

Senators NICKLES and INHOFE, for their input and for their role in developing this antiterrorism plan. We all know this has been a very difficult time for them and their constituents. So we are especially appreciative of their invaluable help.

I had a conversation with Senator BIDEN from Delaware before we went out for the recess. I believe he wants to complete action on this bill as quickly as possible. I think with his cooperation, and with some help from the White House and with help on this side on Republican amendments, we can wrap this bill up. There is no reason we could not finish it today, or certainly by tomorrow.

I ask unanimous consent that a letter I sent to President Clinton last Thursday be printed in the RECORD immediately after my remarks.

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

(See exhibit 1.)

Mr. DOLE. The letter suggests that the President should help us out on this bill. He could call his Democratic colleagues, maybe have a White House meeting, and see if we cannot complete action on this bill. The House has not acted. But that does not mean we cannot act. We can act first for a change.

I say to my colleagues, let us expect a number of votes. I do not see the managers here, but I think they are in a press conference with some family members of the victims of the Oklahoma City tragedy. I say, again, if the amendments can be accepted and if there is no problem with the amendments, let us not have votes like that at 7, or 8, or 9 o'clock tonight.

With all the good will I can muster, I believe this is an important bill, important for the American people, important for the victims' families and those involved in Oklahoma City. Also, it is important that we get it done. I am certainly willing to work with the President in an effort to do that by the close of business tomorrow.

#### EXHIBIT 1

U.S. SENATE,  
OFFICE OF THE REPUBLICAN LEADER,  
Washington, DC, June 1, 1995.

The PRESIDENT,  
The White House,  
Washington, DC.

DEAR MR. PRESIDENT: As you may know, the Senate is currently scheduled to resume consideration of the anti-terrorism bill when we return on Monday, June 5. Under a unanimous consent agreement adopted last Friday, a total of 99 amendments to the bill are in order (32 Republican amendments and 67 Democratic amendments).

I am now in the process of urging my Republican colleagues not to offer any unnecessary or unrelated amendments. Hopefully, these efforts will pay off and we will be able to reduce the number of Republican amendments to a manageable level. During the remainder of this week, it is my hope that you will exert similar pressure on the Democrats in the Senate, particularly in light of your complaint yesterday that "there are too many amendments that threaten too much delay."

Mr. President, if you really want Congress to pass the anti-terrorism bill as promptly as

possible, words will not be enough. Your active involvement in discouraging Democratic Senators from offering unnecessary and unrelated amendments is absolutely essential.

I hope you would also call upon Congress to pass meaningful habeas corpus reform as part of the anti-terrorism proposal now pending before the Senate. Of all the anti-terrorism initiatives under consideration, it is perhaps habeas corpus reform that bears most directly on the tragic events in Oklahoma City. In fact, if the federal government prosecutes the Oklahoma City case and the death penalty is sought and imposed, the execution of the sentence could take as little as one year if the reforms in the pending legislation are enacted into law.

Not surprisingly, a bipartisan group of State Attorneys General, including Drew Edmondson, the Democratic Attorney General of Oklahoma, has written that "expedited consideration of [habeas corpus reform] legislation in the context of the anti-terrorism bill is entirely appropriate. Unless habeas corpus reform is enacted, capital sentences for such acts of senseless violence will face endless legal obstacles. This will undermine the credibility of the sanctions, and the expression of our level of opprobrium as a nation for acts of terrorism."

Finally, I was struck by how your radio address last Saturday characterized the anti-terrorism legislation now pending before the Senate. The address described the legislation in very personal terms, as "my proposal," "my anti-terrorism bill," "the legislation I proposed." With all due respect, Mr. President, this legislation is a bipartisan product, incorporating many initiatives proposed by Republicans and Democrats alike. The simple fact is that the anti-terrorism plan now before the Senate does not belong to any one party or any one political figure. It belongs to the American people.

Sincerely,

BOB DOLE.

#### CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to S. 735, the anti-terrorism bill.

Bob Dole, Orrin G. Hatch, John Ashcroft, Slade Gorton, Craig Thomas, Strom Thurmond, Spencer Abraham, Alfonse D'Amato, Trent Lott, Larry E. Craig, Dan Coats, Rick Santorum, Bob Smith, Don Nickles, Rod Grams, R.F. Bennett.

Mr. DOLE. Mr. President, let me indicate I will be speaking with the Democratic leader to see if we cannot have a vote on this tomorrow. I did not file the motion on the Friday before we went out because I thought at that point there would be a lot of progress made during the recess. I am not certain what progress has been made, but this is just the final attempt on the part of the majority leader to try to pass this bill.

We will find out how many people really want to pass the antiterrorism bill when it comes to a cloture vote. There will be other bills this year to

offer amendments on. This is not the last train to come through the Senate. I hope we can pass a good bill, and I hope the House follows suit very quickly and that we get it to the President in the next week or so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, I have just come from a press conference where a significant number of the victims of the Oklahoma City bombing appeared. It was a very moving experience for me to hear these people talk about their loved ones who were killed in the bombing and to meet some of them who were actually maimed and harmed during the bombing.

At that particular press conference were Diane Leonard, whose husband, Don, a Secret Service agent was killed in the bombing; Glenn Seidl, who lost his wife, Kathy; Kay Ice, who lost a brother, Paul, a Customs agent; Mike Reyes, who lost his father and was injured himself; Jason Smith, who lost his mother, Linda McKinney; Dan McKinney, Linda's husband; Gary Bland, who lost his wife, Shelly; Suzanne Britten, who lost her fiancé, Richard Allen; Earl Adams, who lost a nephew, Scott Williams; Alice Maroney Dennison, who lost her father, who gave me this ribbon and pinned it on me personally, representing the tragedy, or I should say tragedies that occurred in the Oklahoma City bombing.

I very proudly will wear this ribbon and will keep it after this debate, as well. And I want to thank Alice Maroney Dennison for thinking of me and being kind enough to give me these ribbons, representing various aspects of the Oklahoma City bombing.

Beverly Rankin was also a survivor who lost many friends in the bombing.

Mr. and Mrs. Lee Chancellor were there, as well, and of course he is a strong force in one of the national organizations trying to get some finality in the habeas corpus laws.

I have to say I was very impressed by these victims of this bombing. They stood there and told their stories and begged the U.S. Senate and the Congress as a whole to get this bill through and to keep the true habeas corpus provisions in the bill as they are currently written.

The habeas corpus provisions of this bill happen to be the only part of the bill and really, the only thing we can do, to make up to those who have lost family members and those who have been hurt and maimed, as a result of the Oklahoma City bombing. It is the one reform Congress can pass which will affect this case.

It is the one thing we can do something about. We can stop these incessant, frivolous appeals, that cost the taxpayers hundreds of millions of dollars—billions over the extended period of time—in frivolous litigation, that keeps these people alive for 5, 10, usually an average of almost 10 years, sometimes as long as 18 to 20 years. Some of them die in prison before the final judgments are carried out.

The reason that the far left in this country is fighting habeas corpus reform is because they hate the death penalty. They feel they cannot win the battle over public opinion so they have adopted a strategy to make death penalty litigation so costly and so protracted that capital punishment is eliminated de facto. Now, I have to admit that I believe the death penalty is proper, but I hate it, too. I wish we never had to use it. I wish there would be no heinous murderers in our society. But there are occasions where it is appropriate and just. It is a deterrent, as much as the opponents of the death penalty argue against it.

However, I would suggest that instead of throwing up frivolous appeal after frivolous appeal and allowing this system to distort and disrupt our society and putting these victims and their families through frivolous appeal after frivolous appeal, I would suggest that if they hate the death penalty, argue the issue straight up, argue against the death penalty. Make their philosophical points. Fight it throughout society if they want to, but do not make a mockery of justice by keeping a system alive that literally is thwarting justice.

The fact of the matter is some have argued that habeas reform applied to the State is not germane to this debate. These individuals, including my distinguished colleague and friend from Delaware, contend that a reform of the political overview of State convictions is meaningless in the context of the debate we are having. They are willing to admit that some revision of the collateral review may be in order, but they contend that reform of Federal collateral review of cases tried in State court is unnecessary. This position is simply incorrect.

I would like to read from a letter written by Robert H. Macy, district attorney of Oklahoma City, and a Democrat. By the way, at this meeting today, representatives from the attorney general for the State of Oklahoma, a Democrat, were there, and one came up to me afterwards—Richard Winnery—and said, “Thank you for what you are doing.” Drew Edmondson has been one of our strongest supporters as a Democrat of habeas corpus reform, and there are a number of other Democrat attorney generals, and I might say many prosecutors who are Democrats throughout the country, who agree with what we are doing here.

Robert H. Macy, as district attorney of Oklahoma City and a Democrat, said:

Immediately following the trial or trials in Federal court, I shall, working in cooperation with the United States Department of Justice and the Federal law enforcement agencies investigating the bombing of the Alfred P. Murrah Building, prosecute in Oklahoma State court the cowards responsible for murdering innocent people in the areas surrounding the Federal building. And I shall seek the death penalty. We must never forget that this bombing took several lives and injured dozens of persons in the neighborhoods and businesses near the building. The State of Oklahoma has an overwhelming, compelling interest to seek and obtain the maximum penalty allowable by law for the senseless and cowardly killings.

That is a statement of Robert H. Macy, the district attorney for Oklahoma City, a Democrat.

In our reaction to the destruction of the Federal buildings in Oklahoma City, we may overlook the fact that the bomb also caused the death of people not inside the building at the time, that were not inside the building itself, or even on Federal property. The State of Oklahoma, not the Federal Government, will thus prosecute those responsible for the bombing that killed people outside of the Alfred P. Murrah Building.

In those instances, Federal jurisdiction may not obtain and it will thus be necessary to prosecute the killers under State law, as well as Federal, court.

A failure to enact a complete, meaningful, reform of habeas corpus proceedings may enable the individuals in this case, provided they are apprehended and duly convicted, to frustrate the demands of justice. The blood of the innocent men and women are on the hands of the evil cowards who committed this terrible tragedy. Justice must be, as President Clinton declared, “swift, certain, and severe.”

Moreover, failure to enact meaningful, comprehensive, habeas reform will permit other killers who have terrorized their communities to continue to frustrate our judicial system in this country. If we adopt this view, we will create a schism between State and Federal capital law. In other words, murderers tried in Federal court will face imposition of their final penalty more swiftly than persons tried for capital crimes in State courts—that is, if we adopt the amendments that apparently are going to be put forth by the ranking minority member on this committee. So, in other words, if we adopt any amendment that changes the habeas corpus reform bill within this bill that would provide that it applies only to Federal courts, that will create a schism between State and Federal capital law.

Murderers tried in Federal court will face imposition of their final penalty more swiftly than persons tried for capital crimes in State cases. Why should we adopt such a piecemeal approach to reform, one that will leave such a gap between State and Federal cases? It simply makes no sense to reform habeas proceedings for cases tried in Federal court but leave the current

disastrous system in place for cases tried in State court.

As of January 1, 1995, there were some 2,976 inmates on death row. Yet, only 38 prisoners were executed last year, and the States have executed only 263 criminals since 1973.

Yet, keep in mind, 2,976, almost 3,000, are sitting there on death row. Many more have died while in prison from natural causes, and some even from unnatural causes, while waiting for imposition of their penalty, because of frivolous habeas corpus appeals.

I might add, some of them have committed further murders while the delays have occurred, murders that would not have been committed had sentences been carried out.

Abuse of the habeas process features strongly in the extraordinary delay between the sentence and the carrying out of that sentence. In my home State of Utah, for example, convicted murderer William Andrews, with his partner, murdered a number of people in the hi-fi murder case, but only after they had tortured them by ramming pencils through their ears and pouring drain cleaner down their throats, destroying their vocal boxes and their esophageal areas.

There, the imposition of a constitutionally imposed death sentence for over 18 years. The State had to put up millions of dollars in precious criminal justice resources to litigate his meritless claims. His guilt was never in question. He was not an innocent person seeking freedom from an illegal punishment. Rather, he simply wanted to frustrate the imposition of punishment his heinous crimes warranted.

This abuse of habeas corpus litigation, particularly in those cases involving lawfully imposed death sentences, has taken a dreadful toll on victims' families, seriously eroded the public's confidence in our criminal justice system, and drained State criminal justice resources. This is simply not a just system.

Justice demands that lawfully imposed sentences be carried out. Justice demands that we now adopt meaningful habeas corpus reform. Justice demands that we not permit those who would perpetuate the current system to steer us from our course. We must do as the victims, families, and friends of those who have asked us to do: enact meaningful, comprehensive, habeas reform now.

Mr. President, the Senate is in session today debating the specific topic of habeas corpus reform, as well as other aspects of this antiterrorism bill. I have been devoting my time to habeas corpus reform because of, and in honor of, the witnesses, the victims, and the families of victims who appeared here today.

I notice the distinguished Senator from California is here. Does the Senator desire to take the floor and speak?

Mrs. FEINSTEIN. In response to the Senator, I would like to send an amendment to the desk. I was going to do it at 11:30.

Mr. HATCH. That will be fine. I will hold off on any further comments on this until after the distinguished Senator has a chance to present her amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1202 TO AMENDMENT NO. 1199

(Purpose: To amend the bill to authorize requirements for tagging of explosive materials and other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], proposes an amendment (No. 1202) to amendment No. 1199.

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

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

The amendment is as follows:

On page 152, strike line 6 through line 17 on page 153, and insert the following:

**SEC. \_\_\_\_ . STUDY AND REQUIREMENTS FOR TAGGING OF EXPLOSIVE MATERIALS, AND STUDY AND RECOMMENDATIONS FOR RENDERING EXPLOSIVE COMPONENTS INERT AND IMPOSING CONTROLS ON PRECURSORS OF EXPLOSIVES.**

(a) The Secretary of the Treasury shall conduct a study and make recommendations concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

In conducting the study, the Secretary shall consult with other Federal, State and local officials with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be completed within twelve months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(b) There are authorized to be appropriated for the study and recommendations contained in paragraph (a) such sums as may be necessary.

(c) Section 842, of title 18, United States Code, is amended by inserting after subsection (k), a new subsection (l) which reads as follows:

“(l) It shall be unlawful for any person to manufacture, import, ship, transport, receive, possess, transfer, or distribute any explosive material that does not contain a tracer element as prescribed by the Secretary pursuant to regulation, knowing or having reasonable cause to believe that the explosive material does not contain the required tracer element.”

(d) Section 844, of title 18, United States Code, is amended by inserting after “(a) through (i)” the phrase “and (l)”.

(e) Section 846, of title 18, United States Code, is amended by designating the present section as “(a)” and by adding a new subsection (b) reading as follows: “(b) to facilitate the enforcement of this chapter the Sec-

retary shall, within 18 months after the enactment of this Act, promulgate regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States. Tracer elements to be added to explosive materials under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not substantially impair the quality of the explosive materials for their intended lawful use, safety of these explosives, or have a substantially adverse effect on the environment.”

(f) The penalties provided herein, shall not take effect until ninety days after the date of promulgation of the regulations provided for herein.

Mrs. FEINSTEIN. Mr. President, the amendment I am offering today is an amendment to require the use of taggants. Now, what is a taggant? A taggant is a tiny, microscopic, color-coded plastic or ceramic piece which can be mixed with explosive materials to allow law enforcement agencies to trace a batch of explosives like we currently do with car serial numbers. In other words, it might be possible, therefore, to identify the place of purchase of these explosives and therefore to, quite possibly, trace the purchaser.

Why is this important? It is important because we have seen in this Nation a rising incidence of bombs. In my own State in the last few years, there have been about 500 bomb incidents. The Department of Justice tells us that about 80 percent of these result in an actual detonation. Consequently, there has been major loss of life from bombing incidents. I think this was brought home to every American by the incident in Oklahoma City.

It is a complicated amendment because it is actually two parts. First, it requires the Secretary of the Treasury to do a study within 12 months, and then within 18 months to implement the results of that study or put into place a system by which taggants can be included in across-the-counter explosives. The affected explosives would include dynamite, water gels, slurries, emulsions, and black powder.

Second, it would require a study on the use of diffusers in another body of agents used in explosives, and those are common chemicals such as the ammonium nitrate fertilizer that was used in the Oklahoma City bombing—common chemicals, these kinds of chemicals, as well as pool chemicals that can be utilized. This part of the amendment would only require a study, however, as to how these chemicals can be made inert or diffused or nonexplosive. The amendment also has language so that it will not impair the effectiveness, the safety, nor the environmental impact of the explosive materials which are covered.

This past Friday in Los Angeles, I met with members of the Los Angeles County bomb squad, the Orange County bomb squad, Bureau of Alcohol, Tobacco and Firearms bombs experts, and FBI experts, and virtually everyone in the room supported the use of taggants as a possible viable law enforcement tool.

Taggants have been available for use in the United States and elsewhere for some 20 years but, frankly, special-interest groups have prevented their use. The current bill only provides that a study be done on the feasibility of using these taggants. There is no deadline. This means that 16 years of delay that has already taken place could be followed by another 16-year period of delay. My amendment includes two real deadlines. First, the report must be done in 12 months; and, second, after 18 months, the use of taggants would be required.

I think the potential effectiveness of taggants was highlighted by a study conducted in the late 1970's when ATF seeded a very small portion of explosives, 10,000 pounds, with taggants. Despite this relatively small sample, these taggants actually helped solve a bombing in Maryland. In other words, by seeding just 10,000 pounds of explosives with taggants, they actually got leads to one bombing which led to the conviction of the individual responsible.

If we had required taggants years before, we could have had crucial evidence in about 17 percent of the bombs cases that occurred between the years of 1987 and 1993. People will say taggants do not work or should not work. They will say they should not be included. But I will tell my colleagues that Switzerland for some time has incorporated taggants into explosives, and it has resulted in the conviction of many who have perpetrated bombings.

I should say that, although ammonium nitrate was used along with diesel fuel, the people I have spoken to also believe there had to have been another accelerator included in that explosive batch of materials, and that accelerator most probably could have been tagged with a taggant.

I believe the amendment before my colleagues is well thought out, Mr. President, and I believe it can and should be supported by both sides of this Chamber.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum. And I also retain the remainder of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I would like to add my support of the Comprehensive Terrorism Prevention Act of 1995, which is the bill before us.

For many years, it seemed to many Americans that the United States was immune to terrorism, that somehow it could not reach our shores. Perhaps it is because we are surrounded by oceans

on the west and the east, by friendly neighbors to the north and to the south. We may have fooled ourselves into a false sense of security, somehow thinking that we live on an island and that no terrorist would reach us.

We were long ago disabused of any such notion about our safety abroad. The hijackings and hostage takings of the 1970's and 1980's taught all Americans that we could be the victims of foreign terrorists who were prepared to use violence to advance their causes. We have expended much time, effort and money to improve the safety of our airlines and our Embassies and to ensure the cooperation of other governments in combating terrorism. But for many, home seemed a refuge, a haven from the political violence that has plagued so many other parts of our world. But we can no longer comfort ourselves with such illusions—and illusions they are. What was once unthinkable here in America is today a reality. Terrorism can strike us here at home. It can strike with massive deadly force, and it poses a most fundamental threat to our freedoms—the right to life, liberty, and the pursuit of happiness. So that is why we must act, and that is why we must take action on this bill today.

In the wake of Oklahoma City, there is a new imperative—a bipartisan consensus on the need for tough, comprehensive antiterrorism legislation that can move through the legislative process and become law quickly. So I would like to commend the distinguished majority and minority leaders, as well as the Senator from Utah and the Senator from Delaware, who are the distinguished chairman and ranking member of the Judiciary Committee, for acting expeditiously to bring this bill to the floor.

The purposes of the legislation are clear: To make it more difficult to carry out acts of terrorism, to toughen the penalties for committing or abetting acts of terrorism, and to strengthen the hands of our law enforcement authorities to prevent and respond to acts of terrorism.

Terrorists do not wait to get caught. It is our job to give our law enforcement agencies the authority and ability to seek out terrorists before they act. We must find them before they find us. It is that simple and that important.

I believe that terrorism, the ultimate act of cowardice, actually threatens our life, our way of life, and jeopardizes our most fundamental liberties. With all that at stake, it is important that we act today.

One of the most important sections of this bill, in my view, is a section that toughens restrictions on access to explosives, and increases the penalties for possessing stolen explosives, for transferring explosives with knowledge that they will be used to commit a crime, for conspiracies involving explosives, and for using explosives to commit a crime. These provisions are long

overdue and well-considered. Oklahoma City taught us what the people of Beirut and London, Tel Aviv and Buenos Aires have known for far too long: Bombs kill. That is their sole purpose—to blow up buildings and kill people. We should be doing everything possible to make it harder for terrorists to get their hands on explosives.

I have a very personal interest in the issue of bombs. You see, Mr. President, I myself was the target of a terrorist bombing less than 20 years ago. An extremist group, the New World Liberation Front, tried to blow up my home, and failed only because the type of explosive they used does not detonate when the temperature drops below freezing and San Francisco experienced a rare frost that night. I was lucky, but so many others have not been.

The proliferation of bombmaking materials has reached astounding proportions. According to the Bureau of Alcohol, Tobacco and Firearms, from 1983 to 1993 bombings in the United States more than tripled, from 910 to 2,980. The Department of Justice now puts out an annual Bomb Summary each year—who ever thought such a thing would be necessary?—and in 1993 summary, we learn that the 2,980 bombing incidents, 541 of which were in California, caused 49 deaths and 1,323 injuries nationwide. Whether or not all of these bombing incidents can be classified as terrorist attacks, these appalling statistics clearly demonstrate the need to restrict access to bombmaking materials.

Indeed, Mr. President, the problem is not merely with bombmaking materials. In my opinion, there is altogether too much information too readily available on how to conduct terrorist attacks. Books and manuals, some of them posted on the Internet, teach everything one could want to know about picking locks, stealing chemicals, building bombs—all the skills you need to be a successful terrorist. Later, I intend to offer an amendment that will strengthen this legislation by making it a crime to teach or disseminate bombmaking information with knowledge that it will be used in a crime.

Mr. President, another extremely important section of this bill deals with the problem of aliens who are members of terrorist organizations. It should be clear, that the risks of allowing alien terrorists to work their way through ordinary deportation hearings, which are often lengthy and slow-moving, are unacceptable. Yet this is the case under current law. In terrorist cases, our law enforcement authorities must be granted expedited procedures for deportation.

I am pleased that the pending legislation provides for a special "terrorism court," composed of U.S. district court judges appointed by the Chief Justice of the Supreme Court, that would be able to deport expeditiously alien terrorists without risking the disclosure of national security information and

techniques. In the rare cases where evidence against an alien is highly classified, a summary of the evidence will be provided to the alien. In addition, the pending legislation would make membership in a terrorist organization a sufficient basis for exclusion from the United States.

The point of this provision, is that when the Government has reliable information regarding terrorist activities of specific aliens, we cannot afford to wait until they commit crimes to deport them. The special court will hear evidence, and if it makes a compelling case that the alien is a member of a terrorist organization, the alien will be deported. I am confident that we can trust a panel of five Federal judges, appointed by the Chief Justice of the United States, to fairly weigh the evidence disclosed. And importantly, there is provision to not fully disclose sensitive information that could lead to the deaths of Americans and others. Such disclosures should not be necessary just to deport someone dangerous.

Mr. President, one of the most serious problems we face is that international terrorist groups use the open environment of the United States to raise funds for their terrorist activities. The President has already delineated a list of organizations—such as Hamas and Hizbullah, and Jewish extremist groups like Kach and Kahane Chai—that raise funds in the United States for terrorist activities that undermine the Middle East peace process. The legislation before us will help put an end to that, by making it illegal to raise funds for any activity conducted by an organization deemed by the Secretary of State to be engaged in terrorist activities.

Some have raised the objection that certain groups, that may conduct terrorist operations, also run humanitarian or social service operations, like schools and clinics. But I simply do not accept that so-called humanitarian works by terrorist groups can be kept separate from their other operations. I think the money will ultimately go to bombs and bullets, rather than babies, or, because money is fungible, it will free up other funds to be used on terrorist activities.

Mr. President, we have all witnessed over the years the harm done to U.S. citizens and U.S. interests by international terrorism. The bombings of United States Embassies, the slaughter of 241 U.S. marines in Beirut, the hijacking of Pan Am airliners, the bombing of Pan Am flight 103 over Lockerbie, Scotland, the holding of American hostages. All of these images are deeply imprinted on our national psyche.

These incidents, and the hundreds of others like them, aimed at Americans and non-Americans alike, pose one of the greatest threats today to international stability and security. Terrorism, as we have seen in Tel Aviv, Jerusalem, and Hebron, can wreak havoc on

the Middle East peace process. It undermines moderate regimes, such as Egypt, and exacerbates social tensions. It disrupts the lives of ordinary people, the flow of commerce, and the policies of affected governments.

The State Department's Patterns of Global Terrorism report tells us that in 1994, there were 321 international terrorist attacks, over one-fifth of which were anti-U.S. attacks. And although this figure represents a 23-year low, it still means that there was an average of nearly one terrorist attack per day in 1994. All told, these attacks killed 314 people and left another 663 wounded.

In the face of this problem, the United States should demand, and has every right to expect, full cooperation from all friendly governments in the battle to combat international terrorism. Cooperation today is by and large quite good, although some nations are not as cooperative as we would like. The pending legislation would increase the incentive for other governments to cooperate in our antiterrorist efforts by prohibiting U.S. assistance to countries that provide aid or military equipment to terrorist states. The seven state sponsors of terrorism—Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria—do not deserve such assistance until they can justifiably be removed from the list of state-sponsors.

The bill would also expand the type of assistance that we can provide our allies under the Anti-Terrorism Assistance Program. With the expansion of such programs, and the increased incentive for other countries to cooperate with us, the United States can help forge even greater international consensus on combating terrorism.

But again, Mr. President, the primary lesson of the World Trade Center and Oklahoma City bombings is that from now on we face the possibility of a serious terrorist problem here at home. In addition to international terrorist groups that may set up cells in the United States, there is a growing danger of armed extremist groups of Americans, who hold antigovernment views, using violence to pursue their agenda. We have all heard the inflammatory statements of some members of militia and other right-wing extremist groups attacking religious or ethnic groups, predicting violent revolution against the Government, or slandering Federal law enforcement officers, who risk their lives to protect the very freedoms that allow the extremists to make their outrageous statements. But we have been warned. When heavily armed people with the ability to make bombs make threats, we ignore them at our peril.

For that reason, Mr. President, perhaps the most important provisions of this legislation are those that strengthen the ability of Federal law enforcement officers to monitor extremist and potential terrorist groups. These provisions grant Federal law en-

forcement agencies enhanced access to credit, telephone, financial, and certain commercial records in counterterrorism cases. It will no longer be required to have evidence of criminal activity, but it will allow officers to investigate groups whom they suspect may be engaging in criminal activity.

The effect of these changes in law will effectively be to untie the hands of our law enforcement officials. Currently our agents are unable to be proactive—they are only able to react to criminal activity, and launch an investigation of suspect individuals or groups after there is credible evidence of wrongdoing. These changes will allow our law enforcement officials to take steps to stop terrorist attacks before they happen. By investigating, monitoring, and infiltrating groups that may be involved in terrorism before a crime is committed, our agents can actually help prevent terrorist acts, and perhaps prevent the kind of horror we all witnessed last month.

Passive investigation by the FBI of any group with terrorist potential is absolutely necessary in this day and age. As FBI Director Louis Freeh testified before the Judiciary Committee earlier this month, we "can't afford" even one terrorist nuclear incident. Infiltration and court-ordered surveillance are critical to preventing that doomsday scenario from becoming a reality at some point in time. As long as the FBI and police do not encourage illegal conduct or otherwise entrap group members, we simply have to have the information that good surveillance—and only good surveillance—can provide.

I want very much to make a few comments on the habeas corpus provisions. I suspect that these provisions are often complicated, that they are not always well known. But I believe very strongly in the provisions of this bill. As President Clinton recently said—and I could not agree more—"swift punishment, including the death penalty, where appropriate, is critical in efforts to combat terrorism." I strongly believe that the death penalty can act as a deterrent to the most violent of crimes and is an appropriate punishment for those who knowingly take another life.

There has been a lot of discussion as to whether the death penalty is or is not a deterrent. But I remember well in the 1960's when I was sentencing a woman convicted of robbery in the first degree and I remember looking at her commitment sheet and I saw that she carried a weapon that was unloaded into a grocery store robbery. I asked her the question: "Why was your gun unloaded?" She said to me: "So I would not panic, kill somebody, and get the death penalty." That was firsthand testimony directly to me that the death penalty in place in California in the sixties was in fact a deterrent.

But the deterrent impact of the death penalty is weakened when it can-

not be imposed swiftly after a verdict has been reached in a fair trial. As the Senate Judiciary Committee heard at its hearing on habeas reform last March, the extraordinary delay in carrying out capital sentences is in effect a form of terrorism against the survivors of murder victims, traumatizing them year after year by preventing justice from being carried out.

Let no one doubt, Mr. President, that habeas reform should and must be an integral part of this legislation.

Indeed, I spoke a few days ago with Oklahoma Attorney General Drew Edmondson, and a number of surviving family members of the men and women who lost their lives in Oklahoma City in that blast. It was a moving conversation and one that I will not forget. In sum, each of the survivors with whom I spoke, as well as the attorney general, urged the swift adoption of the habeas proposals in this legislation. Each conveyed to me that justice will not fully have been done until those responsible for the bombing have been tried, convicted, and the death penalty imposed and swiftly carried out.

As Alice Maroney Dennison, the daughter of Mickey B. Maroney, a special agent with the Secret Service, said to me: "I'm 27 years old and they took my father. I cannot be 47 when this man goes to death. That's not fair."

Mr. President, Alice Maroney Dennison's plea, and indeed the voices of all of the family members of Oklahoma City's victims, a number of whom just about a half-hour ago held a press conference in front of this Capitol, must be heard, and their loved ones must not have died in vain.

