the World Trade Center in New York, and assaults upon the White House. I, therefore, proposed that we allow additional flexibility in targeting resources to victims of terrorism and mass violence and the trauma and devastation that they cause.

The conference report includes these provisions to make funds available through supplemental grants to the States to assist and compensate our neighbors who are victims of terrorism and mass violence, which incidents might otherwise overwhelm the resources of a State's crime victims compensation program or its victims assistance services. I understand that assistance efforts to aid those who were the victims of the Oklahoma City bombing are now \$1 million in debt. These provisions should help.

The substitute will also fill a gap in our law for residents of the United States who are victims of terrorism and mass violence that occur outside the borders of the United States. Those who are not in the military, civil service, or civilians in the service of the United States are not eligible for benefits in accordance with the Omnibus Diplomatic Security and Antiterrorism Act of 1986. One of the continuing tragedies of the downing of Pan Am flight 103 over Lockerbie, Scotland, is that the United States Government had no authority to provide assistance or compensation to the victims of that heinous crime. Likewise, the U.S. victims of the Achille Lauro incident could not be given aid. This was wrong and should be remedied.

In its report to Congress in 1994, the Office for Victims of Crime at the U.S. Department of Justice identified the problem. Both the ABA and the State Department have commented on their concern and their desire that crime victims compensation benefits be provided to U.S. citizens victimized in other countries. This bill takes an important step in that direction. Certainly U.S. victims of terrorism overseas are deserving of our support and assistance.

In addition, I believe that we must allow a greater measure of flexibility to our State and local victims' assistance programs and some greater certainty so that they can know that our commitment to victims programming will not wax and wane with events. Accordingly, the conference report in-

cludes an important provision to increase the base amounts for States' victims assistance grants to \$500,000 and allows victims assistance grants to be made for a 3-year cycle of programming, rather than the year of award plus one, which is the limit contained in current law. This programming change reflects the recommendation of the Office for Victims of Crime contained in its June 1994 report to Congress.

I am disappointed that some have objected to an important improvement that would have allowed all unspent grant funds to be returned to the crime victims fund from which they came and reallocated to crime victims assistance programs. I believe that we ought to treat the crime victims fund, the violent crime reduction trust fund, and Violence Against Women Act funds with respect and use them for the important purposes for which they were created.

The crime victims fund, we should remember, is not a matter of appropriation and is not funded through tax dollars. Rather, it is funded exclusively through the assessments against those convicted of Federal crimes. The crime victims fund is a mechanism to direct use of those funds to compensate and assist crime victims. That is the express purpose and justification for the assessments.

Accordingly, I believe it is appropriate for those funds to be used for crime victims and, when not expended for purposes of a crime victims program, they ought to be returned to the crime victims fund for reobligation. Instead, because of a technicality in the application of the Budget Act, the conference report includes a change from the language that I proposed and that was approved by the Judiciary Committee and previously by the Senate. My language would have returned all unspent crime victims grant funds to the crime victims fund. The conference report will require that some of the money that came from the crime victims fund go, instead, to the general Treasury if it remains unobligated more than 2 years after the year of grant award. I am pleased that we have been able to obtain some concession in this regard and note that the unobligated funds must exceed \$500,000 in order to revert to the general Treasury.

Fortunately, the Office for Victims of Crime has improved its administration of crime victims funds and that of the States over the past 3 years to a great extent. While more than \$1 million a year has in past years remained unobligated from grants made through the States across the country, in 1994 that number was reduced below \$125,000. The Director of the Office for Victims of Crime, Aileen Adams, should be commended for this improvement. It is my hope that the administration of crime victims fund grants will continue to improve through the Department of Justice and the States and that the De-

partment of Health and Human Services will, likewise, improve its oversight and grant administration and encourage the States to be more vigilant. If so, the change in the language of the bill from that previously adopted by the Senate and by the Judiciary Committee will not result in a significant diversion of crime victims fund money to other uses.

I also regret that the emergency reserve is not structured as I recommended. I would limit the reserve to the highest level of annual deposits placed in the fund in the past 5 fiscal years. This would allow the emergency reserve to fulfill its purpose as a rainy day fund and smooth the distribution of aberrational deposit pattern. Further, I hope that we will soon reconsider the 40-percent cap of Federal contributions to State victim compensation awards and other suggested improvements to the Victims of Crime Act.

Our State and local communities and community-based nonprofits cannot be kept on a string like a yo-yo if they are to plan and implement victims assistance and compensation programs. They need to be able to plan and have a sense of stability if these measures are to achieve their fullest potential.

I know, for instance, that in Vermont Lori Hayes at the Vermont Center for crime victims Services, Judy Rex at the Vermont Network Against Domestic Violence and Sexual Abuse, and many others provide tremendous service under difficult conditions. I was delighted to be able to arrange a meeting between them and the Attorney General of the United States when Attorney General Reno recently visited Vermont. They will be able to put increased annual assistance grants to good use. Such dedicated individuals and organizations will also be aided by increasing their programming cycle by even 1 year. Three years has been a standard that has worked well in other programming settings. Crime victims' programming deserves no less security.

In 1984, when we established the crime victims fund to provide Federal assistance to State and local victims' compensation and assistance efforts, we funded it with fines and penalties from those convicted of Federal crime. The level of required contribution was set low. Twelve years have passed and it is time to raise that level of assessment in order to fund the needs of crime victims. Accordingly, the conference report includes as section 210 a provision that I worked on with Senator McCAIN and that the Senate previously passed as an amendment to the antiterrorism bill last summer. It doubles the special assessments levied under the Victims of Crime Act against those convicted of Federal felonies in order to assist all victims of crime.

I do not think that \$100 to assist crime victims is too much for those individuals convicted of a Federal felony to contribute to help crime victims. I do not think that \$400 is too much to

insist that corporations convicted of a Federal felony contribute. Accordingly, the conference report would raise these to be the minimum level of assessment against those convicted of crime.

While we have made progress over the last 15 years in recognizing crime victims' rights and providing much-needed assistance, we still have more to do. I am proud to have played a role in passage of the Victims and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Victims' Rights and Restitution Act of 1990, and the victims provisions included in such measures as the Violent Crime Control and Law Enforcement Act of 1994. I thank my colleagues for their acceptance of the provisions of the Justice for Victims of Terrorism Act.

I thank the outstanding crime victims advocates from Vermont for their help, advice, and support in connection with the Justice for Victims of Terrorism Act and the improvements it includes to the Victims of Crime Act. I also thank them for the work they are doing by developing and implementing programs for crime victims in Vermont.

In addition, I thank the National Organization for Victim Assistance, the National Association of Crime Victim Compensation Boards, and the National Victim Center for their assistance and support in the development of the Justice for Victims of Terrorism Act. Without their help, we could not make the important progress that its provisions contain. I appreciate the cooperation of all those who have worked to incorporate these improvements to the Victims of Crime Act in this measure.

It is important to me that we do all we can to bring stability to the crime victims fund so that the State programs for compensating and assisting victims of crime can plan and provide services for victims that increase and expand across our States in the coming years. I hope that we can continue to cooperate and refine the Victims of Crime Act's provisions.

Mr. FEINGOLD. Mr. President, it has been nearly 1 year since America was shocked and outraged by the bombing in Oklahoma City.

The anguish and the pain caused by this cowardly act left a marked impression on each of us which remains today.

That which had formerly been reserved for distant parts of the globe—acts of savage terrorism—was now being visited upon the citizens of this Nation.

There can be no debate that we must respond to these acts, as we must all acts of crime, with the singular and unyielding purpose of capturing, prosecuting and punishing the responsible individuals.

Unfortunately, in the 12 months that has passed since Oklahoma City, this legislation has been subject to many varied interests—interests placing cer-

tain proposals above the underlying goal of responding to terrorism in the measured and focused manner necessary to protect the citizens of this Nation.

Unfortunately, many of the proposals which have been offered throughout this debate to combat terrorism simply went too far and placed the civil liberties of all Americans in peril.

For this simple reason I opposed language included in the Senate bill which would have expanded the scope of wiretap authority and would have injected the military into areas of law enforcement which are better left to local officials.

I am concerned that these provisions move us toward unwarranted expansion of Federal power. Accordingly, I support the removal of these provisions from the final package.

However, just as some of those proposals overstepped the boundaries of civil liberties, the final conference report remains flawed.

Careful review of this legislation reveals that it contains very few substantive provisions which would have prevented or helped prevent the Oklahoma City tragedy.

As I said when the Senate considered this legislation last summer, it is essential that law enforcement be given the resources and support necessary to investigate and prosecute terrorists.

To truly protect citizens of this Nation, terrorists must be stopped before they strike—before they take innocent lives in some misguided effort to prove the validity of their agenda.

That is why I am so troubled when I hear the suggestion that the single most effective antiterrorism provision in this bill is the alleged reform of habeas corpus.

The link between habeas corpus and keeping the people of this Nation free from acts of terrorism is tenuous at best. The argument that these habeas provisions will prevent another Oklahoma City is one which is manufactured solely to justify inclusion of these unrelated provisions in a bill originally meant to address terrorism.

These so-called habeas reforms will do nothing to rid our communities of dangerous persons who may strike against innocent people.

The only time habeas corpus is even remotely related to terrorism is after the terrorist has committed an act of terrorism, has been apprehended, convicted and is sitting in a prison cell.

Once again political expediency has obscured sound policy making. In the words of the New York Times, "Members of Congress are exploiting public concerns about terrorism to threaten basic civil liberties."

Many of my colleagues want very sincerely to address what they perceive to be abuses in the use of habeas corpus. These efforts, however, should not be hidden behind the unsustainable claim that doing so in anyway makes the people of this Nation less likely to be attacked by terrorists.

Further, the provisions in the conference report go well beyond reform and eviscerate the constitutional underpinnings of habeas corpus. Just as many of the law enforcement provisions went too far, so too do the habeas provisions.

By setting unreasonable limitations and standards of review available on appeal of constitutional violations, this bill greatly enhances the potential that this Nation will execute an innocent person for a crime they did not commit.

I do not disagree with my colleagues who argue that justice must be served. The families of the victims and the American people deserve as much. However, the pursuit of justice does not require us, as these habeas provisions do, to depart from over 200 years of constitutional protections.

Justice is not served by the execution of an innocent human being. The families of the victims and the American public will find no comfort from such an occurrence.

Like so many facets of this bill, the habeas provisions of this bill lack any semblance of reasonable balance.

A recent March 20 editorial from the Milwaukee Journal Sentinel entitled "A needless overreaction to terrorism" criticized these provisions and pointed out the fallacy of the alleged link between habeas reform and terrorism or that these provisions will have any deterrent effect.

In the words of the Journal;

It's difficult to see how limits on appeals by prison inmates would deter terrorism. Most such prisoners have been convicted of ordinary—not political—crimes. Besides, many terrorists are willing to undergo punishment, even death, for the causes they believe in.

The inclusion of habeas reform in this legislation has very little to do with terrorism and a great deal to do with advancing an agenda which has previously languished in the Congress.

Just as I opposed those law enforcement provisions which raised constitutional concerns, so too do I oppose these proposals.

We should be just as wary of proposals which forsake constitutional protection in the name of habeas reform as we are of those which do so in the name of expanding wiretap authority.

Mr. President, it is very likely that this conference report will become law. This is unfortunate. Not simply because bad provisions of this bill will become bad law, but because this bill represents an opportunity squandered.

This legislation started as an effort to address terrorism—to provide some protection for the citizens of this Nation against acts of terrorism. The American people deserve as much. Sadly Mr. President, for all the fanfare which will likely accompany this legislation, it fails to meet that laudable and important goal.

Mr. HEFLIN. Mr. President, I will support passage of the Terrorism Prevention Act Conference Report. Although the conference report is not as

strong as the Senate-passed bill, nor is it as strong as I would like, it is much stronger than the House-passed bill and reflects a compromise between the two houses which is an essential element of our Nation's democratic process.

It is fitting that we enact this legislation around the anniversary of the tragic bombing which occurred in Oklahoma City and resulted in such a massive loss of life and injury to innocent people. We must enhance our Nation's efforts to combat domestic and international terrorism, and the conference report is a step in the right direction.

I am pleased that the conferees were able to restore many provisions which the House-passed bill deleted, such as allowing courts to expeditiously deport alien terrorists, allowing the President to designate foreign terrorist organizations so any assets they have in the United States can be more easily frozen by the Government, and making it a crime to donate or accept funds for foreign terrorist organizations. Further, the House-passed bill contained almost no funding for Federal law enforcement, and the conference report has a funding level of \$1 billion for Federal and State law enforcement over a 4-year period.

The conference report contains a provision to require taggants be placed on plastic explosives, which are most commonly used by foreign terrorists, thereby making them more detectable, and it calls for a study on placing taggants on other types of explosives.

I would have preferred that the conference report contained the Senate-passed provisions allowing for multipoint wiretaps and other strong provisions, but this did not occur and motions to recommit the bill to conference with instructions to include those provisions have been unsuccessful. This is the democratic process, and I accept the will of the Senate.

That does not, however, leave this legislation a toothless tiger. It contains strong provisions to reform Federal habeas corpus laws—something that is long overdue. Reform of the habeas corpus process will speed up the imposition of sentences of those criminal convicted of especially brutal crimes. Overall, the conference report is a step in the right direction, and I urge its passage so that it can be signed by the President and allow our Nation to enhance its efforts to combat both domestic and international terrorism.

Mr. BRADLEY. Mr. President, I rise in support of the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996. Almost 1 year ago today, the Oklahoma City bombing brought into sharp focus the reality and horror of domestic terrorism in America. The death toll of the bombing stands at 167, making it the deadliest mass murder in the history of the United States.

