

If we can work out a time agreement on relevant amendments, we will pursue illegal immigration or the immigration bill. It passed the committee, as I understand, by a vote of 13 to 4. But if we are going to have extraneous amendments and nonrelevant amendments to help protect some of those who voted wrong on the balanced budget amendment, we could be having this every day—and every day and every day. I just hope the six on the other side who voted for a balanced budget amendment 2 years ago would now, when we have the vote sometime this month or probably next month, vote for the balanced budget amendment—we are just a couple of votes short—and send it to the States for ratification. If three-fourths of the States ratify it, it becomes part of the Constitution.

But we are now prepared to proceed on the antiterrorism conference report. Obviously, not every provision the Senate passed survived the conference. But as I think, as the Senator from Utah outlined to us in our policy luncheon, nearly every important feature in the Senate bill survived the conference, and we believe that it is a good bill that should be passed as quickly as possible so the House might act.

If we can work out some agreement on immigration, we will go back to immigration. If not, we may go to something else. It does not have to proceed here one day at a time. I know some would like to frustrate any efforts on this side of the aisle. But we do have the majority, and we will try to do our best to move legislation that the American people have an interest in. Illegal immigration—wherever you go illegal immigration is a big, big issue. If we are going to be frustrated by efforts on the other side to hold the bill hostage, that is up to them. They can make it happen. Then they can explain that to the voters in November.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I thought we had completed the discussion on immigration. But since it appears that is not the case, let me respond again.

We did not pull the bill. We could be on that bill right now. We could be taking up amendments right now. We have already agreed to short timeframes within which to debate the minimum wage amendment and the Social Security amendment. We can resolve them by 5 o'clock this afternoon and come to completion on the bill itself sometime tonight. We are prepared to do that.

So do not let anybody be misled. We are not holding this bill hostage. We did not pull it down. We did not ask that there be no opportunity to vote. Welcome to the U.S. Senate. Welcome to the U.S. Senate.

If our Republican colleagues are prepared right now, this afternoon, to say that throughout the rest of the 104th Congress they will never offer an irrel-

evant amendment to any bill because doing so would somehow indicate that they do not want a bill to pass or they are going to hold the bill hostage, we might be prepared to talk about that. But everyone knows that is not what this is all about. There are some here who do not want to deal with the issues that we are attempting to address in these amendments.

So I do not think there ought to be any misunderstanding or obfuscation of the question. The question is, Do we support passage of an illegal immigration bill? The answer is not only yes, but emphatically yes. Do we support timeframes within which every amendment could be considered? The answer is yes.

So I hope we can reach an agreement. I hope now we can move on to the counterterrorism bill and address that in a timely manner. I am prepared to sit down this afternoon, tonight, or tomorrow to find a way to resolve the procedural issues regarding how we take up the immigration bill itself.

I yield the floor.

Mr. HATCH addressed the Chair.

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

TERRORISM PREVENTION ACT— CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, I think it is time to vote on the antiterrorism bill.

I have to say that I do not think anybody denies the minority a right to bring up irrelevant amendments. But it is happening on everything. It has happened now for 2—actually better than 2—solid years. When you get something as important as the immigration bill—and I have to say, as chairman of the Judiciary Committee, we worked our guts out to get that bill here because it is such an important bill. It is a bill that every border State in this country and every State in this country is concerned about. Senator SIMPSON has just plain worked for years to get this up. I do not agree with Senator SIMPSON on every aspect of that bill, but I sure admire him. I admire the effort he has put in. I just think it is a tragedy that we cannot move and get the thing done. It is something that every Democrat and every Republican wants to do.

Also, as a former member of and former chairman of the Labor Committee, we have had these minimum wage fights year after year, time after time, and, frankly, to bring it up on immigration, it is a matter of great concern to me that they would do that.

These are a couple of bills—the immigration bill and the antiterrorism bill—that literally ought to be bipartisan every step of the way. We can have our differences, but we ought to be working to resolve these bills.

Sometimes I think this body does not seem to care about what is important for the people out there. I have to

admit that there are very sincere people on the minimum wage. On the other hand, there are other opportunities to bring that up, I suppose. These two bills really should not have a bunch of irrelevant amendments.

Today, the Senate begins consideration of the conference report on S. 735, the Antiterrorism Effective Death Penalty Act of 1996. This is a particularly relevant time to begin this debate because we are fast approaching the 1-year anniversary of the heinous crime that claimed the lives of so many men, women, and children in Oklahoma City, OK. Indeed, this Friday, the 19th, marks the 1-year anniversary of that tragedy. I hope we can in an orderly, decent way get this bill done today so that we can send it to the House and they can do it, so that we can at least do what the Senate ought to do in commemoration of the lives of those who died last year—and those who died in the Lockerbie airline crash, those who have been terrorized all over this world, but especially those who have been and will yet be terrorized in this country.

Although many of the physical wounds endured by the survivors of that blast in Oklahoma City have healed, the wounds to their hearts continue to bleed. We met with a number of them yesterday. Those folks really want this bill.

During this past year, as I have spent time with my own family—Elaine and I have 6 children; all 6 of them are married now, and we have 15 grandchildren—my thoughts have often turned to the survivors of the Oklahoma City tragedy and to the families of those who lost their loved ones on that terrible day a year ago this Friday. I cannot imagine what it would be like to have my family taken from me by the acts of evil men and perhaps women.

I have to say my heart went out to these survivors yesterday who came back here at their own expense to stand with us at that press conference and announce that we finally have arrived at a bill after this full year of effort.

Yesterday, I had the opportunity to meet with some of the families who lost loved ones on that fateful day. The one thing that the survivors of that tragedy and the victims of that tragedy requested was that we try to provide justice to the memories of those who lost their lives in that terrorism blast.

I want to quote the family members of the victim of the bomb who spoke to the Nation yesterday about the need for this bill. Dianne Leonard lost her husband Don, an agent of the U.S. Secret Service. Despite her pain, she came here yesterday, along with other victims of terrorism, and made one of the most eloquent statements I have ever heard on the issue. She said:

In an effort to be caring and honorable human beings, we have granted perpetrators of violent crime much more than their constitutional rights. Our caring and honorable

intentions have been misdirected. Instead, we as a society have been cold and heartless, because we have forgotten the innocent victims of crime. We have forgotten the sheer terror of the victims immediately prior to their death. We have forgotten that anyone who could murder an innocent human being has relinquished his rights for compassion.

That is what Dianne said. Mr. President, that is what this is all about. It is not about whether this bill is weaker. We all know that it is not. It is about whether we will stand with the victims of terrorism and violent crime or not.

I am not sure we can ever provide justice to those families in this life. I hope, however, that we can, perhaps, bring some peace to the survivors of that tragedy in that we can enact this antiterrorism legislation in their memory. For once, just once, I hope we can put aside the partisan wrangling that often occurs here and simply do what is right—just once, on a bill like this. It is my firm belief that passing this conference report represents the right thing to do.

The legislation that Representative HYDE and I have negotiated represents a landmark bipartisan effort to prevent and punish acts of domestic and international terrorism. Indeed, the Republican Governor of Oklahoma and the Democratic attorney general of Oklahoma both support this legislation—strongly support it.

I would like to note the efforts of Representative CHUCK SCHUMER, CHARLES SCHUMER, of New York, in working with us to craft this legislation. Representative SCHUMER, who signed the conference report as a Democrat, made significant contributions to the final product. We tried to accommodate our colleagues on the other side to the extent that we could—in fact, on both sides of this issue, as we negotiated this measure. Our majority leader, Senator DOLE, was instrumental in moving negotiations on this bill forward. With Senator DOLE's leadership, we were able to put back into the bill many of the provisions that the House had removed. Without Senator DOLE's able leadership, I do not think we would have been able to have a bill that is as tough on terrorism as this one is.

Let me just give a few of the major areas we were able to agree on and get back into this bill that made it much closer to the Senate bill.

The terrorist alien removal provision: We restored the terrorist alien removal provision which allows courts to expeditiously deport alien terrorists. The court can consider classified evidence without disclosing that evidence to the alien.

We put back in designation of terrorist organizations. This has greatly pleased a number of civil liberties organizations, and I have to say the Anti-Defamation League. We worked with the House on language to allow the President to designate foreign terrorist organizations. This provision was not in the House-passed bill. A weaker ver-

sion than this one was in the Senate bill. This tougher version eliminates an entire level of judicial review and allows the Government to freeze the assets of foreign terrorists before the designation becomes public.

On the issue of fundraising, we make it a crime to donate or accept funds for foreign terrorist organizations. The House had removed this provision. The Senate bill contained that provision. It is a big, big provision.

We have summary exclusion of alien terrorists. The Senate prevailed in including a provision which creates a new legal basis for automatic alien exclusion from the United States when the person is a representative or member of any designated foreign terrorist organization.

On biological weapons, we also succeeded in getting the House to toughen up regulations dealing with the transportation and sale of human biological agents which could be used as weapons of mass destruction.

The criminal alien removal procedures—the Senate bill made it much easier for an alien who had been convicted of an aggravated felony to be deported. The House bill was definitely weaker on that point. We prevailed. We put the Senate language back in.

These are big concessions by our colleagues over in the House, some of whom have problems, some of whom are worried that Government is too intrusive in all of our lives—and I think rightfully so, in many ways. But we got these things in.

On authorizations, the House bill had virtually no funding for Federal law enforcement on this antiterrorism area. The Senate bill had a little over \$2 billion over 5 years. We agreed on \$1 billion in funding for Federal and State law enforcement over 4 years. We have already spent almost a half billion dollars this year—maybe a little more than that. So, in essence, we got the Senate funding into this bill.

