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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Lane Davenport, the Church of the Ascension and St. Agnes, Washington, DC.

PRAYER

The guest Chaplain, Rev. Lane Davenport, the Church of the Ascension and St. Agnes, Washington, DC, offered the following prayer:

O God, the fountain of all wisdom and graciousness, whose statutes are good and whose law is truth; we humbly beseech Thee, as for the people of the United States in general, so especially for their Senate; that Thou wouldst be pleased to direct and prosper all their consultations, to the advancement of Thy glory, the peace of the world, the safety, honor, and welfare of Thy people; that all things may be ordered and settled by their endeavors, upon the best and surest foundations, that peace and happiness, truth and courage, mercy and justice, religion and piety, may be established among us for all generations. These and all other necessities, for them, and for all mankind, we beg in Thy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Idaho.

SCHEDULE

Mr. CRAIG. Mr. President, this morning the leaders' time is reserved and there will be a period for morning business until 10 a.m. with Senators permitted to speak for up to 10 minutes each. At 10 a.m., the Senate will begin consideration of the conference report

to accompany H.R. 2002, the Transportation appropriations bill.

The majority leader has announced that there will be no rollcall votes prior to 2:15 today. The Senate will recess from 12:30 to 2:15 for the weekly policy conferences to meet.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. KYL). Under the previous order, there will now be a period for the transaction of morning business.

The Senator from Nevada is recognized.

THE DEATH PENALTY

Mr. REID. Mr. President, almost 2 years ago, Senator BRYAN and I traveled with a mother to Arlington Cemetery. We traveled there because her son, just a month before we went to Arlington, had been gunned down on an interstate near Lovelock, NV. He thought a car was stalled, and as he approached the car to offer his assistance, the driver of the car came from the car and brutally murdered this Nevada highway patrolman. What the police officer, officer Carlos Borland, did not know was that the man driving the car was an escaped convict from North Carolina.

It was one of the saddest occasions in which I have ever participated. It was a cold winter day. The entire attendance at the funeral was Senator BRYAN, Senator REID, and the mother of this young man, her only child. She was very proud of him. He was an exemplary student in high school. He had had a great record in the military and chose as his life's profession that of a police officer. She was devastated.

Mr. President, the story does not end there, however, at least for his mother. A week ago, in a Reno newspaper, the Reno Gazette-Journal, wrote an article

on the status of various death row cases. Officer Borland's mother is quoted in this news article as saying, "My son gave his life for his State and his country. Give (Sonner)"—the man who killed her son—"the death penalty and he lives for 40 or 50 years. That's not a death penalty. They lie to us."

"We have a death penalty and it's being thwarted by murderers," the article goes on to say.

Mr. President, the reason I mention this is because Nevada has the highest per capita death row population in the entire Nation, more than double that of Texas. The State of Texas has recently executed its 100th inmate since 1977.

It does not matter whether you are for or against the death penalty. The fact is we are a country of laws and the laws should be carried out, and it is wrong what is happening throughout this Nation and in Nevada. People get the death penalty, and as the mother of this executed highway patrolman says, "My son gave his life for his State and his country. Give (Sonner)"—this is the murderer—"the death penalty and he lives for 40 or 50 years. That's not a death penalty. They lie to us." She goes on to say he will probably live longer than she will. Why is this going on?

Let me give you the death sentence appeal process in Nevada, and it is similar in a lot of different places. First, automatic first appeal before the Nevada Supreme Court. If it is denied, you have a petition for a rehearing before the Nevada Supreme Court. If that is denied, you have a petition before the U.S. Supreme Court. If that is denied, you have a postconviction relief petition in the trial court, and if that is denied you appeal again before the Nevada Supreme Court. If that is denied, you petition for rehearing before the Nevada Supreme Court. If that is denied, you go to the Supreme Court.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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This is the second time. If that is denied, you petition before a Federal court. If that is denied, then you petition for a rehearing in the same court. And if that is denied, you go to the ninth circuit, or whatever other circuit if it is not in Nevada. If that is denied, you have a petition for a rehearing. If that is denied, you go to the U.S. Supreme Court. If that is denied, then you go back to the Federal Court and take each step over and over again.

This is simply not right. As everyone is aware, this body passed comprehensive habeas reform earlier this year as part of the Antiterrorism Act. We must see to this legislation being signed into law.

It is time to put an end to the endless appeals. Why do I say that? Take the small State of Nevada. In Nevada, a man by the name of McKegue, in August 1979, killed William and Irene Henry during a robbery. He entered prison in August 1971. He was sentenced to die. He is still there. Edward T. Wilson stabbed to death a Reno police officer, Jimmy Hoff. On June 25, 1979, he was committed to be executed. He is still alive. Robert Ybarra, in 1979, murdered a girl outside Ely, NV. He is still alive even though he has been sentenced to death. Ronnie Milligan, he murdered a 77-year-old woman on July 4, 1980. He is still alive even though he has been sentenced to death. Mark Rogers murdered two women and a man outside of a mining camp near Lovelock, NV. He is still alive even though he has been sentenced to death.