While several strong crime fighting provisions that I supported in the Sen-

ate version of the bill were deleted by the conference committee, this legislation contains tools that will enable the United States to respond to the international and domestic terrorist threats and prosecute these despicable criminal acts. On balance, Mr. President, this legislation will enhance the ability of law enforcement to combat both foreign and domestic terrorism.

Mr. President, the provisions in this bill are vitally important to our efforts to respond to international and domestic threats of terrorism. I, therefore, support this bill, and I am confident that because of our actions today, America will be more fortified against the evils of terrorism.

Mr. CHAFEE. Mr. President, for the last day and a half, the Senate has been debating the antiterrorism bill conference report. During debate, a number of motions to recommit the legislation to conference were offered.

I voted against all of them—even those with which I agree on the substance. In this situation sending the bill back to conference would not be simply a matter of adding back provisions that we in the Senate like. Sending the bill back to conference would reopen the legislation to countless changes that the House might, in turn, demand that the Senate accept.

Obviously this conference report is not perfect. No bill is. Frankly, there are some provisions I wish were still in there, and others I would gladly see dropped. For example, I would have liked to see in the final bill the Boxer amendment on the statute of limitations for firearms violations. But I recognize that the nature of a conference is compromise. And therefore the package before us is the only one on which we can act.

In conclusion, I might add, I do not believe that the door is finally shut on amendments such as the Boxer amendment. We can hopefully revisit that amendment on another bill.

Mr. BROWN. Mr. President, I rise today in support of the conference report on the Terrorism Prevention Act. This bill takes many important steps in the fight against terrorism. In particular, several key provisions will significantly strengthen U.S. efforts to combat international terrorism. In recent years, attacking terrorism has taken a back seat in U.S. foreign policy. Attacks have been waged against innocent people and allies across the world, and yet terrorists are invited to the White House where their violent rhetoric has been conveniently overlooked.

In January 1994, Gerry Adams, the leader of the Irish-national political organization Sinn Fein, was granted a visa on a Presidential foreign policy waiver to travel to the United States. In doing this, the National Security Council overruled a unanimous recommendation from the Department of State, the Department of Justice, and the intelligence community that the waiver should not be granted due to

the fact that neither Adams nor the Irish Republican Army have really renounced violence in theory or in practice. This exception represents the current administration's ability to pay lipservice to stopping terrorism while failing to achieve substantive results.

In the past, Adams had been denied a visa eight times by previous administrations because of his affiliation with the terrorist organization. But since obtaining a visa in January 1994, Adams has received seven additional visas from the Clinton administration, was received by State Department officials, introduced to National Security Advisor Anthony Lake, raised money throughout the United States while touring in March 1995, and celebrated St. Patrick's Day in the White House. All of this transpired even though he has yet to renounce the use of violence to achieve political goals or denounce the plague of terrorist bombings in Great Britain.

We cannot continue to project such an inconsistent and unflattering testament of our commitment to fight terrorism. The legislation we now consider addresses many of the shortcomings in our ability to deal strongly and effectively with terrorism. The provisions in S. 735 will significantly strengthen our authority to combat international terrorism, and three sections in particular are worth noting.

Section 221 of this bill amends the Foreign Sovereign Immunities Act to permit jurisdiction of U.S. courts for lawsuits against terrorist states, as designated by the Secretary of State. Under current law, U.S. citizens are barred from suing foreign governments or state-owned foreign enterprises unless the alleged injury is directly related to the commercial activity of the foreign government. In other words, American citizens can be tortured or murdered in a foreign state by agents of that state, and if that state provides no effective legal remedy, the American victims and their families have no enforceable legal remedy either in the United States or anywhere else in the world. The provision in section 221 will now allow victims of terrorism, hostage taking or torture abroad, or their survivors, to seek restitution against a state sponsor of terrorism when they are unable to gain relief in the courts of the country involved.

This provision provides vital remedies for victims. Just last summer a United States district court barred survivors of Pan Am 103 victims from suing Libya even though the United States Government had found Libya to be directly responsible and two Libyans had been indicted in United States court for the crime.

It is important to note that section 221 provides a responsible avenue for victims to seek just compensation. This is a powerful and significant tool that should be used cautiously. Thus the legislation limits the scope of jurisdiction to only those countries who have been identified as state sponsors

of terrorism. Sovereign immunity is designed to protect nations from being dragged into another nation's courts for legitimate sovereign acts. The international community, however, does not recognize the right of any state to commit acts of torture, extrajudicial killing, aircraft sabotage, or hostage taking. Sovereign immunity is an act of trust among nations of good faith. When a terrorist state harbors or supports known terrorists, or injures or kills American citizens, it destroys that trust and should not be allowed to avoid the accusations of those it harms.

Beyond ensuring that American citizens have recourse after brutal terrorist acts, this section represents a vital counterterrorism measure. I am confident that the threat of enforceable judgments and levies against assets from U.S. courts will be a significant inducement for countries to get themselves off of the State Department's terrorist list.

Section 323 also provides an important tool in combating international terrorism. As a result of international pressures against states which provide support to international terrorists, some terrorist groups are seeking other means of financing and support, such as raising funds from sympathizers or establishing front companies. During its investigation of the Bank of Credit and Commerce International [BCCI], the Senate Foreign Relations Committee unearthed a significant trail of funding through BCCI that demonstrated the importance of international financial networks in the support of illegal and terrorist activity abroad. The bank hosted many illegal, unsafe, and unsound banking practices, as well as acting as a front for worldwide arms deals, drug deals, and assistance to various groups linked directly or indirectly to terrorist activity. Section 323 will enable U.S. prosecutors to begin to crack down on the use by terrorist groups of international financial institutions and front companies for their material support.

This provision would create a new offense of providing material support or resources, or concealing the nature, location, source, or ownership of material support or resources, for various terrorist-related offenses. Currently, an individual responsible for building a bomb or taking someone hostage can be prosecuted for their activities, but those providing financial or technical support, or harboring terrorists after the crime, can escape punishment of any kind. Section 323 criminalizes a series of offenses by recognizing all forms of meaningful assistance and material support to terrorists.

It amends current law which was originally offered with the same intent as section 323, but was severely weakened in conference, rendering it virtually ineffective. This language strengthens current law by restoring the original intent of punishing all persons involved, to whatever degree, in terrorist activities.

Finally, section 411 which allows the exclusion of alien terrorists from the United States is an extremely important tool in combating international terrorism. Currently we have a loophole in our immigration law that permits the United States to issue visas to know members of terrorist organizations. How can America expect to condemn other nations who support terrorists without first taking action to limit the organizational efforts of known terrorists in the United States? We must slam the door on foreign members of such terrorist organizations who now freely travel to our country.

The case of Sheikh Rashid Ghanoushi's application for a visa to the United States highlights the far-reaching consequences of our limited exclusionary authority. Ghanoushi is an Islamic extremist whose terrorist organization was responsible for the deaths of many innocent tourists in Tunisia. He was convicted in absentia.

Nonetheless, in 1993, he applied for a visa to travel to the United States to speak to religious and academic audiences. In June 1994, the Government of Tunisia indicated that it would regard a United States decision to admit Ghanoushi as a hostile act. Furthermore, in the past Ghanoushi has urged violence against United States interests and continues to demand Israel's destruction. Yet the United States has still not issued a final decision about whether to grant a visa to him, claiming lack of authority to deny him entry. At present, Ghanoushi's case is under active review by the State Department.

It is well known that many foreign terrorist groups depend on money raised in the United States to fund their activities abroad. Terrorist activity should not be defined by the area in which a bomb explodes.

Our Nation, with its many democratic freedoms, represents fertile ground for terrorist organizations for fundraising, organizational support, and international recognition. Many of these terrorists organizations have already developed networks of support in our country.

The existing loophole in the Immigration Act of 1990 permitting members of terrorist organizations to come to the United States fostered an atmosphere of indecisiveness. It sends the wrong signal to the international community. The provisions in section 411 correct this inconsistency and effectively strengthen our authority to combat terrorism and keep those people who are members of terrorist organizations off of U.S. soil.

In the past decade, Americans have suffered numerous terrorist attacks. Without the authority and support created by S. 735, particularly the three sections I highlighted, we will continue to needlessly hamstring our ability to protect American citizens. Enough is enough. It is time to take bold steps to protect American citizens from the

threat posed by terrorism. We know the obstacles currently facing us in the fight against international terrorism. S. 735 provides the tools and the authority necessary to wage an effective defense.

Mr. DODD. Mr. President, this Friday will be the first anniversary of the brutal and cowardly bombing of the Alfred P. Murrah Federal Building in Oklahoma City. One hundred and sixty-nine Americans, including 19 children tragically lost their lives in this terrible act of domestic terrorism.

A year later, that terrorist bombing continues to tear at the Nation's soul. As we continue to mourn the loss of so many innocent lives, our hearts go out to the survivors, the families of the victims and the courageous residents of Oklahoma City who have already begun the difficult healing process.

However, part of the process of healing begins with the pursuit of justice. And for the past year, law enforcement officials have tirelessly labored to see that the full force of the law is brought to bear on the guilty parties. And soon, the trial against the alleged bombers will begin.

But, as we continue the process of providing answers to this terrible tragedy—the deadliest terrorist attack on American soil—we must find new and innovative ways to prevent such acts in the future. That's what this bill is all about.

While no one will argue that this legislation, or for that matter any legislation, will finally and completely end terrorism, we must take the necessary steps to deter terrorists from their deadly actions. We must make it more difficult for them to kill and injure. And we must ensure that they are swiftly brought to justice.

President Clinton deserves praise for moving forcefully in that direction by submitting a comprehensive counterterrorism proposal to Congress, after the Oklahoma bombing.

Unfortunately, in the year since the President introduced that proposal, Congress has dragged its feet on this legislation. What's worse, I believe, many of the strongest elements of this bill have been watered down or eliminated by the House of Representatives.

Several provisions that would make it easier for law enforcement agencies to utilize multipoint and emergency wiretaps against suspected terrorists were removed.

The failure to include these wiretap provisions in the final conference report create a situation where it is easier for the FBI to tap the phone of someone they suspect of bribing a bank officer than someone who may be prepared to engage in a terrorist act.

What's more, this conference report prevents the Attorney General from requesting technical and logistical support from the military if our Nation faced an emergency involving biological and chemical weapons.

This provision was deleted even though I think everyone in this body

would agree that the military has far more expertise in matters of chemical and biological weapons than our law enforcement agencies.

It's particularly disheartening that while these provisions were overwhelmingly agreed to by the Senate, they were removed from the final conference report because of the intransigence of the other body.

Similarly, while we need to find ways to prevent prisoners from abusing the legal process, by filing meritless appeals, we must ensure that those people who have been unfairly convicted have some legal recourse.

Unfortunately, I believe that the habeas corpus reform measures in this bill are ill-advised. They limit the ability of inmates to raise claims of innocence based on newly discovered evidence and also require Federal courts to defer to State courts on issues of Federal constitutional law raised by these claims.

However, while I feel this legislation could be further strengthened if it were recommitted to the conference, there are enough positive elements in the bill that allow me to vote for it.

This counter-terrorism legislation provides Federal law enforcement officials with the proper means to investigate and prevent terrorism. It establishes new Federal offenses to ensure that terrorists do not elude justice through gaps in the current law.

Similarly, it increases penalties for terrorist actions. And it gives new assistance to victims of terrorist attacks, including provisions that will make it easier to bring lawsuits against States that sponsor terrorism. Combined, these steps will give law enforcement important new tools to use in the fight against terrorism.

Although it is not perfect, this bill will not only help the Nation prevent terrorist acts but it will also help hold terrorists accountable for their actions.

The bombing in Oklahoma made clear just how vulnerable we all are to these terrible acts of violence. And ultimately, I believe this legislation will make Americans safer from the scourge of international and domestic terrorism.

Mr. WARNER. Mr. President, I rise in support of this conference report which embodies compromise antiterrorism and anticrime legislation. I recognize that many Members would like to see additional provisions added. We have waited too long, however, to allow this opportunity to pass without enacting legislation which will help us avoid additional disasters such as Oklahoma City and the World Trade Center bombings. I thus support this conference report as it stands and will continue to work to pass additional measures which will combat terrorism, whether sponsored by foreign entities or by domestic extremists.

This bill provides \$1 billion for enhanced law enforcement efforts, both at the Federal and State levels, to

combat terrorism. Plastic explosives will be required to be tagged with materials which can be tracked back to the source in the event of a bombing. Foreign terrorists will be denied the opportunity to raise money inside the United States, and if found here, will be subject to special, but constitutional, deportation proceedings. The bill also includes numerous important and noncontroversial provisions which will remove legal impediments to combat terrorism.

This bill also contains one of the most important anticrime and judicial reform measures passed in years. Finally, the charade of habeas corpus appeals will be reformed: death row inmates will no longer be allowed to drag out their appeals for several decades. I have faith that our State courts respect our constitutional rights, and in the exceptional case where Federal rights have been violated, defendants retain very reasonable access to Federal courts to prove their innocence.

We have come to a crossroads in this debate almost 1 year after the tragedy in Oklahoma. Either we pass this bill and begin reaping the protections it will provide us in the fight against terrorists, or we throw up our hands and give up. I believe we need this bill now and I commend the efforts of Senator HATCH and others to reach a reasonable consensus which can pass both houses and be signed into law by President Clinton.

Mr. PELL. Mr. President, today, as the Senate considers the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996, I regret that as I did when this bill was presented for passage in the Senate, I again must oppose the final version of the bill. I do so for two basic reasons.

First, the conference did nothing to change those provisions of the bill which drastically curtail the Federal judicial protections afforded those given the death penalty in State courts. This is a departure from a long-standing tradition in English and American jurisprudence and, as an opponent of the death penalty, I feel I cannot in good conscience support it.