On taggants, we have put taggants on plastic explosives, which are the primary explosives used by terrorist organizations and by terrorists. There will be taggants on there so we can determine the source. With regard to other explosives—because even the OTA, even ATF, admit that there may be some danger involved in putting taggants in other explosives—they are not sure of being efficacious for law enforcement, or even cost effective to do so, and to mandate that—we provided for a study for a year. Then we provided for a means whereby the regulators can come up with their regulations—if that study shows that it is environmentally sound, economically sound, law enforcement efficacious, and that it is not dangerous—then the regulators can come up with regulations on taggants, and then the Congress will have to make a determination whether they accept those regulations or not. Those are just a few of the things that we put back into this bill.

We were able to craft legislation that adds important tools to the Govern-

ment's rights in the Government fight against terrorism, but we do so in a temperate manner that is protective of civil liberties.

Most important, this conference bill contains the habeas corpus reform proposal contained in the Senate terrorism bill. The House adopted it word for word. The present habeas corpus allows those who are convicted of brutal, heinous crimes to delay the imposition of just punishment for years. The habeas reform proposal contained in this legislation will end the ability of those heinous criminals, those violent criminals—those murderers, if you will, those justly convicted—to delay the imposition of their sentence.

Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma bombing situation. If those being tried for the bombing are convicted, our habeas corpus reform language will prevent them from delaying the imposition of their penalties on frivolous grounds. And we have all seen that year after year in every jurisdiction in this country.

In Utah, we had one case that went 18 years, the "hi-fi murderer," where he and his buddy went in there, where they tortured these people, rammed pencils through their eardrums, poured Drano down their throats, and murdered them in cold blood. No question of guilt, no question of any prejudice against them, they were convicted and justly sentenced to death.

Mr. President, 18 years later, 28 appeals all the way up through the State courts to the State supreme court, all the way up to the Federal courts to the Federal Supreme Court—28 appeals, millions of dollars spent before that just sentence could be carried out. And that is going on in a myriad of cases all over this country. Rather than exploit it, the devastation of the Oklahoma City bombing, I believe that by including this provision in the antiterrorism legislation, we are protecting the families of the victims.

Comprehensive habeas corpus reform is the only legislation Congress can pass as a part of this terrorism bill that will have a direct effect on the Oklahoma City bombing case. It is the one thing Congress can pass now to ensure that President Clinton's promise of swift justice is kept.

President Clinton recognized this fact during his April 23, 1995, appearance on the television program "60 Minutes," when, in response to a question about whether those responsible would actually be executed without the adoption of habeas corpus reform, he said, "I do believe the habeas corpus provisions of the Federal law which permit these appeals sometimes to be delayed 7, 8, 9 years, should be changed. I have advocated that. I hope the Congress will pass a reform of the habeas corpus provisions because it should not take 8 or 9 years and three trips to the Supreme Court to finalize whether a person, in fact, is properly convicted or not."

That is the President of the United States. Last Sunday, he called me. I was grateful for that call. It was late at night, and he called me at home before he left for Alaska. He wanted to have me bring him up to speed on what we were doing in the conference, what we were doing in the negotiations on this bill. And he said to me, "I wish we could shorten the time. If I had my way, I would shorten the time, shorter than what you have in this bill."

I said, "That will be great, but I don't think we can do that at this point. This bill is fair." I pretty well acknowledged that. He noted he would not veto this bill based on the habeas corpus provisions.

I explained some of the other changes we made, and he seemed pleased, because he knew we made great strides in trying to get a better bill that will really do the job, and this bill will. It does not solve every problem, but it sure goes a long way toward solving problems in the past and, above all and even more important perhaps, in the future.

The claim that habeas corpus reform is tangential or unrelated to fighting terrorism is ludicrous. We can be confident that those responsible for the bombing in Oklahoma will be brought to justice. The American people do not want to witness the spectacle of these terrorists abusing our judicial system and delaying the imposition of a just sentence by filing appeal after meritless appeal. A system which permits such a result does not provide justice for the victims of terrorism and simply has to be changed, and this bill will do it—one of the most important changes in criminal law in this century, and we are going to do it.

Although most capital cases are State cases—and the State of Oklahoma can still prosecute this case—the habeas reform proposal in this bill would apply to Federal death penalty cases as well. It would greatly affect the Government's prosecution of the Oklahoma bombing case.

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 court to one habeas corpus petition. In contrast, under current law there is currently no limit to the number of petitions he or she may file and no time constraints. We have a case where a person waited 9 years to file a habeas petition on the eve of the carrying out of that person's sentence, clearly abusing the system.

No. 3, it requires the Federal courts, once a petition is filed, to complete judicial action within a specified time period. Therefore, if the Federal Government prosecutes this case and the death penalty is sought and imposed, the execution of sentence could take as little as 1 year if our proposal passes. This is in stark contrast to, in the Utah case, an 18-year case of delay we

are so used to under the current system, and there are cases that are longer than the 18-year case.

President Clinton said justice, in the wake of the Oklahoma tragedy, would be "swift, certain and severe." We must help President Clinton keep this promise to the families of those who were murdered in Oklahoma City by passing comprehensive habeas corpus reform now.

Unfortunately, while habeas corpus reform is the single most important issue in this bill and will directly affect the Oklahoma City bombing, there are some who would urge the President to veto the bill on the basis of this reform proposal. I sincerely hope that this does not happen, and the President told me it would not happen on that proposal. We should not put our concern for convicted killers above our desire to see that justice is done and carried out.

The Senate and House also worked together to restore many important provisions to the conference bill. For example, we restored the terrorist alien removal provision that allows courts to expeditiously deport alien terrorists. The Department of Justice requested this provision, and we worked with our House colleagues to ensure that this provision would be an effective means of removing alien terrorists from our shores, while at the same time protecting due-process concerns.

Second, we adopted tough new procedures that would permit the Secretary of State to designate certain foreign organizations that commit acts of violence as terrorist groups.

The designation procedure adopted in the conference report is much stronger than that contained in the original Senate bill. We have also criminalized fundraising efforts on behalf of designated foreign terrorist groups and provided for the exclusion of representatives or members of terrorist groups. I think that the recent bombings in the Middle East and in England are a tremendous problem, and they bring out the necessity of preventing fundraising in this country on behalf of organizations bent on killing innocent persons for political gain.

This bill also includes provisions making it a crime to knowingly provide material support to the terrorist functions of foreign groups designated by a Presidential finding to be engaged in terrorist activities.

We also succeeded in adopting tough new measures to regulate the transport and sale of human biological pathogens that could be used as weapons of mass destruction. This legislation increases the penalties for acts of foreign and domestic terrorism, including the use of weapons of mass destruction, attacks on officials and employees of the United States and conspiracy to commit terrorist acts. That has not been in the law up till now, and we are going to put it there, and it is going to be a tremendous prosecutorial tool against terrorist activity.

It gives the President enhanced tools to use as foreign policy powers to combat terrorism overseas, and it gives those of our citizens harmed by terrorist acts of outlaw states the right to sue their attackers in our courts.

Our bill also provides measured enhancements to the authority of Federal law enforcement to investigate terrorist threats and acts.

In addition to giving law enforcement legal tools they need to do the job, our bill also authorizes increased resources for law enforcement to carry out its mission. The bill provides \$1 billion over 4 years for an enhanced antiterrorism effort at the Federal and State levels. The bill also implements the convention on the marketing of plastic explosives. It requires that the makers of plastic explosives make their explosives detectable.

I note that many of the provisions in this bill enjoy broad bipartisan support, and, in several cases, it passed the Senate on previous occasions. Indeed, we have worked closely with the administration during the development of this legislation, and many of the provisions in this bill have the administration's strong support.

The people of the United States and around the world must know that terrorism is an issue that transcends politics and political parties. Our resolve in this matter has to be clear. Our response to the terrorist threats and to acts of terrorism will be certain, swift, and unified. I think we have to redouble our efforts to combat terrorism and to protect our citizens.

A worthy first step would be the enactment of these sound provisions to provide law enforcement with the tools to fight terrorism. I, therefore, urge my colleagues to support this conference report.

Let me just also say there are some matters that we were not able to work out with the House that the distinguished Senator from Delaware and I would have preferred to have in this bill. We would have put in—and we did have it in the Senate bill—multipoint wiretaps. It would be a more modern way of going at this matter. Of course, we have people who move from post to post, and it should not be the obligation of our law enforcement people to have to go and get a warrant for every telephone that they move to.

I would prefer to have had that in here. We had it in the Senate bill. We were unable to get it in. I will tell you why. Because, frankly, there are people in the House who basically believe that the Government is too intrusive and that there needs to be a study done on the abuse of wiretapping and done on the needs of law enforcement for wiretapping before we make that step. I have to say, I do not particularly agree that it should not be in this bill.

On the other hand, the study will do well. And I have committed myself, as chairman of the Judiciary Committee, and as a leader on that committee, to get that study done and to make sure

that ultimately we resolve these problems in a way satisfactory to our law enforcement people.

There are some other matters that may not be in this bill. We have not been able to put everything in here that the distinguished Senator from Delaware and I would put in this bill. But it is a terrific bill. We have a lot more in this bill than in the original bill filed by the President before the Oklahoma City bombing, and I might add in the original bill filed by the Senate through Senator BIDEN after the Oklahoma City bombing.

By the way, there were no multipoint wiretap provisions in either of those President's bills. And so, you know, it is easy to see that some may try to make political hay out of that. But what the legislative process is is the art of the possible. There are other things we would like to have in this bill. They are not there. But we have both parties together, both bodies together. I think we have a bill that basically will make a real dent in the matter of terrorism.