Mr. President, it is time for meaningful habeas corpus reform. This bill contains it. Let no one doubt that comprehensive reform is critical, and particularly in capital cases.

Much has been said about the case of Robert Alton Harris in California, a vicious murderer, and what he did when he was out of prison in San Diego. He went to a drive-in. He wanted to take a car. There were two 16-year-old boys in the car eating hamburgers. He took the car with the boys in it. He took the youngsters to a remote location. He killed one. The other dropped to his knees crying and begging for help, and he killed the second. Then he ate their hamburgers and went on to commit other robberies.

This man actually filed no fewer than 6 Federal habeas petitions and another 10 such petitions in State court before he was ultimately executed 14 years later for his crime. In all, Harris and his attorneys were able to engineer 14 years' delay of his capital sentence. It was 14 years of unresolved grief for the survivors of his victims.

In California today there are currently 410 convicted criminals on death row. On June 7, the longest serving member of California's death row population, Andrew E. Robertson, will mark the 17th year of his incarceration. He

has managed to delay his capital sentence by filing habeas petitions for 17 years.

In California, since 1978, when the people of the State voted to put back into place the death penalty, 18 prisoners on death row have died of natural causes or committed suicide. Only 2 have been executed. Only 2 have had their sentence carried out, while 18 have either committed suicide or died of natural causes, all of them delaying their sentence.

Another case deserves attention as well. Clarence Ray Allen committed murder in 1974. He was convicted and sentenced to life in prison in 1977. From within prison he ordered the murder of the witnesses to the first murder. In September 1980, his assassin shotgunned to death three people and gravely wounded a fourth.

Six years later, the California Supreme Court affirmed his conviction and death penalty. During the next 2 years, it considered and denied a State habeas corpus petition in which a prison inmate is permitted to attack his sentence on factors outside the appellate record.

The U.S. Supreme Court declined review. On September 2, 1988, a Federal district judge issued a stay of execution. Over 6 years later that stay remains in effect, and the case is still mired in the district court. Unfortunately, this is a typical case. This points out a need for the habeas corpus reform in the bill before the Senate today.

In fact, according to Attorney General Dan Lungren's testimony before the Senate Judiciary Committee in March of this year, there are "currently 410 inmates on death row in California. We have had 2 executions occur since 1992, the only 2 in the last 27 years. The number of capital cases pending on Federal habeas corpus has more than doubled since 1991," when he first testified here on this issue.

In 4 years, the number of Federal habeas corpus cases on death row in California has doubled. Mr. President, since the death penalty was reinstated in California, as I said, many more prisoners on death row have died of natural causes and suicide than of a carrying out of their sentence.

This problem is not unique to California. According to the Administrative Office of the U.S. Courts, during the year ending September 30, 1994, there were 11,918 prisoner petitions for habeas corpus review in the U.S. district courts alone. That is the reason habeas corpus reform has been a high priority of the Judiciary Committee. We should do it right and not merely pass a bill labeled with the term "habeas reform" for the sake of passing legislation.

That is why all 58 California district attorneys opposed the habeas provisions included in Senate bill 1607, the crime bill as originally introduced in 1993, and legislation introduced that year, Senate bill 1657.

I am very pleased to say that the habeas provisions included in the bill currently under consideration by the Senate are identical to those included in the Habeas Corpus Reform Act, Senate bill 623, legislation strongly supported by the attorneys general of California and Oklahoma and which, I believe, strikes an appropriate balance between the need to assure due process of those both convicted in capital and noncapital crimes and the need of any rational judicial system to bring cases to closure.

Most importantly, Mr. President, this bill provides habeas petitioners with one bite of the apple. It assures that no one convicted of a capital crime will be barred from seeking habeas relief in Federal court. In my view, it appropriately limits second and subsequent habeas appeals to narrow and appropriate circumstances.

Furthermore, the bill requires States which provide for counsel that habeas appeals must be filed within 6 months of when a State prisoner's conviction becomes final, or in States where standard for the adequacy of counsel are not adopted, such appeals must be filed within 1 year. So there is an incentive that if there is an adequacy of counsel standard in your State, there is 1 year from which the habeas petition must be filed.

Time limits are also imposed upon courts. The bill requires that Federal courts must act promptly on habeas appeals and establishes a mechanism by which courts of appeals will screen habeas petitions before they are permitted to go to a Federal district court for resolution.

Finally, unlike the crime bill proposals that I and the Nation's law enforcement officials opposed 2 years ago, the bill does not dictate to the States precisely what counsel competency standards are adopted, but rather it properly provides States with an incentive to formulate their own plans by making expedited timetables I have just described available for States to do so.

I believe there are two things that are an effective deterrent to crime. One of them is the speed of the trial. The other is the certainty of punishment. The habeas corpus reforms in this bill will make much more certain the certainty of punishment. I am very pleased to support them. I am very pleased to give my commendation to the committee chairman, the Senator from Utah, and to support this bill.

I think this is an important moment for our country and for this Congress. We have an opportunity to take bold action which will go a long way toward increasing the security of our citizens. This comprehensive package of antiterrorist legislation is an important step also in the recovery for the people of Oklahoma City, the people of the State of Oklahoma, and the people of the United States. For while the wounds of that day will never fully heal, today we begin to act to help pre-

vent future sorrows and to help the American people be reassured that their rights to life, liberty, and the pursuit of happiness will not be threatened by the menace of terrorism, whether from foreign shores or our own.

I yield the floor.

Mr. HATCH. Mr. President, I thank the distinguished Senator from California for her cogent remarks on habeas corpus reform. She is one of the leaders in this body in trying to reform these laws, and I want to personally compliment her for them.

I appreciate the support that she is bringing to this debate. It means a lot to me personally, as one who has fought for years to try to get the habeas corpus bill through. This is the time when I think we have to stand up and do it. I thank her and I appreciate the leadership she has provided.

Presently, there are 100 amendments, under our unanimous consent agreement, to this bill. Mr. President, 68 of these amendments are Democrat amendments and 32 amendments are Republican. Most of the Republican amendments, I believe, will not be offered. So it is really coming down to the 68 amendments that our friends on the other side have.

We have the Feinstein taggant amendment pending, but I want to urge my Democrat colleagues to come to the floor and offer their amendments. We will stack them for votes beginning at 6 o'clock tonight. I believe we also can dispense with several GOP amendments, including the two Pressler amendments, the Smith amendment, a Brown amendment, and perhaps an Abraham amendment today, if we can. I would like to do that.

Having said that, I would like to spend a few minutes chatting about the amendment of the distinguished Senator from California which is currently pending.

I have to rise in opposition to that amendment, but I first want to emphasize that the bill under consideration, S. 735, already contains a requirement for a study of the feasibility of "tagging" all explosives for tracing purposes.

Trace tagging, unlike "identification" taggants, are actual chips mixed in with the explosive. This is certainly an area that merits further serious study. We have authorized, in the bill, the Departments of Treasury and Justice to undertake exactly such a study.

Our bill also includes a provision which requires plastic explosives to be tagged with a detectable agent, thus helping to ensure that these devices can be detected before they are used in sabotage.

A detection taggant is a chemical odorant added to the explosive which enables security devices to detect the explosive. This particular provision fulfills our obligations under an international convention requiring such legislation.

The amendment under consideration, however, goes much further. In addition to providing a study of tracing



taggants, it also gives regulatory authority to the Bureau of Alcohol, Tobacco and Firearms to implement the results of the study without congressional review. The amendment thus presupposes that the study will conclude that the use of tracing taggants is feasible, and the amendment criminalizes the failure to include these agents in the manufacturer of explosives.

Thus, the Feinstein amendment would require the placement of so-called traceable taggants—that is, microscopic bits of plastic coded to link explosives to a particular manufacturer—in all explosives before the study of whether this is feasible or safe is concluded, or even conducted for that matter. This is hardly the type of impartiality and objectiveness the American people would want in a study of this sort.

Indeed, even if the study reasonably concluded that use of such agents was practical, cost effective, and would aid law enforcement, opponents of the inclusion of such agents would have the perfect argument that the results of the study were preordained and thus unreliable.

Even the Bureau of Alcohol, Tobacco and Firearms, the agency which would have regulatory authority, has conceded that more study is needed before implementing procedures and regulations. The BATF's division chief for arson and explosives recently stated:

It would be important for us to at least assess the state of the technology and the research and the development that has been done in the last 15 years. We need to get ourselves up to speed.

Moreover, this amendment would impose a requirement for regulation without regard to the need for unbiased study of this issue, or for the legitimate safety concerns raised by the use of these taggants.

A 1980 report by the Office of Technology Assessment found substantial evidence that placing these "tracing" taggants in explosives seriously affects the stability of the explosive materials. Thus, these taggants could increase the risk of injury or death. Tagging explosives may raise other very important issues, such as contamination of evidence, saturation of tagging agents in places where explosives are used for legitimate uses, and negative effects on small business.

Given these very important and wide-ranging concerns, it is imperative that the Congress, not the BATF, have the ability to make these important decisions regarding tracing taggants once a study is completed. Requiring the use of taggants before a thorough study of the effectiveness and safety implications of their use is conducted places the cart before the horse.

The bill now before the Senate provides for a comprehensive study of this issue. Congress should commission and review the study before enacting criminal penalties based on the assumed outcome.

I understand the distinguished Senator is very sincere in her amendment and is trying to do what is right here. But I hope the points I have raised will persuade colleagues on both sides of the aisle that we ought to approach this with a study first and then see where we go from there and have congressional action with regard to taggants after we have a thorough-going study because of the safety and other concerns involved in tagging various explosives.

It is not just safety; it is effectiveness of the explosives as well. But safety is something that is more important to me. I really believe we ought to do this the right way. Of course, hopefully, do it in a way that ultimately will be pleasing to our friend from California, who is very sincere about her amendment and has the highest of motivations in bringing it here. But I hope I have made the case we really should not accept this amendment at this time.

I am prepared to move to table the amendment with the understanding the vote will occur after 6 p.m. today.

Mrs. FEINSTEIN. I wonder if the Senator would permit me to respond to his statement prior to tabling?

Mr. HATCH. Sure.

Mrs. FEINSTEIN. I appreciate that very much.

Mr. President, if I might just very briefly respond? Taggants have been studied. I am holding up one of these studies entitled "Taggants In Explosives." The date is April 1980. The studying office is the Office of Technology Assessment. You can see the thickness of the study.

On the issue of safety, what the Office found:

In no case did the addition of encapsulated taggants significantly increase the sensitivity of the explosive materials to the test conditions. No evidence of any decreased stability or other significant changes was found in any of the tests with dynamite, gels, slurries or black powder.

That is essentially the world that would be affected by taggants. The taggants would affect, really, these areas. In my amendment we do provide for a study, but what we say is at some point you have to say enough of studying and make a decision and go ahead. Twelve more months of study and then it is implementation, where taggants can be used with safety, with no increase in the volatility of the explosive matter, and where they could lead to being able to trace suspects in bombings.

There have been two constituencies opposed to taggants. Let us be brutally frank. One of them is, once again, our friends in the National Rifle Association. And the second is the explosives industry. The explosives industry says taggants would add cost to us.

In fact, the cost of using taggants in dynamite, water gels, slurries, emulsions, and cast boosters, as quoted are, per pound, \$1.42; \$1.47; \$1.45, and \$7.41 respectively. That is a minimal cost to

be able to trace back where an explosive might be used in a bomb that can blow up as many as 168 people at one time.

The National Rifle Association has once again opposed the use of taggants. I cannot figure out the reason for the life of me, but I suppose it is because we surround this area with a certain kind of anonymity. I think if ever we have seen the need to increase transparency in sales of explosives we saw it at the World Trade Center and we saw it once again in Oklahoma City.

My amendment would also permit the study, and a study only, of chemical fertilizers that are used, like ammonium nitrate, to see if these fertilizers can be made inert. There are countries, for example, that add lime to ammonium sulfate and prevent it from exploding. Should we do that? I think we ought to study it. The amendment in the bill, the original, includes no study in the area of chemical fertilizers and chemical components which are increasingly used as bomb materials in this country.

In response to my distinguished chairman, I would only say there is a time to study and there is a time to stop studying and take action. This issue has been studied in 1980. In my amendment it will be studied for another year. But then we will move ahead in the areas I have just mentioned: dynamite, water gels, slurries, emulsions, and black powder. All of these areas can be successfully tagged. The state of the art is there to do it. Switzerland has done it for a number of years. Other countries are doing it and there is no reason why we should not as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, there are a couple of letters I have received, mailed to the Honorable CHRISTOPHER J. DODD and the Honorable JOE LIEBERMAN. This is from Unimin Corp. in New Canaan, CT, a corporation or business right in the middle of their State. I will just read the letter to Senator DODD. I ask unanimous consent both letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNIMIN CORP.,

*New Canaan, CT, May 24, 1995.*

Hon. CHRISTOPHER J. DODD,  
*U.S. Senate, Washington, DC.*

DEAR SENATOR DODD: I am writing on behalf of Unimin Corporation to express Unimin's opposition to S. 761 (proposed by the Clinton Administration and introduced by Senators Daschle and Biden) which authorizes the Treasury Department (BATF) to promulgate regulations requiring the use of identification "taggants" in explosives manufactured in or imported into the United States. This legislation could devastate our business.

Unimin is the world leader in the mining, production and sale of high purity silica powders used both domestically and abroad in the production of semi-conductors. In the

initial stage of Unimin's silica purification process, explosives are used to extract the silica-containing ore from the earth.

In order to meet the stringent purity requirements of our semi-conductor industry customers, Unimin has gone to great expense using the most advanced technology in the industry to remove nearly all forms of contaminants from our silica products. Unimin has reduced the metal contaminants to levels below 1 part per million. The slightest impurity in our materials can result in costly losses to our customers because they result in defective silicon chips. High purity silica is the hallmark of our international business success and leadership. We produce the world's purest natural silica powder. As a result we are the leading supplier of this essential semi-conductor product to producers in each of the U.S., Europe and Japan.

This proposed legislation would force Unimin to introduce contaminants (the taggants to be included in the explosives we use) into our product, and could make our product unsuitable for their intended use—the production of semi-conductors. This legislation would give our foreign competitors (who will not have their products contaminated by taggants from explosives used in silica mines abroad) an enormous opportunity to get our customers in the U.S. and overseas to drop their U.S. supplier, Unimin.

Unimin Corporation urges that you oppose this legislation. While everyone seeks to deter terrorism, further study and thorough consideration should be given to this important issue before any action is taken which will have unintended, far-reaching and commercially injurious consequences to Unimin's world leadership in the high purity silica market. There must be some way to meet the objectives of this legislation without requiring a company which depends entirely on the purity of its product to introduce contaminant taggants into our production stream.

Unimin urges you to support S. 735, sponsored by Senators Dole and Hatch, which proposes a study of detection and identification taggants for non-plastic explosives.

Unimin looks forward to your support in this issue.

Very truly yours,

JOSEPH C. SHAPIRO,  
*Senior Vice President/Legal  
and Regulatory Affairs.*  
UNIMIN CORP.,  
*New Canaan, CT, May 24, 1995.*

Hon. JOE LIEBERMAN,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR LIEBERMAN: I am writing on behalf of Unimin Corporation to express Unimin's opposition to S. 761 (proposed by the Clinton Administration and introduced by Senators Daschle and Biden) which authorizes the Treasury Department (BATF) to promulgate regulations requiring the use of identification "taggants" in explosives manufactured in or imported into the United States. This legislation could devastate our business.

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Very truly yours,

JOSEPH C. SHAPIRO,  
*Senior Vice President/Legal  
and Regulatory Affairs.*

Mr. HATCH (reading the letter):

DEAR SENATOR DODD: I am writing on behalf of Unimin Corporation to express Unimin's opposition to S. 761 (proposed by the Clinton Administration and introduced by Senators Daschle and Biden) which authorizes the Treasury Department (BATF) to promulgate regulations requiring the use of identification "taggants" in explosives manufactured in or imported into the United States. This legislation could devastate our business.

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Very truly yours,

UNIMIN CORPORATION,  
JOSEPH C. SHAPIRO,  
*Senior Vice President/Legal  
and Regulatory Affairs.*

That is just one illustration of perhaps many illustrations that indicates we are not as sure of what we are doing in this area as we should be.

I am concerned about the effectiveness of explosives. More importantly, I am concerned about the safety of explosives. But this raises another issue, and that is whether putting taggants into explosives that are utilized in some of our industries might destroy those industries in this country at a high cost to our society. And I would say the silica chip industry is a very important industry in this country.

Senator FEINSTEIN's amendment requires the Secretary of Treasury to promulgate regulations requiring the placement of trace elements which "will not substantially impair the safety of the explosive."

I would like to ask my colleague one question. Where do we draw the line, and what is a substantial or unsubstantial impairment of safety?

Does not the Feinstein amendment require the placement of taggants where doing so may very well impair safety? At least, that is what I have been led to believe.

I would be happy to yield for a response.

Mrs. FEINSTEIN. Mr. President, if the Senator will yield for a moment, the amendment very specifically says so that safety would not be impaired; in other words, in the study that would be done in the ensuing 12 months that there not be an adverse environmental impact, not impair the stability of the explosive materials, and that safety not be impaired.

Those are the three criteria in the amendment.

Mr. HATCH. The study that the distinguished Senator from California has cited was conducted, I believe, back in 1980. I am a member of the Technology Assessment Board. That study itself found substantial evidence that placing taggants in explosives seriously affects



the stability of the explosive material. I am reading what it says here on page 29, in their detailed findings.

The tests so far conducted are only a small fraction of the total number of tests that must be performed before it can conclusively be determined whether taggants are compatible with commercial explosives and gun powders. Even if the current question of the stability of smokeless powder in boosters is resolved, it is not possible to generalize from the results of the limited tests . . . so far completed.

And they conclude that the testing has not demonstrated that taggants can be safely added to explosives.

Thousands of people come into contact with explosives every day during the manufacture, storage, transportation, and use of explosives. Accidents involving explosives can have extremely severe consequences to these thousands of people. Therefore, safety must be demonstrated, and a carefully administered qualification program for analysis, safety, testing, and manufacturing procedures, control, and experience is necessary before a new explosive or an explosive with a significant exchange in composition can be considered safe.

In addition, each type of explosive product requires individual evaluation and testing, the type of qualification program considered necessary before safety can be demonstrated as shown in table 12 and discussed in detail in chapter 4. A particularly important aspect of that qualification testing is the effect of long-term storage.

It goes on. The point is that recently, the ATF itself asked for further studies recognizing that technologies had changed substantially since the original study was conducted. It is pretty apparent that I and those on my side of this issue do not oppose taggants per se. Rather, we oppose granting regulatory authority to an agency before an updated study can be done which may solve some of these very important issues.

Even though the distinguished Senator requires a study, as do we, she requires without further congressional approval that taggants be placed automatically at a certain time. It makes no sense to grant regulatory authority before an updated study is conducted. Indeed, I think that this legislation proposed by Senator FEINSTEIN would seriously undermine our confidence in the studies that have occurred thus far and our confidence in explosives in general.

So there is a lot of use of explosives in our society—legitimate, honest, decent use. The Unimin letter is a perfect illustration of perhaps thousands of businesses or companies or people who might be affected by this. We should not compromise the integrity or the objectivity of the study conducted by OTA.

So I, therefore, oppose this amendment, and with the Senator's permission, I move to table the amendment and ask for the yeas and nays, with the understanding that it will not be voted upon until after 6 o'clock tonight.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the Feinstein amendment No. 1202 be laid aside, and at 6 p.m., we have a vote on my motion to table.

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

Mr. HATCH. Mr. President, I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, this is a very special day to Oklahoma. We have a very distinguished group of people from Oklahoma who are at this very moment visiting with various Senators who oppose the idea of habeas reform. I cannot think of any stronger message that we can take to these people than from those who are the survivors and those who have families lost in the tragic explosion in Oklahoma.

I just came back from my 76th town hall meeting out in Oklahoma. I think I probably have more of those than any other Member of this body. A question always comes up when I have these meetings. They say something to the effect, "Why is it that people in Washington are more concerned about the criminals than they are the victims?" I try to explain to them—and I know that this is rather controversial to say, but I really believe it in my own heart, Mr. President—that at least prior to this new Congress coming in, the majority of people in both of these bodies did not honestly in their own hearts believe that punishment is a deterrent to crime.

It is one that I look at, and it seems very logical that when you take a tragedy such as we experienced in Oklahoma, when the perpetrators of that crime were preparing this explosion and what they were going to do, the bombing and the attack on the Federal building in Oklahoma City, this is not something that they did just overnight. This is something they planned—not for days, not for weeks, but maybe even, we feel, for several months.

During the time that something like this is happening, those individuals who are making the plans to detonate a bomb that will murder many, many people have to be thinking what is the worst thing, what is the downside of this, what is the worst thing that can happen to me if I get caught? The worst thing that can happen, as they look at it, might be to sit around in some air-conditioned prison cell watching color TV, eating three good meals a day for 10 years, 15 years, 20 years. And I suggest to you, Mr. President, that is not much of a deterrent.

I think particularly some of the people from maybe the Middle Eastern

cultures, and others, people who are trained terrorists—most of them—do not think they are going to be around for 10 years, anyway. Here in America, it takes an average of 9½ years between conviction and execution. I suggest that takes away all of the deterrent value.

This happens because we have things built into our system. I am sure that they were put in there in the sense of trying to be fair to everyone, and to make sure no chances are taken that someone might be executed who was not actually the one who committed the crime. But they sit in there through appeal after appeal after appeal.

Roger Dale Stafford, in the spring of 1978, murdered a Sergeant Lorenz, then he murdered his wife, then he murdered Sergeant Lorenz' small son. Then he turned around and drove 60 miles to Oklahoma City, where he went into the Sirloin Stockade Restaurant. He rounded up six employees at gunpoint, bound them, took them into a refrigerator, and murdered them execution style.

That was in 1978. Roger Dale Stafford is now still in McAlester in our State prison in Oklahoma. By the way, he is now over 100 pounds more than he was when he went in, so you know they are feeding him pretty well. He has been sitting in his cell for 17 years and probably living better than he lived before anyway. And I suggest to you that is not just an inhumane thing to do to the families of those victims of his murders, but it is no deterrent for other people who may be tempted to do the same thing.

What is interesting about this is that the attorney who is so successful in getting all of these appeals and all these delays in the ultimate execution which still has not taken place of the guy who did kill those nine people back in Oklahoma in 1978, that attorney is a very competent and capable attorney named Steven Jones from Enid, OK. I happen to know him personally. I suggest to you that Steven Jones is also the attorney for Timothy McVeigh, one who is held right now as possibly one who is responsible for the tragedy in Oklahoma City.

So today we have a number of people who are here from Oklahoma. We have Diane Leonard, whose husband Don, a Secret Service agent, was killed in the bombing in Oklahoma City. We have Glenn Seidl, who lost his wife, Kathy, in the bombing. I talked to Kay Ice just a few minutes ago, who lost her brother, Paul. He was a customs agent; Mike Reyes, who lost his father and was injured himself in the explosion. I believe he is the one who actually fell four stories and was able to survive. But he lost his father; Jason Smith, who lost his mother, Linda; Dan McKinney. That is Linda's husband. He was here today; Gary Bland, who lost

his wife, Sally; Suzanne Britten, who lost her fiancé.

It is very significant that we understand what these people are doing today. We had a news conference at 10:30, and we stood down there in front of the Senate and they described the types of deaths that their loved ones had been subjected to, how there was no longer any facial characteristics left; they could not really identify them as they normally would; and being exposed to this, they are going through all this for one reason. That is, they know the way to deter this type of thing from happening again is to have swift justice.

We had a President who came out and said we want swift and sure justice. I call upon the President right now to stand up before these Oklahomans who are up here today and say, yes, I support Senator HATCH's habeas reform as in the bill. Frankly, as a Senator from Oklahoma, I am going to support the Kyl amendment for a stronger habeas bill. It is very moderate and very fair, but it is a habeas reform that will not allow these things to go year after year after year, 10 years, 15 years and 20 years, where all deterrent value is lost.

So, Mr. President, I hope that those Senators who are being visited right now by Diane Leonard, and by Glenn Seidl, and by Kay Ice and Mike Reyes and Jason Smith and Dan McKinney and Gary Bland and Suzanne Britten will stop and realize that they have an opportunity to preclude something like this from happening again, allow the message that will go out to all who might be considering such an act that in America we are not going to allow someone to sit around for 8 years or 10 years or 20 years before an execution takes place. We will in fact have swift justice.

Maybe, Mr. President, I am old fashioned, but I really believe in my heart that punishment is a deterrent to crime, and sitting around for 10 years is not cruel punishment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRIST). The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1203 TO AMENDMENT NO. 1199

(Purpose: To make technical changes in section 102 of the Dole-Hatch substitute)

Mr. HATCH. Mr. President, I send an amendment to the desk for and on behalf of Mr. SMITH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. SMITH, proposes an amendment numbered 1203 to amendment No. 1199.

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

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

The amendment is as follows:

On page 12, line 6, strike "25 years." and insert the following:

"25 years; *Provided, however,* That the damages to property that were caused, or would have been caused if any object of the conspiracy had been accomplished, must exceed, or must be reasonably estimated to exceed, \$25,000.

On page 7, at the end of line 17, add the following:

"*Provided, however,* That the damages to property must exceed \$25,000;"

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, I have just sent up the amendment for and on behalf of Senator SMITH. This is an amendment of a technical nature. This amendment simply places a dollar floor on cases that can be brought in Federal court in acts of terrorism. This amendment will prevent Federal courts from having to try minor cases in Federal court. For example, we would not want a case involving a mere broken window or a smashed door to be tried in Federal court.

So this amendment basically says, " \* \* 25 years; provided, however, that the damages to property that were caused, or would have been caused if any object of the conspiracy had been accomplished, must exceed, or must reasonably be estimated to exceed, \$25,000." So that is basically what this amendment does.

This amendment makes a great deal of sense in the context of this debate so I would urge my colleagues to support this Smith amendment.

Mr. President, I ask unanimous consent that the Smith amendment be set aside so that I can call up a Pressler amendment.

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

AMENDMENT NO. 1204 TO AMENDMENT NO. 1199

(Purpose: To designate the Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, SD, as the "Cartney Koch McRaven Child Development Center")

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. PRESSLER, proposes an amendment numbered 1204 to amendment No. 1199.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. —. DESIGNATION OF CARTNEY KOCH MCRAVEN CHILD DEVELOPMENT CENTER.

(a) DESIGNATION.—

(1) IN GENERAL.—The Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, shall be known and designated as the "Cartney Koch McRaven Child Development Center".

(2) REPLACEMENT BUILDING.—If, after the date of enactment of this Act, a new Federal building is built at the location described in paragraph (1) to replace the building described in the paragraph, the new Federal building shall be known and designated as the "Cartney Koch McRaven Child Development Center".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a Federal building referred to in subsection (a) shall be deemed to be a reference to the "Cartney Koch McRaven Child Development Center".

Mr. PRESSLER. Mr. President, I am proud to offer this amendment along with my South Dakota colleague, Senator DASCHLE, to S. 735, the Comprehensive Terrorism Prevention Act, to designate the child development center at Ellsworth Air Force Base in South Dakota as the Cartney Koch McRaven Child Development Center.

It was just slightly more than a month ago that terrorist thugs bombed the Alfred P. Murrah Federal Building in Oklahoma City. Among the victims inside was Cartney Koch McRaven. Stationed at Tinker Air Force Base and having just been married the previous weekend, Cartney was in the Murrah Federal Building to register her new married name on Federal documents. Tragically, her life was cut short by the savagery of domestic terrorism.

It is only fitting that we honor Cartney at Ellsworth Air Force Base. Spearfish was her home. And she chose to begin her adult life by joining the Air Force and serving her country. And serve she did, with honor, with devotion, with dignity.

It is even more fitting that her name appear on the child development center at Ellsworth. A1c Cartney Koch McRaven served in Haiti, where the stark poverty had an enormous impact on her. Cartney's heart went out to the children of Haiti. She devoted her time in Haiti to an orphanage, offering a warm smile and a kind, loving word to young faces. The mission of our Armed Forces in Haiti was to ensure peace and offer hope to the people of Haiti— young and old. Cartney took her mission to heart.

Even her family honored Cartney's commitment to young people by urging that donations be made in Cartney's memory to the orphanage in Haiti.

But we do more than honor a person. We honor the values she personified and practiced in her daily life. The values of service, of duty, of compassion and caring for the underprivileged young—values that are at the core of South Dakota and of America.

It is my hope that by passing this amendment and the underlying bill, Cartney Koch McRaven forever will be remembered as a symbol of these core values and an inspiration to the young people in South Dakota and America to honor and serve their family, community, and country.

I urge my colleagues to support the amendment.

Mr. HATCH. Mr. President, I am offering this amendment on behalf of my colleague, Senator PRESSLER, the distinguished Senator from South Dakota. This amendment would designate the child development center at Ellsworth Air Force Base in South Dakota as the "Cartney Koch McRaven Child Development Center."

This amendment intends to honor the dedication and service of a young Air Force airman from South Dakota who was killed in the Oklahoma City bombing. U.S. Airman First Class Cartney Koch McRaven, a South Dakota native stationed at Tinker Air Force Base outside Oklahoma City, was among those killed in the April 19, 1995 bombing.

Last year, while serving in Haiti, Cartney devoted her free time to an orphanage. Her family asked that in lieu of flowers, donations be made to the orphanage in Haiti. This amendment seeks to honor her memory by designating the child development center at Ellsworth Air Force Base the "Cartney Koch McRaven Child Development Center."

I believe we can get unanimous consent on this amendment honoring this young Air Force airman. My colleague from Delaware is not here to comment on this amendment, so I ask unanimous consent that the amendment now be set aside so that we can call up another amendment.