Second, the conference removed several of the most effective antiterrorism measures that were included in the Senate version of the bill. These include giving the FBI the ability to employ court-approved multipoint wiretaps, adding terrorism crimes to the list of those for which wiretaps can be approved, including terrorism crimes under RICO statutes, and permitting the use of military expertise to cope with either chemical or biological weapons of mass destruction. Without these provisions, I believe that the bill has been severely compromised and, in the process, the chance to do something truly meaningful about domestic and international terrorism in this bill has been lost.

Accordingly, I believe that the conference report fails to correct the deficiencies of the legislation that left the

Senate last summer and furthermore, has eliminated many of its most effective counterterrorism provisions. Thus, I continue to oppose passage of this legislation.

Mr. LEVIN. Mr. President, I will vote for S. 735, I am distressed that a number of the strongest antiterrorism provisions of the Senate bill were dropped in conference with the House. For example, I am disappointed that the conference report would not—Provide the Attorney General the enhanced tools for fighting domestic and international terrorism that were requested by the administration and included in the Senate bill; permit the Attorney General to utilize the expertise of the military in investigations of crimes involving the use of chemical and biological weapons; or prohibit the dissemination of information on making explosive materials with the knowledge that the information will be used for criminal activities.

On balance, however, I conclude that the antiterrorism provisions in the bill, viewed as a whole, are still worth enacting.

The habeas corpus provisions of the bill are also problematical. Under the conference report, an application for a writ of habeas corpus may be granted if the underlying State court decision was "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States."

I interpret the new standard to give the Federal courts the final say as to what the U.S. Constitution says. I reach this conclusion for two reasons.

First, several Members have raised the concern that the reference in the bill to an unreasonable application of Federal law could create two different classes of constitutional violations—reasonable and unreasonable. I vote for the bill because I have confidence that the Federal courts will not do this. I believe the courts will conclude, as they should, that a constitutional error cannot be reasonable and that if a State court decision is wrong, it must necessarily be unreasonable.

Second, I note that this provision permits a Federal court to grant a petition for habeas corpus if the State court decision was contrary to Federal law. I interpret this language to mean that a Federal court may grant habeas corpus—on a first petition—any time that a State court incorrectly interprets Federal law and that error is material to the case. In other words, if the State court's interpretation of the U.S. Constitution is wrong, this standard authorizes the Federal courts to overturn that interpretation.

The provision in the bill refers to "clearly established Federal law, as determined by the Supreme Court of the United States." I understand this provision to refer to the whole body of Supreme Court jurisprudence on substantive and procedural rights. If the Supreme Court has adopted a clear rule

of law and that rule has been consistently interpreted and applied by the courts of appeals, that rule—and its consistent interpretation and application—would prevail in habeas corpus proceedings.

In sum, Mr. President, I believe that this standard can be interpreted in a manner that is consistent with the fundamental duty of the Federal courts to act as the final interpreters of the meaning of the U.S. Constitution, and to protect the constitutional rights of Americans.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the only remaining motions to recommit in order to the pending conference report be the following: Two additional Biden motions; further, that the motions be limited to the restrictions previously agreed to, and that following the debate on all motions and the conference report, the Senate proceed to vote on or in relation to the pending motions, to be followed by a vote on the adoption of the conference report, all without any intervening action or debate, with the exception of using 6 minutes, equally divided, for debate prior to the final passage vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I am offering a motion to recommit the conference report with instructions to add provisions relating to a third type of wiretap that was deleted, referred to as an emergency wiretap.

I send the motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . REVISION TO EXISTING AUTHORITY FOR EMERGENCY WIRETAPS.

(a) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting “or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. 2331)” after “organized crime”.

(b) Section 2331 of title 18, United States Code is amended by inserting the following words after subsection (4):

“(5) the term ‘domestic terrorism’ means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.”

(c) This section shall be effective one day after enactment of this Act.

Mr. BIDEN. Mr. President, I do not plan on taking the entire allotted time on this side with this motion.

Let me be real clear about this. This provision was not in the Senate bill. It was offered by Senator LIEBERMAN, and it was strongly supported by many in this body. But it was not in the original Senate bill.

This provision incorporates the President's proposal to expand emergency wiretap authority. Today, emergency wiretap authority is available for organized crime cases. This proposal simply makes it available for terrorism cases. This proposal says that what is fair for the mob is fair for Hamas. What is good for John Gotti is good for any terrorist from abroad. What is good for those involved in organized crime is good for terrorists. If the justification exists for organized crime in and the mob, why does it not exist for crimes of terrorism?

Let me first explain what an emergency wiretap is, because understandably a lot of people—I know many, like the Senator from Utah and the Senator from Pennsylvania, Senator SPECTER, and the Senator from Vermont, Senator LEAHY, all former prosecutors understand these wiretap requirements, but many do not.

An emergency wiretap—I will explain more precisely not only what it is but how it is limited. First of all, in all cases—or in most cases—the Government must go to a judge to get a court order before it can initiate a wiretap. But at the same time, Congress recognized there are emergency situations where time is of the essence and that completing the necessary paperwork and getting the judge's order will simply take longer than the situation allows.

I have gone through today probably a half hour's worth laying out precisely the safeguards built into getting a wiretap for a crime that is listed in the Criminal Code as being able to get a wiretap for, and how long and difficult the process is and should be. But the Congress in the past has recognized that there are situations under current law which allow the Government to initiate a wiretap without a court order. Here are the circumstances: where immediate danger, death, or serious physical injury exists; where conspiratorial activities threaten the national security, or a conspiratorial activity characteristic of organized crime activities exist.

Only the top three Justice Department officials—the Attorney General, the Deputy Attorney General, and the Associate Attorney General—have the authority under the present law to issue or to authorize any emergency wiretap.

If the law stopped there, I would agree with those who object to this amendment. I would agree that it does not go far enough to protect our civil liberties if all it said was one of the three top the Justice Department officials can initiate a wiretap. But the law does not stop there now. It does not allow Federal officials to operate on their own for long. Indeed, it re-

quires that if the Attorney General authorizes an emergency wiretap for any one of those three circumstances I mentioned, they must nonetheless go before a Federal judge within 48 hours and make a case that probable cause exists for this wiretap prior to the authorization of the wiretap, prior to the time the tap started. Prior to that time, they have to prove there is probable cause that the subject was committing a specific crime. The officials also must convince the judge that they could not have completed the necessary application prior to beginning the wiretap.

And, of course, if the judge concludes that either they could have completed the application in the necessary time or that there was no probable cause at the outset, then none of the evidence, no matter how incriminating, that is acquired as a consequence of the emergency tap can be used in court against the target. If the judge does not buy it, enforcement will have blown their case. Not only must the wiretap stop, but none of the evidence obtained by the tap can be used against the target.

This is a powerful check on the Government's power. You can bet that they are not just going to go around willy-nilly exercising—the top three officials of the Justice Department—emergency authority because, if they do, they will lose their evidence if they turn out to be wrong, which means they will lose their case, which means the bad guys go free and all the time investigating up to that point will have been wasted and blown. That is not what law enforcement wants.

I want to repeat. Why, if we give this authority, this very limited and proscribed emergency authority to the Government, to the prosecutors, to the Attorney General of the United States, to deal with organized crime, why does it not make sense to allow them to deal with Hamas or deal with a terrorist organization?

The last time I looked, the Mafia had not blown up a Federal building. The last time I looked, the Mafia had not blown up the World Trade tower. They are real bad guys, and I have spent the bulk of my career as a U.S. Senator on both the Intelligence Committee and the Judiciary Committee passing laws and working to nail the Mafia. But if an emergency wiretap is good enough for John Gotti, why is it not good enough for the Unabomber? If the emergency wiretap is good enough for John Gotti, why is it not good enough for some wacko who blows up or is about to blow up a Federal building in Wilmington, DE, or Washington, DC?

I want to repeat. To give this authority to the Government when it comes to organized crime, why not for terrorists?

Of course, wiretapping is a powerful and intrusive tool. That is why the current wiretap statute contains a number of restrictions to prevent the abuse of emergency wiretaps, none of which would be changed by this amendment.

Let me repeat. Only the top officials at Justice—the top three, those who have the most at stake in an investigation being blown by bad evidence—can authorize such a tap. Even then, they have to go to the court within 48 hours and must adhere to all the strict guidelines for getting a court order in the first instance. If they do not get the court order, none of the evidence is able to be used.

Let me emphasize. This amendment does not in any way weaken what the Government must show to get a wiretap order. Law enforcement still must show that some particular person has or is about to commit some particular crime. And this provision only applies to cases of international domestic terrorism, which is further defined as—let me define what this would apply to and only what it would apply to: activities that involve violent acts, or acts dangerous to human life, and which appear to be intended to intimidate or coerce the civilian population, or to influence the policy of the Government by intimidation or coercion, or to affect the conduct of a Government by assassination or kidnapping.

Why, if in fact they believe that any one of those circumstances exist, should they not, with all the safeguards built in, be able to get an emergency wiretap?

Let me say, although I have no illusions that this will pass, that I hope we will continue to demonstrate by the votes we have heretofore—over 45 and as many as 48 of our 100 colleagues felt strongly about these issues. These are not frivolous undertakings. These are not frivolous motions. All but one of the amendments I have offered, I believe, has gotten over 40 votes. I think they have all gotten over 45 votes, so we are pretty evenly divided on this. I just want to make sure that before final vote on this conference report, that I do everything in my power to make this a much more useful tool in fighting terrorism.

Again, I know my colleague—and I respect him—is going to say if this passes it will kill the bill. I cannot believe that this will kill the bill. If we cannot put 35, or whatever number that is the number quoted by the House, Members of the House in the position where they have to yield on what would be an incredibly strong bill only because they are worried that we now allow terrorists to be treated the same way as John Gotti and the mob, then I think—I doubt whether they will vote that way because I doubt whether many of their constituents will keep them around if they vote that way. And quite frankly, if they vote that way, it is best for all to see. If they vote that way and defeat the conference report, we could come back with an amended report and pass what we have. So this will not kill the bill, but I am sure that is going to be stated.

I reserve the remainder of my time.
Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Utah.

Mr. HATCH. Mr. President, again, in the real world, in the case of the Unabomber or a terrorist where there is a real threat or an immediate concern, you do not need this provision to get an emergency wiretap. All the Senator's motion does is expand the number of crimes that would trigger the wiretap statute. This amendment was offered during the Senate debate. It was defeated. It was not a part of the Senate bill. It was not a part of the House bill. It is not a part of our conference report, and rightly so. I oppose this provision that could expand emergency wiretap authority to permit the Government to begin a wiretap prior to obtaining court approval in a greater range of cases than the law presently allows. I personally find this proposal troubling. I am concerned that this provision, if enacted, would unnecessarily broaden emergency wiretap authority. Under current law, such authority exists when life is in danger, when the national security is threatened, or when an organized crime conspiracy is involved. In the real world, we do not need this amendment to get emergency wiretap authority, and that is a fact.

Let me also say that this authority is constrained by a requirement that surveillance be approved by the Court within 48 hours, but that authority already exists in those areas I have addressed.

Now, this proposal of the distinguished Senator from Delaware would expand those powers to any conspiratorial activity characteristic of domestic or international terrorism. I do not think that expansion is necessary to effectively battle the threat of terrorism. You can get that emergency authority now. In the Unabomber case, no question; when terrorist acts are threatened, no question. I think that the opinion of many, many experts would agree with this analysis.

Now, it is also very important to note that it is not 35 conservatives over in the House that are against this. The vast majority of people against this amendment happen to be liberals who are very concerned with an unwarranted expansion of wiretap authority and surveillance authority. I have to say now there is an increasing number of libertarian conservatives who are becoming more concerned over law enforcement and some of the approaches that have been taken. I personally believe that those concerns are not justified.

On the other hand, they are legitimate concerns, and they arise primarily out of the Waco and Ruby Ridge and Good Ol' Boys Roundup, and other types of law enforcement mistakes that really were made. I have called them mistakes. Some people have felt that they should be characterized a little stronger than that.

Frankly, I am proud of the law enforcement agencies of this country. I

know these people. I know what wonderful people they are. I know how much they risk their lives for you and me. But we do not need this authority in order to do emergency wiretaps in these particular areas.

At this point, I should like to yield 5 minutes to the distinguished Senator from California, who has asked me for some time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I very much thank the distinguished chairman of the Judiciary Committee for this opportunity. I did have an opportunity to speak yesterday, but there is something I omitted to say that I very much felt was part of this discussion.

What happened in Oklahoma City was brought home to us in California last Friday. Early that morning, about 9 o'clock, there was a phone call that came into the Vacaville headquarters of the Labor Department's Mine Safety Administration, and the caller said, using some expletives, "You guys are all dead. Timothy McVeigh lives on."

Later that afternoon, a mine safety inspector by the name of Gene Ainslie, who worked with the Department of Labor, was returning from inspecting a mine in Sierra County and he dropped off his official car. He got into his pickup truck, met his wife, started out on Interstate 80 to return to Sacramento, and the pickup truck exploded. A bomb had been placed on that truck.

Gene and Rita Ainslie are hospitalized today in serious condition—actually, today is their 32d wedding anniversary—Gene, with shrapnel in his legs and severe burns, and his wife with a broken ankle and a dislocated hip, but they survived. I and every Member of this body send them our fondest greetings and let them know that our hearts and thoughts are with them both.

This was not a random act of violence. It was not a deranged individual on a shooting spree. It was a deliberate and, once again, targeted attack on a representative of the U.S. Government, an attack that was aimed at murdering a Federal employee. This is not an isolated incident, and we have all seen them happening. There will be a study that will be released very shortly, an annual study of terrorism. And what it will show is that, for the first time, the United States of America is listed among the top 20 nations experiencing the highest level of terrorism and political violence in the world.