Let me just say this. One of our problems with regard to the multipoint wiretaps was that when the bill came up they called them roving wiretaps. Just that semantic term caused angst in the hearts of a lot of people around our society. I might add that the roving wiretap provisions were, I think, in the second bill filed by Senator BIDEN on behalf of the President. And if we called them multipoint wiretaps at that point, we might have been able to keep them in. I would prefer that they be in. But I do not think that the fact that they are not in should stop us from passing that which can pass now, that which is needed to fight terrorism, that which we have done and that which we can have done, and can do at this time.

Let me just say in closing, that this is one of the most important bills in our country's history. It is not perfect, but it goes a long way toward preventing terrorist activities in the future. It goes a long way toward attacking these criminals the way they need to be attacked. It is a tough on crime bill. Could it be improved? Sure.

I want to also say that without the leadership of our majority leader, Senator DOLE, this bill would not be here today. He stood with us every step of the way. He worked with recalcitrant Members in both the Senate and the House in both parties. He has handled the matter well. And, frankly, I think he deserves an awful lot of the credit when this bill passes, if not the lion's share of the credit.

So I would just plainly like to make these points and just say this in conclusion, that I really want to pass this bill this week, hopefully tonight, if not tomorrow, and then get it through the House, so that we can say to the people in Oklahoma City on Friday that we, as a Congress, in a bipartisan way, both Democrats and Republicans, with nobody really trying to take the credit

for it, have done what is right for them. Frankly, when we pass this bill we will have done what is right for them.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by acknowledging that my friend from Utah supported a vast majority of the amendments that I am going to offer—not amendments—I am going to offer motions to recommit this bill with instructions to go back to the Senate language.

Let me acknowledge that I think both the Republican leader and the chairman of the Judiciary Committee, Senator HATCH, and the chairman of the Judiciary Committee on the House side, Mr. HYDE, are all in a difficult position. I acknowledge that.

Let me acknowledge that Senator DOLE deserves responsibility for this bill. I think he does. I think he deserves the responsibility for also what is not going to be in this bill because we are backing off after votes, which I am about to go through, of 91 to 6 and 99 to 0 and unanimous consent agreed. All the things I am going to offer here were passed overwhelmingly by the Senate. And we caved.

We caved so quickly on the House side it was like watching water go over a waterfall. I do think the leader bears responsibility for that as well, for not exercising his authority there because—I want to say at the outset here—I found this was the first time in any conference I have ever attended, even when the Democrats controlled the Senate, which they did off and on for the period I have been here, where everyone at a conference, but two, acknowledges that everything I am offering is correct and right but we are not going to do it because a minority of House Members do not like it.

I will not, because I am afraid I will misspeak—and I do not have the transcript—I will not use the description the minority members used of the Republican leadership in the conference on the House side because I may misspeak and create a little dilemma. But I will try to dig that up for the RECORD. But this is the first time I am aware where a major piece of legislation, where the Senate on the critical points have agreed overwhelmingly—overwhelmingly; I mean, 90 to 1 kind of overwhelmingly—and we have caved to the House, where the leader of the House in the conference said, “You’re right, Senate. But I just cannot pass it if I take it back.”

I think there is a thing called accountability. I think we should pass what we think is right, and let them vote against it. So if they vote against it, let them pay the consequences. And if they vote against it, and do not have the votes, then we can come back and try to get what we can get. But this is not even where we have challenged what was described to me as a minority of the Republican caucus on the House side.

They did not like it. Too bad. This is democracy. Too bad. There are a lot of things I do not like. I lose. I lose. But they did not like it. My goodness, 72 or 41 or 57 freshmen Republicans in the House do not like it. Great. So, yeah, I think that the leadership deserves credit and responsibility for not only what we are doing but what we are not going to do, apparently.

Second, the conference report—the majority leader stood up and said—and I have great respect for the majority leader, I truly do. I think over 23 years I have demonstrated it. He is a bright, competent leader. But he stood up and he said the conference report is essentially what we passed. It is not even close to what we passed in the Senate. It is not even close, which I will outline here in a minute why it is not even close to what we passed in the Senate.

The third point I would make is my friend from Utah and I have had sharp disagreements over habeas corpus for the last 15 years. They still exist. He is right in one important respect. This is a great habeas corpus bill. That is what this is. This is a habeas corpus bill with a little terrorism thrown in. I am not going to make any motions or move to strike the habeas corpus provisions. If we put back things in these provisions, I am willing to swallow the habeas corpus provisions, if we have a tough terrorism bill underneath it.

A year ago this week the American people experienced the unthinkable. Terrorists planted a bomb in a Federal building in Oklahoma City and hundreds of innocent citizens were killed or wounded. Families were faced with tragedy and chaos. And the Nation was catatonic.

In response to this horrendous crime that was committed, as well as the earlier terrorist bombs of the World Trade Center and Pan Am 103, the Senate passed a tough piece of legislation, in a timely fashion, to the credit of the majority leader and the minority leader. The House sat on it for the better part of a year. They would not even let their membership vote on it because apparently a minority over there thought that there was too much intrusiveness on the part of the Federal Government.

Does it not seem kind of coincidental to all who may be listening that after a year we are finally urgently bringing this bill up on the week of the anniversary of the bombing? Where was it a month ago, 3 months ago, 5 months ago, 7 months ago?

Now, the bill that we passed addressed both international and domestic threats of terrorism, and it carefully balanced the need for new law enforcement authority against the civil liberties that are so important to all of us. The bill also built upon work that had been done a year before in the Senate crime bill—now the crime bill, the Biden crime bill. It was the Biden-Hatch crime bill. I do not know whether he still wants to take credit for it. It was the Biden-Hatch crime bill. It is

now the crime law of the United States of America.

Guess what? There would be no death penalty for the two people about to be prosecuted were it not for the crime bill, were it not for the crime bill we passed, and the President led the way. There would be no death penalty because it is a Federal case, Federal law. There was no Federal death penalty for this.

My friend is talking that unless we change this habeas corpus provision, the Oklahoma bomber will go free. If those who voted against the crime bill had prevailed, there would be no death penalty even available to be brought against those accused of the bombing in Oklahoma City under Federal law. They would have to try it in State court without the resources of the Federal Government to deal with it. We kind of rewrite history around here. As my friend from Wyoming often says, everyone is entitled to their opinion, but they are not entitled to their own facts.

Let me also point out something else. On building on the crime bill the Senate passed, the terrorism bill that focused narrowly on a terrorist threat, unfortunately, the House then delayed. It finally passed a bill that pretty much took terrorism out of this bill. Now we face a conference report that is only partially approved. I strongly support the Senate-passed version of the terrorism bill, despite the fact that I did not like what we did and how we did reform habeas corpus. We have never had a disagreement that we have to reform habeas corpus. The question is, Do you eliminate it essentially, or do you reform it? This bill essentially eliminates it at a State level. Quite frankly, reform is needed to stop abuse of the writ of habeas corpus.

My friend, and he is a very able lawyer, trial lawyer, stood here and talked about how this is the most important thing to deal with terrorists—habeas corpus. Let me remind everybody who may be listening: In order to file a writ of habeas corpus, one has to be behind bars already. Got that? You already have to be in jail, convicted of a crime. When you file a writ of habeas corpus, you write it and you slide it between the bars and you send it via a court officer to the judge. You are in jail.

Now, how does that prevent terrorism? It needs to be reformed. The abuses must be eliminated. It has nothing to do with stopping terrorism. I think that is what we are about. Is this not about trying to stop terrorism?

Now, second, this is a very complicated subject that the Senator from Utah knows very well because he is a capable lawyer, and the Presiding Officer knows well because he is such a capable prosecutor. I mean that sincerely. Not a lot of lawyers understand habeas corpus. They know it is a great writ. If you sit down and ask them to explain in detail the difference between Federal and State habeas, they get lost. It is complicated and easily lends itself to exaggeration.

Putting this in focus now, every single case that I am aware of—and I may be mistaken—that my friend and his two competent staff people come up with are State court cases—every single one that I have ever heard. There may be one that I have not heard. Every one that Senator THURMOND comes up with, which are legitimate to come up with, every one I have mentioned, they are State cases.

Let me explain what I mean by that. It means that somebody was indicted and/or on information arrested, taken to a State court, tried under State law, convicted under State law, made appeals under State law, instituted their attempts under State habeas corpus to say, "No, I was wrongly convicted. My constitutional rights were violated when they convicted me. Do not set me free, but give me a new trial." That is what habeas does. It does not find you not guilty. It requires you get a new trial if it is granted and, "Send me back to State court to be tried again."

Now, what happens? All the delays, 99 percent of the delays—let me be conservative—90 percent of the delays, take the best case to my friends, are delays when you are in State courts, State courts, State courts. Now, what are we talking about in the terrorism bill? What is this bill we are passing? Is this a State bill? No; it is a Federal bill.

If someone violates any provisions of this bill that we are about to pass, what happens to them? Do they go to State court and get tried in State court, and are they subject to the delays that occur in State courts? No; they go to a Federal prison. They get tried in a Federal court. They have Federal judges. They have Federal prosecutors. They have Federal people. No State judge gets to say a thing. No State prosecutor gets to appear in any position other than if they happen to be a witness.

Now, where is the delay? Where is the Federal habeas corpus problem? My friends do not cite any. Even if they do, we have a provision in here that I support. We set a strict limitation in Federal court, in Federal habeas corpus, with a Federal prisoner, tried under a Federal law, convicted in a Federal court, sent to a Federal prison, that they have x number of months in which to appeal their case, to make their habeas appeal. They get one bite out of the apple. That is fair. But it does not even deal with anything anybody argues is a problem. It just guarantees if there is any problem, it will be corrected, and if there is not, it will not occur.