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

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1205 TO AMENDMENT NO. 1199  
(Purpose: To amend title 18 of the United States Code regarding false identification documents.)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. PRESSLER, proposes an amendment numbered 1205 to amendment No. 1199.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

**SEC. . FALSE IDENTIFICATION OF DOCUMENTS.**

(a) MINIMUM NUMBER OF DOCUMENTS FOR CERTAIN OFFENSE.—Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(3), by striking "five" and inserting "3"; and

(2) in subsection (b)(1)(B), by striking "five" and inserting "3".

(b) REQUIRED VERIFICATION OF MAILED IDENTIFICATION DOCUMENTS.—

(1) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by adding at the end the following:

**"§1739. Verification of identification documents**

"(a) Whoever knowingly sends through the mails any unverified identification document purporting to be that of the individual named in the document, when in fact the identity of the individual is not as the document purports, shall be fined under this title or imprisoned not more than 1 year, or both.

"(b) As used in this section—

"(1) the term 'unverified', with respect to an identification document, means that the sender has not personally viewed a certification or other written communication confirming the identity of the individual in the document from—

"(A) a governmental entity within the United States or any of its territories or possessions; or

"(B) a duly licensed physician, hospital, or medical clinic within the United States;

"(2) the term 'identification document' means a card, certificate, or paper intended to be used primarily to identify an individual; and

"(3) the term 'identity' means personal characteristics of an individual, including age and nationality."

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by adding at the end the following new item:

"1739. Verification of identification documents."

(c) CONFORMING AMENDMENT.—Section 3001(a) of title 39, United States Code, is amended by striking "or 1738" and inserting "1738, or 1739".

Mr. PRESSLER. Mr. President, I rise to explain the false ID amendment I have proposed to S. 735, the Comprehensive Terrorism Prevention Act.

According to several national news sources, Timothy McVeigh, the primary suspect in the Oklahoma City bombing, allegedly used a false South Dakota driver's license to rent the Ryder truck which exploded outside the Alfred P. Murrah Federal building on April 19 of this year. Again, the driver's license used by McVeigh was a fake. Timothy McVeigh is not a resident of South Dakota, nor do I believe he ever has been a resident of my State. My understanding is the fake license contained his picture, but a different name. To add insult to injury, the birthdate listed on the license was April 19, the same date as the bombing. This example illustrates how easily a terrorist can obtain an authentic-looking driver's license, and operate in our society under an assumed name.

It is not clear at this point exactly how McVeigh obtained the false South Dakota driver's license. However, the

sad fact is, false identification documents [ID's] are easy and cheap to obtain given the advanced state of computer technology today. Counterfeiting a driver's license is child's play for sophisticated computer users. Modern color printers can produce stunningly accurate reproductions of driver's licenses, Social Security cards, and other ID's. Even anticounterfeiting measures, such as holographic images and magnetic strips, are being duplicated with relative ease.

A vast underground industry has emerged to meet the growing demand for false ID's from underage drinkers. Just last week, two young men who were students at George Washington University here in Washington, DC, plead guilty to operating a sophisticated fake driver's license operation. They sold the fake licenses to college students for \$65 each. They even gave a discount for ordering 10 or more fake ID's. I ask that a news article describing that operation be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PRESSLER. Most States have laws against the use of false ID's to purchase alcohol, but those laws only target the underage drinker. Nothing prohibits anyone from mailing false ID's from another State. Tough Federal action is needed to really make a difference. Congress needs to crack down on the suppliers—those in the industry of producing and distributing false ID's.

Last year, and again this year, I introduced legislation designed to deal with this situation. The amendment I have offered today is similar to this legislation. It seeks to target and punish those in the business of producing and distributing false identification documents nationally.

Anyone convicted of distributing false ID's under this provision would face a prison sentence of up to 1 year, a fine, or both. The amendment also would reduce from five to three the number of false ID's that must be in a person's possession to trigger penalties under Federal law.

These two changes are needed if we are to make a dent in the volume of false ID's being offered and sold throughout our country. I urge my colleagues to support the amendment.

EXHIBIT 1

[From the Washington Post, June 2, 1995]

TWO PLEAD GUILTY TO SELLING FAKE DRIVER'S LICENSES

(By Toni Locy)

A student and a former student at George Washington University pleaded guilty in U.S. District Court yesterday to running a sophisticated fake driver's license operation, using computers to make nearly perfect copies to sell to underage students in several states so they could buy liquor.

Prosecutor Joseph B. Valder described Ronald Stewart Johnson, 20, as the mastermind of the scheme and Said C. Kiwan, 19, as the legman who drummed up business and

made deliveries for the illegal enterprise. They sold the licenses for \$65 each or at a discount of \$55 each for 10, making about \$8,000 in less than six months.

Valder said Johnson, as a high school student in Durham, N.C., discovered the wonders of computers and learned how to alter valid driver's licenses. He said Johnson used scanning equipment to enter a driver's license into a computer and shading and texture devices to make changes.

In 1994, Kiwan and Johnson, who were friends when their families lived in Rio de Janeiro when they were both 10, became re-acquainted and began selling the licenses to make money, Valder said.

Though the prosecutor and defense attorneys lauded their cooperation with authorities after they were caught, U.S. District Judge Ricardo Urbina rejected a request by Kiwan's attorney to forgo the normal procedures and sentence him immediately.

Attorney Thomas Abbenante said GWU officials will decide next week whether to expel Kiwan, as they have done with Johnson. If Kiwan's case is resolved, Abbenante said, he has a chance to remain in school.

But Urbina refused to give Kiwan such a consideration. "This is an episode in his life that carries the potential of two years of incarceration. I would not want to send you the wrong message by having you walk in here, plead guilty . . . and walk out with probation that you may not deserve," the judge told Kiwan, who is a citizen of England and Lebanon.

"You are a privileged young man with lots of education, lots of advantages in life, with no need for money, and yet you engaged in this enterprise, which probably resulted in a lot of young people getting booze and possibly driving under the influence," Urbina said. "If ill consequences develop because of it, then that is your problem. You are here because you committed a crime, and you have to deal with the consequences, whatever they are."

Kiwan pleaded guilty to two misdemeanor counts for sending fake driver's licenses to a student at Vanderbilt University, in Nashville, and to a high school student in Durham. Johnson, who was born in Brazil but is a U.S. citizen, pleaded guilty to a felony charge of unlawful production of false identification. He faces up to five years in prison.

Mr. HATCH. Mr. President, I also believe this is another technical amendment that probably will be accepted by unanimous consent. I think many of the Republican amendments are of this nature. I do not believe this amendment needs to delay the debate on this matter.

What this amendment does is that it is similar to S. 507, the False Identification Act of 1995, which has the support of Senators GRASSLEY and DASCHLE. It would make the following two changes in our current law:

First, it would reduce from five to three the number of false identification documents—that is, ID's—that must be in a person's possession to trigger penalties under Federal law.

Second, it would require a prison sentence of up to 1 year, a fine, or both, for anybody convicted of distributing false ID's through the mail.

The amendment seeks to target and punish those producing and distributing false identification documents nationally. According to new sources, Timothy McVeigh used a false identification to rent the Ryder truck used

in the Oklahoma City bombing. This illustrates how a terrorist can obtain an authentic-looking driver's license and operate in our society under an assumed name.

False ID's are obtained far too easily and cheaply today. Counterfeiting a driver's license is child's play for sophisticated computer users. Modern color printers can produce stunningly accurate reproductions of driver's licenses, Social Security cards, and other identification documents.

Even anticounterfeit measures such as holographic images and magnetic strips are being duplicated with relative ease. A vast underground industry has emerged to meet the growing demand for false ID's for underaged drinkers. Most States have laws against the use of false ID's to purchase alcohol, but they only target the underaged drinker. Nothing prohibits mailing false ID's from another State.

Tougher Federal action is needed to really make a difference. Congress needs to crack down on the suppliers, those in the industry producing and distributing false ID's.

I ask unanimous consent that the Pressler amendment be set aside so that another amendment can be offered.

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

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1206 TO AMENDMENT NO. 1199  
(Purpose: To authorize assistance to foreign nations to procure explosives detection equipment)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. SPECTER, proposes an amendment numbered 1206 to amendment No. 1199.

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

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

The amendment is as follows:

On page 22, between lines 18 and 19 insert the following:

"(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER SOPHISTICATED COUNTERTERRORISM TECHNOLOGY.—Subject to section 575(b), up to \$10,000,000 in assistance in any fiscal year may be provided to procure explosives detection devices or other sophisticated counterterrorism technology to any country facing an imminent danger of terrorist attacks that threaten the national interests of the United States or put United States nationals at risk."

On page 22, line 19, strike "(b)" and insert "(c)".

Mr. HATCH. Mr. President, this amendment I have sent to the desk on behalf of Senator SPECTER simply authorizes assistance to foreign countries to procure explosives detection devices and other sophisticated counterterrorism technology.

I believe that, in time, we can unanimously accept this amendment. That is why I have sent it to the desk. I compliment Senator SPECTER for his work on this amendment. I also compliment Senator PRESSLER for the work on his two amendments and Senator SMITH for the work on his amendment, all of which are before the Senate.

I ask unanimous consent that this Specter amendment be set aside so we can call up another amendment.

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

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, referring to the current debate on the taggants amendment of Senator FEINSTEIN, Senator SIMPSON has asked me to get a letter into the RECORD from ARCO Coal Co. This is a letter to the Honorable ALAN K. SIMPSON dated June 5, 1995.

I ask unanimous consent that this letter be printed in the RECORD.

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

JUNE 5, 1995.

Hon. ALAN K. SIMPSON,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR SIMPSON: I understand that the Senate will be discussing S. 735 as early as June 6. As noted in earlier correspondence we support the concept of the bill. However, we have learned that Senator Feinstein will probably be introducing an amendment that broadens the scope of the bill to include such explosive agents as ammonium nitrate with fuel oil (ANFO). I am writing to urge you to resist this amendment as unnecessary and very costly. Following is most of the letter that was previously sent to your attention, and believe that it explains the problems with the Feinstein amendment.

In the wake of the tragedy in Oklahoma City, I have learned of Senate legislation that has been introduced to address the issue of domestic terrorism (S.735). ARCO Coal Company supports legislation that reduces or eliminates these horrific acts, but urges against any over reaction that would adversely impact the legal and responsible use of explosive materials, including ANFO.

Before discussing the proposed legislation in more detail, let me first explain the importance of this issue to the coal industry in Wyoming. Thunder Basin Coal Company (TBCC) is our subsidiary in Wyoming, operating the Black Thunder (BTM) and Coal Creek Mines. In order to mine efficiently, safely and cost effectively, the overburden and coal is "shot" with an ANFO/emulsion

blend. Blasting operations at BTM safely and legally consume about 75 to 85 million pounds of ANFO on an annual basis (with plans to increase the usage to nearly 100 million pounds annually). The ammonium nitrate prill is manufactured at the fertilizer plant near Cheyenne, Wyoming and is transported to the mine by Wyoming trucking companies.

In reading about the proposed legislation we concur with the requirement for a "detection agent" (or taggant) in "plastic explosives". However, we oppose any broader requirements that explosive material, which would include ANFO, to contain "taggants" or "tracer elements" (to be defined by regulation). We have several key concerns with requiring taggants in ANFO, including:

1. Safety—manufacturers of the explosives used by the mining industry have raised the concern that the introduction of taggants will raise safety concerns. For example, the manufacturers are concerned that the introduction of the taggant into an explosives mixture can have an adverse effect on the friction and impact sensitivity and/or the stability properties of the explosives. The Wyoming coal mining industry is among the safest, if not the safest, in the entire world. This admirable safety record has not come about by accident, but rather through careful implementation of safety awareness and programs. We cannot compromise the safety of our employees.

2. Cost—a 1993 study by the Institute of Makers of Explosives (IME) conservatively estimated that taggants in ANFO would cost an additional 47 cents per pound. As previously noted, BTM anticipates using 75 to 85 million pounds of ANFO annually. Using the IME study, TBCC's costs would conservatively rise by \$35 to \$40 million annually on a product that is currently being used in a safe, legal and regulated manner. In a market that is highly competitive, costs have to be controlled.

We hope that you will support Title VIII provisions in S. 735 and will resist any efforts to expand the scope of the bill to include ANFO. This will help ensure that any new legislative and/or regulatory program meets its specified purpose without compromising safety or punishing industries using the product in a safe and legal fashion. We would also be glad to help you in any manner you desire with regard to this issue.

Sincerely,

GREG SCHAEFER.

Mr. HATCH. Gregg Schaefer is director of Government issues and analysis for the ARCO Coal Co.

Mr. President, as I said before, there are presently 100 amendments under the unanimous consent. We have five up. Sixty-eight of those are Democrat amendments; we have one of those up. Thirty-two amendments are Republican; four of those are up. Most of those 32 amendments, I believe, will not be offered.

I am hoping that Senators will get to the floor and offer their amendments so that we can stack these votes after 6 o'clock p.m. and move ahead with this very important bill.

I am wearing this ribbon in honor of the people who died, and their families who have survived, the Oklahoma City bombing. It has great significance to me because one of the survivor's daughters pinned it on me earlier this morning. I wear it with honor and with consideration for what these good people suffered and what they are going through currently.

We know that this bill is critical. The President has expressed dis-

satisfaction with the Congress because we did not pass an antiterrorist bill by Memorial Day. We are only a little time later than Memorial Day—one week. I believe we can, if we can get the cooperation of our friends on both sides of the aisle, I believe we can pass this bill by tomorrow evening or at some reasonable time this week.

I hope that Senators who have amendments will get over here to the floor and offer them. We will stack those amendments until after 6 o'clock tonight, and if necessary, tomorrow. I would like to debate them now and utilize this time so that we can move ahead on this very important bill.

Regarding a vast majority of this bill, I think a vast majority of Senators will agree with. I believe a vast majority of this bill, if not most all of it, the President agrees with.

It is a bill that should not have any real controversy except in some isolated areas, and of course on the habeas corpus reform provisions.

There are people who sincerely believe that we should have no habeas corpus rights in this society. There will be an amendment offered, perhaps later today or tomorrow, that will severely curtail habeas corpus appeals, if it is passed.

Then there are others who believe we ought to continue the same system we have now which allows for multiple frivolous appeals, one appeal after another, all the way up to the State courts, and then all the way up to the Federal courts, or vice versa. I do not think very many people in this country would agree with either of those extreme points of view.

Habeas corpus is a statutory right that was established for the purpose of protecting the rights of the accused. Our habeas corpus provision, the Specter-Hatch bill, will protect those rights, but it will put an end to the frivolous appeals that make a mockery out of our system of justice.

I hope that our fellow Senators will get over here and bring their amendments to the floor so that we can move ahead and get this bill done within a reasonable time, please our President, and certainly do so in memorialization of the suffering that these folks from Oklahoma City are undergoing and in memorialization of those who have died, because we have not done enough to resolve terrorist problems in our society.

I am not sure that any piece of legislation is going to absolutely protect people from terrorist activities. Of course, no legislation can be crafted to do that. But this legislation will put teeth in our criminal laws, our Federal criminal laws, to bring people to justice who might commit terrorist activities and might deter those who are considering participating in terrorist activities in our society.

I am hopeful we can move ahead here today. I am prepared to stay as long as we have to and to debate any issue that any Member cares to bring to the floor. I hope those who have the remaining 67 amendments on the Democrat side and

the remaining 28 amendments on the Republican side will get to the floor and move ahead on this matter.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, I am very concerned that we are sitting here just wasting time while there have been complaints about not moving ahead on the terrorism bill. So we are moving ahead. We are here to go. Frankly, the only real controversial issue that I can see of any real consequence on this bill happens to be the habeas corpus, Specter-Hatch bill. I am hoping that those who have amendments on that habeas corpus reform bill will bring them to the floor and debate them and let us get them out of the way. If they win, they win. If they lose, they lose. The fact is let us get out here and use this time and not waste it. Thus far, we have had four Republican amendments, one Democrat amendment. The Democrat amendment is scheduled for a vote at 6 o'clock.

AMENDMENT NO. 1207 TO AMENDMENT NO. 1199

Purpose: To extend U.S. sanctions against Iran to all countries designated as "terrorist countries" by the Secretary of State)

Mr. HATCH. Mr. President, I send another Republican amendment to the desk and ask for its immediate consideration. I send this up for and on behalf of Senator BROWN from Colorado.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. BROWN, proposes an amendment numbered 1207 to amendment No. 1199.

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

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

The amendment is as follows:

At the appropriate place in the Dole-Hatch substitute, add the following new section—  
"SEC. . SANCTIONS AGAINST TERRORIST COUNTRIES.

(a) PROHIBITION.—In conjunction with a determination by the Secretary of State that a nation is a state sponsor of international terrorism pursuant to 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), the Secretary of State, in consultation with the Secretary of Commerce, shall issue regulations prohibiting the following—

(1) The importation into the United States, or the financing of such importation, of any goods or services originating in a terrorist country, other than publications or materials imported for news publications or news broadcast dissemination;

(2) Except to the extent provided in section 203(b) of IEPA (50 U.S.C. 1702(b)), the exportation from the United States to a terrorist

country, the government of a terrorist country, or to any entity controlled by the government of a terrorist country, or the financing of such exportation, of any goods, technology (including technical data or other information subject to the Export Administration Act Regulations, 15 CFR Parts 768-799(1994)) or services;

(3) The reexportation to such terrorist country, its government, or to any entity owned or controlled by the government of the terrorist country, or any goods or technology (including technical data or other information) exported from the United States, the exportation of which is subject to export license application requirements under any U.S. regulations in effect immediately prior to the enactment of this Act, unless, for goods, they have been (i) substantially transformed outside the U.S., or (ii) incorporated into another product outside the United States and constitute less than 10 percent by value of that product exported from a third country;

(4) except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)), any transaction, including purchase, sale, transportation, swap, financing, or brokering transactions, or United States person relating to goods or services originating from a terrorist country or owned or controlled by the government of a terrorist country;

(5) Any new investment by a United States person in a terrorist country or in property (including entities) owned or controlled by the government of a terrorist country;

(6) The approval or facilitation by a United States person or entry into or performance by an entity owned or controlled by a United States person of a transaction or contract:

(A) prohibited as to United States persons by subsection (3), (4) or (5) or

(B) relating to the financing of activities prohibited as to United States persons by those subsections, or of a guaranty of another person's performance of such transaction or contract; and

(7) Any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempting to violate, any of the prohibitions set forth in this section.

(b) DEFINITIONS.—For the purposes of this section:

(1) the term "person" means an individual or entity;

(2) the term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(3) the term "United States person" means any U.S. citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States;

(4) the term "terrorist country" means a country the government of which the Secretary of State has determined is a terrorist government for the purposes of 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) and includes the territory of the country and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the government of the terrorist country claims sovereignty, sovereign rights, or jurisdiction, provided that the government of the terrorist country exercises partial or total de facto control over the area or derives a benefit from the economic activity in the area pursuant to international arrangements; and

(5) the term "new investment" means—

(A) a commitment or contribution of funds or other assets, or

(B) a loan or other extension of credit.

(6) the term "appropriate committees of Congress" means—

(A) the Banking and Financial Services Committee, the Ways and Means Committee and the International Relations Committee of the House of Representatives;

(B) the Banking, Housing and Urban Affairs Committee, the Finance Committee and the Foreign Relations Committee of the Senate.

(c) EXPORT/RE-EXPORT.—The Secretary of the Treasury may not authorize the exportation or reexportation to a terrorist country, the government of a terrorist country, or an entity owned or controlled by the government of a terrorist country of any goods, technology, or services subject to export license application requirements of another agency of the United States government, if authorization of the exportation or reexportation by that agency would be prohibited by law.

(d) RIGHTS AND BENEFITS.—Nothing contained in this section shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(e) WAIVER.—The President may waive the prohibitions described in subsection (a) of this section for a country for successive 180 day periods if—

(1) the President determines that national security interests or humanitarian reasons justify a waiver; and

(2) at least 15 days before the waiver takes effect, the President consults with appropriate committees of Congress regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate containing—

(A) the name of the recipient country;

(B) a description of the national security interests or humanitarian reasons which require a waiver;

(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance which is also prohibited by section 40 of the Arms Control Export Control Act."

Mr. HATCH. Mr. President, I rise to offer this amendment for and on behalf of the distinguished Senator from Colorado, [Mr. BROWN].

This amendment will extend the sanctions currently imposed against Iran to all countries designated as terrorist countries by the Secretary of State. Thus, under Senator BROWN's proposed amendment, all countries deemed to engage in terrorist activities and designated as supporting international terrorism will be punished to the same degree that Iran is.

Now, this is a controversial amendment. I hope that those who are opposed to it will come to the floor and be prepared to debate it if they so desire. If not, we will put it in line following the stacked amendments where either it will be accepted by unanimous consent or voted upon one way or the other. Senator BROWN has permitted me to put that amendment into the RECORD at this point.

Now, that makes five Republican amendments. I think it is safe to assume that Senator DOLE probably is not going to call up his two. I am not going to call up my two. And so that is

at least 9 or 10 Republican amendments disposed of, and I do not believe most of the others will be brought forward either.

Major difficulties are going to be over the question of habeas corpus reform. And I hope that those who have amendments to that will bring them up here today and let us debate them and go ahead. If there are any other amendments that can be brought to the floor at this time, we sure would like to encourage our colleagues to do so so we can dispose of as many of them today as we possibly can.

I ask unanimous consent that the Brown amendment be set aside so that another amendment can be called up by any Senator who desires to do so.

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

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, again I encourage my colleagues to get here and bring up their amendments. So far, we have five Republican amendments up, and two Democrat amendments. I believe that Senator DOLE will forgo his two. I intend to forgo my two, unless we have to use those. I have been informed by Senator GRAMM's staffer that he will forgo his two. That is six more.

We are moving through this pretty well today. But I would like to get as many amendments as can be agreed to or debated over a short term today as quickly as possible. Of course, we would be happy to take any habeas corpus amendments that there are.

As I have been standing here, some people have called in and wondered about the ribbons I am wearing on my lapel that were kindly placed there by one of the family members who lost a member of their family.

I think it is important, as we discuss this matter, that we recall why in the world we are here. There are 167 victims of the Oklahoma City bombing. This morning, along with Senator INHOFE and Senator NICKLES, I met with the families of some of the victims of that tragedy. So they presented me with this ribbon I am wearing. Let me just explain its significance. It has four ribbons, or four strands. The blue strand right here represents the State of Oklahoma. The white strand represents hope. The yellow strand represents those who were missing in the wake of the bombing. The purple strand represents those killed. Just to make that point a little more dramatically, this chart represents the victims of the Oklahoma City bombing.

I ask unanimous consent that all of those names be printed in the RECORD at this point.



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

THE MURDERED VICTIMS OF OKLAHOMA CITY

Lucio Aleman, Jr., 33.  
 Teresa Alexander, 33.  
 Ted Allen, 48.  
 Richard Allen, 46.  
 Baylee Almon, 1.  
 Diane E. Hollingsworth Althouse, 44.  
 Pamela Argo, 36.  
 Sandra Avery, 34.  
 Peter Avillanoza, 57.  
 Calvin Battle, 65.  
 Peola Battle, 51.  
 Danielle Bell, 1½.  
 Oleta Bidy, 54.  
 Shelly Turner Bland, 25.  
 Andrea Blanton, 33.  
 Olen B. Bloomer, 61.  
 Army Sgt. 1st Class Lola Rene Bolden, 40.  
 James E. Boles, 51.  
 Mark A. Bolte, 27.  
 Cassandra Booker, 25.  
 Carol Bowers, 53.  
 Peachlyn Bradley, 3.  
 Woodrow Brady, 41.  
 Cynthia Campbell Brown, 26.  
 Paul G. Broxterman, 43.  
 Gabreon Bruce, 4 months.  
 Kimberly Ruth Burgess, 29.  
 David N. Burkett, 47.  
 Donald E. Burns, 62.  
 Karen Gist Carr, 32.  
 Michael J. Carrillo, 44.  
 Rona Chafey, 35.  
 Zackary Chavez, 3.  
 Robert Chipman, 51.  
 Kimberly K. Clark, 39.  
 Margaret L. Clark, 42.  
 Anthony C. Cooper II, 2.  
 Antonio A. Cooper, Jr., 6 months.  
 Dana L. Brown Cooper, 24.  
 Harley Cottingham, Jr., 46.  
 Kim R. Cousins, 33.  
 Elijah Coverdale, 2.  
 Aaron Coverdale, 5.  
 Jaci Coyne, 14 months.  
 Katherine Cregan, 60.  
 Richard Cummins, 56.  
 Steven Curry, 44.  
 Brenda Daniels, 42.  
 Sgt. Benjamin L. Davis, 29.  
 Diane Lynn Day, 38.  
 Peter DeMaster, 44.  
 Castine Deveroux, 48.  
 Sheila Driver, 28.  
 Tylor Eaves, 8 months.  
 Ashley Eckles, 4.  
 Susan Ferrell, 37.  
 Carrol "Chip" Fields, 49.  
 Katherine Ann Finley, 44.  
 Judy J. Fisher, 45.  
 Linda Florence, 43.  
 Donald Fritzler, 64.  
 Mary Anne Fritzler, 57.  
 Tevin Garrett, 1.  
 Laura Jane Garrison, 62.  
 Jamie Genzer, 32.  
 Margaret Goodson, 55.  
 Kevin Lee Gottshall, 6 months.  
 Ethel Louise Griffin, 55.  
 Colleen Guiles, 58.  
 Marine Capt. Randolph Guzman, 28.  
 Cheryl Hammons, 44.  
 Ronald Harding, 55.  
 Thomas Hawthorne, 52.  
 Doris Adele Higginbottom, 44.  
 Anita C. Hightower, 27.  
 Thompson E. "Gene" Hodges, 54.  
 Peggy Louise Holland, 37.  
 Linda Coleen Housley, 53.  
 George M. Howard, 46.  
 Wanda Howell, 34.  
 Robbin A. Huff, 37.  
 Charles Hurlburt, 73.  
 Anna Jean Hurlburt, 67.

Paul D. Ice, 42.  
 Christi Y. Jenkins, 32.  
 Domanique London Johnson, 2.  
 Norma Jean Johnson, 62.  
 Raymond L. Johnson, 59.  
 Larry J. Jones, 46.  
 Blake R. Kennedy, 1½.  
 Carole Khalil, 50.  
 Valerie Koelsch, 33.  
 Carolyn A. Kreymborg, 57.  
 Teresa L. Lauderdale, 41.  
 Catherine Leinen, 47.  
 Carrie Lenz, 26.  
 Donald R. Leonard, 50.  
 Airman 1st Class Lakesha R. Levy, 21.  
 Rheta Long, 60.  
 Michael Loudenslager, 48.  
 Aurelia "Donna" Luster, 43.  
 Robert Luster, 45.  
 Mickey Maroney, 50.  
 James K. Martin, 34.  
 Gilberto Martinez, 35.  
 Tresa Mathes-Worton, 28.  
 James Anthony McCarthy, 53.  
 Kenneth McCullough, 36.  
 Betsy J. McGonnell, 47.  
 Linda G. McKinney, 48.  
 Airman 1st Class Cartney J. McRaven, 19.  
 Claude Medearis, 41.  
 Claudette Meek, 44.  
 Frankie Ann Merrell, 23.  
 Derwin Miller, 27.  
 Eula Leigh Mitchell, 64.  
 John C. Moss III, 51.  
 Patricia Mix, 47.  
 Jerry Lee Parker, 45.  
 Jill Randolph, 27.  
 Michelle Ann Reeder, 33.  
 Terry Smith Rees, 41.  
 Mary Leasure Rentie, 39.  
 Antonio Reyes, 55.  
 Kathryn Ridley, 24.  
 Trudy Rigney, 31.  
 Claudine Ritter, 48.  
 Christy Rosas, 22.  
 Sonja Sanders, 27.  
 Lanny L. Scroggins, 46.  
 Kathy L. Seidl, 39.  
 Leora L. Sells, 57.  
 Karan D. Shephard, 27.  
 Chase Smith, 3.  
 Colton Smith, 2.  
 Army Sgt. 1st Class Victoria Sohn, 36.  
 John T. Stewart, 51.  
 Dolores M. Stratton, 51.  
 Emilio Tapia, 49.  
 Victoria Texter, 37.  
 Charlotte A. Thomas, 43.  
 Michael Thompson, 47.  
 Virginia Thompson, 56.  
 Kayla M. Titsworth, 3.  
 Ricky L. Tomlin, 46.  
 LaRue Treanor, 56.  
 Luther Treanor, 61.  
 Larry L. Turner, 43.  
 Jules A. Valdez, 51.  
 John K. VanEss, 67.  
 Johnny A. Wade, 42.  
 David J. Walker, 54.  
 Robert N. Walker, 52.  
 Wanda L. Watkins, 49.  
 Michael Weaver, 45.  
 Julie Welch, 23.  
 Robert Westberry, 57.  
 Alan Whicher, 40.  
 Jo Ann Whittenberg, 35.  
 Frances A. Williams, 48.  
 Scott Williams, 24.  
 William Stephen Williams, 42.  
 Clarence Wilson, 49.  
 Sharon L. Wood-Chestnut, 47.  
 Ronota A. Woodbridge, 31.

KILLED IN RESCUE EFFORT

Rebecca Anderson, 37.

Mr. HATCH. These were folks who were working for our country or standing in the street at the time. Many of

them have been heroes for years, and they are all heroes today. These ribbons I am wearing represent these people of the State of Oklahoma—those missing and those killed.

These people are crying out for us to get this bill passed and to do what should be done. There were a number of children who were killed. I would just like to read their names into the RECORD:

Almon, Baylee, 1; Bell, Danielle, 1½; Bradley, Peachlyn, 3; Bruce, Gabreon, 4 months; Chavez, Zackary, 3; Cooper, Anthony C., II, 2; Cooper, Antonio A., Jr., 6 months; Coverdale, Elijan, 2; Coverdale, Aaron, 5; Coyne, Jaci, 14 months; Eaves, Tylor, 8 months; Eckles, Ashley, 4; Garrett, Tevin, 1; Gottshall, Kevin Lee, 6 months; Johnson, Domanique London, 2; Kennedy, Blake R., 1½; Smith, Chase, 3; Smith, Colton, 2; and Titsworth, Kayla M., 3.