Mr. President, I ask unanimous consent that this entire article be made a part of the RECORD so that we can spread on the RECORD of this Congress what is taking place in Nevada and is taking place in almost every State in the Union where there is a death penalty, which is far the majority, and as this newspaper article indicates that people are laughing at the law because it is farcical.

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

[From the Reno-Gazette-Journal, Oct. 21, 1995]

TRIMMING TIME ON DEATH ROW

(By Bill O'Driscoll)

It's been a year since the parents of slain Nevada Highway Patrol Trooper Carlos Borland heard a Lovelock jury give his killer, Michael Sonner, the death sentence.

Sonner, who once said he wanted to die, is now appealing. And Maria Borland says she may die of old age before the North Carolina escapee is executed by lethal injection for shooting her son along Interstate 80 in late 1993.

"My son gave his life for his state and his country," she said. "Give (Sonner) the death penalty and he lives for 40, 50 years. That's not a death penalty. They lie to us."

Her husband says Sonner's execution won't bring back their son, but until it happens, justice won't be complete.

"(Sonner) is in confinement with three meals a day, free dental and medical—some things that people on the street can only fantasize having," Jimmy Borland said.

The Borlands are not alone. The number of inmates on Nevada's Death Row stands at 76, including Duc Cong Huynh and Alvaro

Calamboro, both convicted for the January 1994 killings of Peggy Crawford and Keith Christopher at a Reno U-Haul rental.

But just five inmates have been executed since the death penalty was reinstated in 1977, none against his wishes.

A state lawmaker is creating a committee to draft recommendations for Congress and the 1997 Nevada Legislature on how to shorten the distance from conviction to execution.

"We have a death penalty and it's being thwarted by murderers," said Sen. Mark James, R-Las Vegas, who hopes to gather 25 to 30 lawmakers, judges and law enforcement officers on the panel.

"I see no reason why we can't get a finality within two years, even with safeguards," said Washoe District Attorney Dick Gammick, who will be on the panel. "There has to be a time when we say, 'That's enough.'"

Keith Munro of the attorney general's office said the biggest problem is the turnover in attorneys along the way. Each usually tries to return the appeals process to the beginning so as not to inherit the previous lawyer's work.

"Death sentence cases are very complex. Attorneys get tired of them and want to get off. But you can't address that in legislation," he said.

The dizzying appeals process is one that always allows an inmate to try again, Munro said, but with each repeated step, the excuse to get there cannot be used anew.

Still, "You can litigate these cases until they wheel the inmate out of the death chamber," he said.

But there are some time-saving measures already in place. James and others applaud the Nevada Supreme Court for its rule several years ago requiring daily transcripts in capital murder trials to keep lawyers abreast of the cases.

James said two bills that are bogged down in Congress would expedite appeals where they clog the most: the federal courts.

On the other end of the table, State Public Defender James J. Jackson admits the process is a long one, but often necessarily so.

"A lot of the reason why cases get hung up in the federal courts are concerned about a lack of effective counsel," Jackson said. "Yeah it could be more expedited, but when you're talking about the ultimate penalty, yeah, it'll take more time."

Nevada has the highest per-capita Death Row population in the nation, more than double that of Texas, which recently executed its 100th inmate since 1977.

But Texas is the exception, due largely to the lack of attorneys for inmates even up to the time of execution, said Michael Pescetta of the Nevada Appellate and Post-Conviction Project, a Las Vegas-based non-profit agency for the defense of Death Row cases.

"In a 'giddyap' state like Texas, it's not uncommon for a lawyer to see a case for the first time three weeks or a month before the scheduled execution," Pescetta said. "Justice is geared to denying cases and getting on with it. It's not pretty. In Nevada, at least there's an attempt to take more care."

In fact, he said, Nevada is typical of most of the 38 other states where the death penalty is allowed.

But Pescetta senses changing winds in Nevada, saying, "The political landscape has gotten considerably meaner."

James denies any political motivation in forming an ad hoc committee to study reforms.

"The people have said they want the death penalty. We have to do something," he said. Jimmy Borland agrees.

"They're technically entitled to two appeals. But we're not playing a baseball game here," he said. "If you're going to have a death penalty, then do it."