Now, say somebody is convicted under this law. They are convicted under this new law we are passing. Where are they going to go? They are going to go to Federal court. Now, how does changing all the State habeas corpus cases have anything to do with terrorism? I would like to know that one. That is a fascinating notion, what we call in the law a non sequitur. It does

not follow. It sounds reasonable. All the people sitting in the gallery when Senator HATCH, a worthy and knowledgeable advocate, stands up and says, "This is very important. Habeas corpus is the most important tool we have to fight terrorism," you all go, "I know Habeas, and I know Corpus, and they are real tough people. They are out there bombing people." Or, "Boy, I know that makes sense. I know about all the delays. He is right."

It has nothing to do with State courts because, by the way, I say to the Presiding Officer, who knows this well, if it is in a State court, it is not a Federal crime. If it is in a State court, the Federal Government is not prosecuting. If it is in a State court, it is not international terrorism. If it is in a State court, it is not a terrorist under this bill.

Now, what is the obverse? If it is in a Federal court, there is no evidence of delay on habeas corpus to begin with. But even if there is, we do correct it in this bill. But even if it is a problem, and even if we correct it, the only way you get the person who is filing the habeas corpus petition is if they are already in jail convicted. Now, tell me—I ask, if I could, folks watching this, how many of you feel if we could say in a blanket way, "We guarantee you that anybody already behind bars—already behind bars—will be executed in a timely fashion if convicted of a capital offense," that will solve our terrorism problem? Do you all feel better now about terrorism? Do you all feel more secure about whether anybody will go in the New York subway with saran gas?

You all feel better that someone is not going to come up with—another wacko—one of these bombs they make out in some field in southern Delaware or northern Delaware or Montana or Alabama, and blow up a building and kill children—do you feel better? This is crazy.

This is crazy. It may be needed just like health insurance may be needed, just like better highways may be needed. But what does it have to do with terrorism? Let me give you the one possible nexus. Here is how it goes. The only intellectually, in my opinion, legitimate argument that connects it to terrorism goes like this; it says that if we convict a terrorist and send a terrorist to jail, and if a terrorist is not able to abuse the system—which nobody is arguing that the Federal habeas system is being abused anyway, and they know they cannot abuse it and they are likely to go to death in 6 months or 6 years, then they might not have committed the terrorist act in the first place. That is the only intellectually credible argument to be made as to how this could deter terrorism. Granted. So let us put that provision in the bill. But let us not go forward and say, with all due respect, this is going to change terrorism. I just asked a rhetorical question. Go back home and ask your constituents if they know that

the appeal time has been cut from an average of 6 years to 6 months for people already convicted, and do they think we have licked terrorism. They will tell you that we imposed justice, they will tell you that we eliminated abuse, they will tell you that we saved money—all of which is true. But I defy you to campaign on the notion that you stopped terrorism by changing habeas corpus. Remember, folks, you already have to be in jail, convicted of a crime, in order to be able to file one of these petitions that you then abuse.

Now, the Senate-passed version of this bill really did do some things beyond habeas. It had all this habeas stuff in it, which, by the way, is a phenomenal overreach, but that is a different issue. I am not going to fight that again. I will register here just that the changes in Federal habeas make sense. The changes essentially say you cannot review State court decisions in a Federal court as to whether or not the State court accurately interpreted the Federal Constitution. That is a bad idea. That is saying that you cannot review, as a practical matter, State court judges' decisions on the U.S. Constitution in a Federal court.

I will not go into the history of why we did this in the first place back in the late teens of this century. But that is another issue. This is not an antiterrorism bill because it limits State habeas corpus. Unfortunately, what we have before us today is a conference report from which some of the most critical antiterrorism provisions are missing. My efforts to restore these tough provisions during the conference were unsuccessful. Despite the fact that the Republican chairmen on both sides, to their credit, acknowledged that they were good provisions, acknowledged that they were important provisions, acknowledged that they would work with me to pass these provisions in another form at a later date, and acknowledged that law enforcement needed some of these provisions very badly—notwithstanding that, notwithstanding that the majority of the members of the conference agreed with me, we voted them down.

I say to my friend from California, who has not been here as long, I found it to be a fascinating experience that never happened to me before. I am used to getting beat flatout. I get beat a lot. I am used to that. I am used to winning once in a while, too. But I have never been beaten where everybody agrees with me and then they say, "We cannot agree with you, JOE, because those guys and women over in the House, the minority within our party, do not like it." That is like me saying the four remaining liberals in the U.S. Senate—if there are that many—do not like something. Therefore, even though you are right and I agree with you, I am not going to go along with it.

I am not being facetious. I respect their position because they want a bill badly. Apparently, the majority leader

believes he needs a bill badly. Apparently, the President is concerned about having a bill. I am concerned about having a good bill. I am concerned about having the kind of bill we should have, the kind we passed. It was passed 91 to 6. That is the bill I am concerned about having. I was told the Republicans would oppose including these needed provisions in the bill because a group of Republicans in the House could not support the bill if they were included. In other words, a faction of Republicans—I might add that some liberal Democrats are agreeing with the ACLU. That is a fascinating combination. You know that phrase "politics makes strange bedfellows." I want to tell you something. George Bush, or somebody, made famous the ACLU card, who carries that. When you have the people who carry ACLU cards and those who carry NRA cards sleeping in the same bed, it is fascinating. I would love to be in one of those meetings with the gunowners of NRA and the ACLU. Everybody is smiling. They are trying not to because they know how preposterous it is. It is fascinating. I am not being critical of either of the groups. It is human nature. They have objections for totally different reasons, as I understand it. They are a minority, no matter how you add them up. Yet, the majority in both parties is going to kowtow to them.

I, quite frankly, do not understand this antipathy to fighting terrorists and holding them accountable. I do not understand how a small group of House Members has been able to seize control of the democratic process and block provisions that the vast majority of us support. I think it is wrong, and I think we in the Senate should insist on a terrorism bill that contains the tough provisions we passed more than 9 months ago.

Today I will offer a number of motions to recommit this back to conference so the missing provisions can be put back. We must send the President a strong terrorism bill that addresses the very real threat posed by those who know only the language of terrorism and violence. But they are here at home and they are also abroad. They are both places, and we have to acknowledge that. Almost a year ago, after the tragedy in Oklahoma City, Speaker GINGRICH issued a call to action. Let me quote him:

This is the kind of exact moment when Americans ought to be Americans. We ought to pull together. We ought to send a unified response to terrorists at home and terrorists overseas that we are not going to tolerate this.

The Speaker was absolutely right. We should pull together and send a message to terrorists. Let me ask you all a question, rhetorically. You are a terrorist planning a bombing. You are planning to put a chemical agent in the water supply in Minneapolis-St. Paul; you are planning to use a chemical weapon in Athens, GA, or in Atlanta at the Olympics; you are a terrorist plan-

ning to blow up the pyramid tower, the Transamerica Tower in San Francisco, to make my point. Now, what are you going to be most concerned about? Remember, we said, using the Speaker's words, this is to send a message to the terrorists. You are a terrorist planning this bombing, OK, or planning an act. Are you going to be more concerned that the Senate has just given the FBI the authority to wiretap not just the phone that you use in your house, but the phone that you have in your car, the one you have in your pocket that you keep throwing away and getting a new one so you cannot be detected, and the phone at the corner that you use to communicate your activities; are you more concerned that they may allow the Government to tap all those phones you are using? Or are you going to be more concerned that they change State habeas corpus? What do you think? What is going to send you a message? Are you going to be concerned if you are a terrorist planning an activity that if, in fact, you walk into Macy's Department Store and you plan a terrorist act like the IRA, and instead of using the bomb you use shotguns, you call the President of the United States, or you call the Governor of the State of California and say, "Unless you do the following, we are going to walk into one of the largest malls in Los Angeles and indiscriminately kill people." And you walk in with a shotgun—12 of you, 10 of you, 3 of you—and you blow away, indiscriminately, 10, 20, 30, 50, 100 Californians. Under this bill, you cannot be prosecuted in Federal court. Guess why? Because there is no Federal predicate. It is not a Federal crime to use a shotgun in the State. What is going to send you more of a message? That, or the fact that State habeas corpus has been changed? What are you going to do?

You are a terrorist. You decide you are going to use chemical weapons or biological agents. You are a terrorist. Now you learn that the Senate and the House just passed a bill that does not allow the Department of Defense, does not allow the military—the only ones with expertise in chemical warfare and biological warfare—does not allow them to participate in the investigation of your act. We affirmatively took that out of the bill.

What message are we sending terrorists? Are you going to be more worried about a provision that allows the military to investigate chemical and biological warfare against American citizens, or are you going to be more worried about the State habeas corpus? That is what we did. That is what we did. We took it out of the Senate bill. This is not chopped liver, folks. This is serious stuff.

Are you going to be more worried as a terrorist about to commit a crime, or having already committed one, that the Attorney General of the United States has the same authority that she now has with the Mafia; that, if she is

convinced that an imminent act of danger is going to take place by a particular individual, she can order a wiretap that will last for 48 hours, and within those 48 hours she has to go to a Federal judge, convince that Federal judge she has probable cause to put that in place in the first place, and, if she did not, it gets thrown out?

You can do it for John Gotti now. You can do it for organized crime now. But guess what? Our friends in the House decided you should not be able to do it for terrorists. What is the logic of that? Tell me.

I do not ever remember being as upset about what has happened to a piece of legislation. Tell me the message we send to terrorists. What is the message you want to send them? "Do not stop here. Wrong place." What is the message you want to send them?