These people are crying out in having been killed. These children and their families are crying out for us to do what should be done here. I intend to see that it is done.

Let us get our amendments here and get this bill done. If it can be improved, fine. The people who have amendments, we would like to get them here.

Baylee Almon turned 1 year old on Tuesday, April 18, 1995. That day her family threw her a birthday party. Her aunts, uncles, and cousins—along with her 22-year-old, single mother Aren—celebrated what was to be her first of many birthdays. Horribly, however, her lifeless body was pulled from the rubble of the Alfred Murrah building in Oklahoma City less than 24 hours later.

By now, we are too familiar with the unforgettable image of Baylee being carried away from the wreckage by firefighter Capt. Chris Fields. This image of Baylee's lifeless body being tenderly cradled by a firefighter was called by Governor Frank Keating "a metaphor for what's happened here." Baylee was 1 of 19 children murdered by the terrorist bomb blast on April 19, 1995.

When some suggest that our decision to include habeas corpus reform in this bill is unrelated to the murder of children like Baylee or that our efforts are politically motivated, we mock the memory of Baylee Almon. Habeas corpus policies and procedures directly and forcefully impact victims. Our debate about habeas reform has traditionally focused on such issues as the rights of petitioning prisoners, federalism, and competency of counsel. But, for those who have buried murder victims, the continued, protracted appeals mean something else. John Collins, the father of a 19-year-old young woman who was brutally murdered in 1985, may have put it best when he testified before the Judiciary Committee in 1991:

Extended habeas corpus proceedings mean no closure to our grief, no end to our mental and emotional suffering, no end to nightmares, and no relief from the leaden weights that remain lodged in our hearts. It means we continue to bleed.

Due to our current system of habeas corpus litigation, April 19, will not be the end of the victimization of those

who died in Oklahoma City. Long after the media stops covering the tragedy and elected officials stop meeting with the victims, those responsible for this cowardly act will probably be flaunting justice unless we act to pass habeas reform. The families of those who died will agonize for many, many years to come unless we act to pass true, meaningful habeas corpus reform.

For too long, the interests of the convicted murdered have outweighed the interests of the families of murder victims. For too long, habeas corpus has been viewed as a tangential issue to the more alluring issues of gun control and enhanced mandatory penalties. What is ironic is that for many of my colleagues on the other side of the aisle, it never seems to be the right time to pass habeas corpus reform.

The time has come to return some balance in the criminal justice system and nowhere is this more urgently needed than in the capital litigation area. We must recognize that the true concerns of justice, in the final analysis, must lie with those who support society and genuinely strive to uphold its law and not those who tear away at society, mock its laws, and murder innocent children like Baylee.

I am concerned about it, and I just think it is time to act. We should quit playing around with these problems. We have a chance of making a difference right now.

Let me just take a second here and read a letter from a woman who was at the press conference this morning. This is dated June 4, 1995.

Re: Dole-Specter-Hatch bill S. 735.

My husband of 34 years and the father of our three children, Tim, 24, Todd 22, and Kristi, 19, was a Director of Housing and Urban Development in Oklahoma City. We had only been in Oklahoma for 4 months, had purchased our home only 3 weeks before he was killed on April 19. Our lives were literally "blown" apart. He was a wonderful husband, father, son, brother, and human being, kind and caring to everyone and truly a person who believed in observing the laws of our land and also never forgetting how blessed we as Americans are to be Americans and to enjoy the many wonderful freedoms and opportunities available to us when we abide by our laws.

That is what I am asking for now: Swift and severe punishment of those responsible for this horrible act. Our President assured the people of Oklahoma and America this would be done. There should not be more consideration for the criminals than the victims. Under our Constitution, the rights of criminals have to be protected in deciding if they are guilty or innocent, but so do the rights of the victims need to be protected. Protecting criminals' rights does not give them the right of 20 years of appeals.

I am certain that if any one of you were in my shoes, (and I sincerely hope you never are) you would want nothing less than the death penalty—now—not years from now.

I pray with all my heart you will do whatever is necessary to enact legislation that will not allow continuous appeals. Joyce McCarthy, widow of James A. McCarthy, Edmond, OK.

That letter says it more poignantly than anything I could say. It is time to do habeas corpus reform. We tried for

years. We did pass this bill through the Senate on the Hatch amendment a number of years ago. It passed overwhelmingly. There is no reason not to face this issue today.

Now, I have to say that I do believe that there are those who very sincerely oppose habeas corpus reform in this body. I think they are a distinct minority, and I think they oppose it mainly because they oppose the death penalty. They are deathly afraid that maybe somebody will be executed who was innocent.

They have no information to back them up on that. These cases are very carefully tried. Any person accused of murder and sentenced to death after this bill is enacted will have every one of that person's constitutional rights and privileges and liberties protected. We will still protect the civil liberties of the people. But the game is over on multiple frivolous vehicles. They have one trip up and it is extensive through the State court, and one through the Federal courts. Unless they can show new evidence, or the Supreme Court has made a case retroactive in nature, then that is the end of the appeals.

That is as it should be. It is time to face this problem. Is time to stand up and do what has to be done. There is a lot more to be said about it.

I was moved this morning in meeting these families and these people who lost their loved ones in Oklahoma City. I am proud to wear a set of ribbons which represents the State of Oklahoma, those who are missing and those who are dead, as a result of this terrible, horrific bomb.

I hope we can move ahead on this bill. We made some headway here today, but I would like to make a lot more before the day is over.

I yield the floor.

Mr. BIDEN. Mr. President, the majority leader today opened the session by criticizing the President and criticizing the Democrats for what he says are a flood of amendments that are holding up this bill. He said that if the Senate is not finished by tomorrow, we will pull the bill and go on to further matters.

Let me point out that in all the years that I have been here—and the Senator from Utah has been over here a few years less than I have—one of the things delaying action on the bill today is we are coming off of a recess of a week and half and the Members are not back in town yet. That is one of the reasons there is delay.

Let me first say, contrary to the majority leader's representations, we are not trying to delay this bill. Indeed, on the very same day we received the final version of the Republican bill—and we had started off, by the way, with the President's bill. The President introduced a bill, or had 3 Members introduce the bill in his behalf.

Senators KOHL, SPECTER, and myself met with the President at the White House. This was a bipartisan group, including the Republican leadership. We

were under the impression that the President's bill would be the bill from which we worked.

The Republicans, as is their right, introduced their own bill. One of the problems is that we did not see that bill until toward the middle of the afternoon the day that we went out of here, I think, or maybe the day before we went out. People had not had a chance to read the bill.

Notwithstanding that, the very same day we received the bill, we agreed to a finite list of amendments. We did not wait around. Once we calmed everyone's concerns—we heard about terrorism, civil liberties, new actions, and everyone from folks who view the interests of the NRA as paramount, to folks who view the interests of the civil liberties community as paramount—everyone wanted to make sure they knew what was in that bill.

Notwithstanding that, we ended up with a finite list of amendments which we have now. No doubt that list would have been shorter from the beginning had the Democrats had any reasonable opportunity to review the Republican bill before it was brought to the floor.

Now, having worked hard over the recess, our staffs having worked hard, primarily, we have limited the number of amendments we need to offer from our side of the aisle, and effectively cut the list by more than half.

There is no evidence of any intent to delay the bill. And while talk of delay and the need for cloture motions may be good politics, it has nothing to do with the reality of the work before the Senate. The reality is that we are addressing an important topic that deserves serious—not token, but serious—consideration by this body.

That is, the threat of terrorism from both at home and abroad. That threat is real. Bombings at the World Trade Center 2 years ago and in Oklahoma City 2 months ago are proof positive of the need to strengthen our responses to this threat.

Does not this threat deserve more than 2 days of the Senate's time? It seems to me that while we all want to move forward, we should also want to make sure that we do the job right. The President has sent two strong terrorism proposals to the Congress this year in responding to two terrible bombings on American soil. His proposals contain many needed reforms to enable law enforcement to better investigate and prosecute terrorist acts.

The Judiciary Committee and its Terrorism Subcommittee held a number of extensive hearings on the President's proposal over the last 6 weeks. Many issues have been discussed, debated, and drafted into legislative language. The Republicans have put a bill together, drawn in large measure from the administration's proposal, and much of which is supported by both sides of the aisle.

Unfortunately, the Republicans fail to include in their bills several proposals to give law enforcement modest but

needed new authority to fight terrorism in the areas of wiretaps, taggants, and military assistance in cases of biological and chemical terrorist acts, just to name three.

There will be amendments to address these subjects, and the amendments are needed to make this bill a truly effective tool to fighting terrorism. Several of the amendments have been identified, and several of them have already been offered.

The suggestion that they are meant to delay this bill is an obvious attempt to shift focus from the fact that Republicans oppose strengthening the hand of law enforcement against terrorists, the way the President's proposal is opposed to any attempt to delay.

In addition, the Republicans included several provisions in their bill that some of Members believe are ill-drafted and are inappropriate as part of this bill. We have several amendments to modify these provisions, but this is a Republican bill.

Again, the amendments are identified and they have not and will not be offered to delay. They will be shortly offered. They will be voted on. They are not vehicles for delay.

Moreover, I note that the Republicans have identified a number of amendments as well. As I understood from the list before we went out last week, the Republican Members of the Republican Party suggested they had 32 amendments—32 amendments. Now, maybe some of those were in response to what they anticipate to be amendments from Democrats. Democrats have amendments that were put forward in anticipation of what they thought the Republicans were doing. Much of this, I think, will fall away.

Putting this in perspective, if there is delay going on—and there is not delay going on—32 out of 40-some amendments or 70, whatever the number was that were listed last week, are Republican amendments.

In all the talk of delay by Democrats over habeas corpus reform, the unanimous-consent agreement under which we are operating identifies 4 Democrat amendments on habeas corpus and 4 Republican amendments on habeas corpus.

We have all been around here long enough to know Senators do not agree to a unanimous consent agreement limiting the number of amendments that can be offered on a subject that is allegedly the reason for the delay on the bill.

There are four amendments offered by Democrats, four amendments offered by Republicans. I am sure we can get time agreements on all those amendments at some point along the way when they are proposed. That is it.

I might add, by the way, if my Republican friends had wanted to move on this terrorism bill quickly, all they had to do was leave habeas corpus off this. It would not have attracted all these other amendments. We could have put it on their crime bill. They

have a crime bill they want to push. We have plenty of time for that, instead of dealing with this issue.

It is true that delay on death penalties being imposed could have a perverse effect, once we identify and convict the people responsible for the bombing in Oklahoma City. That is prospective, way down the road.

We will have Democrats—not me, but other Democrats—who will stand up here on the floor and argue that because we have not done more to deal with the ability of people to get explosives, because we have not dealt more restrictively with the people and the ability of people to get ahold of weapons, because we cannot deal with certain bullets that can penetrate vests, that kill police officers, because they have not done that, they hamper our ability to deal with terrorist acts. That is true.

I plead with my Democrat and Republican friends, keep that stuff off this bill. Move forward on the essential elements of what the President said and what we all agree is needed to enable the FBI and the law enforcement agencies, federally, to be able to have the manpower as well as additional legal authority to both infiltrate, identify, arrest, prevent—hopefully—prevent future terrorist acts, whether they are domestic or foreign inspired.

That is not where we are. No matter how much it made sense to do it that way, it does not make a lot of sense for me to spend much more time talking about it other than to put in perspective what has happened here. We could have finished this bill a long time ago.

The fact of the matter is that a clear decision was made to take a very important part of the Republican crime bill, their essential elimination of Federal habeas corpus, and drop it on this bill.

We could probably settle this whole habeas corpus matter very quickly, the Senator from Utah and I. The only effect habeas corpus can possibly have in this bill is Federal habeas corpus. We have an amendment to limit their proposal to Federal habeas corpus cases. Let us go ahead and do that and drop all Federal habeas corpus amendments, vote on that one.

That is the only thing that is arguably related to Oklahoma City. Nothing else has anything to do with Oklahoma City, zero, zero. Nothing else has anything to do with this legislation. This is Federal legislation dealing with terrorist acts. That is Federal court. That is Federal prosecutors. That is a Federal conviction. So let us deal with Federal habeas corpus, not State habeas corpus.

This is a sham. I think we should change habeas corpus. I have been trying to change habeas corpus, differently than my friend from Utah has, for the last 8 years. We have battled over it, and it is a legitimate and serious, intellectual, political, and criminal justice issue but it has not a darned thing to do with this. So if we want to

end all the delay—and there is no delay in terms other than time consuming on each of the amendments—let us just have the debate on that issue. That applies to this legislation. None of the rest does.

The point I want to make here, and I am probably overmaking it, is that there is no delay. There is no delay. We have agreed to the amendment. We have limited the number of amendments that can be brought up. We could further eliminate a lot of those amendments, I am sure, if we could agree on focusing on international and domestic terrorism and we could move on. But one thing for certain, this issue warrants serious consideration—serious consideration. I note the Republicans do not think their 32 amendments are frivolous. Now I doubt any of these amendments, Democrat or Republican, are designed as delaying tactics. I expect we can work many of them out and we can proceed on the rest. But I believe very strongly that our job involves offering relevant amendments to make the bill better and debating them fully and reasonably. Again, terrorism is not a trivial matter, as we all know. The issue is as vital as it is complicated.

Let me just give one example how complicated it is. I will bet that 90 percent of the American people would have guessed that when JOE LIEBERMAN, Senator LIEBERMAN of Connecticut, and I brought an amendment to the floor at the request of the President last week that said we want to give the FBI the same power to use wiretapping devices and wiretapping under the circumstances that we presently allow them to investigate organized crime to organized terrorist threats, I will bet 90 percent of the American people would have thought everybody in this floor would vote for that—especially the Republicans. They talk about law and order all the time, like Democrats do these days. And what happened? We voted on it and it lost. I offer that as a simple example of what is so complicated about this issue. People are beginning to understand when we deal with people's constitutional rights and the fourth amendment that maybe it is better to err on the side of being very cautious in the power we give the police.

I have always been one to be very cautious. But I thought, since we had the ability to do to organized crime what was proposed by Senator LIEBERMAN and in the President's bill, we ought to be able to do that with terrorists. But, guess what, an overwhelming majority of my Republican friends did not think that made sense. I do not criticize them for that point of view. I just offer it to point out how complicated it is. I bet they have trouble explaining that back home. I do not suggest that their action was wrong or had any motivation other than they have a heightened sense of concern about the use of wiretaps. I respect that.

But guess what, this is not as simple as the majority leader makes it sound. If it were simple, that would have passed like a hot knife through butter here. But it did not. If we could understand how a majority of Republicans do not think we should be able to go after terrorists like we do the mob, then we ought to be able to understand that this is a complicated issue. It is important to get the bill right. Again, terrorism is not a trivial matter. It is vital, as vital as it is complicated. And we have to give law enforcement the tools it needs, even while we maintain protecting our constitutional rights.

Now, look, just to give an example, we are going to have an amendment here shortly that is another wiretap amendment. I will give this as just one example. That wiretap amendment, if it passes, will allow the Attorney General, the Federal Government, to be able to do roving wiretaps. That is the second amendment. That says, if you go to a judge and say, "Judge, we have probable cause to believe John Doe is committing or committed a felony under the existing title 18 of the United States Code that allows us to ask for a wiretap and we want to tap John Doe's phone," if the court concludes there is probable cause, then in fact what we do is we go along and we say: All right, the judge says that he will allow a wiretap. Generally what happens is you get a wiretap for a specific phone in John Doe's office or John Doe's home. But lots of times what has happened is that John Doe may figure he may be being tapped because he knows he is doing something wrong. He knows he is trying to avoid detection. So he may walk to the corner phone booth and use the corner phone booth all the time. Or he may go use the phone in his sister's home.

Right now the current authority for what are known as roving or multipoint wiretaps, or wiretap orders—a provision was proposed by the President, but not included in the Republican substitute, that would allow this kind of multipoint order, multipoint wiretap to be used. Multipoint wiretaps allow law enforcement officers to obtain a judicial order to intercept the communications of a particular person, not just for one specific phone as with most wiretap orders, but on any phone that a person may use.

A recent prosecution will help illustrate how the multipoint wiretaps work. In this particular case involving one of the world's biggest international drug traffickers, agents determined that a courier was contacting his bosses by using a number of randomly chosen public phones around his home, public phones outside his home. A multipoint wiretap was obtained and up to 25 phones were identified to prepare for the chance that the target would use one of these phones. Any time he used one of those phones the agents were able to initiate a wiretap. Interceptions obtained in this way led

to 53 Federal indictments and 19 tons of cocaine that were seized.

The wiretap on his phone would not have yielded much at all, but they identified all the phones around this guy's neighborhood because they watched him. They watched the pattern. He would walk out of his house and go to a telephone and use that phone. The next time he would use one two streets down from his home, and then four streets, and across the street, and in the drug store across the street. So they got an order for a multipoint wiretap. And they were right. They got the order through a judge.

Under the current law the Government can get a multipoint wiretap order only if it can show that the defendant is intending to thwart surveillance, usually by switching from phone to phone. The amendment the President wants, and Senator LIEBERMAN will propose on his behalf, would allow a multipoint wiretap where the defendant's conduct has the effect of thwarting surveillance regardless of whether or not the Government can prove the defendant's intent. Keep in mind they already have a guy they identified as the subject of a legitimate wiretap in his own home. And there is probable cause to believe this guy is doing something bad that exists as a crime under the law that you can get a wiretap for.

Mr. HATCH. Will the Senator yield on that point?

Mr. BIDEN. I will be happy to.

Mr. HATCH. Actually, I think the amendment the Senator is talking about is a good amendment. We have some on our side who have some troubles with it, but I probably am going to support this amendment because, let us be honest about it, all they are saying is they are going to follow the criminal. That is all this amendment means. The President is right on this, in my opinion, in that sense.

The original amendment written in the President's bill is not as good as this one, as I understand. We have even worked with my colleague on the language on it. I am going to talk to our side and see if there is some way we can get them to accept that amendment. But there are people who are so afraid of the Government right now—polls show somewhere around 40 percent of the people are afraid of their Government. That is pathetic. And part of the reason is because of what happened in Waco, because of what happened at Ruby Ridge, and a whole variety of other reasons, because the Federal Government has been too intrusive in all of our lives.

But I think the distinguished Senator from Delaware and I, working together, might be able to get this done because I think he makes a tremendous point. So did the President. With what the President wants to do, the problem was the roving ban semantically had implications that frightened people even more. But all the distinguished Senator from Delaware, as I understand it, is trying to do for and on be-

half of the President and others is say that, if you have a criminal who is going from phone to phone, you can follow the criminal. I personally do not see anything wrong with that. I see some great value in doing exactly that.

Once again, I give the Senator from Delaware credit for being one of the astute leaders in criminal law. We agree on a lot more than we disagree on. Frankly, where we disagree—and there are acceptable and good arguments on both sides. I appreciate the way he is approaching this. I want to read the language. But I personally feel pretty strongly that this amendment ought to be supported by both sides. I did not mean to take so much of the time.

Mr. BIDEN. That is fine. Mr. President, I am delighted for the intervention. As I said at the outset of my discussion of this, the chairman was occupied with the staff for a moment. At the time, I said that I was confident he and I could work this out. I am confident we can work out most of this. The reason I raise this is an illustration of the larger point I am making; that is, there is no attempt to delay anything here. This provision was not included in the Republican bill. I think it is a very important provision.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. HATCH. I do not think there is any attempt on the part of my friend and colleague from Delaware to delay. But by his own comments today he indicated that if we could get right off the habeas problem, we would not have the problems, we probably would not have 68 Democrat amendments. My personal belief is that we have to face that problem one way or the other.

The distinguished Senator from Delaware has some well-intentioned amendments in this area. I have to fight against them. But at least he is willing to face this issue. It is always easier to take controversial matters and not deal with them. But in this case, I think we have to do it. It is the only thing that really will make a difference with regard to Oklahoma City.

I call my colleague's attention, because of his comments earlier in the day where he said, if we did Federal habeas, that is all that needs to be done here. I call his attention to Robert H. Mason's letter dated May 24, 1995. He is district attorney for Oklahoma County, the district in which this occurred, where he points out that if you did just Federal habeas, it would not solve the problem because there were people who were not Federal workers, who were not in the building at the time, who were also killed and maimed. He intends to bring prosecutions in the State courts and to have swift justice in those cases also, which would require full habeas corpus reform like we have.

I respect my colleague. He knows that. We have been together on too many occasions. We have fought battles together, and we have fought them against each other. There are very few

people who understand these criminal law ramifications as well as my friend from Delaware. But I would really urge him to help us on this habeas corpus reform because I really believe it is something that has to be faced, it is something we need to do, and I think we can do it the way it is written in a way that protects the civil liberties and rights of those who are accused.

I apologize for again interrupting and taking time.

Mr. BIDEN. Not at all. Mr. President, I welcome—not interruptions—I welcome this colloquy and conversation. I know that there is an understanding that there will be no votes until 5 o'clock. So the likelihood of anybody other than the most stalwart of the Members of the Senate—I see the distinguished Senator from West Virginia and the distinguished Senator from North Carolina here—other than a few, there are going to be a lot of folks making their way back from the west coast and the Midwest on airplanes. So the likelihood of anything happening of consequence between now and the time that it was announced there would be a vote is de minimis. So I welcome the discussion.

Let me just again, not by way of argumentation but illustration of the confusion surrounding the legislation—understandable confusion. Even if the Republican bill had not been introduced, had the President's bill been introduced and nothing else, there would be confusion surrounding it. I do not mean this in a pejorative way.

The letter from the district attorney, as I understand it, from Oklahoma County, the county in which Oklahoma City is—I have not read it yet, but the fact of his rationale of why they need full habeas corpus, to have State habeas corpus included, is because there were non-Federal workers killed—understandably, he misunderstands the bill. It does not matter who is killed in the building. It is a Federal crime. That is what we are establishing. It is a Federal crime. A foreign national could be killed in the building, anyone, under current law, killed in a Federal building that is blown up, it is a Federal crime. It is also a State crime as well. It can be a State crime as well. But it is a Federal crime.

So the point raised by the distinguished—again, I am not criticizing the district attorney or the prosecutor in that county. I doubt whether he has had a chance to review the existing Federal law. But at any rate, the larger point here is this: I am ready, willing, anxious and, hopefully will be able to demonstrate, “able” to debate this habeas corpus issue. The reason why I did not want habeas corpus introduced into this issue is because I did not want to also get into a debate on guns in this issue. I did not want to debate militia and NRA and ACLU and all of these things.

Look, I am fearful that, although things have calmed down a little bit, if you listen to the rhetoric from Demo-

crats and Republicans on these issues, you would assume that everyone who joined a militia—by the way, we should not use that phrase. They are not militia. There is no militia under the Constitution. But anyone who joins these groups who organize themselves and call themselves militia, on the one hand you have everybody making them patriots; on the other hand, all a bunch of thugs, depending on who speaks to it. The same with the NRA—the NRA puts out an ill-advised letter, and all of sudden everyone in the NRA is a “thug”, a “bum.” The vast majority of NRA members in my State, the overwhelming number of NRA members are honest, decent citizens. They join the NRA because that is the outfit that taught them how to use a gun when they were a Boy Scout, how to fire their first rifle, took them to the firing range.

I am going to oppose the amendment of Senator LAUTENBERG. I support the use of that \$25 million in funds allowing ammunition to be made available to teach people how to learn to use weapons. That is a healthy thing. That is not a bad thing. Half of the people who join the NRA in my State join for the insurance that is offered by the NRA. The NRA, the members of the NRA, are good, God-fearing people; some of them probably good atheists; they are good everything. The fact they join the NRA is not because it is a bad organization.

But what is going to happen here before this debate is over is we start talking about guns. They are either all going to be superpatriots or they are all going to be a bunch of thugs. I think that is a useless debate to have now when what the President says he needs, we all know he needs, is he needs more agents. He needs more money. He needs more authority.

So to finish the point—and I will be happy to yield—before I finish my statement, my reluctance about getting into a debate on habeas corpus is that we who have been around here even a year all know that is what we refer to in the jargon as a “hot-button issue.” Once you mention habeas corpus, you bring out everything, left and right and center. It engages almost a religious debate. It takes on proportions like striker replacement. I mean it brings out everyone's deeply-held feelings.

I predicted as soon as habeas corpus was put on this bill that there would be 1, 2, 5, 10 amendments on guns. I suspect my friends would acknowledge that, if the Democrats had decided to introduce a terrorism bill that was loaded up with gun amendments, they would say, “Wait a minute. What are you doing that for? You are just trying to delay action on this thing. Are you just trying to raise everyone's hackles? Are you just trying to get into sort of a debate that has nothing to do with the added responsibility and authority that the President wants and has?”

That is the only point I am making about habeas corpus. But it is done.

The reason I even mentioned it now is to explain what I think has been already demonstrated by the short colloquy we have had thus far that Senator DOLE is wrong. This has nothing to do with the intent to delay.

The introduction of habeas complicated—did not delay—complicated action on this bill. Deletion of more intrusive authority on the part of the FBI complicated what already was a difficult debate requiring additional amendments. Additions of some legislation I support, and some I do not relative to firearms complicated consideration of this core legislation.

That is the only broad point I wish to make. That does not add up to delay. That adds up to an additional consumption of time out of necessity. It is necessary to use more time to resolve those complicated problems.

I daresay that if, in fact, my Republican colleagues thought that any one of these gun amendments was likely to pass, there would be, as there was in the past, extended debate. Just like I worried and thought—but is not going to happen now—that, if they raised habeas corpus, there would be extended debate. Neither is going to happen. I presume the reason it is not going to happen is because they have the votes. It always makes things go quicker when you have the votes. I remember the good old days when we used to have the votes. We do not have the votes anymore, my team. So we understand the likely outcome on most of this.

But this is not an attempt to delay. That is the only point I wish to make again to my distinguished friend, the Republican leader from Kansas, who on the Sunday talk show—I think it was Meet the Press, I am not certain which one it was—and today directly stated that this was a Democratic effort to delay.

The other side of this is that I am going to have, as we say, “clean hands” in this matter. The administration is putting pressure on the Republican leader asking, “Why did you not get my bill?” Why did you not get it done? Why do we not have this done? I think part of that also is done for political reasons.

And so I just hope that we in this body, once folks fly back into town here and we start debating on the amendments, can agree where we can agree, as the Senator from Utah and I at least think we can agree on the so-called multipoint wiretapping that the President wants made available to him, or made available to Federal agencies, and I hope we can even go back and revisit the, I think, ill-advised vote defeating the Lieberman amendment on wiretapping because I think once people took a closer look at it and took off our sort of political blinders here, they would see what was being asked for had nothing to do with anything other than what we now allow under our law and have to deal with the Mafia. Why

should the terrorist organizations have any more protection than the Mafia? I do not understand that. And I do not think, in fairness to those who voted against it, they fully understood what the amendment meant.

Again, terrorism is no trivial matter. If it takes a week, then it is time well spent, in my view, to arrive at a serious, significant piece of legislation that gives additional tools to the Government without infringing upon any of the civil liberties of the American people and diminishes the prospects that domestic or foreign terrorists will be able to succeed in repeating what was done at the World Trade Center and what was done in Oklahoma City.

So I do not consider this a waste of time. The telecommunications bill is an important bill, but I imagine, if you said to the American people, we can do one of two things for you: We can pass a bill that will enhance and make better the way in which the telecommunications industry functions in America and we can do that right away, or we can pass a bill that significantly strengthens the United States ability to deal with terrorists and to prevent terrorist acts, which do you want? My guess is they would pick—I do not know what they would pick. I would pick doing something about terrorism.

So in my view, even if it takes the remainder of the week to work our way through these amendments—and I predict it will not, but even if it did, it would not be wrong nor unreasonable. The goal here is we must get the best possible bill that we can. We owe no less to the American people. We owe no less to the people in Oklahoma City. We owe no less to ourselves. We owe more, much more, to the memory of those who have lost their lives at the hands of a madman or mad men and women in the unthinkable moment of insanity that we witnessed now well over a month ago.

And so I look forward, once we have a quorum assembled here in Washington—and again, I am not being critical of anyone who is not here now. If you represent the State of Utah or the State of California or the State of Washington and you went home over the recess, it is difficult to get back here early in the day and still meet your commitments without leaving a day earlier.

And so I am confident we can move with some dispatch once we get underway. I just plead with my colleagues on both sides of the aisle and on both sides of the various issues that will be raised here that we should not make the same mistake the authors of the NRA letter made. They figured out they made a mistake and they retracted what they said. We are going to have a tendency, as this debate heats up, to say some fairly outrageous things, some of which may even be true. But I do not think this is the circumstance under which we should do it.

I say to the Presiding Officer, I really do believe that we owe it to the people

who have been victimized thus far by a foreign and a domestic terrorist act to act with dispatch, in a slightly dispassionate way, to come up with hard-nosed, serious efforts to enable the Federal Government to legitimately fulfill its primary role of protecting the American people under these circumstances from these kinds of actions. So I will try my best to follow my own advice as this debate goes forward and suggest that to vilify any organization, right or left, to vilify individuals will not get us very far. What we should be doing is vindicating, vindicating those who have already suffered greatly in an attempt to make sure that we do not have to stand on the floor of the Senate again and deal with a similar circumstance.

The President has basically asked for two things. The first thing he said was give me more people. Give me more FBI agents. Give me more people to do this job. We should do that. We should do that, A, because he is right and, B, because even those who might want to point out that the last President and this President cut people for a while, they did not add as rapidly as they should have—well, for whatever the reason, let us not argue about that. He wants more people. We should give him more people—him and whomever follow-on Presidents will be.