I was shocked when I heard this. According to the study, there were 44 incidents reported to the authorities in the United States, an increase of 200 percent since 1988. With this number of incidents, according to this study, we ranked ahead of Lebanon.

I only say this because of the particular pertinence of the legislation before us today. We relate the legislation to the Oklahoma City bombing a year

ago, but in fact even last Friday an incident took place in the State of California.

I think we also need to look at what is happening in our society that is fostering so much hatred and disregard for human life, and what can be done to restore the values of justice and respect for the rule of law that really made this the greatest democracy on Earth.

I do not believe this is about restoring faith in our Government. I do not believe right thinking people resort to this kind of violence because they think they pay too much in taxes or because they are angry at Government red tape. I think there really is no justification and no rationale for this kind of behavior.

But what does concern me is that the report I get from California is that there are very dissipated Federal employees, that morale is low, and that some, for example those affected by the bomb last Friday, really do not know that anybody cares about them. And what I want them to know, and I know I am joined by every Member of this Senate, is that, in fact, we do care about them. We do know that Federal employees—every member of the Army and the Navy who went to the Gulf war was a Federal employee, every park official is a Federal employee—these people take the job not for the money, certainly, but because this is the way they want to serve their Nation.

They are entitled to respect, and it is our job to see that they have that respect. So, as we pass this bill, which I hope we will do shortly, as a kind of living memorial to what happened in Oklahoma City, I think we have to do it with a view that these events are taking place in this Nation daily, just as it happened last Friday near Sacramento and Vacaville in the State of California.

I say to Gene Ainslie, 56 years old, celebrating his 32d anniversary today with his wife Rita, and all those who labor as part of the Federal Government, that we Americans do respect them, that we do honor them, and we will do everything in our power to see that this kind of behavior is not inflamed, but rather it is put to an end.

The PRESIDING OFFICER. The Senator from Utah has 5 minutes and 13 seconds.

Mr. HATCH. Is there any other time remaining?

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes and 9 seconds.

Mr. HATCH. I am prepared to yield back the remainder of my time.

Mr. BIDEN. I am prepared to yield back the remainder of my time.

Mr. HATCH. Then we will both yield the remainder of our time.

Can we proceed to the next amendment?

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, my colleagues will know this is the last motion I have.

I offer a motion to recommit the conference report with instructions to delete the section relating to the study of Federal law enforcement. Senator KOHL of Wisconsin wishes to be added as a cosponsor as does, I believe, although I am not certain, Senator NUNN. I will check that. But Senator KOHL for certain.

I send a motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware, [Mr. BIDEN], moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

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

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on deleting the text of section 806 of the conference report.

Mr. BIDEN. Mr. President, just for the sake of discussion, if there were 10 very important provisions in this bill when we passed it out of the Senate, it has come back to us with 4—I am not being literal—with fewer than we sent over. Fewer than 50 percent of the provisions that I think are important in this bill remain in the bill.

In truth, when the Senator and I got to conference, there were probably only 10 percent of the provisions we thought important in the bill. To the credit of the Senator from Utah, he was able to get back additional provisions in the bill. For that I compliment him.

What I have been fighting about all afternoon here is trying to add back provisions that I think were mindlessly removed and removed tools that we could make available to law enforcement to protect my children and me and all of us in this Chamber and around this country.

This is the one portion of the conference report that I am seeking to delete that has made the bill worse than when it went out of here. Up to now I have been arguing that we sent a bill out of here with a lot of good things that the House stripped out and I wanted to put them back in. Not only did the House take out the bulk of the really good things that were invaluable to fight terrorism, but it added some things which I think are counterproductive. One of them is pandering to this concern of some Americans that the bad guys are the cops, the bad guys are the Government, the bad guys are the FBI or the ATF or the Justice Department.

I do not believe we should go forward with an antiterrorism bill that has a study in it only of police and not terrorists. For that reason, I propose to

delete the study of the police in this bill. I think it is more of an affront than it is a substantive problem. If we do not delete this, we will be faced with a conference report that studies cops but not terrorists.

Let us remember who has literally laid down their lives in the defense of our Nation and our way of life. It is the Federal law enforcement officers, not the terrorists. This study will provide nothing but a forum for those who believe the Federal law enforcement is the enemy of the American people and not the protectors. We are unwittingly aiding and abetting that notion by deciding that, in a terrorism bill, we are going to study the cops.

The study says, section 806, Commission on the Advancement of Federal Law Enforcement.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement . . .

(4) The investigation and handling of specific law enforcement cases . . .

(5) The necessity for the present number of Federal law enforcement agencies and units.

Get that? We are going to study the necessity, the necessity of the present number of law enforcement agents and agencies. What is the implication of that? The implication of that is there are some bad law enforcement agencies out there. I assume this is the right's attempt to go after the Alcohol, Tobacco and Firearms. I do not know. That is who we are studying. We are going to study the cops, not the terrorists.

We have to study the location and efficacy of the office or entire entity responsible, aside from the President, for the coordination of interagency bases of operation, programs and activities of all Federal law enforcement agencies.

It goes on, by the way, for another half a dozen sections.

Think about this. Many of us were local officials before we came here. How many times did a very small segment of our community come to tell us that we had to set up commissions and we had to set up outside organizations, we had to set up police review boards, and so on, because they did not like the cops? Sometimes it was necessary. But remember how good cops responded to this.

I spoke with Director Louis Freeh today. He called me—the Director of the FBI. Of every single thing in the

bill, this is the thing that most concerns him because of what it says to the American people about what we in the Congress think about our law enforcement agencies, the very people who probably have captured the Unabomber; the very people who have gotten hold of, apparently, the man or men who blew up the World Trade Center, as well as the Federal building in Oklahoma City; the very people who, just a couple of weeks ago, outside of my State in neighboring Pennsylvania, were shot down dead, protecting people in Philadelphia—FBI agents, the very people who, increasingly, are losing their lives fighting crime and terrorism.

These are the people who we are going to investigate. There is not even a parallel study in here to investigate malicious, to investigate organizations that, in fact, raise questions, to investigate—separate issue—terrorist, per se, organizations. We are going to investigate the cops.

I can remember the years during the Reagan era. We talked about how demoralized the military felt and, to Reagan's great credit, in my view, one of the things I agreed with him on is he built up the morale of the military, after years of being beaten about the head after Vietnam.

These guys need our support, Mr. President. These women need our support. They do not need us yielding to the NRA and others insisting on a study—a study of them in a terrorism bill.

That is the study we are going to make. We are fighting terrorism, and every law Federal law enforcement officer in the Nation, guarantee you, knows that we spend an entire page of this bill—that is not true, half a page of this bill—laying out extensively what we are going to study, the people we are going to appoint to study this and, listen to this:

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed—

By whom?

One member appointed by the President pro tempore in the Senate; one by the minority leader of the Senate; one by the Speaker of the House; one appointed by the minority leader of the House; one member who shall chair the Commission will be appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

How is that? Why cannot someone who is an officer of the U.S. Government—what a field day these wacko Freemen out in Montana are going to have when we pass this. I promise you, they are going to hold this up—some of them, may not be those guys—but other wackos and say, "See, we're right, the U.S. Congress thinks we have to study these people, and they don't even trust them enough to allow any Federal Government employee in any capacity to be on the commission."

I think this is humiliating, absolutely humiliating. Disqualifications: you are disqualified if you are an officer or an employee of the United States of America. That means any military person could not be on the commission; it means the Chairman of the Joint Chiefs of Staff could not be put on the commission.

This is disturbing, and if you doubt what I am saying after this is over or before we vote, pick up the phone, call Louis Freeh, call any of the police officers you know and respect, call the people we count on to protect our lives that we are studying them.

I see my friend from Utah is on his feet, and my friend from Wisconsin who wishes to speak in favor of this motion is here. I will be happy to yield to either one of them. How much time remains under my control, Mr. President?

The PRESIDING OFFICER. Three minutes 50 seconds.

Mr. BIDEN. I yield the remainder of the time to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank my friend from Delaware.

Mr. President, I rise to speak in support of this motion to recommit, and I also want to speak generally about the terrorism measure before us. In sum, we should approve this legislation because it is the best we are likely to get and the best we can do for the victims of the Oklahoma City bombing. But I believe the record should be clear that we should have done better.

For many years, we have watched with growing concern as terrorist violence has escalated and reached closer to our homes. We can no longer ignore the fact that post-cold war violence knows no borders, and respects no distinction between soldiers and innocents.

For that reason, Senators BIDEN and SPECTER and myself introduced legislation to fight international terrorism last February. We broadened our legislation to reach domestic terrorism after Oklahoma City. And building on this, the Senate overwhelmingly supported a strong, bipartisan proposal.

That is not the proposal we are debating, however, today. We are now considering a version of that bill which is far more watered down.

Still, if we cannot enact a strong and decisive antiterrorism bill, this measure will do at least some good. For example, it will still provide law enforcement with new weapons to choke off terrorist fundraising, new powers to deport suspected terrorists, and the ability to "tag" plastic explosives. All of these provisions will help reduce the threat of terrorism, all are constitutional, and in their entirety they make this measure worth saving.

Unfortunately, other parts of the conference report are more problematic. The conferees deleted Senate provisions that would prevent new tech-

nology from undermining our wiretap laws. The conferees prohibited the military from using its resources to help fight chemical and biological weapons.

And the conference also added some troubling items. For example, our subcommittee held 14 days of hearings on Ruby Ridge and issued a report that was praised across the political spectrum—by Janet Reno and by militia leaders. So why do we need to have a so-called Commission reopen this matter? Similarly, why does a study of cop-killer bullets suddenly appear in this bill? Is this really necessary? Is it really an important part of our fight against terrorism?

I believe the answer is no.

The best arguments against the motions to recommit seem to be this: Don't let the perfect be the enemy of the expedient. Or we have to accept the bad in this bill to finally enact some of the good.

Well, in a certain sense that is true. But America should clearly understand that this is not what we here in the Senate agreed to. America should know that this legislation has been used to forward a political agenda that does not advance the cause of preventing terrorist acts. America should understand that while this bill does something for the memories of the Oklahoma City victims, it could have done much more.

So I will support this conference report—on balance it is better than no bill at all—and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this Commission will explore issues surrounding the future and mission of Federal law enforcement as we enter the 21st century. Among other things, the Commission will assess our efforts to prevent and investigate future acts of domestic and international terrorism. It will consider the pressing issues facing law enforcement as crime rates rise and as criminals become more sophisticated.

I appreciate the fact that the law enforcement community is sensitive to this sort of review, but this Commission is different in focus, and we made it different in focus in the conference from the House-passed version. What was once a Waco-Ruby Ridge Commission with subpoena power is now a Commission to help Congress set Federal law enforcement priorities for the 21st century. It is a Commission which, in my opinion, will help law enforcement. I must say to my friends in the law enforcement community that I only learned of their concerns after the report was filed. If there are specific areas of the Commission's scope which are truly troublesome, I will work with them to try to address their concerns.

It should be noted that the last time a Commission looked at Federal law enforcement was over 60 years ago in 1931. In that year, the Commission on Law Observance and Enforcement, established by President Hoover, better

known as the Wickersham Commission, made public its recommendations to Congress.

In a report signed by its chair, former Attorney General Wickersham, the Commission concluded that the growth of interstate crime, an interstate organized crime network, and interstate property and economic criminal activities, mandated the need for an increased Federal role in law enforcement.

At that time, the findings and recommendations of that Commission were truly a major contribution to the fight against crime in this country.

There is more I have to say on this. At the appropriate time, I will move to table both of the Biden motions, because this Commission is thought to be extremely critical by people in the House. We have bona fide it to make it more palatable to those who object to it, and I believe we bona fide it to a degree that it can be acceptable.

On the other hand, we will continue to look at this language after this bill is passed, and I will continue to listen to law enforcement and others who are concerned and see what we can do to resolve their concerns.

I am pleased to yield 10 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Judiciary Committee for yielding this time.

I support this legislation because I think it makes important improvements in our fight against terrorism and also in our fight against violent crime in the United States.

The additional \$1 billion will be an enormous help to the FBI and law enforcement officials to fight terrorism. The Subcommittee on Terrorism, which I chair in the Judiciary Committee, held extensive hearings after the Oklahoma City bombing. There is absolutely no doubt about the need for more resources by the FBI. The FBI Terrorism Center will provide a clearinghouse which will be of enormous aid and assistance.

As is frequently the case, the bill is not entirely to my liking or the liking of anyone. There are a couple of provisions which concern me that I want to comment about because they may be cured at a later date.

On the provision relating to expedited deportation, I am concerned about the absence of a right of confrontation. There is a constitutional right to confront your accuser in a criminal case. A deportation proceeding is not a criminal case. It is defined as a civil case, but the consequences are extreme because a person is ousted from the country. There are very important policy considerations to not allowing the right of confrontation because many of the witnesses are confidential informants and the disclo-

sure of their testimony would be very harmful to ongoing law enforcement efforts.

We do have an unclassified summary, included in an amendment offered by Senator SIMON and myself, and I think that is about as far as we can go. But I believe we have to watch how the act works on this expedited deportation proceeding in the absence of a confrontation right.

The restrictions on fundraising are also important. I have some concern about the limited judicial review, but on balance, this legislation against terrorism is very, very important. I am glad to see that we are finally acting on it.

Attached to this terrorism bill, Mr. President, are provisions relating to modifications of habeas corpus which limit the time for appeals on death penalty cases. This has been a long time in coming to this country. It is something that I have worked on personally for more than a decade, based upon the experience I had as the district attorney of Philadelphia. We currently have the death penalty applied and then there are delays of up to 17 years while the cases languish in the Federal courts. Most of the arguments about these provisions are made by people who are opposed to the death penalty. The lengthy appeals process in the Federal court has, in effect, defeated the deterrent effect of the death penalty.