DEATH SENTENCE APPEAL PROCESS

The many steps on the road to execution in Nevada:

Automatic first appeal before Nevada Supreme Court. If denied:

Petition for rehearing before Nevada Supreme Court. If denied:

Petition before U.S. Supreme Court. If denied:

Petition for post-conviction relief in trial court. If denied:

Appeal before Nevada Supreme Court. If denied:

Petition for rehearing before Nevada Supreme Court. If denied:

Petition before U.S. Supreme Court. If denied, either:

Petition before federal court; if denied, then petition for rehearing in same court; if denied, appeal to 9th Circuit Court of Appeals; if denied, petition for rehearing; if denied, appeal before Supreme Court, if denied, then back to federal court and each step thereafter may be repeated, but at each step inmate must explain why he didn't use excuse before. Or:

Petition for post-conviction relief in trial court; if denied, then appeal to Nevada Supreme Court; if denied, then appeal to U.S. Supreme Court. If denied, back to trial court and each step thereafter may be repeated, but at each step inmate must explain why he didn't use excuse before.

NEVADA'S LONGEST ON DEATH ROW

Kenneth McKegue, 42, of Watsonville, Calif. Sentenced in Washoe County Aug. 2, 1979 for murders of William and Irene Henry during a robbery Dec. 21, 1978. Entered prison Aug. 6, 1979. Age at time of offense: 32.

Edward T. Wilson, 36, of Mountain Home, Idaho. Sentenced in Washoe County Dec. 14, 1979, for stabbing death of Reno Police Officer Jimmy Hoff June 25, 1979. Entered Nevada prison Dec. 19, 1979. Age at time of offense: 20.

Robert Ybarra, Jr., 42, of Sacramento. Sentenced in White Pine County July 23, 1981 for Sept. 29, 1979 murder of a girl outside Ely. Entered prison July 24, 1981. Age at time of offense: 26.

Ronnie Milligan, 45, of Murfreesboro, Tenn. Sentenced in Humboldt County Aug. 31, 1981, for murder of a 77-year-old woman July 4, 1980. Entered prison Aug. 25, 1981. Age at time of offense: 30.

Mark Rogers, 38, of Taft, Calif. Sentenced in Pershing County Dec. 1, 1981, for murder of two women and a man Dec. 1, 1980, in a mining camp outside Lovelock. Entered prison Dec. 3, 1981. Age at time of offense: 23.

Priscilla Ford, 66, of Berren Springs, Mich. Sentenced in Washoe County April 29, 1982, for Thanksgiving Day murder of six people in downtown Reno in 1980 when Ford drove her car down a crowded sidewalk. Entered prison April 30, 1982. Age at time of offense: 51.

Patrick McKenna, 49, of Leadville, Colo. Sentenced Sept. 3, 1982 in Clark County. McKenna murdered his cellmate in the Clark County Jail Jan. 6, 1979. Entered prison Feb. 23, 1982. Age at time of offense: 32.

Tracy Petrocelli, 44, of Chicago. Sentenced Sept. 8, 1982 in Washoe County for murder of an automobile salesman. Entered prison Sept. 8, 1982. Age at time of offense: 30.

Roberto Miranda, 52, of Havana, Cuba. Sentenced Sept. 9, 1982, in Clark County for stabbing victim to death during a robbery. Entered prison Sept. 17, 1982. Age at time of offense: 38.

Thomas Nevius, 39, of Plainfield, N.J. Sentenced Nov. 11, 1982 in Clark County for shooting victim during a burglary. Age at time of offense: 24.

Mr. REID. I think it is time we make the law do what it says. What we need

is to make sure that these never-ending appeals are terminated. We need to have a process so the people have their day in court or maybe 2 days in court and that they have the appeal process once and maybe twice but not dozens of times.

The time has come to speak out against this. It is too bad that we have to have the death penalty. I personally support it. If we are to have these laws on the books they ought to be enforced.

Whether or not you agree with the death penalty, you should agree that the law, whatever it is, should be carried out, and in this area it simply is not. If we are going to have a death penalty, we must ensure finality of justice after appeals have been exhausted. I think we should set very strict limits on what appeals should be allowed.

So, Mr. President, I call upon Members of this body, especially the Judiciary Committee, to use whatever authority they have to move legislation along that has been before this body before so that these writs of habeas corpus and other interminable delays be put to rest. We must move forward to end this endless appeal process that simply meets no standard of justice.

I appreciate the gravity of the capital offense, but at some point we have to ask, why, why do we even have these laws if we never carry out the sentence of the court. The current imbalance robs the victims and their families of the justice they deserve. It undermines the public's confidence in the system. I believe it also undercuts the deterrent effect of the death penalty.

Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

BOSNIAN SERB ATROCITIES

Mrs. HUTCHISON. Mr. President, I rise today to talk about the resolution that was passed, the sense of the Senate, last Friday unanimously by this body, speaking in the strongest terms to President Milosevic, who is, even as we speak, on his way to the United States to begin peace talks. I wanted to talk about it this morning because we did not really have a chance to debate it fully last Friday.