Second, he said I need some additional authority. The authority I would like to have as the chief law enforcement officer for the United States of America, as the Chief Executive to give to the law enforcement agencies in this country the ability to do some things other nations have done with great success, that have diminished the ability to make these god-awful bombs, give the authority to tag the elements of these explosives so that when they blow up, you can identify from whence they came, where they were purchased and, hopefully, who purchased them to solve the crime. They are called taggants. We will debate that. There are legitimate reasons to debate it. But I think it is a legitimate request on the part of the President.

The President also says I need some additional authority to deal with this new emerging problem of terrorism on American soil, and it is authority that I want expanded for wiretapping in certain circumstances under which they are expanded. I think he should be given that authority, or at least we should debate it and make that decision as a body.

I think we should focus on the expanded authority he says he needs, and we should focus on the expanded resources he is requesting, and do our job for the American people and do it, as I said, hopefully—hopefully—by demonstrating to them that we can do something of consequence that is not rooted in political motivation, something of consequence on which we can agree. And, my Lord, if we cannot agree as a body, Democrats and Republicans, that we should give more au-

thority to deal with terrorists in this country, then I am not sure on what we are likely to agree.

So I look forward to a reasoned, a serious, and hopefully an unemotional debate on these issues, and a resolution in the near term so that we can send to the President of the United States, after a conference with the House, a piece of legislation that is worthy of his signature.

I thank the Senate for listening, and I see that Senator EXON and others are in the Chamber. I would be happy to yield the floor for the time being.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I congratulate the managers of this bill, the Senator from Delaware and the Senator from Utah, both very good friends of mine. I have the utmost faith and confidence in their abilities. I recognize they do not always agree. But I believe that under the leadership of these two individuals, who have been foremost in the Judiciary Committee for a long, long time, we certainly should be able to come up with some workable arrangement to dispose of the terrorist bill which the President sent us.

As I brought out when we last met here 10 days ago, when the majority leader and the minority leader were debating the fact of how fast we could move this bill ahead—we were going to take it up today, and the majority leader said he wanted to complete work on it on Tuesday—for the life of me, I do not know why Tuesday is such a magical date. I simply say there were supposedly some 50 or 60 amendments that were going to be offered, or proposed to be offered by Members on both sides of the aisle. We also remember that in the last week we met here, we had some 55 or 60 amendments to the budget bill. We finally got down to work and completed our deliberations and had our votes in a matter of, I believe, 3 days.

As important as I think the budget debate was, as important as I think the ever-increasing deficit is, as alarmed as I am about the ever-increasing national debt and the cost to the taxpayers for the interest on that national debt, I do not believe there is anything more important to the people of United States of America today than terrorism.

Terrorism is not like the balanced budget that I hoped we could get to a few years ago down the road. It is with us today. It was demonstrated in Oklahoma City very vividly most recently. I would simply like to ask my colleagues, if I could get their attention, to explain to this Senator why is it that we cannot make some kind of a good-faith effort by the two leaders of the Judiciary Committee, supported by the majority leader and the minority leader, to come to some kind of an understanding about how many amendments we are going to have, and about



how long that is going to take. I would think that if we would try to stay away from the filibuster and eventually limit debate to 15 minutes a side for most of these amendments, clearly that would give us an opportunity, in this Senator's opinion, to come forth and let the Senate express its will by majority vote on this tremendously important amendment that has to do with terrorism. And I assure all of my colleagues—and they know it full well—that terrorism is unfortunately alive and well in America today. I believe that the people of the United States expect us to stand up and do something about it, not in a foot race fashion, but in an expedited process of some kind, to have everyone have a chance, as is customary in the Senate, to work their will and maybe offer amendments.

This Senator has no amendments to the bill. That cuts us down to 99 other Senators that may have amendments. I simply say to the managers that this Senator wishes to cooperate with them, and if they would put out an appeal and if the majority leader and minority leader would join in that, I would think that maybe we can focus on this important piece of legislation that the President has set up. We do not have to approve it exactly like the President wanted it. We can change it dramatically in any fashion we see fit by a majority vote here.

I simply feel if we can put out this appeal, certainly the majority party, the Republicans, have demonstrated that they march basically in lockstep on most of these matters. The Republicans, it seems to me, have the majority and have the responsibility to either vote up or down on any amendments that could be offered from either side. I am simply appealing for some expeditious action on this tremendously important piece of legislation. If we have to take until Tuesday, Wednesday, Thursday, Friday, or even into next week, and if that is necessary, I do not think there is anything more important right now than this bill that is before us.

I salute the President for addressing terrorism. A failure of respect for law and order is rampant in our society today. Certainly, the police, the prosecutors, the judicial system we depend on to handle these matters for us, need strengthening, they need additional tools. I believe that the bill suggested to us by the President of the United States goes a long way into helping these people that need help today with the ever-increasing threat of terrorism.

So I simply pose a question for the managers of the bill. At their first opportunity, I ask them to respond as to whether there have been efforts made and are efforts being made now before the vote—as I understand it, there is a vote scheduled for 6 p.m. this evening. I would certainly be willing to remain here until midnight or 2 or 3 o'clock in the morning to take up or debate the reason or lack thereof of many of the

amendments that I understand are to be offered.

I hope that we will not do what the majority leader had indicated over the weekend—that he would pull the bill down on Tuesday—tomorrow—unless we complete action. I feel, though, that the majority leader is not irresponsible in asking for some time agreements, some way to limit the number of amendments that I think could be constructively moved forward, if it is the will of the majority of this body.

I have posed a question, and I will await the response of the managers of the bill at their first opportunity.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, I have listened to my distinguished colleague from Delaware and my distinguished colleague from Nebraska, and I appreciate both of their remarks.

With all due respect, I have to point out to my distinguished friend from Delaware that most all of the language in this bill was found in the substitute and it came from S. 3, introduced the first day of this session and S. 390, introduced several months ago. We have had several hearings in the full committee and two in the subcommittee. Thus, the language in this bill is well known.

Second, of the 32 Republican amendments, 12 have either been offered or have gone away. I suspect most of the others will as well. I fully expect that many of the remaining Republican amendments will also disappear in short order, once we move pretty quickly here.

What I find troubling, however, is the suggestion that habeas corpus should be dropped from the bill. The President—a Democrat, I might add—called for habeas corpus reform in his "60 Minutes" interview. His instincts were right. He knows this is the time to try to get habeas corpus reform and that it will make some difference to the victims and survivors of the Oklahoma City incident. In fact, it is the only thing we can do in this bill that will really make any difference to them. They have called for this.

As I wear this ribbon in their honor symbolizing the four strands—Oklahoma, hope, those who could not be found, and those who are dead—I have to say that I feel very deeply that we need to do this.

So in addition to the President, who has called for habeas corpus reform—but, of course, he has been riddled by those on the liberal side of his fence for having called for it, and has thus been somewhat muted ever since. I might mention there are other Democrats

that are very strong for this habeas corpus provision of the bill. The Democratic attorney general of the State of Oklahoma is one of our strongest supporters. He has called for habeas corpus reform in the form this bill has it. The Democratic district attorney of Oklahoma, Robert H. Macy, has called for habeas corpus reform. Add to this a bipartisan letter from the State attorneys general and the State district attorneys.

Mr. President, they also have called for habeas corpus reform. You have a pretty good idea that this is a bipartisan appeal. It is a bipartisan reform.

I just wish that my distinguished friend from Delaware had been with me 2 weeks ago when I talked to these survivors and victims and family members. Just this morning, I have met those people whose lives have been shattered by the Oklahoma City bombing. Interestingly enough, they have all called for habeas corpus reform in the form that this bill has it.

I think it is important that we continue to fight for this aspect of the bill. It is about time. We have argued about it for years. We have a chance of debating it at this particular time, and we should do so.

I have to say that I was also interested in Senator BIDEN's comments that these are Federal crimes. Well, I am not so sure they are with regard to the State citizens who were not Federal employees who were outside of the building at the time. This bill will not apply retroactively and could not be applied retroactively. So those murderers are going to have to be prosecuted in State court. If there is no habeas corpus reform applying to the State courts, we will continue to live with the long, incessant delays and appeals that have gummed up this system for years.

If we just enact a law that expands Federal jurisdiction over only Federal employees, that would not cover those nonfederal employees who were killed outside of the building. It could not be applied to those cases against the Oklahoma killers. To do so would be a clear violation. If we tried to apply Federal law to this, it would be a clear violation of the constitutional provision of the ex post facto laws. That is the way it appears to me.

This body needs to understand that habeas corpus reform, both State and Federal, is the only thing we can enact that will directly affect the Oklahoma case.

I might mention, also, that rather than exploiting the devastation of Oklahoma City, I believe that we are protecting the families of the victims from additional unwarranted victimization.

Comprehensive habeas corpus reform, as I have said before, is the only legislation Congress can pass as part of a terrorism bill that will have a direct affect on the Oklahoma City bombing. It is the one thing Congress can pass to ensure President Clinton's promise that swift justice will be kept.

President Clinton, recognizing this fact during his April 23, 1995, "60 Minutes" appearance, showed that he understood this. His instincts were right when, in response to a question about whether those responsible would actually be executed without the adoption of habeas reform, he said:

It may not . . . happen but the Congress has the opportunity this year to reform the habeas corpus proceedings, and I hope they will do so.

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is ludicrous. Indeed, habeas corpus reform has far more to do with combating terrorism than many of the proposals contained in the administration's own antiterrorism package, such as the proposals to enhancing FBI access to telephone billing records, and to loosen standards for use of wiretaps in felony cases.

Although most capital cases are State cases and the State of Oklahoma could still prosecute this case, our habeas reform proposal would apply to Federal death penalty cases as well. It would directly affect the Government's prosecution of the Oklahoma bombing case.

Indeed, several people were killed just outside the Oklahoma Federal building. The terrorists who destroyed the Federal building could thus be tried in State court for the murder of those citizens.

The district attorney for Oklahoma City and Oklahoma County is planning those prosecutions. The progress of this bill demonstrates the relationship of habeas reform to the terrorist bombing.

No. 1, it would place a 1-year limit for the filing of a habeas petition on all death row inmates, State and Federal inmates. No. 2, it would limit condemned killers convicted in State and Federal courts to one habeas corpus petition where, under current law, there is currently no limit to the number of petitions he or she may file. No. 3, it requires the Federal courts, once a petition is filed, to complete the judicial action within a required specified time period.

Clearly, by passing these provisions, we ensure that those responsible for killing scores of U.S. citizens will be given the swift penalty that we in society exact upon them.

Now, one last thing. One reason we brought habeas corpus reform here is not just because it is the right thing to do. It is the right thing to do with regard to keeping off gun amendments. We have asked people on our side to not get involved in any gun fights today. If there has to be a gun fight, we should do it over the crime bill that we will bring up in the future. We should keep this bill clean and decent. I would caution my colleagues on the other side, we should not try to make this a gun issue.

There is no reason to get into that debate, when we are trying to pass basically what the President has said he

must have, what the Justice Department has said it must have, what the FBI Director has said he must have; that is, legislation that could really give some teeth to law enforcement in the area of antiterrorist activities.

I think we should concentrate on that goal. We should not get involved in extraneous debates. We ought to pass this bill as quickly and as promptly as we can. If we have to fight it out over habeas corpus reform, we should do it.

I think the distinguished Senator from Delaware has 67 amendments on that. Fine, bring them up. We will fight them out and see what happens. I can live with almost anything if we can get a bill passed that will really make a difference in not only all of our lives, but the people specifically in Oklahoma City whose lives have been devastated by what happened there. I think passing this bill will be as good a memorialization for those who have died as anything we in the U.S. Congress can do.

I cannot imagine why any Member would fight this bill when we have worked our guts out to work with our President, to work with the Justice Department, the FBI, and others. And this will beef up law enforcement as it should be beefed up, not only from the law enforceability standpoint, but from a law enforcement personnel standpoint. It is long overdue. I agree with the distinguished Senator from Delaware.

In the last 2 years, the FBI and other law enforcement agencies have been cut back rather than beefed up. Now the President realizes that we have to change course and beef them up. There is about \$1.8 billion in this bill that will take care of strengthening our law enforcement with regard to antiterrorist activities and other activities that are long overdue, in my eyes.

I have been complaining about this for quite a while. I have to admit, I think during the Reagan and Bush years, we could have done a better job of beefing up the FBI and other law enforcement agencies ourselves. Now is the time to face these issues. I think we should do so.

We have a number of stacked amendments. The bill is currently open for any other amendments that any Member might file. I hope that our colleagues will bring their amendments to the floor and debate them. We still have 2½ hours before we begin voting. I would like to resolve as many of them as we can, and stack as many amendments as we can for voting.

I am hopeful that we can get colleagues to withdraw amendments that really do not belong on this bill, and to reduce the number of amendments we can have so that we can pass this bill by tomorrow evening, if we can, or at least within a relatively short time.

I understand the majority leader's pressures. There are all kinds of important pieces of legislation that must be

brought before the U.S. Senate over the next few weeks and months. He has not had the time to devote excessively to any particular bill. This is one bill that has to pass. We will pass it. I hope that all Members will cooperate in the process.

I hope our Senators will bring their amendments to the floor and we can move from there. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I came to the floor this afternoon to stand in support of the Dole-Hatch substitute to Senate bill 735 that deals with necessary and appropriate redefining of our laws in relation to terrorist activities or terrorist type activities in this country. But in coming to the floor this afternoon to speak, I also wanted to speak very briefly on the amendment that is pending and will be voted on this afternoon offered by the Senator from California on the issue of taggants.

The legislation before us deals with taggants, and the question is then, if it does and does so appropriately, why will the Senator from California offer something that is considerably different? Is it a new idea? Not at all. In fact, it is really quite an old idea that the Congress has looked into before over the years to attempt to identify or cause to be identified explosive material so that when they are inappropriately used or misused they can be identified and traced. To my knowledge no one in this country has objection to that concept. But the word "concept" is what is key in this debate.

It is a concept. And there have been studies produced that would argue that, while it is well intended, it may be at least at this point in time scientifically and technologically impossible to get to the point of putting in explosive materials, that are so designed to develop to do certain things, an identifiable marker that would still cause them to perform as they were tested and manufactured to perform. In fact, the concern is that it might cause them to perform in an inappropriate way and cause harm to the individual who was using them in a legitimate, legal, and responsible fashion.

That is, of course, exactly what the Senate bill 735 substitute recognizes when it proposes that we study this issue and try to bring the community of science and technology together to see whether in fact we can produce an identifiable marker, if you will, within an explosive material that tags it, that identifies it, and that would allow it to be used.

There was something else said by the Senator from California this morning, that at least frustrated me, which was her very open and direct statement that the NRA opposed it, the National Rifle Association. I thought it was important that the record be straight, that, in fact, the record be factual.

The NRA does not oppose this provision of Senate bill 735. What the NRA, as a responsible representative of a variety of people who use gunpowders for legitimate reasons, is suggesting is that, if you do not do it right and you do it wrong, you could cause damage to a lot of innocent people and produce unaffordable costs that do not make a lot of sense.

Let me read to you on the record testimony given before the Judiciary Committee in April of 2 years ago on this issue. Point one proves that is an old idea whose time may not have come yet because we do not have the science and technology to allow it to come; and, second, the NRA never did nor does it now have an official position on the issue.

Let me quote from that testimony.

"The National Rifle Association does not take an official position concerning the licensing, manufacture and restrictions placed upon commercial high explosives, for that is not an area within our field of interest. However, we would be derelict in our responsibilities to America's gun owners and as citizens if we did not point out to this committee"—meaning the Judiciary Committee of the Senate—"the basic flaws and fallacies of the taggants technology."

"An important point that must be made to the committee is that tagging explosives is not a new idea. In fact, the Congress studied and rejected the concepts involving identification and detection taggants in the latter 1970's and early 1980's. The premise behind that experience has been restricted in the aftermath of the bombing"—this was the World Trade Center hearings that emanated out of that horrible explosion—"that law enforcement officers should be assisted in their investigation of tagging explosives. But the facilitation that was to be realized is not available."

In other words, the technology, the availability of the science to do what might be the right thing to do simply does not exist. I ask unanimous consent that the entirety of that testimony be printed in the RECORD.

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

TESTIMONY OF THE INSTITUTE FOR LEGISLATIVE ACTION OF THE NATIONAL RIFLE ASSOCIATION

SUBMITTED TO THE JUDICIARY COMMITTEE OF THE U.S. SENATE, APRIL 22, 1993

The Institute for Legislative Action of the National Rifle Association (NRA) would like to thank the Senate Judiciary Committee for the opportunity to submit testimony regarding the issue of explosives tagging.

It may surprise the Committee to see the NRA testify on what many consider purely an explosives matter. The fact is, however,

that tagging affects not only explosives, but also propellant powders used by the over three million members of the National Rifle Association and millions of sportsmen throughout the country.

Current legislative proposals would affect all powder, whether it be blackpowder used by antique and reproduction firearms enthusiasts, or smokeless powder used in modern firearms ammunition and by shooters who reload their own ammunition. While section 845 (a)(5) of Chapter 40 exempts commercial sporting grade blackpowder in quantities of fifty pounds or less, all sporting grade blackpowder would have to be tagged, since blackpowder is manufactured in larger quantity lots. If propellant powders are going to be covered in any legislative mandate that requires taggants be utilized, then this becomes more than an explosives control matter. It is a matter of concern to all gunowners.

Explosives tagging to register individual lots of explosives is an idea that sounds wonderful, but like so many wonderful-sounding ideas, it will not work. From a practical perspective, explosives taggants simply will have no significant effect upon terrorist bombers. The only major effect of such a proposal will be to increase the paperwork required by manufacturers and dealers in explosives and propellants; increase the control exercised by BATF over their activities; and to significantly increase the cost to taxpayers and consumers.

The National Rifle Association does not take an official position concerning the licensing, manufacture, and restrictions placed upon commercial high explosives, for that is not an area within our field of interest. However, we would be derelict in our responsibilities to America's gun owners and as citizens if we did not point out to this Committee the basic flaws and fallacies of taggants technology.

An important point that must be made to the Committee is that tagging explosives is not a new idea. In fact, the Congress studied and rejected the concepts involving identification and detection taggants in the latter 1970s and early 1980s. The premise behind that experience has been resurrected in the aftermath of the bombing of the World Trade Center—that law enforcement officials could be assisted in their investigations by tagging explosives. But the facilitation that was to be realized is now available to BATF and other law enforcement agencies without the use of taggants.

Identification taggants were first proposed as a means of pinpointing exactly what type of explosive had been used in a bombing. Detection taggants were intended to provide a means of "sniffing" explosives that may be contained in a package prior to detonation. But technology has surpassed those premises. We now possess, and the federal government now uses, machinery that can detect, or "sniff" the nitrates in explosives. Additionally, other technologies allow law enforcement officials to "sniff" a bomb scene and determine what explosives were employed.

If it be the intent of Congress to place additional controls upon commercial explosives, so be it; but Congress should realize that explosives used in terrorist bombings are not necessarily commercial explosives. Any objective analysis would have to conclude, as they have in the past, that terrorist bombings are quite unlikely to be significantly affected by any proposed new requirements of this nature. Let us examine the facts surrounding the incident that served as an impetus for these hearings, the bombing of the World Trade Center in New York City, and what is perhaps the greatest fallacy behind proposal of explosives tagging—that in-

vestigations would have been facilitated by the inclusion of taggants in explosives materials.

According to the New York Times, the bomb was constructed using urea, nitric acid, and sulfuric acid, all chemicals that are "inexpensive and widely available at chemical companies, laboratory supply stores or even garden centers. They can be bought in bulk for less than \$210 a ton." (March 11, 1993) Yet there has been no suggestion by BATF or any other government agency to place taggants in these products, or more importantly, in prilled ammonium nitrate for the simple reason that there is no difference between commercial ammonium nitrate used for blasting and the far greater amounts of ammonium nitrate used as a fertilizer. The fact is that there are no components of the bomb used in the World Trade Center bombing that would have been detected or identified had this proposal been in force.

One of the most easily made explosive devices is the mixing of ammonium nitrate, or fertilizer, with a fuel oil, even though it is currently prohibited by law. The resulting explosive, commonly known as ANFO, would require a high explosive booster charge, and that booster charge, if obtained commercially, would be tagged under this concept. But, ammonium nitrate may be illegally mixed with a fuel which is itself an explosive, such as gasoline, or nitromethane, the choice among high performance race car drivers as a "speed fuel", both of which are technically classified as explosives in standard reference books. If ammonium nitrate and gasoline are combined, the result is a powerful and easily detonated explosive—an explosive that does not require a tagged booster charge. In fact, ammonium nitrate and gasoline may be easily and reliably detonated by a booster charge consisting of the same ammonium nitrate/gasoline ingredients inserted in a pipe or similar container and initiated by nothing more exotic than a conventional firecracker.

An explosive consists merely of an oxidizer, which may either be a chemical which during burning produces large amounts of oxygen, or simply oxygen in the air, combined with a fuel. As a case in point, a standard U.S. Army manual lists as a special charge for use in flattening large buildings an explosive which every Member of the Committee has in his home—household flour. The flour is the fuel; oxygen in the air is the oxidizer. Even blackpowder can be manufactured with relative ease using common ingredients in any kitchen in the country. Additional "recipes" can be found in other widely available pamphlets and brochures.

The reason that it is difficult, if not altogether impossible, to control terrorist bombers by controlling commercial explosives is that the terrorist bomber is not limited to the use of commercial explosives. It is certain that most, if not all, terrorist groups have the ability to make extremely damaging explosives, while easily circumventing the provisions of any technologically feasible legislation. There is no reason to assume that taggants in smokeless and blackpowder would have any effect in controlling terrorist attacks. Information concerning explosives is readily available—and access to that information is impossible to control.

There are five basic problems confronting the terrorist bomber: he needs (1) a material which is easy to acquire, (2) safe to prepare, (3) not easily detectable in case of search by police, (4) capable of being detonated after he is well clear of the area, and (5) capable of highly explosive effect. One type of bomb which easily meets these criteria consists of nothing but a container of butane, such as

used to fuel home workshop torches, gas lights and similar devices, or even a small container used for filling butane cigarette lighters, and an ordinary candle.

A bomber can, with relatively complete impunity, carry those ingredients almost anywhere. And upon obtaining egress to his chosen target site, he can enter an interior restroom or storeroom and quickly produce a time bomb by lighting the candle in one corner of the room, then venting the butane bottle in another corner. The gas-air ratio is so broad, that an explosion is certain to result when the gas reaches the candle's flame. If such a bomb were placed in a central room without windows, thereby confining the explosive force, a large building could be destroyed. In effect, this type of gas bomb duplicates the horrendous damage caused by an explosion of leaking natural gas, with which all of us are familiar.

Certainly, a bomb of sorts may be fashioned using either smokeless or blackpowder propellant. However, to make an effective bomb with these substances is far more difficult and requires a more sophisticated knowledge of the intricacies of explosive mechanics. Anyone possessing such knowledge could, with equal ease, make a cheaper, far more efficient, bomb from a myriad of other substances.

According to the BATF, black and smokeless powders each comprised 16 percent of criminal bombings in 1991. More than fifteen years ago, in BATF's own testimony before the Subcommittee on Criminal Laws and Procedures of this Committee on September 12, 1977, Mr. Atley Peterson stated, "because they (black and smokeless powders) produce a low-order explosion, loss of life, injuries and property damage are small."

Using BATF's statistics, it seems apparent that black and smokeless powder are not a major part of the bombing problem. And, looking again to the issue of the relative ease and rudimentary knowledge required to make "kitchen counter" blackpowder, it is unlikely that all incidents involve commercially manufactured sporting grade blackpowder. Undoubtedly, many blackpowder incidents could be traced to homemade powder or non-sporting grade powder such as fireworks or blasting powder, or even kitchen matches, when simply cutting off the heads. Interestingly enough, much blasting grade blackpowder is manufactured for military use. Military explosives were in the past exempt from legislative measures, although there are frequent reports of military explosive thefts.

An important aspect of this concept is its feasibility. According to the report "Taggants in Explosives" (OTA-ISC-116), produced as a result of the Congressional interest in taggants in the latter 1970s, no reliable method for tagging smokeless powder has been developed, and blackpowder tagging has only been tested with regard to its effects on the grade of blackpowder used for blasting. There is no documented evidence that a single round of tagged powder has been fired from a muzzle-loading firearm. A problem with the compatibility of smokeless powder and taggants was also identified, calling into question the safety of taggants for the thousands of handloaders using powder in ½, 1 or 2 lb. cans and the millions of people owning modern ammunition for their firearms.

An estimated five million pounds of smokeless and blackpowder propellants are sold to shooters each year, representing perhaps six million individual cans of powder. Giving BATF every conceivable benefit of the doubt, we are talking about a negligible amount of legally manufactured and obtained smokeless and blackpowder being involved in an "explosives incident" in which

tagging might be of some benefit to the investigators.

The FY 1991 arrest figures for explosives incidents as provided by BATF is 177, and the number of actual and attempted explosives incentives was 1,965, giving an arrest rate of 9%. A 1978 BATF cost/benefit analysis projects a 1.5 fold increase in arrests if tagging is mandated, then arrest rates would go to 13.5%—a 4.5% increase. Out of the 589 black and smokeless powder devices recorded in 1991, current arrests must total 53 cases. Tagging would, according to BATF projections, increase this to 80 total arrests. This is an increase of only 27 cases a year.

The same study estimated that the then annual taxpayer cost of identification tagging at \$10 million dollars, and detection tagging at \$9.4 million dollars. Using Bureau of Labor Statistics calculations of the Consumer Price Index to account for inflation, the same estimates today would be \$22.65 million and \$21.29 million respectively. Using these figures, taxpayers would pay \$43.94 million dollars just to arrest 27 more persons. With a projected \$22.65 million dollar annual cost, again from the fifteen year old estimations and accounting for inflation, to be absorbed by ammunition and powder consumers, the estimated total cost of the program would be some \$66.59 million. For that additional taxpayer and consumer burden, the projected 27 additional arrests would cost an average of \$2.5 million dollars each. In fact, BATF's own cost/benefit analysis indicated that this program cannot be justified. BATF stated in the 1970s, with reference to the detection tagging program, "at present it is impossible to estimate the effectiveness of tagged or untagged detection with any degree of accuracy. Within this large uncertainty, both tagged and untagged detection appear to be, at best, of borderline economic viability."

The BATF-commissioned study succinctly stated that, "Ideally, the problem of control would be greatly simplified if every ounce of explosive, legally manufactured and legally used, could be completely accounted for." But, the study's determination in favor of identification tagging is based upon mere hypothesis, nothing more. Quite simply, BATF does not know if taggants would be effective in apprehending or deterring bombers.

Even ignoring the concerns now before this Committee—the illegal manufacture and use of explosives—the sheer burden of tracing every ounce of legal explosives to the purchaser, and the minutely detailed records which would have to be kept by the manufacturers, distributors, wholesalers and retailers is staggering. If propellant powders are tagged, this will drastically increase, and in many cases duplicate, the paperwork and records already being kept by federal firearms licensees. And how are we to trace explosives beyond the first non-dealer purchase?

In the past, BATF has stated that ammunition recordkeeping was a waste of resources, as ammunition tracing has never solved a crime—the volume of records is just too large. If propellant powders are tagged, every packaged quantity, no matter how small, whether one can of black or smokeless powder, or one box of ammunition, would have to be referenced to manufacturer and lot number. But this recordkeeping would simply do no good at all. One numbered lot of powder can yield several thousand individual cans of powder and literally thousands of boxes of ammunition. Even with detailed records, tracing the end user would be like looking for the proverbial "needle in a haystack."

Obviously, what the Congress and the American people really want is a means to

apprehend and punish those who use explosives in an illegal fashion. It is assumed that this threat of punishment will serve as an effective deterrent, thereby decreasing the number of bombings. Yet, in view of the flimsy evidence presented by the supporters of the tagging program in the past, Congress is considering an unknown quantity, which will have a questionable impact on bombings and an undetermined ballistic effect on propellant powders, not to mention the suspect safety of taggants on handlers and end users. In fact, the only thing that seems sure about this program is that if black and smokeless powder are tagged, it will impose a mammoth recordkeeping burden on small businessmen and drive up the cost of supplies for sportsmen. As usual, the terrorist will blithely ignore the law and the criminal circumvent it—for they are, by definition, people who disobey the law. The law-abiding citizen will once again be the only one affected by the implementation of this concept. That is why the National Rifle Association oppose the concept of tagging, specifically propellant powders, and urges the Committee to reject this concept as ill-conceived. The benefits of doing otherwise are dubious at best, but the costs, in dollars and to the small businessman handler are all too real.

We thank you for the opportunity to submit testimony to this Committee.

Mr. CRAIG. Mr. President, so why the amendment? Why not stay with the substitute bill? If this Congress wants to get the industry that manufactures explosives to a point in science and technology where we could identify the explosive itself, why not pursue it in the way that Senate bill 735 suggested? Or is there another reason to pursue it in a way that the Senator from California has pursued it; that is, do it now and study it later? That is a bit of a strange way to approach something that, if done wrong or if caused by Government and forced to be done without the proper basis of understanding to be done wrong, could create the kind of damage that could occur if this were the case.

So let us today vote to table the amendment of the Senator from California and stay with the substitute bill which does recognize the importance of developing the science and technology for taggants. I support that. And I hope we can get there.

But the record now shows that the National Rifle Association does not oppose taggants, and it never has. It most assuredly supports the science and the technology that could lead us to that. What it is officially on the record as opposing is the amendment of the Senator from California because it simply believes it is too premature. It might well be risky to the science and the technology involved.

This Senate I think in a responsible way wants to do it right. The right way is the Senate bill that has been appropriately heard with the appropriate technology, or the record for technology built into it.

With that in mind, I hope as we vote this afternoon on the tabling motion that we would support the committee and the chairman, and the text of Senate bill 735.

I yield the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. CRAIG assumed the chair.)

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1207 TO AMENDMENT NO. 1199

Mr. BROWN. Mr. President, earlier today, the distinguished Senator from Utah was kind enough to propose for me an amendment to the bill. That particular amendment was designed to extend the sanctions that we now have in place against Iran to all countries designated as terrorist countries by our Secretary of State.