I am personally convinced, Mr. President, that the death penalty is a deterrent. I saw many cases in my 12-year tenure in the Philadelphia district attorney's office, 4 years as an assistant DA trying murder cases and 8 years as district attorney, arguing appellate cases where the death penalty was imposed, and I am convinced that professional burglars do not carry weapons for fear of the death penalty when it is timely. But the only way a deterrent can be effective is if it is certain and reasonably swift. The time limits established in this bill are very, very important. They break new ground.

I first offered these time limits, Mr. President, in 1990. After a long, tough debate we got these time limits established by a 52-to-46 vote. They were incorporated again in 1991, passed by a narrow vote of 58 to 40. In 1993, habeas corpus was left out of the crime bill, and I offered these provisions. They were defeated on a motion to table. Senator HATCH and I later collaborated on the Specter-Hatch bill. It is not too easy to come ahead of Senator HATCH on a bill, but I did. Senate bill 623 established those time limits and they are incorporated into this final bill. They will require that anyone on death row has to file a habeas corpus proceeding within 6 months if counsel is provided, under State law, or within 1 year if counsel is not provided.

Mr. President, I think that we should have included provisions for counsel. They are not in this bill. I think that is a serious mistake. I hope it is a mistake we can correct at a later time.

When you talk about inmates languishing on death row for up to 17 years, you are talking about a problem for the system, you are talking about a problem for law enforcement, you are talking about a problem for the victims' relatives, and you are also talking about a problem for the defendants themselves on death row.

The European Court on Human Rights decided that it was cruel and barbarous treatment, cruel and inhumane treatment, to keep someone on death row for 6 to 8 years. There was an extradition case which came up where somebody was accused of murder in the first degree in Virginia, which had the death penalty, and extradition was sought from Germany. The Court denied extradition on the ground that it would be cruel, barbarous, and unusual treatment to keep someone in jail for lengthy periods of time, for 6 to 8 years. Obviously, 17 years is an extension of the time which was held to be cruel and barbarous treatment.

This bill provides a limitation on time so that the district court must decide the case within 180 days, 120 days for brief and hearing, and 60 days for decision. I have been involved in these cases in the State court. I have been involved in habeas corpus proceedings as a trial counsel in the Federal court. What the judges do is put these cases on the back shelf. There is no reason they cannot give these cases priority treatment. Now they will have to. The Congress of the United States recognizes judicial independence on what judges decide, but in terms of timetable, we have the authority to establish timetables, and we have done so under the Speedy Trial Act of years ago. Even in the jurisdictions which have a tremendous number of death penalty cases, like Texas, California, and Florida, the judge does not have more than one of these cases every year and a half. So they can put these on the expedited trial list.

This bill also provides that there will not be repetitive decisions, because the court of appeals will be the gatekeeper. Mr. President, I inquire how much time I have remaining of my 10 minutes.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. SPECTER. That tells me how brief I have to be.

We have had repetitive petitions filed. They have been a major irritant in the Federal court system. The idea of the Court of Appeals as a gatekeeper came to me from a law school classmate, Judge Jon Newman, chief judge of the Court of Appeals for the Second Circuit.

I am concerned, Mr. President, about a couple of provisions. I think the bill is too restrictive in limiting the ability to present a claim of innocence, requiring that it be proved by clear and convincing evidence. I joined Senator LEVIN in seeking to change that standard. But the reality is that the standard of proof is a very variable thing. I

think if it is established innocence, it may not make a whole lot of practical difference, but I think clear and convincing evidence is too high a standard from a theoretical point of view.

Similarly, I do not favor the deference which is allowed to the State court decision, requiring that it has to be unreasonable in order for the Federal court to overturn it. But I think in a Federal habeas corpus proceeding, if the court thinks it is unreasonable, it will be able to overturn the decision, notwithstanding a standard that is really not as precise as it ought to be.

I think the exhaustion requirement is misplaced here. We would be better off without it. But the net effect, Mr. President, is that this legislation is very good legislation taken as a whole. It will help out on terrorism with the additional resources. We have a tremendous problem in this country with the potential for terrorism. We have seen it in the World Trade Center bombing. We have seen it in Oklahoma City. In my capacity as the chairman of the Senate Intelligence Committee, I see a lot of problems which we cannot discuss openly, but we can move for the additional resources.

On law enforcement, the death penalty is the law of the land in 37 jurisdictions in this country. It is favored by more than 70 percent of the American people. If States do not want it, they do not have to have it. But the States that do have it ought to have it enforced. I think the overwhelming weight of authority is that it is a deterrent. These provisions are fair to the defendant. The European Court on Human Rights held it cruel and unusual punishment to impose a delay of more than 6 to 8 years.

So it is fair to the defendant. Certainly it provides closure for the victims' families, and it will reinvigorate law enforcement by taking out the habeas corpus provisions which really made the death penalty a laughing-stock. So in total I think it is a good bill.

I commend all of my colleagues who have worked on it in the House. I think we will see passage of something which will be very, very significant for law enforcement in this country.

Mr. President, violent crime has been one of the worst problems faced by the people of our country for several years. Homicide rates, fueled by illegal drugs, spiraled upward in the 1980's. While the rate of violent crime has recently started to decline, there remains far too much violence in our society. And while the violent crime rates are down, the future is grim: the rate of murder and violent crime committed by children under 17 is soaring, and the number of youth in our society is increasing. Therefore, we may expect another surge in violent crime unless we take action.

There are many avenues to take to curb violent crime. We need a balanced approach that includes law enforcement, drug prevention and treatment,

crime prevention programs and other means of steering juveniles away from drugs and crime.

Based on my personal experience as an assistant district attorney and as district attorney of Philadelphia, I am convinced that the death penalty is an effective deterrent to violent crime. Criminal justice experts agree that in order for any penalty to be effective as a deterrent, it must be swift and certain. When years pass between the commission of the crime and the carrying out of the sentence, the link between crime and punishment is broken.

The great writ of habeas corpus is the means by which criminal convictions and sentences in State court are reviewed in Federal court to ensure that the trial satisfied the requirements of the U.S. Constitution. It has been an indispensable safeguard of constitutional rights in this country, especially since the 1930's when the Supreme Court began reviewing State-court convictions in cases like the Scottsboro case. Unfortunately, the Federal courts have gone too far in habeas corpus cases. These cases drag on for years, and there is no end to them, as inmates, especially those on death row with nothing to lose, file endless rounds of petitions.

There is no statute of limitations for filing habeas corpus petitions. This leads inmates who have been sentenced to death to wait until they are facing their imminent execution before filing their habeas corpus petition in Federal court. An example of this abuse is the case of Stephen Duffey in Pennsylvania. Duffey murdered his victim in 1984. His conviction was finally upheld by the Pennsylvania courts in 1988. His death warrant was not signed until 1994, 10 years after the murder. It was only when the death warrant was signed by the Governor that Duffey first sought habeas corpus review in Federal court.

The requirement that all claims raised in Federal habeas corpus petitions be presented and fully adjudicated by State courts has also led to excessive delays and unsound rules as to whether Federal courts can even consider a habeas corpus petition.

The case of Michael Peoples, which I have discussed with my colleagues on numerous occasions, shows graphically how the exhaustion rule leads to excessive formalism and delay. People was convicted of a vicious robbery in 1981, and his conviction was upheld by the intermediate Pennsylvania appellate court in 1983. The Pennsylvania Supreme Court denied review by an order that did not make it clear whether it was based on the merits or on the court's procedural discretion not to hear cases that do not present a substantial legal issue. Peoples then filed a habeas corpus petition in 1986. The district court denied the petition for failure to exhaust his State remedies. The Court of Appeals for the third circuit then reversed on the ground that the exhaustion requirement had been

satisfied when the Pennsylvania Supreme Court denied review. Peoples then appealed to the U.S. Supreme Court, which granted review—making the case 1 of just 147 it heard that year out of over 4,550 petitions for Supreme Court review—and reversed the third circuit. On remand, the third circuit issued a complicated ruling finding that Peoples' habeas petition contained both exhausted and unexhausted claims and sent the case back to the district court. Years were spent considering just this initial procedural hurdle of exhaustion. I believe we would have been better served had the courts simply reviewed the substance of Peoples' claims.

Another problem causing the excessive delay in carrying out death sentences has been the ability of inmates to file repeated habeas corpus petitions. Once again, I turn to an example I have often discussed with my colleagues, the case of Robert Alton Harris. After being convicted of a double murder in a California court in 1980, Harris filed over the next 14 years 10 petitions for State post-conviction relief and five Federal petitions for habeas corpus. The Supreme Court of the United States considered 11 different applications relating to the Harris case. Many of the petitions Harris filed contained similar or overlapping claims, although none raised doubts about his guilt. Finally, after 14 years, Harris was executed. I regret to say that the Harris case is far from unique in its multiple habeas corpus filings.

Abuse of the writ of habeas corpus has led to the death penalty being not an effective deterrent, but a mockery. Inmates on death row spend an average of over 9 years awaiting execution. And may wait much longer, with some cases dragging on 18 or more years. During these periods of lengthy delay in carrying out death sentences, the families of the victims are left in a sense of suspension, unable to put the tragedy behind them.

Putting an end to these excessive delays will once again restore vitality to the death penalty as an effective deterrent to violent crime, which I know from personal experience it is. I have told my colleagues on numerous occasions over the past several years about the case of Cater, Rivers, and Williams, three young hoodlums who I prosecuted as an assistant district attorney. These three were planning on robbing a Philadelphia pharmacy. When Cater and Rivers saw that Williams was carrying a revolver, they told him they would not participate in the robbery if he took the weapon because they feared the death penalty. Williams put the gun in a drawer, but as the three were leaving, Williams sneaked it back into his pocket. Williams used the gun in the commission of the robbery to kill Jacob Viner, the pharmacist.

All three men convicted and sentenced to death because, under the law, Cater and Rivers were equally responsible for Viner's murder as Williams.

Ultimately, Williams was executed, but Cater and Rivers had their sentences commuted to life imprisonment because they were unaware that Williams had carried the gun. As a prosecutor, this case was just one of many I encountered in which burglars and robbers refused to carry firearms because they feared the death penalty.

In order to make the death penalty once again an effective deterrent, I have actively been attempting to streamline habeas corpus procedures since 1990. When the Senate considered anticrime legislation that year, I offered with Senator THURMOND an amendment to reform habeas corpus procedures to speed up and streamline the process. My amendment was adopted by the Senate, 52 to 46, and included in the final bill. Unfortunately, at the insistence of the House conferees, the provision was dropped from the conference report adopted the last day of the 101st Congress.

In the 102d Congress, I introduced legislation, S. 19, that was substantively identical to the 1990 amendment the Senate had passed. When the Senate considered anticrime legislation in 1991, however, Senators HATCH and THURMOND offered a slightly different habeas corpus reform amendment that was based on my legislation but included language limiting the scope of Federal review of State convictions. After careful consideration, I spoke at length in favor of that amendment and voted for it. This amendment also passed the Senate, 58 to 40, and included in the final bill that passed the Senate. When the bill went to conference, however, the House insisted on its habeas corpus provisions which, rather than reducing delays and streamlining the process, would have allowed for greater delay and more manipulation of the process. The conference report that contained that provision was filibustered in the Senate because of its habeas corpus provisions and never came to a vote.

Once again in the 103d Congress, I introduced legislation similar to my previous efforts. When the 1993 anticrime bill was debated in the Senate, the managers decided that habeas corpus reform was too tough an issue to resolve and remove the bill's habeas provisions. I strenuously objected and brought before the Senate a bill I introduced to streamline the process. While many of my colleagues wanted to see us take action on the bill, it was tabled in order to keep the habeas issue from interfering with efforts, which I also supported, to secure Federal assistance for police hiring and prison construction.

When Republicans took control of the Senate and House this Congress, I had high hopes that we would finally be able to resolve the issues that had previously derailed efforts to reform habeas corpus. Together with Senator HATCH, I introduced legislation, S. 623, to impose a statute of limitations on the filing of habeas corpus petitions,

restrict the ability to file successive petitions, impose time limits on Federal court consideration of habeas petitions in capital cases, and encourage States to provide adequate counsel in capital habeas cases.

In the wake of the Oklahoma City bombing, as the Senate developed antiterrorism legislation, I worked to ensure the inclusion in the bill of my habeas corpus reform legislation. As introduced and passed by the Senate, S. 735 includes in full the provisions of S. 623. When the House ultimately considered its antiterrorism bill, it included my habeas corpus reform language as well.

As I mentioned, there are several aspects of the habeas corpus reform provisions that I would prefer were different. Most glaringly is the restrictive standard of review. The bill continue to require deference to State courts' findings of fact. Federal courts will owe no deference to State courts' determinations of Federal law, which is appropriate in our Federal system. However, under the bill deference will be owed to State courts' decisions on the application of Federal law to the facts. Unless it is unreasonable, a State court's decision applying the law to the facts will be upheld. I am not entirely comfortable with this restriction, but upon reflection I believe that the standard in the bill will allow Federal courts sufficient discretion to ensure that convictions in State court have been obtained in conformity with the Constitution.

I also believe that the formulation in the bill is too restrictive in limiting successive petitions when the inmate raises a claim as to innocence. For this reason, I supported Senator LEVIN's amendment when the bill was initially considered by the Senate. That amendment, however, was tabled.