I wanted to pass it last Friday because I wanted the message to be on the record over the weekend about the continuing reports of atrocities, murders, and robberies taking place right now in the former Yugoslavia in the northwest area around Banja Luka. I want to highlight this, Mr. President, because we are hosting three Presidents Wednesday for peace talks, and there are still atrocities being reported in this area. I ask, how can we sit down at a peace table with three warring factions when the war is still going on?

So today I am going to talk about the sense-of-the-Senate resolution that was passed, and I am going to ask President Milosevic when he sets foot in the United States to announce that

these atrocities will stop, that neutral people will be able to go in and get an accounting for as many as 2,000 men that have not yet been heard from.

A U.N. report released 2 weeks ago charges that Bosnian Serbs are still conducting a brutal campaign of ethnic expulsion. Despite the cease-fire, Bosnian Serbs have been subjecting non-Serbs to untold horror, murder, rape, robbery, forcing people from their homes, and other atrocities.

According to the Assistant Secretary of State for Human Rights, John Shattuck, since mid-September and intensifying between October 6 and 12, many thousands of civilians in northwest Bosnia were systematically forced from their homes by paramilitary units, sometimes abetted by local police who were either too scared or unwilling to intervene, and in some instances by Bosnian Serb Army officials and soldiers.

These unfortunate events implore us to move with extreme caution regarding American involvement in this conflict. The intentions of the parties involved, now more than ever, call for prudent, not precipitous, judgment. Examples of ethnic cleansing persist in northwest Bosnia according to the U.N. reports based on interviews with refugees before and after the October 12 cease-fire.

Assistant Secretary John Shattuck has now gained access into that area. As many as 2,000 men have been separated from the main group of refugees. U.N. officials are trying to determine their fate amid fears that they may have been executed or sent to the front lines as forced slave laborers. The United Nations also reports that during the latest wave of expulsions, Moslems from Bosanski Novi near Banja Luka, were rounded up at the bus station. Draft-age men were separated from the rest and were held for 5 days without food or water. The U.N. spokesman in Zagreb reported that many refugees have been given just a few minutes to flee their homes and that girls as young as 17 have reportedly been taken to the woods and raped. Elderly, sick, and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

The United Nations has condemned this barbaric treatment of civilians in the strongest possible terms. According to the U.N. High Commissioner for Refugees, more than 2,000 Moslems and Croats have been forced from their homes since mid-September in Bosnian-Serb-controlled areas. Only about 10,000 are believed to remain, which before the war was home to a half million Moslems and Croats. And what is most distressing is the evidence we have seen of recent atrocities committed by the Serbs after the cease-fire was signed on October 12. It appears that, as a result of recent Bosnian and Croatian advances, the Serbs have lost ground. In an attempt to consolidate their control, they are engaged in a campaign of systematic and widespread

abuse aimed at cleansing the territory they still hold of remaining Croats and Moslems.

With peace talks scheduled to begin in the United States tomorrow and with the President having clearly indicated his intention to send as many as 20,000 American troops into the heart of this conflict, these new reports of Serbian atrocities are of grave concern and should give us pause.

For the Bosnians, this latest outrage by the Serbs must seem to be a dreadful repeat of what happened last summer during the Serb conquest of Srebrenica in eastern Bosnia. In that episode, thousands of men were taken out and executed by firing squad, according to survivors, and, in fact, the reports just this weekend in the Washington Post confirmed new sightings of mass graves where thousands of people are buried. These sightings were made from satellite photos taken by our intelligence sources. So we know the horrible stories of what happened at Srebrenica, as reported by refugees, is, in fact, unfortunately and sadly true.

But what is even more unfortunate, Mr. President, is that things like this may continue as we speak, and we must do something about it. We must learn from what happened in Srebrenica and recognize that they could be doing it right now, and we must protest.

In fact, Mr. President, the Senate did protest. We passed a resolution that says the following:

It is the sense of the Senate that the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina. With peace talks scheduled to begin in the United States on November 1, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

The Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families. The International Red Cross, the United Nations agencies, and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.

This resolution was passed unanimously by the U.S. Senate last Friday. We must act now to make sure that these atrocities are stopped and that neutral sources are able to verify that they have stopped and account for the 2,000 missing men.

President Milosevic is going to set foot in Wright-Patterson Air Force Base very shortly today. He should immediately announce—and we call on him to immediately announce—that these forces of terror have been stopped, that these atrocities have been stopped. And to show his good will in these peace talks, he should immediately allow for an accounting of the missing people in Bosnia right now. That would be the very first and best step he could make to show that he is, indeed, sincere about wanting to bring peace to this area.