Let me add that it is not my intention with this legislation to restrict the President or the Secretary of State. And included in the amendment is a very extensive waiver provision so that while we would have on our books a provision for adding these sanctions against other countries that have been designated as terrorist countries, it would not necessarily require the implementation of these sanctions, but it would require the waiver of them in the event a terrorist country is so designated. That waiver is quite broad and gives the President a great deal of discretion. The President, if he so determines for national security interests or even humanitarian reasons, may waive the action. But what it does do, Mr. President, it gives some consistency to our action. It puts countries that would contemplate using state terrorism on notice that this country is serious, that there are sanctions, that those sanctions are broad and significant, as in the sanctions the President has applied against Iran.

It also will put them on notice that while these sanctions come with being designated a terrorist country, it is possible, if they work with our President and with the Secretary of State, they can work their way out of it.

Mr. President, I think this is an important amendment because what it says is we are going to be consistent. If a country chooses to adopt these kinds of terrorist policies, we ought to at least make sure that when we designate a nation as a terrorist country there are some sanctions involved.

The final version of the amendment differs slightly from the provision that was introduced earlier today. The waiver provision, to be specific, is different in the final version of the amendment. It simply makes clear that there are very wide discretions on the part of the President. And I would ask unanimous consent that the final version of the Brown amendment be entered into the RECORD at this point and substituted for the original amendment.

Mr. BIDEN. Mr. President, reserving the right to object, does the Senator

have a copy of that so I can take a quick look at it?

Mr. BROWN. I do. I would be glad to—

Mr. BIDEN. I would like to suggest maybe we could have a short quorum call. I do not want to object. I do not think I will object, but if the Senator would allow—

Mr. BROWN. Mr. President, I will withhold my unanimous consent request until the distinguished Senator from Delaware has had an opportunity to review the amendment, and I would at this point note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1209 TO AMENDMENT NO. 1199

(Purpose: To prohibit the distribution of information on the making of explosive materials with intent or knowledge that such information will be used for a criminal purpose)

Mrs. FEINSTEIN. Mr. President, I would like to send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 1209 to amendment No. 1199:

At the appropriate place in the amendment, insert the following section:

**SEC. —. PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.**

(a) Section 842 of title 18, United States Code, is amended by adding at the end the following new section:

“(1) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends, or knows that such explosive materials or information will likely be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.”

(b) Section 844 of title 18, United States Code, is amended by designating section (a) as subsection (a)(1) and by adding the following new subsection:

“(a)(2) Any person who violates subsection (1) of section 842 of this chapter shall be fined under this title or imprisoned not more than twenty years, or both.”

Mr. BIDEN. Will the Senator yield for 30 seconds?

Mrs. FEINSTEIN. Yes.

Mr. BIDEN. Mr. President, I had asked that a quorum call be put into effect to determine whether or not I could agree with the unanimous consent request by the Senator from Colorado. I would just ask the Senator from California, when we conclude that, if I would be able to interrupt her to allow the Senator from Colorado to amend his amendment.

I do not seek that now, but I would like that so the Senator from Colorado does not think I have put this off for a couple hours.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I am happy to, or I am happy to wait. I am trying to use the time usefully.

Mr. BIDEN. I would encourage the Senator to proceed. I would ask her permission, when we work this out, whether I could interrupt her at that point.

Mrs. FEINSTEIN. Absolutely. I would be delighted. I thank the Senator.

Mr. BIDEN. I thank the Chair and I thank the Senator.

Mrs. FEINSTEIN. Mr. President, I rise today to offer an amendment to address what I believe is a rather surprising problem in our society, and that is the distribution of bombmaking information for criminal purposes. This amendment is simple, and I think this cartoon in USA Today really describes what the situation is.

Here is a youngster sitting in front of his computer learning how to put together a bomb. Here is the mother on the phone saying, “History, astronomy, science, Bobby is learning so much on the internet.”

This amendment would prohibit the teaching of how to make a bomb if a person intends or knows that the bomb will be used for a criminal purpose. Additionally, the amendment would prohibit the distribution of information on how to put together a bomb if a person intends or knows that the bomb will be used for a criminal purpose.

The penalty for violation of this law would be a maximum of 20 years in prison, a fine of \$250,000, or both.

Now, you might ask, how is that possible? How would anybody do this? I think the next chart I will put up will show clearly how it is possible and what people today are doing.

Let me show you this. This is from the internet, entitled “Stuff You Are Not Supposed to Know About.” It advertises the Terrorist Handbook. It says,

Whether you are planning to blow up the World Trade Center, or merely explode a few small devices on the White House lawn, the Terrorist Handbook is an invaluable guide to having a good time. Where else can you get such wonderful ideas about how to use up all that extra ammonium triiodide left over from last year’s revolution?

Well, that is just part of it. What that then leads to is a whole series of recipes on how to put together a bomb aimed at killing, injuring, or destroying property. The handbook goes on to give a step-by-step instruction on what to do. Let me quote from a section on acquiring chemicals:

The best place to steal chemicals is a college. Many State schools have all of their chemicals out on the shelves in the labs and more in their chemical stockrooms. Evening is the best time to enter a lab building, as there are the least number of people in the building. Of course, if none of these methods are successful, there is always section 2.11.

And it then tells how to pick a lock to get into the chem lab. It tells how to dress to look like a student. It tells where the shelves are that the chemicals are on. The handbook lists various explosive recipes, using black powders, nitroglycerin, dynamite, TNT, and ammonium nitrate. It provides explicit instructions for making pipe bombs, book bombs, light bulb bombs, glass container bombs and phone bombs, just to name a few.

Now, I have heard people say, oh, but the Encyclopedia Britannica has eight pages on explosives, and nobody criticizes that. Well, I have read the eight pages on explosives, and it does not say how to make a toilet paper roll booby trap. What legitimate purpose is there for a toilet paper roll booby trap other than to kill somebody? You do not blast out the stump of a tree. You do not need it for mining. You need it for no civilian or military purpose other than to kill. Or a vacuum cleaner booby trap. Again, no civilian or military purpose, no blasting out of tree trunks, no mining use. A traffic cone booby trap. A video alarm booby trap. A washing powder box booby trap. How to develop this thing in a bottle or a box of soap powder.

Light bulb bombs. The Terrorist Handbook describes, "an automatic reaction to walking into a dark room is to turn on the light. This can be fatal if a light bulb bomb has been placed in the overhead light socket. A light bulb bomb is surprisingly easy to make. It also comes with its own initiator, an electric ignition system." And then it goes into detailed instructions and diagrams of how to put one together.

I am not going to repeat those on the floor of the U.S. Senate. But I can assure you that the Terrorist Handbook provides these step-by-step instructions.

One of the more appalling descriptions of bombmaking involves a baby food bomb. The following information was taken from the bulletin board, computer bulletin board off the internet. Baby food bombs. "These simple, powerful bombs are not very well known, even though all of the material can be easily obtained by anyone, including minors. These things are so"—and then there is a four-letter word—"powerful, that they can destroy a car. Here is how they work."

Then it tells how they work. It says,

Go to the Sports Authority or Herman's sports shop and buy shotgun shells. At the Sports Authority that I go to, you can actually buy shotgun shells without a parent or adult. They do not keep it behind a little glass counter or anything like that. It is \$2.96 for 25 shells.

The computer bulletin board posting then provides instructions on how to assemble and detonate the bomb. It concludes with these words:

If the explosion doesn't get them, the glass will. If the glass doesn't get them, then the nails will.

I do not think our first amendment, or the framers of the Constitution,

want to protect the freedom of speech for criminal purposes. Clearly, these bombs are there for one reason and one reason only and that is a criminal purpose.

Let me give you another example that came through on April 23 of this year on the internet.

Are you interested in receiving information detailing the components and materials needed to construct a bomb identical to the one used in Oklahoma? The information specifically details the construction, deployment and detonation of high-powered explosives. It also includes complete details of the bomb used in Oklahoma City, how it was used and it could have been better.

Another examples comes from April 25 on the internet. I will quote it:

I want to make bombs and kill evil Zionist people in the Government. Teach me, give me test files. Feed my wisdom, O Great One.

That was April 25 on the internet.

The forward to the book "Death by Deception: Advanced Improvised Booby Traps" states:

Terrorists, IEDs [improvised explosive devices] come in many shapes and forms, but these bombs, mines, and booby traps all have one thing in common: they will cripple or kill you if you happen to be in the wrong place at the wrong time.

In this sequel to his best-selling book "Deathtrap," Jo Jo Gonzales reveals more improvised booby-trap designs. Discover how these death-dealing devices can be constructed from such outwardly innocuous objects as computer modems, hand-held radios, toilet-paper dispensers, shower heads, talking teddy bears, and traffic cones. Detailed instructions, schematic diagrams, and typical deployment techniques for dozens of such contraptions are provided.

Now, none of this is for use in any constructive civilian or military project. All of them are used for criminal purposes.

Other titles of books that teach people how to make bombs include: "The Guerrilla's Arsenal: Advanced Techniques for Making Explosives and Time-Delay Bombs"; "The Advanced Anarchist Arsenal: Recipes for Improvised Incendiaries and Explosives."

Well, there are those who would say this is just a simple first amendment exploration. Do not worry about it. People are just curious.

Well, let me tell you that on Friday, Orange County bomb squad Sgt. Charlie Stump told me that a 14-year-old was in his garage making a pipe bomb with an 11- and 12-year-old watching him do it. The information to make this pipe bomb came from the Improvised Munitions Black Book, which can be obtained in any gunshop through the Paladin Press mail order outlets. So this youngster blew himself up, and right next to him was the handbook that he used.

Another example. In Mission Viejo, a 20-year-old junior college student went into the so-called survivalist movement and accidentally set off his own bomb and killed himself. Again, the manual was sitting right next to him.

So, according to the sergeant, these books tell you in vivid detail how to make bombs, how to kill people, how to

destroy cars, how to destroy trains—whatever type of destruction you want to do, these books will tell you how to do it.

The purpose of this amendment is to say that if you know or intend this will be used in a criminal way, you have committed a Federal criminal offense by putting out this information.

Other examples include the following:

One of the 1993 World Trade Center bombers was arrested with manuals in hand.

In 1989, four Bethesda teenage boys were killed when a homemade pipe bomb subsequently went off. They were following instructions from another manual.

In 1987, a California teenager blew himself up with homemade bombs. The "Improvised Munitions Black Book" was found nearby.

Enough is enough. Common sense should tell us that the first amendment does not give someone the right to teach others how to kill people. The right to free speech in the first amendment is not absolute, and there are several well-known exceptions to the first amendment which limit free speech.

These include obscenity; child pornography; clear and present dangers; commercial speech; defamation; speech harmful to children; time, place, and manner restrictions; incidental restrictions; and radio and television broadcasting.

I do not for 1 minute believe that anyone writing the Constitution of the United States some 200 years ago wanted to see the first amendment used to directly aid one in how to learn to injure and kill others.

I believe that the distribution of information on bombmaking, if we know that information will be used for a criminal purpose, should be illegal.

At a recent hearing of the Judiciary Committee, I asked FBI Director Louis Freeh if anyone has a first amendment right to teach someone how to build a bomb in this country. He replied that it is a very important debate that very few people have reviewed. He suggested that it is a question that should be taken up by Congress. That is what we are doing this very day.

My amendment is specifically aimed at preventing and punishing the distribution of material that will be used to commit serious crimes external to the distribution itself, and only when there is intent or knowledge that the information will be used for a criminal purpose.

In other words, it is not aimed at suppressing contents per se, or fashioned as a prior restraint. Its purpose is addressing the facilitation of unlawful criminal conduct.

Now, we will talk for a moment about current law. There currently is a Federal law on the books that is similar to my proposed amendment. Title 18, section 231(a)(1) of the Criminal Code states:

Whoever teaches or demonstrates to any other person the use, application, or making



of any firearm or explosive or incendiary device . . . knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder . . . shall be fined under this title or imprisoned not more than 5 years, or both.

At least 18 States have similar bombmaking laws on the books, including Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Louisiana, Michigan, Missouri, Nebraska, New Jersey, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, and Virginia.

I know that concerns have been raised by some civil libertarians and others about the constitutionality of my amendment, because it in essence takes this section which I have just read of the code and says if you, additionally, distribute that information with the knowledge or intent that it will be used for a criminal act, then you are guilty of a Federal violation.

So if you read information that is within a terrorist handbook, where the beginning page of the handbook says, "Whether you are planning to blow up the World Trade Center, or merely explode a few small devices on the White House lawn, this is the information you should have," that clearly sets, in my view, the purpose and intent of providing the information.

The current law, section 231 of title 18, has already been used to prosecute several criminals. It has been constitutionally upheld by the courts. In the United States versus Featherston, 1972, the Fifth Circuit Court of Appeals held that the statute "is not unconstitutionally vague" and affirmed the convictions of two defendants who were profited under the law.

The fifth circuit wrote:  
. . . the statute does not cover mere inadvertent conduct. It requires those prosecuted to have acted with intent or knowledge that the information disseminated would be used in the furtherance of a civil disorder.

I know, though, that the true test of the amendment's constitutionality will be if and when it comes before the courts. And, I welcome that opportunity.

The last time the Supreme Court directly dealt with the issue of freedom of speech restrictions was over 20 years ago, in *Brandenburg versus Ohio*, 1969. As I understand it, this case involved a Ku Klux Klan leader's right to advocate destruction of property and other violence as a means of obtaining political reform. I think it may be time, especially in light of Oklahoma City and the World Trade Center bombings, for the Supreme Court to deal with this issue again.

In today's day and age, when violent crimes, bombings, and terrorist attacks are becoming too frequent—2,900 bombings a year, 541 in California alone in the year 1993—and when technology allows for the distribution of bombmaking material over computers to millions of people across the country in a matter of seconds, I believe that some restrictions on speech are appropriate.

Specifically, I believe that restricting the availability of bombmaking information for criminal purposes, if there is intent or knowledge that the information will be used for a criminal purpose, is both appropriate and required in today's day and age.

As Wisconsin District Judge Robert Warren wrote in the Progressive case dealing with the publication of information on how to build an atomic bomb:

What is involved here is information dealing with the most destructive weapon in the history of mankind, information of sufficient destructive potential to nullify the right to free speech and to endanger the right to life itself . . . While it may be true in the long run, as Patrick Henry instructs us, that one would prefer death to life without liberty, nonetheless, in the short run, one cannot enjoy the freedom of speech or the freedom of the press unless one first enjoys the freedom to live.

I could not agree more with Judge Warren.

Enough is enough. I do not believe the first amendment gives anyone the right to teach someone how to kill other people or provide certain information that will be used to commit a crime. Even our most precious rights must pass the test of common sense.

I thank you, Mr. President. I yield the floor.

I suggest the absence of a quorum.  
The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BIDEN. Mr. President, I rise to speak to the Feinstein amendment and suggest that what the Senator from California has raised here, paraphrasing director Freeh, is a debate that we should be having.

I do not think there are many people, and I do not think there are any people here in this body, who would suggest that the examples the Senator has given are examples we should not be concerned with. As evidenced by the Senator's comments, she also is mindful that although there are exceptions to the first amendment they are few, and we should, in drafting legislation, keep the first amendment in mind.

It is in that regard that I rise to discuss very briefly, the case of the United States versus Featherston, the fifth circuit case that the Senator mentioned. In that case, the court upheld a conviction of two leaders of a militia group who showed their followers how to make explosives. The purpose of the demonstration they put on was to prepare the group for the coming revolution.

Now, the statute at issue makes it a crime to teach someone how to make a bomb, knowing, intending or having reason to know that the bomb will be unlawfully used in a civil disorder as defined as a public act of violence involving three or more people.

In upholding the statute's constitutionality, however, the court read the language in the statute more narrowly than the language appears on its face. The court found the statute requires—this is the fifth circuit speaking—that those prosecuted have acted with "intent or knowledge" that the information would be used to further a civil disorder.

Now, the Senator has adjusted the language in her amendment in order to strike a much broader intent standard that she had originally proposed. The original language she had said, "a person intends, knows or reasonably should know that such explosive material or information will be used. . . ." She has amended that to say that if the person "intends or knows"—let me get the exact language here. I beg the Chair's pardon. The language now reads, "intends or knows that such explosive material or information will likely be used for. . . ."

I would respectfully suggest that language does not meet the fifth circuit standard requiring intent or knowledge.

I see the Senator is understandably occupied at the moment with the chairman of the committee, discussing this amendment, but at an appropriate point I am going to ask the Senator whether she would be willing to further amend her language to comport with what at least I believe the fifth circuit's minimal requirements are, and that is to say that if the person "intends or knows that such explosive material or information will be used." Put it another way, drop the word "likely."

Mrs. FEINSTEIN. May I respond?

Mr. BIDEN. Please.

Mrs. FEINSTEIN. The answer to the question is yes. I was just talking to the committee chairman, the floor manager on this subject.

Mr. BIDEN. I compliment the Senator for that.

Mrs. FEINSTEIN. I will be happy to.

Mr. BIDEN. I suggest that would put it in line with what she intends and what the court found.

Mrs. FEINSTEIN. Mr. President, may I move to amend?

Mr. HATCH. May I ask the Senator to withhold for 1 minute?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I appreciate the Senator's willingness to take out the prior notification and the word "likely" in her response to the distinguished Senator from Delaware. But if she would also modify and take out "or knows," in other words if such person "intends" and take out "or knows." I will tell her why that is important.

There are a lot of explosives manufacturers and personnel who do teach others how to make explosives and how to use them legitimately, for legitimate purposes, mining and others. There are a lot of slurry manufacturers

in my State. In fact, the chief for slurry underground explosives happens to be the founder of the IRECO Chemical Corp. in my home State. If you put "or knows" in there, what we are concerned about is if they teach a university class or teach other people in their business or teach other people, in seminars, about how to do slurry explosives or some other type of explosives, they could, under this provision, be indicted or prosecuted.

I really believe the distinguished Senator does a great favor if she says that the person "intends that such explosive materials or information will be used for. . . ." I think that is the fair way to do it. It is one way of alleviating these difficult legal questions that really make it very difficult for people who are in the explosives business to even talk about the business.

If the Senator could do that, I will be willing to accept this amendment.

Mrs. FEINSTEIN. If I may respond, and perhaps the Senator from Delaware, because I think this is a useful discussion. I would like to respond to the Senator from Utah.

What concerns me is somebody writes a terrorist handbook. We have that case. And they tell somebody how to steal; how, in detail, to put together, let us say, a light bulb bomb.

You come to them and say, "You violated a criminal law."

They say, "I did not intend this to be used for crime."

Then the comeback is, "You should know it is going to be used for crime because that is the only purpose for a light bulb bomb. It is the only purpose for a toilet paper bomb, for a candy box bomb."

Mr. BIDEN. Will the Senator yield?

Mrs. FEINSTEIN. I will right away, in just 1 second.

What the Senator from Utah is saying is the explosive company that makes the explosive does not intend—that is clear—that it be used for criminal purposes. I agree. The intention of this is not to get at the explosive company. The intention is to get at the person who misuses or mispackages, and who does it all for the purposes of committing a criminal act.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, if I may—and I thank the Senator for her invitation for me to speak to this as well—we have three slightly different points of view here. Let me make clear what I would like to see avoided and what I would like to see accomplished. Using specific examples and hypotheticals is not always the best way to do it, but it seems to be the only way I have available to me to do it at this moment.

None of us wants to have the publishers of World Book Encyclopedia indicted because they, in their World Book, tell you how you can make a bomb. You can go to a public library and you can find out how to build a nuclear device. It is a lot more com-

plicated than building a light bulb bomb, but you can find that out.

The purpose, the knowledge or intention of the publisher of World Book Encyclopedia or any other publication is in all probability not the same purpose as that of the publisher of the Terrorist Handbook. But for the purpose of Lady Justice, blindfolded, weighing her scales, it is hard to tell the difference sometimes, other than looking at the person or the organization that is publishing the material, to determine their intent. And we do not want courts getting into that kind of business. I do not think the presiding officer wants that to happen, nor do I, nor do I think anyone does, although I sure would like to be able to capture those folks who issued that handbook.

So the Senator has narrowed her language, I think appropriately, to say "know or intends."

Let me tell you why I think "know" makes sense to be in there. If, for example, that gruesome example that the Senator gave from the internet, where somebody puts on a bulletin board how to make a terrorist device, a bomb, and then someone writes back and says, "O Great One," I am paraphrasing, "I want to kill Zionists in the Government. Tell me more. Feed me." Or whatever the terminology was.

The original publication of that information on the bulletin board on the internet may or may not meet the standard of having known the information was going to be used for a criminal purpose, or may or may not meet the standard of having intended that it be used. But it seems to me it is pretty clear that when that idiot writes back or punches in his code and name and says, "O Great One, I want to kill people, tell me more," if the original person who put the information up on the bulletin board said, "All right, Swami, here it comes. If you really want to get Zionists, here is how to do it," it seems to me at that point the person knows that the information he or she is disseminating is intended for a criminal purpose.

The Senator from California said there are some stores, some retail outlets that sell the handbook. Or you can write away to get the handbook. If I walk in to you and you are selling the handbook, you have the handbook and I say, "Ma'am, I would like to buy a handbook that would teach me how to—do you see the cop down there in the corner? I want to put a pipe bomb in that trash can where he stands every morning from 8:30 to 9. I want to blow that SOB up."

And you say, "I have just the thing for you," and you walk over and you hand him the handbook, it seems to me you knew the information that is available to you to do something terrible, kill that policeman standing at the corner. It would be awfully hard to prove, though, that, if you sold that handbook to me, you intended for me to kill that policeman. You could know I was going to use it to kill someone

without having intended for me to kill someone. Are you with me?

So my concern is, if it gets even narrowed further to say only "intends the information to be used in a criminal enterprise or criminal act," then it is so narrow that you are not going to catch in that net people who I think we should catch.

I have been, for the last 23 years, always listed as one of the two or three or four people most protective of the first amendment. You know, all these rating organizations that rate us whether we are conservative, liberal, good, bad, or indifferent? I am always, along with Senator LEAHY and a few others, listed here as one of the staunchest defenders of the first amendment.

So I am not looking to broaden the net the Senator wishes to cast. But it seems to me if you narrow it so much so that you only use the word "intend," you do not get the circumstance where I know that the information I have at my disposal as to how to build a light bulb bomb or any other kind of bomb, I know why you are seeking the information. You have told me. You tell me, "I want to know how to make a bomb out of Gerber's baby peaches. I want to know how to do that. Teach me, oh Great One." You say, "I've got just the answer for you. Here is how you do it."

It seems to me that does fall beyond the purview of first amendment protection. It seems to me it is narrow enough and specific enough that it warrants to be made unlawful. And it seems to me that it is not at all inconsistent with what the fifth circuit and other courts have said relative to the standard required on the part of the person disseminating the information.

So in truth, you might also be able to get that very person on a conspiracy charge. You might not even need this statute. My friend, who is truly—we use this phrase too frequently around here, and it does not always apply, but in this case it does. My friend, who is learned in the law could stand and say, "Well, all right, Joe. I am not trying to eliminate the ability to nail the person who is knowingly participating in an unlawful activity. We can already do that under a conspiracy statute." Practically, that is true. But I would argue that including the word "knows" as well as "intends" here does no damage to the first amendment, and makes the case if not easier, equally as able to be pursued as a conspiracy theory would be. This is more direct.

So my friend from Utah and I have been, the first 15 years of our working together, not always on the same side of these civil liberties arguments. And it is truly—I mean this sincerely—a pleasure to be on the same side of these arguments with him these days. I do not by that in any way imply a change in his motivation at all. I think things have changed, and as the troubles in society, the maturation process, has

taken place, and we all are seeing different applications of old principles to new problems. So I am not being facetious when I say I welcome it. But I respectfully disagree with him here.

I will not object to the Senator from California taking out the word "knows." But I would suggest that her test, her intended purpose, is best served by saying if the person intends or knows that such explosive material or information will be used for or in furtherance of an activity that constitutes a criminal, a Federal criminal offense, or a criminal purpose affecting interstate commerce, I think keeping only two words "intends" or "knows" is totally appropriate, and I would support that.

But it is obviously her amendment. If she is persuaded by the reasoning of the Senator from Utah, I will not object to it.

I thank the Chair. I yield the floor.

Mrs. FEINSTEIN. If I may, Mr. President, I would like to amend the amendment by removing the word "likely." So that the amendment reads:

Information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends and knows that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.

The PRESIDING OFFICER. Will the Senator send her modification to the desk?

Is there objection to the modification?

Mr. HATCH. May I see the modification?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. If I could have the attention of the distinguished Senator from California, the way she has written it is different than the way she read it. It says if the person "intends or knows." But if the Senator will read it "intends and knows," I will go along with it.

Mrs. FEINSTEIN. I meant "or." I beg your pardon.

Mr. HATCH. Could the Senator change the "or" to an "and"?

Mrs. FEINSTEIN. I did not mean to. Did I?

Mr. HATCH. Yes.

Mrs. FEINSTEIN. I will change it to "intends or knows."

Mr. HATCH. If I can just respond to the distinguished Senator from California, I would prefer "intends and knows" rather than "intends or knows" because I believe that can lead to some mischief in the criminal law. On the other hand, this was a narrow interpretation. I agree with the distinguished Senator from Delaware. I am not sure that you can catch them on a conspiracy statute in this area. I do not remember the law with regard to the explosives. But whether that is so or not, as I understand it, the word likely will be stricken in the amendment.

Mrs. FEINSTEIN. That is correct.

Mr. HATCH. Then I am prepared to accept the amendment.

Mr. BIDEN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, is the language "and" or is it "or"? If it is "or," I have no objection.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. HATCH. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1209), as modified, is as follows:

At the appropriate place in the bill, insert the following new section:

**SEC. . PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.**

(a) Section 842 of title 18, United States Code, is amended by adding at the end the following new section:

"(1) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows, that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce."

(b) Section 844 of title 18, United States Code, is amended by designating section (a) as subsection (a)(1) and by adding the following new subsection:

"(a)(2) Any person who violates subsection (1) of section 842 of this chapter shall be fined under this title or imprisoned not more than twenty years, or both."

Mr. HATCH. Mr. President, with that modification, I am prepared to accept the amendment, if the distinguished Senator from Delaware is likewise.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. For clarification purposes, and I think I will accept it, I want to read the entire amendment. It will take me one moment. It says:

Section (a) reads, "Section 842 of title 18, United States Code, is amended by adding at the end the following new section:

**Subsection 1.**

It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows that such explosive material or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.

**Subsection B.**

Section 844 of title 18, United States Code, is amended by designating section (a) as subsection (a)(1), and by adding the following new subsection:

(a)(1), any person who violates subsection (1) of section 842 of this chapter shall be fined under this title or imprisoned not more than 20 years, or both.

That is the end of the amendment. Is that correct?

Mrs. FEINSTEIN. The "1" is an "1". It is a lower case.

Mr. BIDEN. I beg your pardon. In the last paragraph?

Mrs. FEINSTEIN. In the first paragraph and the last.

Mr. BIDEN. I beg your pardon. It is "1", and not "1."

So it will read, the following new section "1", "It shall be unlawful for any person to teach or demonstrate the making of explosive material or to distribute by any means information pertaining to", et cetera. Then at the bottom paragraph, it reads "Any person who violates subsection 1 of this section." Then that is how it reads, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. Mr. President, I am sorry to do this to you. But also in the third paragraph, it reads:

Section (a) as subsection (a)(1) and by adding the following new subsection.

So, in other words, the three places where I thought it was a "1" it is not a "1." It is an "1."

So that being the case, that is the only correction of me, not of the amendment, I have no objection. We accept the amendment as well.

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

The amendment (No. 1209), as modified, was agreed to.

Mr. BIDEN. Mr. President, let me say that the Senator from California never ceases to amaze me. I say that with genuine respect. When she zeroed in on this problem when Senator KENNEDY came to the hearing and presented a 60-, 70-, 80-page document—I forget how long it was—of information that the staff had pulled off the Internet for him on how to do these things, one of the things that I admire most about her is her incredible common sense.

I remember her sitting there looking at us and saying, "You mean you can do this? I mean, why are we allowing this?" All of us who were supposedly hopefully good lawyers all looked and said, "First amendment problem, Senator." And we all did say that. We all knew because of our reverence for the first amendment. Those of us who are conservative, liberal, and moderate alike all said, "First amendment problem." We all kind of went on to other things.

As she always does, she went back to her office, and I am sure she turned to that able staff member next to her and said, "Wait a minute, there has to be a way to do this. There has to be an answer to this." As usual, her instinct is almost always right. And when I have dealt with her, it has been unerring. Not being a lawyer, she went out and got some fine lawyers and said, "How can I write this thing because I, DIANNE FEINSTEIN, don't want to amend the first amendment either, but I do want to deal with this foolishness."

She did it. I compliment her. And remind me, if I ever forget, never to underestimate her. She always gets it done. We are all better for it. I again congratulate her.

We have no other amendment on the floor at the moment. What I would like to do, unless someone wishes to bring up an amendment, I would like to because I was not here when the Senator from California spoke on her first amendment, the taggants amendment, and I would like to take a moment.

AMENDMENT NO. 1202

If anyone has any other thing to bring up, I would be happy to yield. I rise at this moment to support the amendment of my friend from California on taggants, if I may, because we are going to be voting on that I think around 6 o'clock.

One area we did not address in the legislation before us was the issue of taggants. The President wanted to see it addressed, and I did as well and spoke very briefly with my friend from California and encouraged her to move the amendment on taggants.

I feel it is very important in the battle against terrorism to enhance our ability to identify, following detonation, the source or origin of the explosives used in an act of violence against our fellow Americans. Key Federal law enforcement officials recognize that to provide for enhanced tracing capabilities is a logical and, I would argue, overdue response. The administration included a tracing provision in their antiterrorism proposal, and it was section 803 of S. 761.