We have tools. If you are engaged in terrorist activities affecting Americans in the United States of America, to get you before you act, what are those tools? My friend was a prosecutor. Ask any prosecutor in here, "What are the tools?" Wiretaps, wiretaps, informants, information before the act occurs. But what do we do in this bill? We send a message to terrorists: "Do not worry; no multipoint wiretaps for you."

My friend from Utah says, correctly, that initially the President referred to the roving wiretaps. He says what the chairman of the House conference said, that that upsets people. They misunderstood. They thought they could indiscriminately put wiretaps. We know that is what they could do. The chairman of the Judiciary Committee knows it does not give the Federal Government that power, but because, apparently, whoever it was—talk show host, letter writers, or somebody—convinced them of that, they say we cannot pass it because the public misunderstands—misunderstands.

How many people in the public do you think understand accelerated depreciation for equipment in factories? What do you think? Does anybody stand here on the floor and say, "You know, because it is difficult for the public to understand that concept, we are not going to pass tax provisions that relate to accelerated depreciation?"

How many people understand on this floor, or off this floor, how the International Monetary Fund works? Do we sit here and say, "You know, because if we took an exam, the American public would not know what it meant, therefore, even though we know it is good, even though we know it is in the national interest, we should not do it."

That is just what we said; because people misunderstand what a roving wiretap is, we cannot have one.

You are a terrorist. You are sitting there. You are the Unabomber—allegedly, assuming he got caught. You are sitting in your old cabin watching portable TV, battery driven, and you see the Senate goes out and says, "You know, do not worry. We are not going

to wiretap." First of all, "I do not have a phone. It does not matter. But when I go use a pay phone, they cannot get me now." Are you going to know? "My God, they have this change in habeas corpus now. I am going to really worry about whether I commit this crime."

I mean, come on. Come on. Ask any police officer if you have a case on terrorism. Would you rather have a change in State habeas corpus or the ability to have emergency wiretaps? Would you rather have a change in habeas corpus, or would you rather have multipoint wiretaps court approved? What do you think they are going to say? What do you think they are going to say? If you ask them, "Would you rather have the health care system of America reformed or have that provision," they may say the health care system of America needs reform, but it has not anything to do with terrorists. They may want habeas corpus, but it does not deal with terrorism. It does not mean we should not include it. It sure means we should not advertise this legislation as legislation that fights crime.

The destruction of Pan Am 103 reminds us that Americans are vulnerable wherever they are. The 1993 terrorist bomb at the World Trade Center in New York and the bomb blast at the Federal building in Oklahoma City were terrorist acts by anybody's definition. In response to the World Trade Center, Oklahoma City, et cetera, the President sent to the Congress the second bill focused primarily on international terrorism. Then, when the Oklahoma City blast occurred, he sent a bill that also addressed the domestic terrorist threat.

Here in the Senate, the majority leader, Senator DOLE, and Senator HATCH introduced a bill based in large measure on that proposal with some additions. They brought it to the floor within 2 months of Oklahoma City tragedy. The numbers in the President's proposals that were not initially included in the Dole-Hatch bill were added on the floor by overwhelming bipartisan support, and in the end the bill passed 91 to 8. Every one of the Senate conferees supported the bill. Think for a moment who we are talking about: ORRIN HATCH, STROM THURMOND, ALAN SIMPSON, JOE BIDEN and TED KENNEDY. It is not often you get this group all together on a major controversial piece of legislation. And, when you do, you can be sure that there is something we have seen precious little of around Washington: compromise and bipartisanship.

The product of this compromise and bipartisanship was a bill that struck a key balance, a balance about protecting Americans from terrorists on the one hand while at the same time preserving the individual liberties that are the very hallmark of our American way of life—and the very thing that terrorists wish to take away.

I am struck by an irony here. I am a guy who has been criticized about

being too adamant about civil liberties. I am a person who has often on this floor been castigated by my Republican friends as being too concerned about civil liberties and am now being opposed by those who say these provisions that I feel strongly about pay too little heed to the civil liberties and give too many powers to law enforcement.

Ever since I came to the Senate 23 years ago, I have made it my top priority, my nonnegotiable priority, to fight for civil liberties. I take a back seat to nobody when it comes to standing against the unwarranted expansion of Government power and standing up for the privacy rights and liberties of all Americans. Yet, I am here in support of a tough, comprehensive, well-balanced counterterrorism bill that all of you supported as well. With all due respect to my friends in the House, the conference report does not strike that balance and it does not do the job that must be done to protect Americans from the threat of terrorism.

I believe Chairman HYDE was right when, during the House debate on the bill, he opposed the amendment offered by Congressman BARR of Georgia, stating, "Passage of the amendment would leave the bill a frail representation of what started out as a robust answer to the terrorist menace."

Let me say that again. On the floor of the House of Representatives the conservative chairman of the House Judiciary Committee, HENRY HYDE, when Mr. BARR introduced those amendments relating primarily, in this case, to the wiretap, said to his fellow Members of the House, if the Barr amendment passes, it will "leave the bill a frail representation of what started out as a robust answer to the terrorist menace." He was right then. He is right now. What we have before us is a useful but frail representation of what started out to be a robust message sent to terrorists across the world, which was, "Not here in the United States. We are empowering law enforcement, with the due respect and regard to American civil liberties, to have additional tools to fight terrorism." That, unfortunately, is not what has happened.

Today, I and others will offer motions to recommit the bill to conference with the intent of saving this terrorism bill. I believe my friend when he says to me that, if this bill passes without being strengthened to something like it was before, that he will work with me to create another separate bill to add all these provisions that I want in the bill—or that we want in the bill. I believe him.

But we know the process. This is going to be an extremely political year. The idea of anything passing here, with Senator DOLE as the leader running for President, that is going to upset the folks over on the House side in the minority of his party, I think is less than real. It is understandable. It would be the same if there was a Democratic leader running for President. It

is not likely to happen. I doubt whether anyone here will stand on the floor and tell you there is even a 1 in 10 chance of passing any of the things I am going to raise or my friend from California is going to raise as independent pieces of legislation. This is our chance.

So, at a minimum we are talking about a year or two delay. And how many terrorist acts might we have prevented if we had given the law enforcement officials the tools that we are taking away from them here? How many? Pray God none. Pray God someone will be able to be here, assuming I am here in 2 years, to stand on the floor and say: "BIDEN said in mid-April of 1996 that if we do not put these provisions in the bill, we would have lost the ability to stop some terrorist acts. I would like to say to Senator BIDEN, there have been no terrorist acts in 2 years, so he was wrong."

I will gladly, overwhelmingly, with joy in my heart, say, "You were right, Senator. I was wrong. We did not have any terrorist acts in 2 years." But, can anybody deny that denying the Federal Government the ability to wiretap like they can for the Mafia, denying the Federal Government the ability, with probable cause signed by a Federal judge, to wiretap people suspected of terrorist activities—that is not going to enhance the chance we stop it?

Today we will have a rollcall on a number of these votes. Today, I and others will offer motions to recommit the conference report. We must restore what the President, Senator DOLE, Senator HATCH, Chairman HYDE, Representative McCOLLUM and many others on both sides of the aisle in both Houses thought were important at one point, which is to take a clear and unequivocal stand against terrorists, whether they are overseas or in our own homeland.

As the President has said, we must be guided by three bottom-line goals. First, we must protect Americans without curtailing Americans' rights. Second, we must give law enforcement officials the tools they need to protect Americans from terrorist attacks. And third, we must make sure that terrorists are not given safe haven, support, and comfort here in our country.

I end by complimenting my friend from Utah for fighting hard to get these and other provisions back in the bill. He got some of them back in the bill in a conference, in his meetings with House Members. But in my view, he did not get the single most important provision in the bill. That is why, as a Congress, we must give the FBI authority to use wiretaps in criminal investigations; where we wrote special stringent protections into the statute in order to protect legitimate private interests. Each and every one of these protections range from strict probable cause showing to approval by a Federal judge to a requirement that officers minimize intrusive wiretaps, and time limits on any authorization will re-

main in the law. Wiretap proposals I will seek to include in the conference report are limited and modest, but they are urgently needed so we can identify and stop terrorists before—before—before—before they strike.

In the Senate, Senators NUNN and THURMOND hammered out a very limited and commonsense provision to involve the military if we should ever, God forbid, face an emergency involving biological and chemical weapons of mass destruction. Remember, we are talking about only technical and logistical support from the military, not law enforcement. We are talking about an emergency involving biological and chemical weapons of mass destruction; something the military is especially trained and equipped to deal with. The military, I might also add, has this limited authority when it comes to nuclear weapons now. Senator NUNN has now perfected that language, and we should include his provision in this bill.

The conference report also fails to include a number of other provisions in the Senate bill which I believe the conference report should contain, including the following: We should add terrorism crimes to the list of RICO predicates, that is those laws which are designed to deal with organized crime, and make the penalties harsher. We should make it a crime to teach someone how to make a bomb when they intend it to be used. That is what the Senator from California will speak to again. We should extend the statute of limitations for certain firearms offenses, as we do for other offenses.

All the provisions I have just mentioned were contained in the Senate bill which, as I said earlier, passed with the votes of 91 Senators and all the votes of us representing the Senate in the conference. What is more, at the same time that the conference bill goes easy on terrorists, it gets tough on law enforcement officials. For example, the House had stripped from the original bill a provision that would have helped protect police officers from cop killer bullets.