Finally, I am disappointed by the absence of two provisions from the habeas corpus reform sections. Since 1990, I have been convinced that we can improve the process by eliminating the exhaustion requirement. I have tried repeatedly to do so. Both prosecutors and representatives of the defense bar have strenuously objected to these efforts, albeit for different reasons. Despite my certainty that the bill would be improved had we eliminated the exhaustion requirement, I am willing to move forward without its elimination in the interest of getting habeas corpus reform. I am also concerned that the bill does not establish standards for trial counsel in capital cases. In my previous efforts I had sought to ensure that the States provided adequate counsel in capital cases at both trial and in the post-conviction process. Improving trial counsel in capital cases is a critical step to making the trial rather than the habeas proceedings the central event in death-penalty cases. This bill, while seeking to ensure adequate counsel for habeas proceedings, does nothing to strengthen the minimal constitutional standard for ensuring adequate counsel at trial.

Despite the provisions that concern me and the failure of the habeas reform to include two elements important to a fair and comprehensive scheme of habeas reform, I support the habeas corpus reform provisions of this bill. In politics, one learns that the best is the enemy of the good. Since the restoration of the death penalty in 1976, we have seen its effectiveness as a deterrent sapped by delays attributable to defects in the habeas corpus system. The reforms included in this bill, while not perfect, will go a long way to restoring vitality to the death penalty as an effective deterrent to violent crime. I was therefore willing to sponsor these provisions in conjunction with Senator HATCH and am pleased to see them enacted. They are the culmination of many years of effort, and I am deeply satisfied by their adoption.

We are, of course, dealing with an antiterrorism bill, and there are several provisions of the bill in addition to habeas corpus reform that I want to address briefly. As chairman of the Judiciary Subcommittee on Terrorism, I have long been interested in combating terrorism and have been very active in the area. In 1986, I introduced legislation that made it a Federal crime to commit a terrorist attack against a U.S. citizen anywhere in the world. I have also been active in seeking to limit diplomatic immunity for terrorist acts and for punishing acts of terrorism before an international criminal court. Earlier this Congress, I joined Senator BIDEN and Senator KOHL in introducing S. 390, the first omnibus counterterrorism bill introduced this Congress, 2 months before the tragic Oklahoma City bombing that gave the issue such currency.

I am pleased that the conference report retained my amendment to the Senate bill to authorize assistance to U.S. allies to support the purchase of counterterrorism technology if U.S. interests are at stake. My original amendment authorized \$3 million for this assistance, but in the wake of the recent terrorist bombings in Israel that have put the peace process at risk, the amount authorized in the conference report has been increased to \$20 million.

I also want to express my support for the provision to require the Attorney General to study the availability of bombmaking manuals, evaluate whether current laws are adequate to address the problem, and determine whether anything else can be done constitutionally. My Judiciary Subcommittee on Terrorism and Technology held a hearing on this subject in May 1995. We were deeply troubled by what we heard. I am skeptical that the Government can do anything to restrict such information without violating the first amendment. I am pleased that the Attorney General, whose representative testified at our hearing, will study this matter and make appropriate recommendations.

The conference report adds a provision to make it a crime to misuse

human pathogens and other biological agents. The terrorist threat from such agents is very real. My Terrorism Subcommittee is conducting a study on this issue and the threat from chemical agents as well. I know that the Governmental Affairs Committee has also held hearings on this subject. Recently, the full Judiciary Committee held a hearing on the threat posed by the wrongful use of human pathogens. After that hearing, I joined several other members of the committee in writing the President to express our concern over the gaps in Federal regulation over the distribution of human pathogens. I am pleased to see the conference report include this provision.

The conference report deleted the Senate-passed provision to authorize the broader use of multipoint wiretaps. I opposed the inclusion of this provision in the Senate bill and am pleased to see that the conferees deleted it. Current law strikes the appropriate balance, and I feared the Senate-passed provision went too far in threatening privacy interests.

I want to note that, while the conference report alters the expedited deportation provisions of the Senate bill, adopted as part of an amendment I offered with Senator SIMON and Senator KENNEDY, it preserves the requirement that if classified information is used to deport an alien suspected of terrorist activity, an unclassified summary adequate to permit the alien to mount a defense must be provided to the alien. This requirement is the absolute minimum that due process will permit. Anything less could not have survived constitutional scrutiny, and I am pleased that this aspect of my amendment was retained.

I am also troubled by the restrictions on domestic fundraising for foreign terrorist organizations. The Senate bill had allowed entities designated as terrorist to seek judicial review. That review would have accorded no deference to the administration's designation and allowed full and searching judicial review. The conference report, while retaining judicial review, establishes a deferential standard for that review. I am far less satisfied with this level of scrutiny. I am also concerned about the first amendment implications of this provision, restricting the ability of U.S. citizens to support favored causes. I acknowledge that the United States is a fertile ground of financial support for foreign terrorist organizations, but am nonetheless concerned about these infringements on U.S. citizens.

Finally, I want to express my strong disappointment over the limited scope of the provision allowing U.S. citizens injured by foreign terrorist attacks to sue foreign nations who supported the attack in which they were injured. In 1993, I introduced the first bill in the Senate to allow U.S. victims of foreign terrorism to sue foreign countries they suspected of supporting the terrorists who injured them. My bill was favorably reported by the Judiciary Committee.

When the Senate considered this bill, it included a provision similar to but narrower than my bill as reported by the Judiciary Committee in 1994, allowing suits against foreign nations for supporting terrorism only if the State Department had previously listed the defendant nation as a sponsor of terrorism. The House bill contained a broader provision allowing suit in the U.S. against any foreign country that did not provide due process in its own courts to remedy the injury to an American citizen.

As the conference on this bill began, I wrote to each of the Senate conferees urging them to accept the House-passed provision. As the conference proceeded, I had thought that an acceptable compromise would be reached. I deeply regret that the conference report rejected any compromise and adhered to the Senate's provision, which allows the State Department to manipulate those foreign nations that are subject to suit in U.S. courts for injuring U.S. citizens. Giving the State Department this role is contrary to the rationale of the Foreign Sovereign Immunities Act and will allow impermissible foreign policy consideration to affect the ability of Americans to seek redress for their injuries caused by foreign governments. I will continue to work on this issue to remove this unfair limitation.

This conference report is not all that could be hoped for. It does, however, represent a significant advance in our Nation's ability to fight terrorism without unduly compromising the rights and liberties of our citizens. As a result, I support the conference report and urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 2 additional minutes.

Mr. HATCH. I yield back my 2 minutes. I understand the time of the minority is also expired.

The PRESIDING OFFICER. That is correct.

Mr. HATCH. On behalf of Senator DOLE and myself, I move to table both of the Biden amendments, with the understanding that these votes are stacked.

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

Mr. HATCH. Could I also ask unanimous consent that the first vote be 15 minutes in length, but the last two votes be 10 minutes each?

Mr. FORD. Reserving the right to object, Mr. President, I am not sure. Could you give me just a second?

Mr. HATCH. I will withhold that unanimous-consent request.

Mr. DOLE. Were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOLE. 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.

Mr. DOLE. The first rollcall will be 15 minutes, and the next will be 10 minutes.

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

Mr. FORD. The third will be 10 minutes. The first vote is 15 minutes, the next two votes will be 10 minutes each.

Mr. DOLE. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal Building in Oklahoma City, OK. In the wake of that horrible incident, in only a matter of weeks, the Senate responded by passing the Dole-Hatch comprehensive antiterrorism legislation by a vote of 91 to 8 on June 7, 1995. Most of its provisions were drawn from earlier Republican crime packages. Over the past month, we have worked in a bipartisan manner to craft what would surely be the toughest antiterrorism bill ever to become law.

This week, to honor the memory of those who suffered in Oklahoma, the Congress will send to President Clinton this landmark bipartisan antiterrorism bill. It has the support of the Republican Governor of Oklahoma, Frank Keating, and Oklahoma's Democratic attorney general, Drew Edmondson.

Under the leadership of Senator HATCH, we have a measure which would give us the strong, upper hand in the battle to prevent and punish domestic and international terrorism.

On March 27, 1996, I wrote to each of the conferees urging in particular that the three important provisions in the Senate bill be retained. The first facilitates a speedy removal of suspected foreign terrorists from U.S. soil. The second keeps foreign terrorists from raising money for their activities in the United States. The third makes membership in a terrorist organization the basis for exclusion from the United States.

Each of these is a commonsense protection for all Americans. Each of these reforms is long overdue. I am pleased that Senator HATCH and the conferees insisted on keeping these important reforms in the bill.

Most importantly, the bill contains comprehensive, effective habeas corpus reform, which has just been discussed by the distinguished Senator from Pennsylvania, Senator SPECTER, who, as he outlined, has been active in this area for many, many years.

I did visit the San Quentin State Prison in California about 6 or 8 weeks ago. There I met a father whose son had been murdered, a pretty clear-cut case, and it took 15 years—15 years—appeal after appeal after appeal before justice was meted out and the person who committed the murder was executed. There have been more people die of natural causes in that prison than of the death penalty, because of the frivolous appeals, appeal after appeal, costing the State millions and millions of dollars. Obviously, we need to protect

the rights of the defendant, particularly in capital cases, but in my view, it is a sad commentary that on death row in San Quentin, where there are about 400-some inmates on death row, more will probably die of natural causes than because of the death penalty.

Maybe that will be changed because of this big, big step forward. I want to commend Senator HATCH, Senator SPECTER, and others who have worked on this a long time. It has been more than a decade of efforts. We are about to curb these endless, frivolous appeals of death sentences by those convicted of murder. Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma City bombing case. It is the heart and soul of the bill.

I sent a letter Monday to President Clinton. In that letter, I reiterated that we simply cannot continue allowing convicted murderers to appeal their sentences year after year. President Clinton has already vetoed a similar reform of the death penalty appeals process. The White House continued right up to the end, to argue for changes in habeas corpus that would essentially gut this reform. I called on President Clinton to support us in this important effort and sign this bill when it is sent to his desk. America will not tolerate a second veto of habeas corpus reform.

I am very pleased, moreover, that the conference report provides victims of terrorism the ability to sue foreign governments responsible for terrorist acts in U.S. courts for the first time. On December 21, 1988, 270 people were killed in the terrorist bombing of Pan Am flight 103. This brutal act of terrorism killed more Americans than died in Desert Storm.

The Libyan Government was clearly responsible for this brutal crime. Yet, Libya refuses to extradite the Libyan intelligence officials responsible. I do not know anyone who believes there is a realistic chance that Qaddafi will cooperate to bring killers he ordered to justice in a legitimate court.

For too long, the survivors of the victims have had no recourse to seek compensation from Libya. That's why the Dole-Hatch bill last year contained authority for victims of international terrorism to sue terrorist states in U.S. courts. For 10 months the Clinton administration fought this provision. For 3 years the Clinton administration has had meetings with family members and had tough rhetoric—but there has been no real action to redress the tragedy of Pan AM flight 103.

This week the Congress will enact this important reform. This is not rhetoric, this is action. This is historic and will, at long last, allow American victims of terrorism to use U.S. courts to try to seek compensation for the vicious acts of terrorist states.

I am proud to have worked closely with the families of the Pan AM 103 victims for many years, especially in

the 1990 Aviation Security Act. Nothing we do can possibly replace their loss, but we can give them a avenue for partial justice.

Mr. President, yesterday I received a letter from Victoria Cummock, president of the families of Pan-Am 103/Lockerbie. On behalf of those families, she urged support of this bill. She focuses on two provisions: habeas corpus reform; and opening up our courts to allow victims their day in court against governments that sponsor terrorism. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the materials was ordered to be printed in the Record, as follows:

FAMILIES OF PAN-AM 103 LOCKERBIE,
April 15, 1996.

Hon. BOB DOLE,
Senate Majority Leader,
Washington, DC.

DEAR SENATOR DOLE: On behalf of the victims' families of Pan Am 103, I want to express our gratitude for your leadership in the Anti-Terrorism bill (S-735), currently pending in the Congressional Conference Committee. Your support of two key provisions will enable American victims of terrorism obtain justice in U.S. courts.

More Americans have died at the hands of terrorists than in Desert Storm, or in any other American war over the past 20 years. The bombing of Pan Am 103 was the single worst act of terrorism against civilians in this country's history, killing 270 people. For more than seven years, we—the families—have waited for our country's help and support. During that time terrorists blew up the World Trade Center '93, injuring 1,000 and killing eight, and last year bombed the federal building in Oklahoma City, killing 168.

On March 7, dozens of Americans victimized by terrorism gathered in Washington, D.C. They included parents, widows, and children from the families of Pan Am 103; 21 next of kin from the Oklahoma City bombing; a daughter of Leon Klinghoffer killed in the hijacking of the Achille Lauro; Joseph Cicciopio and David Jacobson held hostage in Lebanon; Scott Nelson tortured in Saudi Arabia, families of the victims of the World Trade Center bombing, and Hans Ephraimson-Abt, the 74-year old father of one of the victims of KAL 007 shot down over the Soviet Union.

At great personal and emotional expense, they gathered to support provisions of the anti-terrorism bill that would enable us to achieve justice: limit immunity granted foreign states that sponsor terrorism, and reform Habeas corpus.

Our motives are not political. Our lives and families have been unraveled by terrorism, and justice is our only consolation. Without justice and accountability there is no deterrence. We want to live in peace knowing that other Americans will be spared.

Countries that hide behind their sovereign immunity to avoid U.S. courts will continue to encourage and sponsor terrorist acts. For example, Libya, which is accused of ordering the bombing of Pan Am 103, is also accused of the 1989 bombing of a French UTA plane of Chad. It killed 171.

Allowing convicted murderers to delay their execution for 17-24 years with their seemingly endless appeals is also plainly wrong. It makes a mockery of our judicial system and gives criminals more rights than their victims.

Dead Americans have no voice, their families must speak for them. Four weeks ago

the President made a request to Congress to provide aid to the families of four Cuban Americans shot down by Cuba. Has the President forgotten the hundreds of other Americans murdered by terrorists? The promise that he made to us before his election?