Now, I want to make it clear to those of our colleagues who may be listening in their offices, I am not inadvertently substituting the word "tracing" for "taggant" because that is what this is all about. We want to be able to trace the manufacture of the material used, not for purposes of prosecuting the manufacturer, unless the manufacturer violated the law intentionally in to whom they sold the material, but in order to be able to trace the person who purchased the material which would enhance our ability to find out who detonated the bomb.

The provision authorizes the Secretary of Treasury to promulgate regulations requiring taggants to be added to explosive materials. Now, the Republican bill, however, omits this key provision. Instead, the Republican bill calls for no action, only more study. I would also note that not only does the Republican bill choose study over action but, even worse, their bill calls on the Justice Department to study this issue.

Now, we all know that jurisdiction over these issues and the real expertise related thereto is in the Treasury Department. Let us not duplicate effort. Let us not duplicate bureaucracy. Let us think of the taxpayers, not the pet peeves of some special interest group because they do not like the Treasury Department. The Treasury Department is the outfit that has been dealing with

this issue and explosives for time immemorial. The Justice Department is not. It does not have the expertise. So I would suggest that is not the place we should look.

Now, taggants are tiny plastic, as they are referred, sandwiches with different color stripes that are added to explosives during the manufacturing process. Because these taggants are left after the explosion, they can be used to identify the source of an explosion. And that is the source of the material—where it was purchased. In other words, these identifiers, these little plastic sandwiches, as they are called, different colored stripes are put into the explosive when it is being manufactured, legitimately manufactured. We are not talking about some back-room operation. These are legitimate explosives. These are legitimate materials made by legitimate companies for legitimate purposes. You add at the time of their manufacture these little colored strips so that when the explosion goes off, you are able to go into the area where the explosion took place and by use of detection means find these taggants.

These taggants—this is my phrase; I have never heard anyone else use this—are a little bit like that little bar code on the bottom of everything you buy in the grocery store. The checker just runs it through a scanner. They can identify what stock it was, what date it was made, where it came from, what part of the store it was in, how much it cost.

It is the same principle here. We want to be able to essentially run the residue of that explosive material through a scanner, in effect. And you are able to say OK, the material used in this bomb was manufactured at such and such a time, such and such a batch, et cetera, and work your way back with the intention of not going after the manufacturer but going after the person who purchased it.

Now, it may be the person legitimately purchased it, and we find out it was purchased for a construction operation and it was put in, properly stored in a locked vault and that you find out the vault was not broken into but that on the job it turned out a couple pieces were missing. Well, then you have the investigative tool to narrow it down. Maybe then you look at the people who took the explosive out and were legitimately working on the job. Maybe it turns out to be one of them. It was not them. They may say, well, it was only 20 minutes it was not here. And there was a guy wearing a red cap that came by. It is investigative work. It merely gives, but significantly gives, an opportunity to law enforcement agencies to begin to trace, backtrack, until hopefully you find the person who was the person who purchased and used this material.

Now, to use a practical example of how even small pieces of evidence are vital, consider that the vehicle identification number on the exploded re-

mains of a rental truck that was used to blow up the Federal Building in Oklahoma City was the critical piece of evidence that gave Federal law enforcement a critical lead on the bombing suspects.

There was a taggant in effect on that vehicle in an ID number on it. Where would we be if we had not required an ID number on that vehicle? We would be nowhere. You would not have been able to go back to find out from where that vehicle was rented, who walked in and rented it, what they looked like, what their description was and then trace it back to the guy who gets arrested almost incidentally on a highway going out of Oklahoma City the day of the bombing.

Very important material, a tiny little thing. You would say, well, wait a minute. That truck was blown to smithereens. This just goes to show you the investigative capability of the people there. The axle—I believe it was an axle—on which this identification number existed was found. They knew to go and look at that ID number.

Once they found it, they could begin the tracing process. In fact, it was the employees of the rental agency they traced this back to who provided much of the information necessary to create the composite sketch of the suspect initially known as John Doe 1, whom we now know as Timothy McVeigh.

Now, taggants work much in the same way. The taggants would give an indication where the explosives were purchased. Not only does that lead law enforcement to a sales clerk who might have provided a description of the terrorist, but this information may also be key, and perhaps the only physical evidence that a prosecutor can use, to nail the defendant to the crime. If there were taggants in the explosives that were used, you would be able to do the same thing—and they were recovered. You might be able to go back and find where the material that blew up the—and that was fertilizer added with some chemicals and the like. You may be able to go back and find out where that fertilizer was sold and you may find the very same thing. The clerk says I remember selling that fertilizer to the following person, and you do a composite sketch. Again, it is a strong piece of evidence.

Now, my colleagues on the other side of the aisle will argue that we should study this issue more closely. But that means only one thing: More needless delay. The potential effect of taggants has been highlighted in a study that was conducted in the late 1970's when the ATF seeded a very small portion of explosives, 10,000 pounds, with taggants.

We had this debate, I might add, when I first came to the Senate in the 1970's, and we were told, no, it may be a destabilizing element in the manufacture of the material; it may be used for purposes on the part of law enforcement to do bad things, et cetera. But we agreed that Alcohol, Tobacco, and

Firearms could do an experiment. So they went to a manufacturing site, and they tagged 10,000 pounds of explosives. They put in one of these little colored strips, these sandwiches.

Now, despite this relatively small amount—and that probably represented less than—I will not even guess—one one-hundredth percent of all the explosives sold that year. It was infinitesimally small in this little experiment compared to the universe of all explosives sold that year. For example, my staff is telling me 4 billion pounds of explosives are sold per year—4 billion pounds. This was 10,000 pounds that was tagged as an experiment. Now, notwithstanding that, that one experiment back in 1978—and the Senator from California knows this—was very instrumental and effective in helping solve a bombing incident in the State of Maryland. Now, the idea that we did this one experiment—and it was just pure luck, I suspect, that that 10,000 pounds was purchased. But what happened was there was a car bombing, and but for the fact that the explosive used was part of that 10,000-pound batch that was the only batch out of four billion pounds sold that year, the perpetrator of the act was unlucky enough to purchase something from that batch. And that was the thing that led to the identification and conviction of that individual, with little or no possibility of their ever having found him but for the taggants.

I suggest that the study by the Office of Technology Assessment on taggants is also a key source of the safety and efficacy of taggants. There was this experiment and the study by the Office of Technology Assessment. The Office of Technology Assessment found that “identification taggants would facilitate the investigation of almost all significant criminal bombings in which commercial explosives were used.”

Now, safety tests performed by the Office of Technology Assessment found taggants to be compatible with the explosives covered by this amendment. By compatible, I mean they did not diminish the efficacy of the explosives, No. 1. So it blew up just as big as it would have blown up without the taggant. It did not diminish its capacity.

Second, it did nothing to destabilize the explosive. It made it no more or less dangerous to deal with that explosive. One of the arguments we will hear used is that if you add these taggants, they will have the effect of destabilizing this explosive material, making it more dangerous to handle. There is no evidence of that, according to the Office of Technology Assessment.

Third, they also found that it did not, in any way, affect the manufacturer of that material. That is, placing the taggants in the material as it is manufactured did not diminish safety in the production of that material.

For 15 years, law enforcement in Switzerland have recognized taggants as an important piece of the puzzle in

solving crimes involving illegally used explosives. Under this amendment, the Secretary of the Treasury will determine how we can best utilize this technology. Then we will move forward and use the taggants after that assessment has been made by the Secretary of the Treasury. And that is key. We should move forward in this area now, and we should do so without further delay.

Now, a study on common and precursor chemicals, another aspect of the amendment I want to touch on briefly, is the requirement that the Secretary of the Treasury study and make recommendations regarding: First, the ability and feasibility of rendering inert those common chemicals used to manufacture explosive materials and, second, the ability to impose controls on those precursor chemicals used to manufacture explosive materials.

Let me make it clear, this is a separate issue. There are two issues here that the Senator from California has pursued that were in the President's legislation. One, this notion of, in effect, seeding an explosive with a color-stripped material so that when the explosive goes off, you can find the material and trace back the place where it was manufactured and sold. That is the taggant.

Now, there is a second issue, and that is chemicals which are sold—I will use this phrase—over the counter. These are chemicals you can go and buy, but they can be used for destructive purposes, although their intention is for constructive purposes. Fertilizer is to help things grow, not kill things or kill people.

Now, I said this before, and I say it to my friend from California here. I was at a conference with a group of U.S. Senators, Congresspersons, and officials from the United Nations the day this god-awful explosion in Oklahoma occurred, and we literally interrupted the conference. One of the conferees was Gen. Michael Rose, a general in the British Army, who was the UNPROFOR Commander of Forces in Bosnia up until about 3 months ago. General Rose and I were sitting next to one another discussing the situation in Bosnia. What happened was that we adjourned when we heard this horrible news and went to the nearest television. The first scene all of us saw—a dozen of us Congressmen, Senators and generals—was a visual image of the Federal building and the confusion surrounding it. You could see how the Federal building was not only blown up, but it looked like it was cut away in the front. I was sitting next to General Rose. I could not hear what was on the television in this hotel lobby. We just saw the picture. He looked at me and he said, “That bomb is a fertilizer bomb. That is what destroyed that building.” My staffer reminded me that he looked and he said, “That is an ANFO bomb.” I wondered, what in the devil is he talking about? How does he know this? All we can see is this picture on television. He had not heard

any more about this than I did. We just walked out of this conference. He went on to explain to me how when ammonium nitrate is added to fertilizer in a certain formula and way, it produces an explosion whose fingerprints or characteristics are like the one we saw. I was amazed. I was complimenting him, because about 3 minutes later a reporter comes on and says, “We have just learned that this was a fertilizer bomb.” I did not know how he knew this. He went on to explain to us that it was his experience when he was a commander in Northern Ireland with the use of fertilizer bombs by the IRA. He went on to point out that England had changed the law relative to the sale of fertilizer to Ireland and the type of fertilizer and the amount of nitrate that could be in the fertilizer, and he went on and on about it. And he said something fascinating. He said that it has had three interesting effects. First, the environment is cleaner. There is not as much nitrates left over in the environment when it is applied to the soil. The water is cleaner and the bombs are fewer.

So that is when I became interested in how do you take these materials that seem to me to be totally innocent in terms of the ability to cause damage and render them inert—inert in the sense that they can only do the thing for which they were manufactured, which is to help things grow, as opposed to kill people. One of the ways to do that is to look at it and study it and make recommendations regarding the feasibility of adding materials to the manufacture of these chemicals and precursor chemicals that will not diminish the effectiveness of the chemical but render them incapable of generating the explosion.

The purpose of this provision is very simple, and it should be clear to every American in the wake of the Oklahoma City tragedy. What has become evident in the past weeks is that in America today, nearly anyone, as our friend from California has pointed out, can acquire the ingredients, all of which have other legitimate uses, and build a bomb.

The bomb in Oklahoma was a mixture of ammonium nitrate fertilizer and diesel fuel. Ammonium nitrate can be purchased at almost any garden supply or hardware store, and when mixed with a fuel, it can be classified as a high explosive. One way to desensitize ammonium nitrate while still preserving its effectiveness for its intended use would be to mix a nonexplosive chemical such as lime, calcium carbonate, into the product, to render it inefficient for use as an explosive.

Now, I think it makes overwhelming sense to suggest that a feasibility study be done and recommendations made as to whether or not, for example, lime can be added to ammonium nitrate, allowing the fertilizer to be as potent as it was before for the purposes of encouraging growth in the soil, yet rendering it incapable of being used as

a bomb when mixed with a fuel supply. This type of desensitizing is currently employed in England, as I said.

Let me be clear, all this amendment does with regard to this point, all it does is require the Secretary to study the feasibility of such a policy being implemented in the United States.

It is an unfortunate reality that individuals would take seemingly harmless—I might add, legal—products and devices and turn them into weapons capable of exacting the devastation and loss of life that we all saw in Oklahoma City. However unfortunate that may be, it is a reality nonetheless. The amendment of my friend from California is an effort to curtail the availability of products which can be used in this manner.

Mr. President, I would like to make as a concluding point that I understand negotiations between Senator FEINSTEIN and other interested parties on the other side are proceeding. Of course, I hope these discussions will be successful, but I strongly urge that the Senator from California not relent on the two essential aspects of her amendment.

One, the taggants be able to be placed, by recommendation from the Secretary of Treasury, in explosives; and, two, that the study be undertaken that would determine whether there are ways that we can feasibly render inert the destructive capability of otherwise totally constructive precursor chemicals.

I see the Senator from California is on the floor and seeking recognition. I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

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

Mrs. FEINSTEIN. Mr. President, I want to thank the Senator from Delaware for that very eloquent exposition on taggants.

I must say that it never ceases to amaze me, because outside people are saying they are for legislation to begin to tag explosives where safe and not adding to the volatility. Yet once again, I must tell the Senator, the lobbying of those special interests is starting up again to, one by one, move Senators off of this legislation.

This led me to get a little bit of the history of taggants before this body. While the Senator has been here for a long time, I am a relative newcomer, 2½ years, and I did not realize this issue has been raised now for 22 years before this body. It might be interesting to go back into a little bit of the history.

It actually began in 1973 when Congress asked ATF to look into possible methods of fighting terrorists in criminal bombings. That year, ATF and the FAA established an ad hoc committee on explosives seeding. That same year, ATF formed an inner agency advisory committee on explosives tagging.

Also in 1973, the Law Enforcement Assistance Administration, which we knew as LEAA, sponsored a study by

Lawrence Livermore Lab, managed by Aerospace Corporation, to study the feasibility of identification tagging of explosives.

Several companies, including 3M and Westinghouse, began taggant development. By 1976, this was far enough advanced to be the subject of the pilot tagging program developed by aerospace under the contract with the Bureau of Mines. The results seemed positive, in 1977, with the Omnibus Antiterrorism Act.

Mr. President, was the Senator here in 1977?

Mr. BIDEN. Mr. President, yes, I was here. I was also here in 1973, unfortunately. I have been here, and I have been interested in this issue since then. That is why I am so happy the Senator is pushing it.

Mrs. FEINSTEIN. Mr. President, it is interesting to see, because in 1977 Senators Abe Ribicoff and Jake Javits presented language mandating the introduction of explosive tagging over a period of time.

During consideration of the bill, the National Rifle Association—who somebody has just said is for taggants—opposed the inclusion in the program of black and smokeless powders used by some hunters to hand-load antique rifles. The National Rifle Association was successful at the committee level at deleting the requirement that these powders be tagged.

Nonetheless, the requirement that other types of explosives be tagged was left intact. The bill never reached the Senate floor.

In the 96th Congress, the antiterrorism legislation was reintroduced with provisions for gradually phasing in identification tagging over a 2½-year period. The legislation was considered in the House by the Aviation Subcommittee of the Commerce Committee.

It was supported by the Airline Pilots Association and the Airline Transport Association. The House Members and Glenn Anderson, the subcommittee chair, wanted to wait for action on the subject in the Senate before taking the issue up in the House.

The Senate Governmental Affairs Committee marked it up on May 7, 1979. The only controversial aspect of this Omnibus Antiterrorism Act, Senate bill 333, was explosive tagging. Again, the NRA and the Institute of Makers of Explosives lobbied hard to kill the entire program and made wild accusations about the cost, safety, utility, and burdensomeness of taggants.

So the principal supporters, Ribicoff and Javits, and the principal opponent, who was Senator STEVENS at the time, agreed to postpone committee consideration pending an examination of taggants by the congressional Office of Technology Assessments.

That was the report I held up this morning. OTA was not to conduct original research, but rather was supposed to review existing data and re-

port its findings back to the Governmental Affairs Committee no later than August 6, 1979.

OTA went out. They established a staff drawn from science foundations, Lawrence Livermore Lab, to carry out the proposal. They also formed an advisory committee composed of representatives from the law enforcement community, the explosives industry, and the gun lobby to provide input. It is my understanding that one of the explosive industry members was later indicted for selling explosive materials to Libyan terrorists.

Despite the efforts on the part of OTA to comply with the August 6 deadline, it soon became apparent that the deadline could not be met. So a new deadline was set for Thanksgiving. In the interim, American hostages were seized in Iran and the Senate decided to postpone consideration of the underlying bill until the situation was clarified.

This gave OTA more time to develop its report, which was finally released on April 28, 1980. That is the report I mentioned this morning.

At this point, the National Rifle Association, I am told, hired lobbyists to lobby against the bill. I am told that the people hired were paid more than \$250,000 for the effort to defeat this. They were successful in getting several trade associations in the construction industry, including the Crushed Stone Association, to launch campaigns against the bill on the theory that taggants would increase the cost of explosives by more than 100 percent. In fact, the estimate is less than 10 percent. I read those figures into the RECORD this morning.

By the date of the markup, it became clear that the Javits-Ribicoff approach would not win. Senator GLENN offered a compromise. That did not go ahead. The committee vote was 8-7 in favor of an Eagleton motion, who was an opponent of taggants. And on and on and on it goes.

Now here we are with a massive incident in the United States—two of them—the World Trade Center and the building in Oklahoma City. And now, today, this afternoon, the phones are heating up. Senators that I thought would be for this are calling. They are now getting the agriculture communities involved, saying they do not want a study. Just the study on ammonium nitrate, the fertilizer that blew up the building and killed 168 people, we were being told we should not study it.

I cannot believe it. It is unbelievable to me that anyone could oppose a study to see if fertilizers can be made inert so they will not detonate it.

Mr. BIDEN. Mr. President, will the Senator yield for a moment?

Mrs. FEINSTEIN. I will yield.

Mr. BIDEN. I do not mean yield to the issue, but yield temporarily on the floor.

Let me ask the Senator somewhat of a rhetorical question. She points out



accurately, my recollection, because I was here during the entirety of what she spoke of. From my perspective, her historical analysis is accurate. I remember at the time being dumbfounded, quite frankly, that the chemical industry, a large chemical industry in Delaware, and others would not push hard for these actions to be taken. I mean, I just assumed, naively, that this would be something everybody would be for.

There is one argument that can be made in opposition to what we are trying to do and I think we should state it. That OTA study, Office of Technology Assessment study, said that there was only one possible exception to the circumstance under which adding a taggant might diminish the safety, and that was with regard to smokeless powder.

The Senator pointed out that back as early as 1973, the NRA pointed out that they were concerned about people who were muzzle loading antique guns and using smokeless powder to put them in a position to be able to use the guns. Probably we could have settled that matter then but it turned out that, whether the NRA was concerned about that or not—and I will not make a judgment about that—it ended up being the initial device used, the wedge used to block anything from happening.

It is my understanding from my discussions with the White House, with the Justice Department, my staff and others, that when I introduced the President's bill, when Senators KOHL and SPECTER and I introduced the President's bill containing this provision, that we did not intend—the White House did not intend, the Justice Department did not intend—to include within the definition of explosive, smokeless powder. The ATF indicates that they do not include that in their definition of explosives. And I would think that—I would like to ask the Senator whether this is not her understanding as well, that we would be willing to make it very clear in the record that our definition—your definition of explosives does not include smokeless powder.

Mrs. FEINSTEIN. I would be prepared to do that, Senator. It is my understanding this affects gels, slurries, dynamite, emulsions and cast boosters, and black powder. But it does not include smokeless powder.

Mr. BIDEN. As further evidence that we are not just arriving at this as a means of a compromise, it was never our intention to include smokeless powder. I would read from, as further evidence of that although we did not make it absolutely clear, I would read page 2 of the amendment, subsection (e), the bottom, second-to-the-last-line of the page.

Tracer elements to be added to explosive materials under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not substantially im-

pair the quality of the explosive material for their intended lawful use, adversely affect the safety of the explosives, or have substantially adverse effects on the environment.

So we thought that we were dealing with this red herring by having the section requiring that the decision would have to be made that the tracer elements, the taggants, would not adversely affect the safety of the explosives.

Since OTA indicated that there was a possibility of that with regard to smokeless powder, we did not intend that to be covered. But I would suggest—I know my friend from California who is leading this effort has probably had some discussions already with the majority staff and others about this. I hope we can reach a resolution on it. And I sincerely hope, coming from a State where agriculture is our single largest industry in terms of dollars and effect on the economy, and where fertilizers are used a good deal—hope no one would be fearful of explaining to the agricultural community that they supported a study to determine this. I cannot imagine the farmers in my State, very conservative, hard-working folks, would be opposed to a study being conducted to determine whether or not ammonium nitrate could have an element added to it that would not in any way diminish its efficacy on the land but would diminish its efficacy as an explosive component.

I might point out—I might ask it, actually, in terms of a question. Is it the sponsor's intention that this merely be a study relative to means to render inert these components, precursors that can be used as bombs? And that if the study concludes that the only way it could be done would be to diminish the capacity of ammonium nitrate to do its job on the field, that we would not move forward? This is merely a study, is it not?

Mrs. FEINSTEIN. The Senator from Delaware is 100 percent correct.

I might say, coming from a State that has a \$18 billion agricultural industry, I called up to see if we have had any phone calls at all from Agriculture, Farm Bureau, anybody else. The answer is no.

I would hazard a guess, knowing the agricultural community of California, that they would not object to a study. So I think this is probably a very targeted lobbying drive at the present time.

Mr. BIDEN. Mr. President, I hope we follow the advice of the Senator. We know this is the right thing to do. We know this is the right thing to do.

We know it is, as a minimum, worthy of scientific study to determine whether this can be done with efficacy. And we also know—I do not fully understand, frankly—we also know there are certain interests that do not want that to happen. Because they are fearful—the only thing I can conclude, Senator, is they are fearful that the study will come forward and say, "Guess what? You can do this without in any way di-

minishing the effectiveness of fertilizers used for agriculture.'

Because, obviously, if the study is going to come back and say you cannot do this without diminishing significantly the capacity of the fertilizer to function, that cannot worry them because if that is the case we are not going to do it. There is no way that would get done here.

So I always am confused by this response. I was confused in 1973 about why people responded the way they did. I hope we will not let interests that I do not fully understand sidetrack even a study. I might point out, by the way, with regard to taggants, originally the people who are now opposing the Senator's language and the President's language were opposed to even a study before. Now they are for a study. I hope we can just bypass—not have to go through another 10 years before we get to the point where they see their way clear, suggesting we can even look at a study.

Mrs. FEINSTEIN. If the Senator will yield?

Mr. BIDEN. I will be happy to.

Mrs. FEINSTEIN. I have here an amended amendment that may solve the problem. There are some technical amendments which I can read. But the one that deals right now with the situation that my colleague is referring to, smokeless or black powder would be as follows.

At the end of subsection (c)(1) insert the following:

For purposes of this subsection, explosive material does not include smokeless or black powder manufactured for uses set forth in section 845(a)(4)(5) of this chapter.

Which is "Small Arms Ammunition and Components Thereof." That is the exception, just for small arms ammunition and components thereof.

Mr. BIDEN. I say to the Senator from California that is probably broader than we have to make it, but I would agree with her that that is worth doing to allay the concerns and fears of our friends who think somehow there is some nefarious objective here that is not obvious on its face.

The Senator from—

Mrs. FEINSTEIN. If the Senator will yield? We believe it is already exempted. This is a restatement of that.

Mr. BIDEN. Again, I would have no objection. But I suggest the Senator withhold modifying that because the Senator from Utah was required—he has been on the floor the whole day. He said he had to leave for 15 minutes. And would I not take any action in his absence. So I suggest, and maybe the Senator's staff has already done this, make that language available to Senator HATCH's staff. Hopefully he can agree to that.

But I ask her to withhold modifying her amendment which would require unanimous consent until he returns to the floor and has had a chance to look at it.

Mr. President, while the Senator from California is doing that, I will repeat that in both instances, in the instance of requiring tracers and studying the capability of rendering products which do not have a destructive purpose but are able to be used for destructive purposes, to render them inert—that is incapable of being used for destructive purposes—that in both instances we are very concerned about safety. We do not want at any point here, in attempting to create, eliminate, diminish the possibility of one bad thing happening, to raise safety concerns. So for those explosives with potential—and I want to stress potential—safety concerns, the Secretary of Treasury can account for those concerns by establishing regulations. The point of this amendment is to improve the safety of Americans. But it will not be done by risking the safety of manufacturers or people who lawfully use explosives. This amendment accounts for those concerns and addresses the underlying concern with illicit use of explosives.

I stress again the action just suggested by the Senator from California is further evidence of the fact that we are in no way suggesting an amendment that would diminish the safety of anyone, the manufacturer or the person who lawfully uses those materials. I further note as it relates to precursor chemicals, we are not in any way suggesting that any change be made prior to a full-blown study. And the purpose of that study is to determine whether or not we can be assured that we can render these precursor chemicals inert, without affecting their ability to be used effectively as designed for the purpose for which they are manufactured in the first instance.

So I hope that when we get to this amendment that no one will be dissuaded from voting for it. And I say to representatives of the NRA who are listening that it is not our intention in any way to make anything unsafe for hunters, to in any way diminish or limit any right of any gun owner in America, to in any way put any gun owner in America in any jeopardy whatsoever. This is not a slippery slope. This is not the camel's nose under the tent. This is not all those other things that are always stated when in fact we do anything at all that impacts in any way upon firearms, ammunition, or explosive material.

There is no subagenda here. It is very simple. We want to track down the bad guys who use explosives the wrong way for criminal purposes, and we want to take that material that is sold over the counter for purposes totally unrelated to criminal activity or for explosive capability and determine whether or not, after scientists study the issue, we can safely render that explosive capability inert, render it incapable being used in an explosive compound, and in doing so in no way diminish the purpose, the efficacy of the material for which it was manufactured in the first place.

Mr. KENNEDY. I urge the Senate to support the Feinstein amendment to require that explosives be manufactured with identifying chemical markers.

These markers, called taggants, are an essential tool for law enforcement officials in the difficult effort to apprehend terrorists who use bombs. The President has asked us to include this provision in the pending bill, and we should comply with his request.

Explosives are the weapon of choice for any criminal who wishes to kill and maim human beings indiscriminately. Nothing demonstrates this more starkly than the tragedy in Oklahoma City, in which 168 people were killed by a bomb in a parked truck outside the building. The perpetrators of this atrocious crime caused more death and destruction with an explosive device than they could ever have accomplished with even the most lethal firearm.

But Oklahoma City is just the tip of the iceberg. Because of their destructive capacity, explosive devices have been used repeatedly to perpetrate terrorist acts:

On February 26, 1993, Islamic extremists used a 1,200-pound bomb to devastate several levels of one of the World Trade Center Buildings in New York City. Six people were killed, and over a thousand were injured.

Explosives caused seven airline crashes between 1982 and 1989, including Pan Am flight 103, in which 270 people, many of them Americans, were killed over Lockerbie, Scotland. Seven Americans also died in a 1989 plane crash in Africa caused by an explosive device.

In 1993, bomb attacks occurred in every one of the 50 States, as well as in the District of Columbia, Guam, and Puerto Rico. In Massachusetts, there were 16 illegal explosive incidents that year, and 11 of those bombs detonated before authorities could disable them. In the decade between 1984 and 1993, Massachusetts had a total of 141 bombings and 27 attempted bombings. Four people were killed, and 28 were injured during that period.

Nationwide, 632 people were killed by bombs between 1989 and 1991.

Of course, bombings are not always intended to result in largescale destruction. Explosives are sometimes employed in criminal attacks against specific individuals, as in the case of the assassination of Federal Judge Robert Vance several years ago. And since 1978, the so-called Unabomber has killed 3 and injured 23 people with deadly letter bombs delivered through the mail to his victims' homes and offices. In 1993 alone, the postal service detected 10 bombs in apparently unrelated incidents.

The perpetrators of these crimes often evade capture and conviction, in part because of the difficulty that law enforcement officials face in tracing the origin of explosive devices and components. As the Office of Technology Assessment has noted, "bomb-

ings are particularly difficult crimes for law enforcement agencies to handle as the bomber is not usually near the scene of the crime, the physical evidence is destroyed or damaged by the detonation, and the materials necessary to fabricate even a quite catastrophic bomb are easily obtainable."

But cutting-edge technology offers two ways to assist law enforcement in the difficult task of apprehending terrorists. First, there are means to detect explosives when they pass through airports and other secure areas. And second, explosives can be manufactured with chemical taggants that help investigators trace the source of the material after the explosion has occurred.

The pending bill advances the first of these two technologies by requiring that explosives be manufactured with detection devices that will trigger detection devices at security checkpoints. This requirement implements an international convention, and I commend the chairman of the Judiciary Committee for including this provision in his substitute.

But the pending bill does not include the second of these two technologies, and the Feinstein amendment would include it. It would give the Secretary of the Treasury needed authority to require manufacturers of explosive materials to include taggants in their products. Experts within Federal law enforcement say that the technology is feasible and appropriate, and President Clinton has asked Congress to give the Treasury Department this enhanced authority.

The use of taggants has proved to be a highly effective law enforcement tool in Switzerland, where the government has already implemented the requirement we are now debating. Swiss law enforcement agencies credit taggants with helping them to identify the source of the explosive in 566 bombing incidents over a 10-year period. The Swiss were able to apprehend a greater number of bombing suspects over this period by taking advantage of this new technology.

This amendment provides law enforcement with a needed technique to trace the origin of bombs and arrest and convict the criminals who use them.

I commend the Senator from California for her amendment and I urge its adoption.

Mr. LEVIN. Mr. President, I support the Feinstein amendment to require the tagging of explosive materials to help law enforcement officials investigate and prevent terrorist bombings.

The Hatch substitute amendment contains a very narrow provision that would require the use of taggants in only one narrow category of explosive materials—plastic explosives. This is a mistake. I am convinced that we have the technology available today to introduce taggants in a wide range of explosive materials.

In fact, the Congressional Research Service has informed me that Switzerland had required the inclusion of

taggants in explosive materials since at least 1980, when that country's regulation on explosives was enacted. That law provides, in relevant part:

[Each] explosive must contain a tagging substance that permits the reliable tracing of the origin [of the explosive] even after the explosion. The tagging substance requires the approval of the Central Office [of the Federal Prosecutor] which must consider changing circumstances.