Let me explain that just for a minute. In 1986, and again in 1994, the Congress outlawed a few bullets capable of penetrating body armor worn by our Nation's police officers for their protection. The key problem with this approach is that it is possible, indeed altogether probable, that a new bullet can be manufactured and brought to the market before Congress can pass legislation to stop it. For that reason, many had sought a performance test. In other words, let us all agree on a test that will determine what kinds of bullets can penetrate the body armor typically used by police officers. Then bullets that fail the test, so-called cop killer bullets, would be banned before they can see the light of day or kill a cop.

The bill reported out of the House Judiciary Committee by Chairman

HYDE contained the first modest step for this commonsense approach. It contained a study, just a study to determine if there is a fair test to determine whether or not a cop killer bullet is just that or is not that.

But even this modest step forward was changed in the conference report. The conference bill includes a provision added on the House floor to study how police officers are killed, with mandatory participation by national sporting organizations. What do they know about cops being killed?

The study is a setup.

We already know that armor-piercing bullets have never actually killed a cop, but that result is because we have been able to ban armor-piercing bullets before they are marketed. So the so-called study in the conference report is a first step, it seems to me, in an effort to stop any action that may keep cop-killer bullets off the street. I found this astounding.

It seems to me the conference report, while stripping out a number of provisions to crack down on terrorists, would make our law enforcement officers, who every day put their lives on the line, fair game for criminals in ways they are not now.

The conference report orders a commission to study not the terrorists but Federal, State, and local law enforcement officials who work to protect Americans from terrorism. Again, I find this astounding. I hope the police officers of America are listening to this. This bill calls for a study of American police officers. Did you hear what I said? A study of American police officers, not a study of terrorist groups, a study of American police officers.

I want to repeat, it is my intention to send the President a tough comprehensive bill. Since the conference report does not meet this standard, I will offer a series of motions to recommit the bill so that we get it right.

I hope all of my colleagues will support just what they supported before. I am not asking anybody to change their mind. I am satisfied if the six people who voted against it before vote against it again, but I hope that we have a principled vote here where people vote the way they did before on these issues and not be cowed by a minority in either party, in either House at any time. I yield the floor.

Mr. HATCH addressed the Chair.

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

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent to permit Nick Altree, Sammy Linebaugh, and Christina Rios privilege of the floor during the pendency of the terrorist bill.

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

Mr. HATCH. Mr. President, I have enjoyed my colleague's remarks. Senator BIDEN made some good points; some are not good, in my view. The most important issue in this debate happens to

be habeas corpus reform. The one thing—the only thing—the one thing and the only thing that the Oklahoma victims have asked for, the only thing they mentioned and they asked for was habeas corpus reform. The survivors of that tragedy know that habeas is the most important issue for them. Habeas is particularly relevant here because the district attorney for Oklahoma City has promised—he has promised—that the perpetrators of the bombing will be tried for murder in State court. Thus, habeas corpus reform applies, because this bill applies to both Federal and State proceedings.

Moreover, there is evidence that delay exists in the Federal courts, contrary to what my dear friend and colleague has said, and this habeas proposal places limits on Federal petitions for habeas corpus as well.

The game is going to be over. The victims understand it. Thank God the rest of us are not victims of that bombing, but they understand it. They know darn well this is the only provision that really will make a difference in their lives. So habeas clearly applies to this situation.

The point is that justice delayed is justice denied. It is impossible to stop a terrorist attack that is motivated by political fanaticism, and that appears to be what we have here and it appears to be what occurs in almost every terrorist attack. But it is possible to ensure that the perpetrators are punished. Justice delayed is justice denied.

I also point out to my friend and colleague that the bill does contain tough antiterrorism provisions, contrary to what he indicated that this is the only provision this bill is all about and it is the whole bill. It is not at all.

No. 1, we have the designation of foreign organizations as terrorist groups provision. It is a very, very important change in criminal law. It is a tough thing.

The bill includes provisions making it a crime to knowingly provide material support to terrorist functions of foreign groups. This provision is aimed at cutting off the dollars and, thus, the lifeblood of foreign terrorist organizations that are wreaking havoc and destroying lives all over the world.

The United States provides a lot of that money. People do not realize that here. They do not even realize we have up to 1,500—and I am just using very modest figures, these are figures from 10 years ago—at least 1,500 known terrorist groups and people in this country that we are watching and monitoring. Most people in this country do not realize how important this is, but the victims of the Oklahoma City bombing, the World Trade Center, the Lockerbie bombing, they all know what is involved here, and that is what they asked for yesterday, and the reason they did it is because they know it is going to make a difference.

I worked hard to ensure that this provision will not violate the Constitution, that is the provision on habeas

corpus reform. We have worked hard to make sure it does not violate the Constitution or place inappropriate restrictions on cherished first amendment freedoms.

Nothing in the habeas provisions of this bill prohibits the free exercise of religion or speech or impinges on freedom of association. We are talking now about material support to terrorist functions of foreign groups.

Moreover, nothing in the Constitution provides the right to engage in violence against fellow citizens or foreign nations. Aiding and financing foreign terrorist bombings is not constitutionally protected activity.

Additionally, I have to believe that honest donors to any organization want to know if their contributions are being used for such scurrilous terrorism purposes. We are going to be able to tell them after this bill. This is an important provision. It is a major provision that we would want to pass whether we have habeas corpus in here or not, although the habeas provision is extremely important.

Inextricably linked to this provision on being able to deter alien financing of foreign terrorist organizations is the related issue of the designation of certain foreign organizations as terrorist organizations to which the fundraising ban would also apply.

I sympathize with the concerns that have been raised on this issue. However, I believe that there can be no effective ban on terrorist fundraising unless the Government is given limited power to designate which foreign groups are, indeed, engaged in terrorist activity. The United States has a responsibility to its own citizens and to the world community to help cut off funds flowing to terrorists. I am convinced we have crafted a narrow but effective designation provision which meets these obligations while safeguarding the freedom to associate, which none of us would willingly give up.

So that provision of financing of foreign terrorist organizations is very important.

No. 2, we provide a provision in here for the exclusion of members of terrorist organizations. We will not even let them come into this country. Right now they can and they do. We are going to get tough on that, and this legislation provides that type of law.

It is important stuff. This is not just habeas corpus, although that is important in and of itself. It is the only thing that the victims yesterday called for. They said it is the one thing they want more than anything else. But these other provisions are important, too.

No. 3, we have a prohibition, like I say, on terrorist fundraising activities in this society.

No. 4, we prohibit financial transactions with terrorists, and we provide the language that will help to do that.

No. 5, we adopt regulations on human pathogens to prevent terrorists from

using deadly human pathogens to harm our citizens. By enhancing penalties for and restrictions on the use of biological agents, the Antiterrorism and Effective Death Penalty Act of 1996 would decrease the opportunities for terrorists to perpetrate their crimes with biological weapons.

It may surprise even the American people to know that very dangerous, even deadly, organisms that cause diseases and death in human beings are available for purchase, not only by legitimate users, but also by those who may use them with criminal intent.

We have had instances where a phoned-up letterhead, looking like a research institution, has applied for human pathogen problems and biological agents that could cause death to humans. Because these agents cause such devastating diseases as bubonic plague and anthrax, it is crucial that the Federal Government more closely regulate, monitor their movement over both interstate and foreign channels of trade. While I strongly favor a reduction in the Government's overall regulatory posture, there is a clear and present danger with respect to the threat of biological terrorism.

To give you just one example, the Washington Post recently reported that in May 1995 an Ohio man, using letterhead that appeared to be a legitimate laboratory, faxed an order for three vials of the bubonic plague agent from the American Type Culture Collection, the ATCC, in Maryland. After a series of events, the FBI later discovered that this individual already possessed deadly microorganisms in addition to a cache of rifles, grenades, and white separatist literature. Although the man was prosecuted under mail and wire fraud statutes, these charges might not otherwise have been available had he not sent the bogus letterhead.

For example, gaps exist in the current regulations that allow anyone to possess deadly human pathogens. Thus, in turn, it makes prosecution of people who attempt to acquire them, even for illegitimate purposes, very difficult indeed. Under current law then, law enforcement authorities must wait until human pathogens are actually used as weapons before criminal prosecution may be pursued.

In response, this bill strengthens law enforcement's hand by prohibiting conspiracy, threat, or attempts to use biological weapons, in addition to their acquisition and their possession. The fact that human pathogens are available to several legitimate groups poses unique regulatory problems which our bill has, I think, successfully overcome.

In addition to the lack of interagency coordination in this area, the relevant regulations have not kept up with advancing science. So it is important, and, accordingly, the legislation here authorizes the Secretary of Health and Human Services to regulate the transfer of harmful biological agents. However, when promulgating regulations

and the listing of biological agents subject to these regulations, the Secretary is to ensure the continued viability of the use of such agents for legitimate purposes.

So we are attacking these problems before they result in tremendous tragedies. This bill will do that. My colleagues and I believe that the American people deserve better than the current regulations and criminal statutes we have in this area which have left us vulnerable to the potential use of human pathogens as terrorist weapons.

Since we have not kept pace with science and technology and recognize that we live in a more dangerous world than we once did, this legislation takes strong action and makes a strong response right now. That is another reason why it is important.

No. 6, we restrict the transfer of nuclear materials and chemical biological weapons. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, gives Federal law enforcement officials the tools necessary to combat the threats of nuclear contamination and proliferation that may result from the illegal possession of and trafficking in nuclear materials. It is in the vital national security interests of the United States that we take every conceivable step within our power to restrict the flow of nuclear materials around the world.

With this simple truth in mind, this legislation recognizes that the threat that nuclear materials will be obtained and used by terrorists and other criminal organizations has increased since the enactment, some 14 years ago, of the Convention on the Physical Protection of Nuclear Material. Accordingly, this bill proposes to give Federal law enforcement officials the maximum authority permissible under the Constitution to address this increased threat.