This nation cannot continue to allow countries to kidnap, torture, and murder Americans and escape accountability. The United States allow corporations to seek restitution in U.S. civil court. U.S. law permits restitution for sabotaging a plane full of chickens—but not people. This is an outrage. The message sent to countries sponsoring terrorism is that it is safe to target and kill Americans.

I want to be able to tell my three small children that America stands with us and that their father's constitutional right to justice (and that of other victims) will no longer take a back seat to the rights of terrorists. By maintaining the FSAI and Habeas Corpus provisions in the final language of the anti-terrorism bill, Congress will give us the opportunity to help ourselves. The changes we advocate are right for all Americans; this reform is overdue.

Thank you for your commitment in helping American victims of terrorism. Our hopes and prayers will be with all the Congressional Committee members during their final deliberations.

Sincerely,

M. VICTORIA CUMMOCK,
Widow of John B. Cummock;
President.

Mr. DOLE. Mr. President, in a few moments we will pass this bill. The Congress will put the national interest ahead of partisan interests. Those who have delayed passage of this historic bill argue that this is a weak bill. This is wrong. It is unfair to those who have suffered or may suffer in the future from the evil handiwork of terrorists and other criminals.

My colleagues have opposed these efforts. We will pass this bill today. As Diane Leonard, whose husband Don was killed in the Oklahoma City bombing, said yesterday: "It is the right thing to do." Then I hope President Clinton will do the right thing and sign the bill.

I yield the floor.

Mr. HATCH. Mr. President, what is the status of the bill?

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware.

Mr. HATCH. Mr. President, I was under the mistaken belief that we would have some extra time, but I would like to give some time before final passage, equally divided. I would like to be able to give 3 minutes to the two distinguished Senators from Oklahoma. That would mean 6 minutes to the minority.

I ask unanimous consent that we have 12 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, as I understand, prior to the final vote?

Mr. HATCH. Prior to the final vote.

Mr. FORD. Six minutes.

Mr. HATCH. Divided between Senator BIDEN and myself, and I make sure the—

Mr. FORD. Six minutes on each side?
Mr. HATCH. Right.

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

The question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware [Mr. BIDEN] relative to revising existing authority for wiretaps.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—56

| | | |
|-----------|------------|---------------|
| Abraham | Feingold | McConnell |
| Ashcroft | Frist | Moseley-Braun |
| Baucus | Gorton | Murkowski |
| Bennett | Gramm | Nickles |
| Bond | Grams | Pressler |
| Brown | Grassley | Reid |
| Burns | Gregg | Roth |
| Campbell | Hatch | Santorum |
| Chafee | Hatfield | Shelby |
| Coats | Helms | Simpson |
| Cochran | Hutchison | Smith |
| Cohen | Inhofe | Snowe |
| Coverdell | Jeffords | Specter |
| Craig | Kassebaum | Stevens |
| D'Amato | Kempthorne | Thomas |
| DeWine | Kyl | Thompson |
| Dole | Lott | Thurmond |
| Domenici | Lugar | Warner |
| Faircloth | McCain | |

NAYS—43

| | | |
|-----------|------------|-------------|
| Akaka | Ford | Lieberman |
| Biden | Glenn | Mikulski |
| Bingaman | Graham | Moynihan |
| Boxer | Harkin | Murray |
| Bradley | Heflin | Nunn |
| Breaux | Hollings | Pell |
| Bryan | Inouye | Pryor |
| Bumpers | Johnston | Robb |
| Byrd | Kennedy | Rockefeller |
| Conrad | Kerrey | Sarbanes |
| Daschle | Kerry | Simon |
| Dodd | Kohl | Wellstone |
| Dorgan | Lautenberg | Wyden |
| Exon | Leahy | |
| Feinstein | Levin | |

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

The PRESIDING OFFICER (Mr. SANTORUM). The question occurs on agreeing to the motion to table the motion to recommit with instructions relative to deleting section 806 of the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—53

| | | |
|----------|-----------|------------|
| Abraham | Coverdell | Grassley |
| Ashcroft | Craig | Gregg |
| Bennett | D'Amato | Hatch |
| Bond | DeWine | Hatfield |
| Brown | Dole | Heflin |
| Burns | Domenici | Helms |
| Campbell | Faircloth | Hutchison |
| Chafee | Frist | Inhofe |
| Coats | Gorton | Jeffords |
| Cochran | Gramm | Kassebaum |
| Cohen | Grams | Kempthorne |

| | | |
|-----------|----------|----------|
| Kyl | Pressler | Specter |
| Lott | Roth | Stevens |
| Lugar | Santorum | Thomas |
| McCain | Shelby | Thompson |
| McConnell | Simpson | Thurmond |
| Murkowski | Smith | Warner |
| Nickles | Snowe | |

NAYS—46

| | | |
|----------|------------|---------------|
| Akaka | Feinstein | Mikulski |
| Baucus | Ford | Moseley-Braun |
| Biden | Glenn | Moynihan |
| Bingaman | Graham | Murray |
| Boxer | Harkin | Nunn |
| Bradley | Hollings | Pell |
| Breaux | Inouye | Pryor |
| Bryan | Johnston | Reid |
| Bumpers | Kennedy | Robb |
| Byrd | Kerrey | Rockefeller |
| Conrad | Kerry | Sarbanes |
| Daschle | Kohl | Simon |
| Dodd | Lautenberg | Wellstone |
| Dorgan | Leahy | Wyden |
| Exon | Levin | |
| Feingold | Lieberman | |

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I understand before the final vote there are 6 minutes allotted to each side.

The PRESIDING OFFICER. The Senator will suspend. Senators to the left of the Chair will please take your conversations to the cloakroom. The Senate will please come to order.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I appreciate the indulgence of my colleagues today in voting on these motions to recommit and the strong support of 40 to 48 Senators we have gotten on each of these votes. I appreciate that.

In the 6 minutes that I have to close, let me just suggest two things. There is a good deal of change that has been made in the habeas corpus provisions of the law, which, in my view—a broken record—will do nothing to prevent terrorism. The habeas provision in this bill deals primarily with State crimes, and the terrorism crimes we are concerned about—Oklahoma City, the World Trade Center bombing, et cetera—are Federal crimes. It will not affect it at all.

But there is a provision in the bill that I would like to say something about. There's a section that says:

An application for writ of habeas corpus on behalf of a person in custody, pursuant to the judgment of a State court, shall be granted with respect to any claim that was adjudicated on the merits in State court proceedings, unless the adjudication of the claim, one, resulted in a decision that was contrary to or involved in unreasonable application of a clearly established Federal law as determined by the Supreme Court, or resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented.

I would like to make this brief observation.

As things now stand, Federal courts take State court decisions very seriously. They are not writing on a blank page and ignoring State court decisions right and left. In fact, court watchers who pay close attention to the cases tell me that Federal courts grant relief only when it is pretty clear that someone's constitutional rights have been violated. So it seems to me that even under this provision of the law we are now changing, which I think is inadvisable to change, but even under this provision, if Federal courts think that State courts are right on the Constitution, they will uphold it. And if they are wrong, they will not.

So if a State court makes an unconstitutional determination, the Federal courts will, and should, continue to say so. Therefore, I think this is much less onerous—unnecessary but much less onerous—than, in fact, it may appear on its face.

If a Federal court concludes the State court violated the Federal Constitution, that, to me, is by definition—by definition—an unreasonable application of the Federal law, and, therefore, Federal habeas corpus would be able to be granted.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am truly gratified at the action that I believe the Senate is about to take. Passage of this legislation is urgently needed. This bill, passing at this time, will be a memorial to the victims of terrorism. I was so moved the other day, when survivors of terrorism came here to Washington to plead again for enactment of this legislation.

Since the Senate first acted last June, we have been working to reach this point. The result of that effort is a conference report that, in my view, deserves the support of every Member here. This legislation represents a landmark effort to address an issue of grave national importance—the prevention and punishment of acts of terrorism. This bill includes long-needed reforms to Federal habeas corpus procedures and provides vital provisions for victims of terrorism and other Federal crimes. It also adds important tools to the Government's fight against terrorism, and does so in a temperate manner that is protective of civil liberties.

I have insisted from the beginning that this bill address the needs of the victims of terrorist acts, so I am particularly pleased about the provisions we have included for them. Our commitment to the victims of terrorism is evident from the first two titles of the conference report. These provisions are the heart and soul of this bill, and are the only provisions which can provide solace to the victims of past acts of terrorism, such as Oklahoma City and Lockerbie.

Habeas corpus reform: This legislation includes tough, fair, and effective reform of Federal habeas corpus procedures. I have been fighting, along with

crime victims across our Nation, for the enactment of this legislation for nearly 20 years. Finally, heinous criminals will no longer be able to thwart justice and avoid just punishment by filing frivolous appeals for years on end. Finally, crime and terrorism victims will know that our justice system means what it says.

Mandatory victim restitution: The mandatory victim restitution section of this bill is the Hatch-Biden measure, and will ensure for the first time that Federal courts must order violent criminals and terrorists to pay restitution to their victims. We all know that a price can never be placed on the terrible costs these crimes inflict. We also know that in far too many cases, repayment will fall far short of the cost we can calculate. However, with this bill, victims will finally have the solace of knowing that the justice system recognizes their loss, and that the perpetrators of evil are held accountable.

Terrorism by foreign countries: This bill takes the important step of ensuring that Americans who are harmed by foreign governments committing or directing terrorists acts can sue those governments in American courts. Lawless nations will no longer be able to hide their terrorist acts behind the rules of international law that they otherwise flaunt.

Oklahoma City trial: Finally, by providing for closed circuit viewing of the Oklahoma City trial by the bombing's victims and survivors, this bill also will ensure that these courageous people can observe justice being done, while still ensuring a fair and just trial for the accused.

The terrorism bill we are about to finalize also is a tough, effective measure. With its enactment, we will be better able to prevent and deter future terrorist acts. Moreover, we will be better equipped to respond to and punish these heinous acts should they occur.

First, for the first time since the tragic bombing of Pan Am flight 103, it will be required that all plastic explosives manufactured, sold, imported into, or exported from the United States include chemicals to make them detectable by airport security. This provision will help protect airline passengers from terrorist attacks and fulfill our obligations under international agreements.

Second, this legislation include important new measures to ensure that access to dangerous human pathogens—like the agent that causes bubonic plague—is properly limited. This will help ensure that the American people are not victimized by terrorists engaging in such tactics, such as the Japanese cult Aum Shinri Kyo that released cyanide gas in a crowded Tokyo subway.

Third, the bill we will send to the President provides law enforcement with the tools necessary to combat the threat of nuclear contamination and proliferation that may result from illegal possession of nuclear materials.

Fourth, this antiterrorism bill will prohibit, in a constitutional manner, fundraising in this country by specific, designated foreign terrorist groups. Once designated, these groups will no longer be permitted to use American-raised funds to spread terror here and abroad.

Fifth, this bill provides the Federal Government with the tools it needs to exclude representatives and members of foreign terrorist groups from the United States, and provides the Government with the ability, within the bounds of due process, to deport alien terrorists without compromising national security.

This bill also: Increases the penalties for crimes committed with explosives, as well as conspiracies to commit such crimes; curtails the use of domestic and foreign use of weapons of mass destruction; addresses the increasingly global nature of terrorism, increasing penalties for terrorist acts that transcend national boundaries; imposes strict penalties for retaliatory assaults or murders of Federal officers or employees; provides emergency response training to State and local law enforcement; and harmonizes security measures to provide Americans flying to and from the United States on foreign airlines with the same level of protection they receive for domestic flights.

In short, this bill reflects the unity of purpose and clarity of resolve with which we must meet the terrorist threat.

I am proud of the bill we have crafted. It is time for us to finish the job, and pass this conference report. In doing so, it is my hope that we recall the Americans who died at the hands of terrorists, not only last month, but over the last 15 years or more. In Beirut, in Lockerbie, in New York, and in Oklahoma City, victims of terrorism have had their lives stolen by evil persons pursuing selfish and twisted agendas. We can honor these victims by completing the task at hand.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished junior Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. INHOFE. Mr. President, I think anything that is said further tonight on this bill will be redundant, but I think some things are worthy of redundancy. I think it is virtually impossible for anyone in this Chamber who was not in Oklahoma City when the tragedy happened—the bombing of the Murrah Federal Office Building—to really appreciate the significance of the trauma, the disaster, the emotions at the time.

I think it was well said in a magazine called Oklahoma Today, talking about the first wave of the super-hot gas moved at 7,000 miles an hour, fast enough for someone 10 feet away to be hit with a force equal to 37 tons, and in about half a second the gas dissipated only to be replaced by an equally vio-

lent vacuum. The resulting pressure waved outward, lifting the building up and causing beams, floor slabs, and connections to weaken and collapse.

When the pressure wave passed, gravity took over. Nine stories of the north side of the building pancaked, creating a crater 30 feet deep. People who had been on the ninth floor ended up in the basement.

I think one of the most memorable experiences I had was the very first night. The firefighters had arrived. They were all volunteers. They were taking turns 1 hour at a time crawling on their bellies through there to pull out parts of bodies. I actually saw on the first floor human hair and one hand that was stuck to a wall. As they pulled the bodies out—some alive, some dead—they did not know at that time whether or not it would come crashing down and kill them. When one group came out after an hour, there was blood all over the individuals. Then you could hear the cadence, almost like you heard in World War II, of the firefighters marching down the streets to take their turn, and this is what we experienced there.

The majority leader a few minutes ago said the habeas provision is the heart and the soul of this bill. It may be that some of you do not agree with that, but I can assure you the families of the 168 victims who died in the Murrah Federal Office Building, they believe that, because they came up here 2 months after the explosion and sat across the table from many of the Senators in here and said, "The one thing we want in legislation is habeas reform. We do not want the same thing to happen as happened when Roger Dale Stafford in Oklahoma murdered nine Oklahomans and sat on death row for 20 years."