The New York Times recently reported that a Minneapolis company is already in the business of manufacturing taggants, which it sells primarily to Switzerland. According to the New York Times, the Swiss police have used these taggants to trace explosives in more than 500 bombings and explosives seizure cases over the last 12 years.

Mr. President, the technology needed to introduce taggants into explosive materials is neither new nor experimental. We have had the technology available to us for more than 15 years. As long ago as 1980, the Senate Governmental Affairs Committee considered a provision to require the use of taggants as part of the Omnibus Antiterrorism Act. Unfortunately, the provision was dropped in committee, by an 8 to 7 vote.

At that time, Assistant Secretary of the Treasury Richard Davis testified that technology was already available or would soon be available to tag a wide range of explosive materials. Mr. Davis provided the following timetable: Black powder, October 1979; smokeless powder, July 1981; dynamites, water gels and slurries, June 1979; fuse and detonating cord, November 1979; detonators, June 1981, label method, October 1981 (double plug method).

In fact, the use of taggants during the testing and research period preceding action on the bill produced an arrest and conviction in Maryland. As Senators Javits and Percy explained in the committee report:

In a May 1979 bombing in Spring Point, Maryland in which one man was killed and another injured, investigators searched through the debris and found the explosive used contained taggants as part of a pilot program. The taggants led police to a West Virginia explosives retailer, where they developed a list of suspects. One of those suspects knew the victim, providing a direct link in the chain of evidence. In December 1979, a Baltimore jury convicted James McFillin as being guilty of manslaughter. It was the first time a court had admitted the taggants as evidence. So, there should be no question in anyone's mind that taggants work.

Mr. President, the opponents of this amendment claim that more study is needed before taggants can be used. That is a needless delay. Taggants have been tested in this country and—even in the limited test—led to an arrest and conviction. They have been required in Switzerland for more than 12 years, and have proved helpful in hundreds of bombing and explosives cases over that period.

Taggants are a proven technology which can significantly assist law en-

forcement officials in detecting and deterring terrorist acts. We should not repeat the mistake we made when we deferred action on this provision in 1980. We should act now, by adopting the Feinstein amendment.

Mr. BIDEN. I note that no one else is seeking recognition. The hour of 6 o'clock is approaching.

Parliamentary inquiry: Is there a time set for the first vote at this moment?

The PRESIDING OFFICER. Yes. By unanimous consent, the time has been set for 6 o'clock.

Mr. BIDEN. The first vote will be on what issue, Mr. President?

The PRESIDING OFFICER. The motion to table the amendment No. 1202.

Mr. BIDEN. Amendment 1202 is the taggant amendment of the Senator from California.

The PRESIDING OFFICER. The amendment of the Senator from California.

Mr. BIDEN. I thank the Chair.

Again, I sincerely hope we do not have to wait for another bombing, another horrendous loss of life, even another day before this body will act on an issue that we have debated and discussed since 1973, the first year that I came here. There is no hidden purpose in this amendment, none whatsoever.

For the life of me, I cannot understand how anyone would be against this amendment.

I yield the floor at this time.

Mrs. FEINSTEIN. If I may, Mr. President, say to the Senator from Delaware, we are prepared to move a modification to the amendment. We require unanimous consent to be able to do so. I am hopeful that will be forthcoming.

Mr. BIDEN. Mr. President, the majority staff tells me that they are checking with Senator HATCH, who is just off the floor, occupied in another matter at the moment. Also, there is a need in order to get unanimous consent to amend the Senator's amendment. There are two other individuals I am told on the Republican side who are being asked to check off. If we are not able to get them prior to 6 o'clock, I will ask unanimous consent the vote be postponed for 5 minutes. I will not do that now. Hopefully we will find that out—to give us an opportunity to determine whether or not there will be agreement. I hope there will be no disagreement on the Senator's amendment because it makes crystal clear we are not intending to deal with small arms, we are not intending to deal with those folks who are the stated reason for concern on the part of those who are opposing this amendment.

Mrs. FEINSTEIN. If I might include in the RECORD at this time perhaps, if the Senator will yield, the Federal Register, volume 60, No. 80, Department of the Treasury. This is a listing of those explosive materials that we are dealing with precisely. So that will be in the RECORD.

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

COMMERCE IN EXPLOSIVES; LIST OF EXPLOSIVE MATERIALS

Pursuant to the provisions of Section 841(d) of Title 18, United States Code, and 27 CFR 55.23, the Director, Bureau of Alcohol, Tobacco and Firearms, must publish and revise at least annually in the Federal Register a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of Title 18, United States Code. Accordingly, the following is the 1995 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the Federal Register and blasting agents. The list is intended to also include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated January 7, 1994, (59 FR 1056) and will be effective as of the date of publication in the Federal Register.

Acetylides of heavy metals.  
Aluminum containing polymeric propellant.  
Aluminum ophorite explosive.  
Amatex.  
Amatol.  
Ammonal.  
Ammonium nitrate explosive mixtures (cap sensitive).  
\*Ammonium nitrate explosive mixtures (non cap sensitive)  
Aromatic nitro-compound explosive mixtures.  
Ammonium perchlorate explosive mixtures.  
Ammonium perchlorate composite propellant.  
Ammonium picrate [picrate of ammonia, Explosive D].  
Ammonium salt lattice with isomorphously substituted inorganic salts.  
\*ANFO [ammonium nitrate-fuel oil].  
Baratol.  
Baronol.  
BEAF [1,2-bis(2,2-difluoro-2-nitroacetoxyethane)].  
Black powder.  
Black powder based explosive mixtures.  
\*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.  
Blasting caps.  
Blasting gelatin.  
Blasting powder.  
BTNEC [(bis (trinitroethyl) carbonate).  
Bulk salutes.  
BTNEN [(bis (trinitroethyl) nitramine)].  
BTTN (1,2,4 butanetriol trinitrate).  
Butyl tetryl.  
Calcium nitrate explosive mixtures.  
Cellulose hexanitrate explosive mixture.  
Chlorate explosive mixtures.  
Composition A and variations.  
Composition B and variations.  
Composition C and variations.  
Copper acetylide.  
Cyanuric triazide.  
Cyclotrimethylenetrinitramine [RDX].  
Cyclotetramethylenetetranitramine [HMX].  
Cyclonite [RDX].  
Cyclotol.

- DATB [diaminotrinitrobenzene].  
 DDNP [diazodinitrophenol].  
 DEGDN [diethyleneglycol dinitrate].  
 Detonating cord.  
 Detonators.  
 Dimethylol dimethyl methane dinitrate composition.  
 Dinitroethyleneurea.  
 Dinitroglycerine [glycerol dinitrate].  
 Dinitrophenol.  
 Dinitrophenolates.  
 Dinitrophenyl hydrazine.  
 Dinitroresorcinol.  
 Dinitrotoluene-sodium nitrate explosive mixtures.  
 DIPAM.  
 Dipicryl sulfone.  
 Dipicrylamine.  
 Display fireworks.  
 DNDP [dinitropentano nitrile].  
 DNPA [2,2-dinitropropyl acrylate].  
 Dynamite.  
 EDDN [ethylene diamine dinitrate].  
 EDNA.  
 Ednatol.  
 EDNP [ethyl 4,4-dinitropeotanoate].  
 Erythritol tetranitrate explosives.  
 Esters of nitro-substituted alcohols.  
 EGDN [ethylene glycol dinitrate].  
 Ethyl-tetryl.  
 Explosive conitrates.  
 Explosive gelatins.  
 Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.  
 Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.  
 Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.  
 Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.  
 Explosive mixtures containing sensitized nitromethane.  
 Explosive mixtures containing tetranitromethane (nitroform).  
 Explosive nitro compounds of aromatic hydrocarbons.  
 Explosive organic nitrate mixtures.  
 Explosive liquids.  
 Explosive powders.  
 Flash powder.  
 Fulminate of mercury.  
 Fulminate of silver.  
 Fulminating gold.  
 Fulminating mercury.  
 Fulminating platinum.  
 Fulminating silver.  
 Gelatinized nitrocellulose.  
 Gem-dinitro aliphatic explosive mixtures.  
 Guanyl nitrosamino guanyl tetrazene.  
 Guanyl nitrosamino guanylidene hydrazine.  
 Guncotton.  
 Heavy metal azides.  
 Hexanite.  
 Hexanitrodiphenylamine.  
 Hexanitrostilbene.  
 Hexogen (RDX).  
 Hexogene or octogene and a nitrated N-methylaniline.  
 Hexolites.  
 HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen]. Hydrazinium nitrate/hydrazine/aluminum explosive system.  
 Hydrazoic acid.  
 Igniter cord.  
 Igniters.  
 Initiating tube systems.  
 KDNB [potassium dinitrobenzo-furoxane].  
 Lead azide.  
 Lead mannite.  
 Lead mononitroresorcinolate.  
 Lead picrate.  
 Lead salts, explosive.  
 Lead styphnate [styphnate of lead, lead trinitroresorcinolate].  
 Liquid nitrated polyol and trimethylolethane.  
 Liquid oxygen explosives.  
 Magnesium ophorite explosives.  
 Mannitol hexanitrate.  
 MDNP [methyl 4,4-dinitropentanoate].  
 MEAN [monoethanolamine nitrate].  
 Mercuric fulminate.  
 Mercury occalate.  
 Mercury tartrate.  
 Metriol trinitrate.  
 Minol-Z [40% TNT, 40% ammonium nitrate, 20% aluminum].  
 MMAN [monomethylamine nitrate]; methylamine nitrate.  
 Mononitrotoluene-nitroglycerin mixture.  
 Monopropellants.  
 NIBTN [nitroisobutametrial trinitrate].  
 Nitrate sensitized with gelled nitroparaffin.  
 Nitrated carbohydrate explosive.  
 Nitrated glucoside explosive.  
 Nitrated polyhydric alcohol explosives.  
 Nitrates of soda explosive mixtures.  
 Nitric acid and a nitro aromatic compound explosive.  
 Nitric acid and carboxylic fuel explosive.  
 Nitric acid explosive mixtures.  
 Nitro aromatic explosive mixtures.  
 Nitro compounds of furane explosive mixtures.  
 Nitrocellulose explosive.  
 Nitroderivative of urea explosive mixture.  
 Nitrogelatin explosive.  
 Nitrogen trichloride.  
 Nitrogen tri-iodide.  
 Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].  
 Nitroglycide.  
 Nitroglycol (ethylene glycol dinitrate, EGDN).  
 Nitroguanidine explosives.  
 Nitroparaffins Explosive Grade and ammonium nitrate mixtures.  
 Nitronium perchlorate propellant mixtures.  
 Nitrostarch.  
 Nitro-substituted carboxylic acids.  
 Nitrourea.  
 Octogen [HMX].  
 Octol [75 percent HMX, 25 percent TNT].  
 Organic amine nitrates.  
 Organic nitramines.  
 PBX [RDX and plasticizer].  
 Pellet powder.  
 Penthrinite composition.  
 Pentolite.  
 Perchlorate explosive mixtures.  
 Peroxide based explosive mixtures.  
 PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].  
 Picramic acid and its salts.  
 Picrainide.  
 Picrate of potassium explosive mixture.  
 Picratol.  
 Picric acid (manufactured as an explosive).  
 Picryl chloride.  
 Picryl fluoride.  
 PLX [95% nitromethane, 5% ethylenediamine].  
 Polynitro aliphatic compounds.  
 Polyolpolynitrate-nitrocellulose explosive gels.  
 Potassium chlorate and lead sulfocyanate explosive.  
 Potassium nitrate explosive mixtures.  
 Potassium nitroaminotetrazole.  
 Pyrotechnic compositions.  
 PYY (2,8-bis(picrylamino))-3,5-dinitropyridine.  
 RDX [cyclonite, hexogen, T4, cyclo-1,3,5-trimethylene-2,4,5-trinitramine; hexahydro-1,3,5-trinitro S-triazine].  
 Safety fuse.  
 Salutes, (bulk).  
 Salts of organic amino sulfonic acid explosive mixture.  
 Silver acetylde.  
 Silver azide.  
 Silver fulminate.  
 Silver oxalate explosive mixtures.  
 Silver styphnate.  
 Silver tartrate explosive mixtures.  
 Silver tetrazene.  
 Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent fuel and sensitizer (cap sensitive).  
 Smokeless powder.  
 Sodstol.  
 Sodium amatol.  
 Sodium azide explosive mixture.  
 Sodium dinitro-ortho-cresolate.  
 Sodium nitrate-potassium nitrate explosive mixture.  
 Sodium picramate.  
 Special fireworks.  
 Squibs.  
 Styphnic acid explosives.  
 Tacot (tetranitro-2,3,5,6-dibenzo-1,3a,4,6a-tetrazapentalene).  
 TATB (triaminotrinitrobenzene).  
 TEGDN [triethylene glycol dinitrate].  
 Tetrazene [tetracene, tetrazine,] (5-tetrazolyl)-4-guanyl tetrazene hydrate).  
 Tetranitrocarbazole.  
 Tetryl [2,4,6 tetranitro-N-methylaniline].  
 Tetrytol.  
 Thickened inorganic oxidizer, salt slurried explosive mixture.  
 TMETN (trimethylolethane trinitrate).  
 TNEF [trinitroethyl formal].  
 TNEOC [trinitroethylthocarbonate].  
 TNEOF [trinitroethylthoformate].  
 TNT [trinitrotoluene, trotyl, triltle, triton].  
 Torpax.  
 Tridite.  
 Trimethylol ethyl methane trinitrate composition.  
 Trimethylolthane trinitrate-nitrocellulose.  
 Trimonite.  
 Trinitroanisole.  
 Trinitrobenzene.  
 Trinitrobenzoic acid.  
 Trinitrocresol.  
 Trinitro-meta-cresol.  
 Trinitronaphthalene.  
 Trinitrophenetol.  
 Trinitrophenol.  
 Trinitroresorcinol.  
 Tritonal.  
 Urea nitrate  
 Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).  
 Water-in-oil emulsion explosive compositions.  
 Xanthamonas hydrophilic colloid explosive mixture.  
 Mr. BIDEN. Mr. President, I suggest the absence of a quorum.  
 The PRESIDING OFFICER. The clerk will call the roll.  
 The assistant legislative clerk proceeded to call the roll.  
 Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.  
 The PRESIDING OFFICER. Without objection, it is so ordered.  
 AMENDMENT NO. 1202, AS MODIFIED  
 Mr. HATCH. Mr. President, it is my understanding, and I ask the Senator from California if she desires to modify her amendment.  
 Mrs. FEINSTEIN. I do.  
 Mr. HATCH. I have no objection to modifying the amendment.  
 Mrs. FEINSTEIN. May I proceed to do so?  
 Mr. HATCH. That would be fine.  
 Mrs. FEINSTEIN. Is the Senator from Delaware present?  
 Mr. BIDEN. I have no objection.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification to the amendment?

Without objection, the amendment is so modified.

The amendment (No. 1202), as modified, is as follows:

On page 152, strike line 6 through line 17 on page 153, and insert the following:

**SEC. . STUDY AND REQUIREMENTS FOR TAGGING OF EXPLOSIVE MATERIALS, AND STUDY AND RECOMMENDATIONS FOR RENDERING EXPLOSIVE COMPONENTS INERT AND IMPOSING CONTROLS ON PRECURSORS OF EXPLOSIVES.**

(a) the Secretary of the Treasury shall conduct a study and make recommendations concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible and cost-effective to require it.

In conducting the study, the Secretary shall consult with other Federal, State and local officials with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be completed within twelve months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(b) There are authorized to be appropriated for the study and recommendations contained in paragraph (a) such sums as may be necessary.

(c) Section 842 of title 18, United States Code, is amended by inserting after subsection (k), a new subsection (l) which reads as follows:

“(1) It shall be unlawful for any person to manufacture, import, ship, transport, receive, possess, transfer, or distribute any explosive material that does not contain a tracer element as prescribed by the Secretary pursuant to regulation, knowing or having reasonable cause to believe that the explosive material does not contain the required tracer element.”

“(2) For purposes of this subsection, explosive material does not include smokeless or black powder manufactured for uses set forth in section 845(a)(4)(5) of this chapter.”

(d) Section 844, of title 18, United States Code, is amended by inserting after “(a) through (i)” the phrase “and (l).”

(e) Section 846 of title 18, United States Code, is amended by designating the present section as “(a),” and by adding a new subsection (b) reading as follows: “(b) to facilitate the enforcement of this chapter the Secretary shall, within 6 months after submission of the study required by subsection (a), promulgate regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States. Tracer elements to be added to explosive materials under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not substantially impair the quality of the explosive materials for their intended lawful use, adversely affect the safety of these explosives, or have a substantially adverse effect on the environment.”

(f) The penalties provided herein shall not take effect until ninety days after the date of promulgation of the regulations provided for herein.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that my motion to table the modified Feinstein amendment be vitiated.

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

Mr. HATCH. Mr. President, I ask for the yeas and nays on the Feinstein amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1202, AS MODIFIED

The PRESIDING OFFICER. The question occurs on agreeing to amendment 1202, as modified, offered by the Senator from California [Mrs. FEINSTEIN]. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Indiana [Mr. LUGAR], and the Senator from Arkansas [Mr. MURKOWSKI] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Nebraska [Mr. KERREY], the Senator from Vermont [Mr. LEAHY], and the Senator from Washington [Mr. MURRAY] are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey, [Mr. BRADLEY] and the Senator from Vermont [Mr. LEAHY] would each vote “aye.”

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

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—90

Abraham	Chafee	Feinstein
Akaka	Coats	Ford
Ashcroft	Cochran	Frist
Baucus	Cohen	Glenn
Bennett	Conrad	Gorton
Biden	Coverdell	Graham
Bingaman	Craig	Grams
Bond	D'Amato	Grassley
Boxer	Daschle	Gregg
Breaux	DeWine	Harkin
Brown	Dodd	Hatch
Bryan	Dole	Heflin
Bumpers	Domenici	Helms
Burns	Dorgan	Hollings
Byrd	Exon	Hutchison
Campbell	Feingold	Inhofe

Inouye	McConnell	Santorum
Johnston	Mikulski	Sarbanes
Kassebaum	Moseley-Braun	Shelby
Kempthorne	Moynihan	Simon
Kennedy	Nickles	Simpson
Kerry	Nunn	Smith
Kohl	Packwood	Snowe
Kyl	Pell	Specter
Lautenberg	Pressler	Stevens
Levin	Pryor	Thomas
Lieberman	Reid	Thompson
Lott	Robb	Thurmond
Mack	Rockefeller	Warner
McCain	Roth	Wellstone

NOT VOTING—10

Bradley	Jeffords	Murkowski
Faircloth	Kerrey	Murray
Gramm	Leahy	
Hatfield	Lugar	

So the amendment (No. 1202), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1207 WITHDRAWN

Mr. BROWN. Mr. President, I ask unanimous consent to withdraw my amendment.

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

So the amendment (No. 1207) was withdrawn.

Mr. HATCH. Mr. President, I understand we can accept a few of the amendments. Senator DOLE has informed Members that is the last vote of the day.

Mr. BIDEN. Mr. President, we are trying to clear additional amendments.

We are prepared to accept the Pressler amendment, renaming a Federal building in his State. We are seeing whether we can clear additional amendments.

While I have the floor, let me ask, the Senator from California, Senator BOXER, was prepared to go with her amendment tonight, but since that was the last vote, I would like to ask whether or not the chairman would object to her being the first amendment tomorrow?

Mr. HATCH. I have no objection to that. Why do we not schedule that right before the caucus meetings tomorrow?

Mrs. BOXER. Mr. President, that is perfect.

Mr. BIDEN. Mr. President, I would be prepared to move Senator PRESSLER's amendment regarding renaming the Federal building, if that is appropriate.

The PRESIDING OFFICER. There are two Pressler amendments.

Mr. BIDEN. Mr. President, I was referring to the Pressler amendment renaming a Federal building. It is amendment numbered 1204. However, I have just been informed by the chairman of the committee of jurisdiction that he would like an opportunity to look at that. Therefore, I withdraw my request to act on Pressler amendment numbered 1204.

What I am saying is we do not have an amendment to clear at the moment.

Mr. HATCH. Mr. President, I do not have any authority to set a vote on the

Boxer amendment. I think we have to look at the amendment and go from there. Hopefully, that can be the first vote, if we can work it out.

The PRESIDING OFFICER. The Chair would observe that the pending amendment is No. 1206, offered by the Senator from Utah on behalf of Senator SPECTER.

Mr. HATCH. As I understand it, maybe we can accept that amendment if it is permissible on the part of the minority.

Mr. BIDEN. Mr. President, there are two committee members that have a hold on this amendment. I am not sure it will not be able to be accepted, but I cannot clear it at this moment.

AMENDMENT NO. 1204

Mr. BIDEN. Mr. President, the Senator who had objected to moving to consider Pressler amendment numbered 1204 has now withdrawn his objection.

We, on the Democratic side, are prepared to accept Pressler amendment numbered 1204.

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

The amendment (No. 1204) was agreed to.

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

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

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

Mr. HATCH. Mr. President, I wonder if the distinguished Senator from Delaware is prepared to accept the Smith amendment, which appears to be a technical amendment.

Mr. BIDEN. Mr. President, at this moment, we are trying to clear the Smith amendment and several others. I am not in a position to clear any amendment at this moment. We are running that down right now.

If the Senator could withhold for a few minutes.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that the order for the quorum call be rescinded.

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

Mr. DOLE. Mr. President, the managers have been accepting some of these amendments. I would like to get some idea of how many are left.

We started off this morning with 99, and I do not know whether we are down to 90, 85, 25, or 10. There will be a cloture vote. If we cannot get consent to vote tomorrow, it will be early on Wednesday morning.

One way or the other, we are going to dispose of this bill. If people are not willing to offer their amendments, we cannot work them out—it is only 6:30 and we thought we would be here late tonight. Obviously, no one wants to stay.

The President says he wants the bill passed. But this is all he says, "I want the bill passed." We need some action. Tomorrow we will have a full day. We are not going to dispose of the 99 amendments tomorrow or 85 or 75 amendments. We would be prepared to exchange lists. We have been able to eliminate many of ours. If the Democrats are willing to give what they have, we will know if we have a chance of completing this tomorrow. If not, I would like to move to the telecommunications bill.

We have accepted four or five minor amendments. That is about all we have gotten today. I am glad we accepted those rather than have 95-0 votes. Some of our colleagues returned today thinking there would be multiple votes. I obviously cannot manufacture votes, unless we just have Sergeant-at-Arms votes. I am not trying to punish anybody. We need to finish this bill, the President says so. Everybody says so.

How many amendments do we have left: 80? 50? 60? 100?

Mr. BIDEN. Mr. President, I say to the majority leader, I think we have about 20 amendments left. I expect that by midday tomorrow we will have fewer than that left.

I might point out to the majority leader that two of the four amendments accepted, when we met last, there was no possibility of them being accepted. They were two of the six major amendments that the Democratic side felt were essential to be included in the Republican core bill.

Although we did accept them and they turned out to be overwhelming votes—taggants—when I spoke this time before we adjourned, I said the taggant amendment and the amendment that the Senator from California had regarding the distribution of material on how to build explosive devices were two of the most contentious amendments, and they were so advertised at the time. They had been worked out through the cooperation of Senator HATCH and the Republican side. So I do not want the Senator, the leader, to think we have only been dealing with those things, with the easiest things on the list. The big items left on the list are some gun-related amendments and the habeas corpus amendments. We are ready to go at those starting first thing in the morning. I imagine we will be joined, for example, by the Senator from New Jersey, who has an amendment on doing away with the \$25 million program the Defense Department makes available for ammunition for target practice. He is willing to agree to a half-hour on that amendment. I do not think we are going to take very much time on the remaining very controversial amendments.

I cannot say to the Senator what one or two people on either side may do based on what the final outcome of the habeas corpus vote is, or a gun vote is. I do not know. But I think disposing of

the amendments will go relatively quickly and I think we will be able to get time agreements on almost all of them.

Several Senators addressed the Chair.

Mr. DOLE. Mr. President, let me just reply. We understand we have maybe five amendments. The Senator is saying he has, still, 20 on that side?

Mr. BIDEN. I ask my staff how many amendments we have on the Democratic side left?

I am told we have 15 to 20. We can give a closer estimate, but I suspect at least a third of those amendments are place holders that are not likely to be moved at all. But one thing for sure, the list is decreasing, not increasing.

I was asked by the Democratic leader if we thought we could finish this bill by tomorrow night. I believe we can finish it by tomorrow night, at least the amendments by tomorrow night. Hopefully we will not move into Wednesday on this legislation. I certainly want to move it. Thus far I have seen cooperation on both sides to move contentious amendments.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me commend the ranking member and chairman on the work they have done on the last couple of legislative days we have been on this bill. This is really just the second day we have been on the bill. As everyone recalls, this is not a piece of legislation that went through committee. We did not have the opportunity to review any of it in a committee. So even though the issue was subject to hearings, there was no specific hearing on this particular bill. We only had the opportunity to see it about a day prior to the time we recessed. Everyone now has, clearly, read the bill and had the opportunity to study it. So as a result, I think some of the amendments that were anticipated may no longer be required.

But this is not a simple bill. This is not a small matter. This is a far-reaching piece of legislation that deserves our consideration. I think, given that, it is all the more remarkable that perhaps in a period of the next 48 hours, maybe less than that, substantially less than that, we will be able to complete our work.

Senators have legitimate concerns that have to be addressed in the form of amendments. They will be addressed. They are cooperating on our side. As the ranking member said, I think there is a reasonable expectation we can bring that list down even more. People are cooperating, and I think together we can work this thing through and be finished certainly within the next couple of days at the latest.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thank the Democratic leader. I hope that is an accurate assessment. We would like to finish the bill tomorrow night and start on telecommunications on



Wednesday. I made promises, in effect, to Senators PRESSLER and HOLLINGS that we would take it up. I am not certain we will even have five amendments offered. This is a bill the President wants very much. It would seem to me, on the other side, if they have 20 amendments, maybe they would be willing to forgo offering all those on this bill unless they relate to this bill or toughen this bill or somehow strengthen this bill.

It is important legislation, there is no question about it. Nobody knows how important it is any more than the Presiding Officer, Senator INHOFE, and Senator NICKLES, from Oklahoma. We want to look back on it a year from now and say we did the right thing, we just did not do something in the emotion of the moment that might infringe on somebody's constitutional rights a year from now or 10 years from now.

But I think there is basic agreement. As I just listen to the two managers here it seems to me Senator BIDEN and Senator HATCH have a pretty good grip on what they would like to accomplish. Hopefully we will work together tomorrow. Maybe we can get it done tomorrow night, late.

We did not quite get it done on Memorial Day but at least we made the effort. There is no way you can complete it with 97 amendments out there, 67 on that side and 30-some on this side. So we have it down to a total of 20. Maybe some of those are not—I do not say they are not serious amendments—maybe what we call around here, place holders.

It seems to me if we start fairly early tomorrow morning we can complete action on the bill tomorrow night.

Mr. BIDEN. I hope so.

Mr. DOLE. Is that possible?

Mr. BIDEN. Mr. President, I think that is true. Again, I do not think we are going to have trouble finishing the amendments. I think the outcome of the amendments may affect what one or two people on your side or one or two people on my side might end up doing. But my guess there as well is if we finish these amendments we will go to final passage and there will not be much in the way of that. But I cannot make a promise to the leader on that.

Mr. DOLE. Is there anything else to do this evening? Any other amendments that can be dealt with?

Mr. HATCH. I think it is better for us this evening to work on what we are going to do tomorrow, come in early and do our very best to finish this by tomorrow night. I really appreciate the good will on the part of the minority here to work with us and get this done. But I would like to finish it by tomorrow night if we can. If it means getting into the habeas amendments pretty early tomorrow, it means getting into the difficult amendments.

Hopefully, once we resolve those one way or the other, we can move ahead to final passage.

Mrs. BOXER. Will the Senator yield for a question? Shall the Senator be

here prepared at 9:45 to offer the amendment? Can we perhaps incorporate that into a unanimous consent so we can make sure it is the business at hand?

Mr. BIDEN. Mr. President, I ask unanimous consent the first amendment tomorrow be the amendment of the Senator from California, Senator BOXER.

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

Mrs. BOXER. I thank my colleague.

Mr. HATCH. I suggest to my distinguished colleague from California, if she will work with us on the amendment it might not be as difficult as it might be. So I would like to chat with her and see what we can do.

Mrs. BOXER. I will be glad to do that.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### EXTENDED USE OF MEDICARE SELECTED POLICIES

Mr. LOTT. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 483, the Medicare select bill.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LOTT. Mr. President, I move the Senate insist on the Senate amendment and agree to a conference on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. PACKWOOD, Mr. DOLE, and Mr. MOYNIHAN conferees on the part of the Senate.

Mr. LOTT. Mr. President, I would like to note that this has been cleared with the leadership on the other side of the aisle. I do have a unanimous-consent request now.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages

from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

H.R. 1045. An Act to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes.

#### REPORTS OF COMMITTEE

The following reports of committee were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs: Special report entitled "Fourth Interim Report on United States Government Efforts to Combat Fraud and Abuse in the Insurance Industry: Problems in Blue Cross/Blue Shield Plans in West Virginia, Maryland, Washington, DC, New York, and Federal Contracts" (Rept. 104-93).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Robert F. Rider, of Delaware, to be a Governor of the United States Postal Service for the term expiring December 8, 2004.

(The above nomination was reported with the recommendation that he be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 879. A bill to amend the Wild and Scenic Rivers Act to limit acquisition of land on the 39-mile headwaters segment of the Missouri River, Nebraska and South Dakota, designated as recreational river, to acquisition from willing sellers; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON:

S. 880. A bill to enhance fairness in compensating owners of patents used by the United States; to the Committee on the Judiciary.

By Mr. PRYOR (for himself and Mr. GRASSLEY):

S. 881. A bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER (for himself and Mr. DASCHLE):