One of the ways the legislation provides new tools to law enforcement is through the expansion of the scope and jurisdictional basis of nuclear materials prohibitions. This is accomplished in part by recognizing that nuclear by-product materials, in addition to nonderivative nuclear materials, poses a major threat, not only to our military and commercial assets, but also to the environment.

This broader definitional scope is essential if law enforcement is going to have the kind of prosecutorial reach necessary to keep up with the technological developments in the field. Ironically, the increased threat of terrorist nuclear activity is to some extent a result of our, the United States, success in obtaining agreements from other countries to dismantle nuclear weapons.

While we all applaud these efforts, they have resulted in increased packaging and transportation of nuclear materials, which has created a more difficult security environment because it has provided greater opportunities for unlawful diversion and theft. Although

we have traditionally thought of nuclear terrorism in terms of the detonation of nuclear bombs against civilian or military targets in the United States, we are also acutely aware of the threat of environmental contamination as a result of nuclear material getting into the wrong hands.

The nature of nuclear communication is such that it may affect the health, environment, and property of U.S. nationals both here and abroad even if the illegal conduct is directed at foreign nationals. This is why increasing the scope of prohibitive materials is so important. Because there is currently no Federal criminal statute that provides adequate protection to U.S. interests from nonweapons grade, yet hazardous, radioactive material, this is all in this bill. This is important stuff.

This is not just a habeas bill. But even if that were all it was, it is worth passing because that is the one thing that the victims of these criminal activities and terrorist activities have called for. Frankly, it was the only thing they called for yesterday, although I am sure that they recognize these other matters and are very happy to have them.

No. 7, we require tagging devices in plastic explosives. This bill will tag them. It does tag the devices in plastic explosives. Now, there is, in my opinion, a reason to tag other things as well, but I have to say there are reasons not to at this point.

Let me make this point. The Antiterrorism and Effective Death Penalty Act of 1996, this bill, fulfills the obligation of the United States to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, entered into in Montreal in 1991 in the tragic wake of the bombing of Pan Am flight 103. It required that detection devices be placed in all devices imported to or exported from the United States and provides criminal penalties for violations.

It should be noted that criminal provisions with respect to the incorporation of detection agents in plastic explosives do not apply retroactively to any Federal agency performing military or police functions or to the National Guard of any State, only if such incorporation occurs within 15 years of enactment of the Montreal Convention.

Furthermore, governmental transfer or possession of such nonconforming devices will not be considered a criminal act nor will transfer or possession by private citizens of nonconforming devices manufactured prior to this legislation if this occurs within a 3-year grace period of its enactment.

These provisions in this bill affecting the manufacture, distribution, and use of plastic explosives are absolutely critical given the likelihood that without them plastic explosives will continue to be used with even less certainty of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation.

The purpose of this bill really is very simple. By marking or requiring the marking of plastic explosives, not only will we effectively deter future terrorist acts, but we will also substantially improve our chances of bringing to justice those who place innocent lives in jeopardy, endanger our national security, and disrupt international commerce by the use of these stealthy, deadly devices.

The distinguished Senator from Delaware raises a good point when he desires, and we in the Senate enacted—it was a Hatch provision again. These are provisions I worked on. These are provisions I wanted in the bill. There is no question about that. We put mandatory taggants on all explosives, in a certain sense.

The fact is that the explosive used in Oklahoma City was the result of a fertilizer. But the fact, also, is that before we put taggants on those, we have been cautioned by the mining industry, which has to use explosives throughout its processes, by the stone industry, which has to use explosives, by other industries that are prone to use explosives, that they are afraid that mandatory taggants could be very dangerous to their workers and to their efforts.

Frankly, in order to solve that problem and in order to solve some of the worries and concerns of those over in the House, we then did what is the next best thing—frankly, probably is the best thing under the circumstances—since we have had these matters brought to our attention by ATF, the Bureau of Alcohol, Tobacco, and Firearms, which handles the explosives matters and has been studying it for years, by OTA, which as of a few years ago said these may be dangerous. We do not have the answers as of yet, so we provide for a study to determine just how dangerous it is, and whether we can put taggants in, that will be safe and will protect the workers in these industries. It is a serious concern. It is one that we can resolve. We resolve it by giving a year for that study and allowing the regulatory agencies to enact regulations and allowing time for Congress to review them and finally resolve them. It is a reasonable approach.

Yes, it is not as far as I want it to go, that we did go in the Senate bill, but it is a reasonable compromise. That is what we have had to do here.

This is not just a habeas bill. This is a lot of things we have had to compromise with the House to get it done.

Let me go to No. 8. We enhance penalties for many terrorism crimes. We do not enhance them for every crime that the distinguished Senator from Delaware wants us to. I do not disagree with him. Look, we have gone through in the last few years, Waco, Ruby Ridge, the Good Ol' Boys Roundup, we have gone through other types of law enforcement matters. There are people who are terrified of the IRS, people who are afraid of their own Government. If you look at the polls, the vast

majority of them are afraid of their own Government today because of some of these things.

We have looked into these and there have been some mistakes. Because of these fears and the perceptions that arise from these fears, we have had to go gently on some of the areas where, yes, the distinguished Senator from Delaware and I probably would agree. We worked together a lot in these areas. I have tremendous respect for his abilities in this area. I do not agree with him that this is just habeas corpus and it does not have much else. Give me a break. This bill has a lot besides habeas. Even if it was only a habeas bill, that is the most important criminal law change in the century. It is important. Anybody who understands it and who wants to get tough on crime, who wants sentences carried out without delay, without unreasonable delay, wants this bill. That is the vast majority of people.

Let me say there is probably not one thing in this bill—I cannot think of one thing in the bill that my colleague from Delaware really opposes other than habeas corpus. And he is willing to accept that. Because he disagrees with habeas corpus reforms, he and others, it looks to me like they are willing to delay this bill. I hope they do not. I hope we can move ahead with his motions here today and get this matter done.

I suggest that we pass this report and return to many of the issues that Senator BIDEN outlines in subsequent legislation. I will work closely with him and with others to be able to do that, to make sure we know what we are doing when we do it. In fact, I promise Senator BIDEN once this bill is signed, I will work with him to draft legislation looking at enhancing wiretap authority, or any of the other issues he has raised. We try to solve these problems with study and with other approaches in this bill so we can bring both sides of the Hill together.

Yes, I agree with him on a number of things. I wish we could put them in this bill. In the perfect world that he and I believe in, we would do that. On the other hand, this is an imperfect world, and there are a significant number of people—both Democrats Republicans, by the way, over in the House—who literally do not agree with us. I think we have to put these things in perspective.

Now, 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 is the only legislation Congress can pass as part of the terrorism bill that will have a direct effect on the Oklahoma City bombing, or the Lockerbie bombing or the World Trade Center bombing. It is the one thing that Congress can pass to ensure that President Clinton's promise of swift justice is kept.

Like I say, President Clinton recognized this fact during his April 23, 1995,

"60 Minutes" appearance 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 just plain 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 enhance FBI access to telephone billing records and to loosen standards for the use of roving wiretaps in felony cases. I would like to do those but habeas has more meaning than they do.

Most capital cases are State cases. The State of Oklahoma could still prosecute this case, and the district attorney says it will. 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, as I said, is planning those prosecutions.

The provisions of this bill demonstrate the relationship of habeas reform to the terrorist bombing. No. 1, it would replace 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 Federal and State court to one habeas petition, to 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 the specified time period. Clearly, by passing these provisions, we ensure that those responsible for killing scores of United States citizens will be given the swift penalty that we as a society exact upon them.

Let me just say this: My friend and colleague from Delaware said without the crime bill there would be no Federal death penalties. I commend him for that. I worked hard with him to get that. I think it was a good thing. The fact is that every State, almost every State does have a Federal death penalties.

Senator BIDEN makes the case that these are State cases for the most part. That is true, involving habeas corpus. Where is the Federal habeas corpus problem, he says? I have to say one of the biggest problems, loony judges in the Federal courts who basically will grant a habeas corpus petition for any reason at all. Because they do not have the teeth in the law to stop it, it goes

on all the time. We have judges who do not like the Federal death penalties. They do not like the State death penalty, so they do anything to grant a habeas corpus petition. That game will be over once this bill passes. This bill requires deference to court action unless there is some very good reason not to defer, and I have to say that is a major, major, change in criminal law. It is important.

My colleague says, how does changing habeas corpus have anything to do with terrorism? I think he outlined it pretty good and indicated it has nothing to do with State courts. Of course it does. If it is in a State court he said it has nothing to do with Federal crime. Well, what happens under current law is these people try to get into the Federal courts where they figure they have more liberal judges who are going to find any excuse they can to overturn a death penalty, and my friend indicated, "Well, it does not get them out of jail." Sometimes it does.

If a habeas corpus petition is granted and a Federal death penalty is overturned, it is 18 years down the pike, all witnesses are dead or gone, and you cannot put a case on in the courts, that creates tremendously complicated problems. This is not as simple as some would make it out to be. You can get into that on both sides of that issue, I suppose, *ad infinitum*.

I have to say that justice delayed, as I said before, is justice denied. There are crazy people out there that no amount of wiretapping, no amount of any kind of predisposition toward law enforcement is going to stop them. These people are crazy. These people have no sense about them. They have no sense about them. They are not disciplined. We have to have some way of resolving these problems.

I have to say, I do not disagree with my distinguished colleague and friend. There are things, yes, I wish were in this bill. Again, this is the art of compromise. This is the art of the doable. This is the art of having to bring both bodies together. I think the Senate can do a better job on this bill than the House. I have to say, having said that, I think the House has come a long way towards the Senate bill, and we got them to go as far as we can, and the areas we cannot, we have studies or other approaches to help solve the problems.