So I guess all I can say is, on behalf of the families of the 168 victims, those who lost their lives in the Murrah Federal Office Building, I appeal to you to pass this bill tonight.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, so that the majority gets to go last, I have 2 minutes remaining.

What the Senator from Oklahoma just read was moving and significant. I am going to vote for this bill, but I am dumbfounded why, after reading what he just read and us knowing that, that we all voted in this Chamber to allow someone to teach somebody how to build another fertilizer bomb, even if the person teaching knew or had reason to believe it would be used for a purpose like that.

Hear what I just said? "Intended." If a person teaches someone how to build a fertilizer bomb intending that that be able to be done, a crime to be able to be committed with it, we just voted not to put that prohibition into the law.

And now that you all are here and did not have a chance to listen to this before, I hope you know, after we pass this bill, you will join me tomorrow, or

the next day, to pass a law that says you cannot do that, because you inadvertently voted, when I tried to put it back in the law, to let someone now, legally, over the Internet or any other way, teach someone how to build a fertilizer bomb, give them the details and intend that it be used that way, and it is not prohibited.

So I hope tomorrow when I am here, or the next day, listening to what the Senator from Oklahoma accurately stated and believes deeply that we should never let this happen again; we will correct the mistake that we made here today.

Mr. HATCH. Mr. President, I yield the last 3 minutes to the distinguished senior Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to thank the majority leader for setting aside the immigration bill to take up this bill. I informed the majority leader and the Speaker some months ago of my earnest desire to pass this before this Friday.

This Friday is the 1-year anniversary of the worst civil disaster that we have had in U.S. history: 168 innocent men, women, and children were murdered in the Murrah Building bombing.

The majority leader responded to that request, and I appreciate it.

I also want to compliment Senator HATCH and Senator BIDEN and their staffs, and also Chairman HYDE, for their willingness over the last 2 weeks when we were in recess to work out the differences, because the bills between the House and the Senate had a lot to offer, but there are significant differences in the bills.

But there were significant differences. They worked out those differences. They came up with compromises. That was not easy during the break. That is not often done. But they did it so we can meet this deadline. I very much appreciate their cooperation.

Mr. President, this is vitally important legislation. As my colleague from my State, Senator Inhofe, mentioned, this is very important legislation to the families of the victims. There are hundreds of people involved. Yes, there are 168 individuals who lost their lives, but they have hundreds of family members, and actually I think it is in the thousands, the relatives that are directly impacted, that lost a cousin, lost a dad, lost a son, lost a daughter.

We met with those individuals. They want this bill passed. This bill may not be perfect. I know Chairman HATCH said that some of the other provisions that were alluded to today, that he is happy to introduce those and work on those in separate legislation. I compliment him for that. But if we recommit this bill, we would not have this bill. It would not pass.

So I want to thank my colleagues on this side that voted against the motions to recommit. This is a conference report. If we are going to get it passed, we are not going to be able to recommit it. So I will be happy to work to

make future improvements. But this is a good bill. It does have habeas corpus reform. It ends the abusive appeals. That is certainly good for taxpayers and victims.

It does allow closed-circuit TV for families in the Oklahoma City bombing. Right now the trial, regrettably, is going to be in Denver. That is over 500 miles from Oklahoma City. They want to be able to view the trial and not have to move their families to Denver. We requested assistance from Justice, but they did not make it happen. We make it happen in this legislation. That is good news for their families. Several of us will be with several thousand people. That will be good news for Oklahomans.

Finally, I thank my colleagues for their bipartisan support. We put mandatory victim restitution in this legislation, something that the Senate has supported countless times. That is very significant and important and one of the crime reform packages we have had. We passed it in the Senate. Unfortunately, it has not come out of conference with the House. It is in this bill. Again, I want to thank my colleagues, Senator HATCH and Senator BIDEN, because they supported that provision.

Finally, Mr. President, I want to urge my colleagues to vote for this bill. I will be very disappointed if this bill only has 60 or 65 votes. I hope it has 100 votes. This bill may not be perfect, but it is good legislation. Also, I would like to urge the President of the United States to sign it.

Mr. President, I ask unanimous consent that a letter from the Governor of the State of Oklahoma to the President of the United States urging that the President sign this bill be printed in the RECORD.

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

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, OK, April 16, 1996.

Hon. BILL CLINTON,
United States of America, The White House,
Pennsylvania Avenue, Washington, DC.

DEAR PRESIDENT CLINTON: Congress will soon pass legislation which will effectively combat terrorism. Having dealt with the tragedy and aftermath of the Oklahoma City bombing, I believe it is imperative that you sign this legislation into law.

In addition to the tough law enforcement provisions aimed at terrorists and their organizations, it includes provisions of particular interest to those of us in Oklahoma.

First and foremost is effective death penalty reform, which will end the delays and frivolous appeals by convicted death row inmates. The importance of this provision has been made clear by the families of the victims of the Oklahoma City bombing, who have worked tirelessly to see this reform become law so that justice may be swift and sure.

Second is a provision allowing for the closed circuit viewing of the trial by families and victims who cannot be accommodated by the courtroom in Denver. The viewing would take place in Oklahoma and would allow these families and victims to fully benefit

from our victims' rights laws which stipulate they be entitled to monitor the trial proceedings.

Mr. President, this bill deserves to be signed into law. For the families and victims of the Oklahoma City bombing, it represents a significant step in bringing closure to this terrible tragedy. I urge you to approve this vital change in our nation's laws to combat terrorism. It is the right thing to do.

Very truly yours,

FRANK KEATING.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. 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 conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—91

| | | |
|-----------|------------|-------------|
| Abraham | Faircloth | Lott |
| Akaka | Feinstein | Lugar |
| Ashcroft | Ford | McCain |
| Baucus | Frist | McConnell |
| Bennett | Glenn | Mikulski |
| Biden | Gorton | Murkowski |
| Bingaman | Graham | Murray |
| Bond | Gramm | Nickles |
| Boxer | Grams | Nunn |
| Bradley | Grassley | Pressler |
| Breaux | Gregg | Pryor |
| Brown | Harkin | Reid |
| Bryan | Hatch | Robb |
| Bumpers | Heflin | Rockefeller |
| Burns | Helms | Roth |
| Campbell | Hollings | Santorum |
| Chafee | Hutchison | Sarbanes |
| Coats | Inhofe | Shelby |
| Cochran | Inouye | Simpson |
| Cohen | Jeffords | Smith |
| Conrad | Johnston | Snowe |
| Coverdell | Kassebaum | Kempthorne |
| Craig | Kerrey | Stevens |
| D'Amato | Kerry | Thomas |
| Daschle | Kohl | Thompson |
| DeWine | Kyl | Thurmond |
| Dodd | Lautenberg | Warner |
| Dole | Leahy | Wellstone |
| Domenici | Levin | Wyden |
| Dorgan | Lieberman | |
| Exon | | |

NAYS—8

| | | |
|----------|---------------|-------|
| Byrd | Kennedy | Pell |
| Feingold | Moseley-Braun | Simon |
| Hatfield | Moynihan | |

NOT VOTING—1

Mack

The conference report was agreed to. Mr. HATCH. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I think this is a big victory for all of America, but most of all for those folks who suffered in Oklahoma City, OK, and other terrorist incidents in the world.

I want to acknowledge the work of some people who were critical to the passage of this bill—in particular, the

majority leader. The majority leader, BOB DOLE, is to be commended for his leadership. Once again, Senator DOLE has delivered for the American people. I personally express my gratitude to our distinguished majority leader.

I also want to acknowledge the work of Chairman HENRY HYDE over in the House, and my fellow conferees, Senators THURMOND, SIMPSON, BIDEN, and KENNEDY. Senators NICKLES and INHOFE deserve mention, too, because they never let this institution forget who this bill was for. All of the survivors from the Oklahoma tragedy and the Pan Am disaster were critical to this bill's passage. So they all deserve our thanks.

I want to mention a few of the other people who worked on this bill, as well—in particular, the staffers who worked long hours out of deep commitment to public service. Jeanne Lapatto, Christina Rios, Nick Altree, Mike Ashburn, John Gibbons, and Ed Richards were invaluable. Ashley Disque—a young woman who came to the committee as an L.C. and has not looked back—epitomized initiative. Mike Kennedy, an attorney who is going to go places, in my opinion, worked around the clock. Finally, I want to commend Mike O'Neill, our crime counsel. Mike is going to be leaving here in a few weeks to clerk for Justice Thomas over at the Supreme Court. Our loss is the Supreme Court's gain. Quite simply, Mike O'Neill, more than any other staffer, made this bill happen. Manus Cooney, our committee staff director and senior counsel is also to be commended.

Some of Senator BIDEN's staff should be mentioned as well—Demetra Lambros and Chris Putala are true professionals. Also, I would like to thank Valerie Flappan of the legislative counsel's office.

I also want to compliment the other House conferees and, in particular, Congressmen HYDE, MCCOLLUM, SCHIFF, BUYER, and especially BOB BARR from Georgia, who worked very hard on this bill and has provided an awful lot of input on this bill. Another staffer who should be mentioned here is Pat Murray, HENRY HYDE's able and dedicated counsel who, in working with our staff, helped craft a true terrorism bill. Paul McNulty also deserves credit. There are so many others I would like to commend at this point. But I will end at this point and thank all of these good people for the good work they have done.

I pay respect to my distinguished colleague, the minority leader on the Judiciary Committee. He is a tough, tough opponent. He is a very good advocate. It is one of the privileges in my life to be able to work with him on the Judiciary Committee and to be able to have this type of a relationship, and still to occasionally fight each other on the floor and, hopefully, walk away still friends.

In particular, I want to make all those congratulations.

I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 77-770, appoints the Senator from Louisiana, [Mr. BREAUX], to the Migratory Bird Conservation Commission, vice the Senator from Arkansas, [Mr. PRYOR].

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

MORNING BUSINESS

Mr. SPECTER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

HISTORIC 70 WINS FOR THE CHICAGO BULLS

Mr. SIMON. Mr. President, Senators often make statements on the floor to inform the Senate and the Nation about the accomplishments of their constituents, and today I wish to acknowledge some folks back in Illinois who have achieved a historic feat unequaled by their peers. My colleagues may be familiar with this group of Chicagoans. I am speaking of the Chicago Bulls, who last night defeated the Milwaukee Bucks in a hard-fought, 86 to 80 game, to become the first National Basketball Association [NBA] team to win 70 games in a season.

In the nearly 50-year history of the NBA, 70 wins has been a mythical, seemingly unattainable goal. The 1971-72 Los Angeles Lakers came close with 69 wins, but now the Bulls have secured their place in the history books with 70, and with 3 games left in the season, that record could be higher.

Of course this achievement would not have been possible without the return of Michael Jordan, unarguably the game's greatest player ever. But we cannot overlook the efforts of his star teammates, from Scottie Pippen, Toni Kukoc, and Dennis Rodman, to the less publicized but invaluable players like Ron Harper, Luc Longley, Steve Kerr, and Bill Wennington, to name just a few. The talent of individuals however can only take you so far. A true champion needs a great leader, and coach Phil Jackson has fulfilled that role throughout his career, having guided the Bulls to three previous championships.

Should the Bulls go on to win the championship in June—their fourth of the decade—there is little doubt that they would be considered the greatest team in the history of professional basketball. I am proud to represent this group of individuals and congratulate them on their unprecedented accomplishment. I wish them the best of luck as they head into the playoffs.

CHICAGO BULLS WIN 70 GAMES

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to commemorate a historic moment for the city of Chicago and the State of Illinois. Over the years, the members of this greatest deliberative body have engaged in some of the most compelling debates the world has ever heard: issues of States' rights, war and peace, and individual liberty. But as of last evening, one debate need no longer be considered: which is the greatest NBA team of all time, at least through the regular season. By recording their unprecedented 70th win of the regular season, the 1995-96 Chicago Bulls are one of the best teams of all time, and when they go on to secure an NBA championship, they will be without question, the greatest team in the history of professional basketball.

In the 49-year history of the National Basketball Association, no team has won 70 games in one season until the Chicago Bulls accomplished that remarkable feat—I am sad to say to my dear friend and colleague from Wisconsin, Senator KOHL—by defeating the Milwaukee Bucks last night 86 to 80. By winning their 70th game in 79 tries, the Bulls eclipsed a 24-year-old record set by the Los Angeles Lakers and now stand alone on the other side of what once was considered an impregnable barrier.

This year's Bulls team has elevated itself to an elite level in the history of sports. This team deserves to be ranked on the same level as the 1927 New York Yankees, the 1972 Miami Dolphins, and the 1977 Montreal Canadiens—all teams that embodied perfection in sports. It might also be noted that with this 70th win, Chicago now holds the distinguished honor of having or sharing three of the four major sports records for most wins in a regular season—the 1906 Cubs in baseball, 116 wins, the 1985 Bears in football, 15 wins and now, the Chicago Bulls. I know I speak for Bulls fans across the country in saying that we are energized and excited by the zealous pursuit of victory exhibited by our team this year.

It is no coincidence that the greatest team of all time is being propelled by the greatest player of all time—Michael Jordan. Michael Jordan has a combination of power and panache unmatched in the history of the NBA. He refuses to lose and his competitive nature, floor leadership, and will to win lifts the playing level of all those around him.

Mr. President, we all know that in team sports, true greatness cannot be achieved alone. Michael Jordan is surrounded by outstanding players in their own right—Scottie Pippen, Dennis Rodman, Toni Kukoc, and the rest of the lineup. Coach Phil Jackson has been able to skillfully mesh all the personalities of this team into an extraordinary combination of teamwork and individual achievement. The result is the 70-win accomplishment that has eluded basketball's best players and teams for decades.