Let me name some provisions in this bill that were not in the original bill filed by Senator BIDEN on behalf of the administration:

Pen registers and trap and trace devices on foreign counterintelligence and counterterrorism investigations. That was in the second bill. It is not in this bill.

Disclosure of information in consumer reports to FBI for foreign counterintelligence purposes. That was in the second bill filed for the President.

Let me just go down the list here. Civil monetary penalty surcharges. It

was in the first bill. Nobody has it in this bill.

Increased penalties for certain crimes. We have a number in the Senate bill we passed, and they are in this conference report. They were not in the two bills filed for the President.

Enhanced penalties for explosives or arson crimes. They are in this conference report but not in the two bills filed for the President, to my knowledge.

Study and report on electronic surveillance. That was not in either of the President's bills, but they are in this bill. It was in the Senate bill.

Expansion of territorial sea. It was in the Senate bill and it is in this bill.

The prohibition on distribution of information relating to explosive materials for a criminal purpose. It was not in the President's bill; it was in the Senate bill, and it is in this bill.

Foreign air traffic safety and travel safety was in the Senate bill, and it is in this bill.

Proof of citizenship. That was in the House bill, and it is in this bill. It is a strong provision. We did not have it in our Senate bill.

Cooperation of fertilizer research centers. That was in the Senate bill, and it is in this bill, but not in the President's bills.

Special assessments on convicted persons. Not in the President's two bills, but it was in the Senate bill, and it is in this bill.

Prohibition on assistance under Export Control Act for countries not cooperating fully with the United States. That was not in the President's two bills. It was in the Senate bill, and it is in this bill.

Authorization of additional appropriations for the U.S. Park Police. Not in either of the President's bills. It was in the Senate bill and is in this bill.

Authorization of additional appropriations for the Customs Service. In the Senate bill and this bill, but not the President's bills.

Study and recommendation for assessing and reducing the threat to law enforcement officers from the criminal use of various matters. That was in the House bill, and we adopted it in the conference report.

Mandatory penalty for transferring explosive material knowing it will be used to commit a crime of violence. That was not in the President's bills, but it was in the Senate bill and it is in this bill.

Directions to the sentencing commission. We have that from the House, which we put in the conference report.

There are a number of other provisions we have put from the House bill into the conference report that range from exclusion of certain types of information, from wiretap-related definitions, detention hearings, protection of Federal Government buildings in the District of Columbia, study of thefts from armories, report to the Congress, et cetera, et cetera.

There are a lot of provisions that literally were not in the President's bills

that are in this bill and were in the Senate bill and we were able to talk the House into putting in here.

So it is not just a habeas bill. If that is all this is, it is worth everything we can put into it. It will be one of the most impressive and important changes in criminal law in this century. Frankly, the other provisions will go a long way toward stopping and penalizing terrorist activity in America.

I have gone on and on. I know the Senator from California wants to speak, as do others. You can go on with this because there are so many other matters I would like to talk to. I heard the distinguished Senator from Delaware, for instance, saying the NRA and ACLU agree on a number of things here, or are opposed to a number of aspects of this bill for different reasons. Frankly, the reasons are pretty much the same. They are concerned about an oppressive Government, and they are concerned about Government activity that goes far beyond where it should go. They are concerned about civil liberties and, whether they are right or wrong, they both are concerned about those matters. They may look at things a little bit differently, but their concerns are pretty much the same.

For those who want to make this out as an NRA bill, that is just fallacious. Let me make some points. They were not happy with the Terrorist Alien Removal Act we put back into this bill. NRA did not want the designation of foreign organizations as terrorist groups. They were afraid some of their people might be designated. Exclusion of alien terrorists. They did not want that. These are major provisions that we put in here, and we did it in conference. We did it with House Members who are good people trying to do the best for the country. Funding for the ATF. They hate the ATF [Alcohol, Tobacco and Firearms] the agency of Government regulatory authority for the Secretary to impose taggants at all. The fact is, we have the authority to do that in this bill. I think these are all matters that need to be brought up.

There is one other thing I will bring to the attention of everybody. I believe that some of the major organizations in this country are certainly going to support this. I was really pleased to see the help that we have had and the positive work that we got from the Anti-Defamation League. They deserve a lot of credit. They have been very, very concerned about this. There are some who will not like this bill just because we do not have their particular ideas.

Well, I have made a commitment here to see that we resolve those programs in the future. We cannot do it in this context. It does not mean they will not be resolved. We have four State attorneys general of the various States who support this bill explicitly. The National District Attorneys Association supports this bill with everything they have. The Anti-Defamation League supports this bill. As far as I

know, APAG supports this bill. They know the Jewish people have been targets of these terrorist activities, and they know it is not going to stop, and they know this bill will make a difference, and it could solve some of these problems. We have all of the survivors of the Oklahoma City bombing, and we have the Oklahoma Attorney General, who appeared at the press conference yesterday and made some of the most eloquent, hard-hitting, and strong remarks with regard to the support of this bill. We have the National Association of Attorneys General supporting this bill. Citizens For Law and Order support this. And you can go on and on.

There are those, I am sure, who may oppose this bill for one reason or another. But we have put together a very bipartisan, acceptable bill that will really make a difference against terrorism in this country and really will help this country to breathe a little bit easier—and, frankly, many other countries throughout the world, too, because of the provisions we have here.

This is not just a habeas corpus bill. But I will say it one more time. If that were all that it was, it is worth supporting. It would be a tremendous change, a really tremendous change in criminal law that I think would make a difference in the lives of many victims throughout the country, and I think it would stop some of the ridiculous approaches to law that have gone on far too long in a country where, really, the great writ was a great writ to allow people to get to a trial. The writ of habeas corpus we are talking about is a statutory writ. That statute needs to be modified by this bill so that we can stop the foolish game of frivolous appeals just because people do not like the death penalty.

I can understand if people do not like the death penalty. But they can make legitimate arguments against it. If they can convince a majority of the American people that the death penalty is a bad thing, I could live with that. But they cannot. The American people sense that it is a deterrent. They sense that it is something that has to be done, and they also sense that if the death penalty is imposed, it ought to be carried out, and it should not be made a charade as we have through these frivolous habeas corpus appeals through the years.

I yield the floor.

Mr. BIDEN. Mr. President, I am delighted to listen to the Senator. I know what is going to happen. I am going to respond to him, and we are going to hear somebody talking about delay. I have talked a lot less time than the Senator from Utah, who was worried about delaying passage of the bill. I think he should talk. I have been in this game before, and I know what is going to happen. I am going to respond to him an equal amount of time, and somebody is going to say I am delaying. I would like a record to be kept as to how long we have spoken. I have no intention of delaying this.

I am going to respond as briefly as I can and then yield the floor and, at a later date, introduce my amendments. Let me point out that you are looking at somebody who not only does not oppose the death penalty, I wrote the bill that added 57 new penalties.

So I am not opposed to the death penalty. I am not only not opposed to it, I authored the Federal death penalty legislation. And the bill that I authored is the reason why those people in Oklahoma are going to be able to get the death penalty in a Federal court, if in fact there is a conviction. That is No. 1.

Second, I disagree with the habeas corpus provisions that are in here. But I am not going to oppose the bill based on that. I am not going to offer amendments to change that.

So, as we say in the law, the red herring keeps being thrown up here by those who are opposed to the death penalty, and it is really about habeas. And it is not about that.

Third, those liberal Federal judges my friend is talking about, 57 out of the 100 of them are Republican liberal judges; 57 out of every 100 of them were appointed by President Bush and President Reagan; 57 out of every 100.

So, to the extent that they are liberal and not the majority of the court, it is a Federal court appointed by two Republican Presidents.

Just to clear some of the clutter away here, I also point out to you that there are some very tough provisions in this bill. I am not saying there are not. There are very tough provisions. My initial response was that the biggest weapon in here to fight terrorism was habeas corpus. That is an after-the-fact weapon, not a before-the-fact weapon. I am not as terribly optimistic as my friend from Utah. I believe we can stop terrorism. I believe we can stop terrorists. If the only thing I was to do here as a U.S. Senator was to clean up in the aftermath of terrorist acts and make the prosecution more available, then I would think I was doing half my job. That is not question. I do not question for a moment that the victims of the Oklahoma bombing and their families very much want the habeas corpus provision. I do not question that. They are victims.

There are two things we are trying to do in this bill—deal with the victims of terrorism and prevent new victims. My point is habeas does nothing about preventing new victims. That should be our major thrust in my view.

Also, I point out that my friend from Utah says that the district attorney is going to seek the death penalty. Well, if in fact the Federal trial takes place, which is going on—if, in fact, there is a conviction and they get the death penalty—I hope to God he will not intervene and delay the death penalty by then going into State court to get a death penalty if we already get the death penalty in Federal court. That is another red herring. The idea that the State attorney general, the district at-

torney in Oklahoma, is saying he needs a change in State habeas corpus in order to put to death people who in fact committed the Oklahoma bombing, they will already be dead. They will already be dead, if they are convicted, because they will be convicted under a Federal law, and they will be hung or injected with a lethal injection under Federal law. They will be dead. I surely hope he will not delay their death by deciding to have a whole new trial in State court. Again, it sounds reasonable when he says it to you. But when you parse through it, it makes no sense.

Why would you try someone, and then delay the imposition of the death penalty after they have already been convicted and are about to be put to death?

The other thing I would say is that there are some taggant provisions in here. I compliment my friend on the taggants. Everyone should know what taggants are. They are little tiny particles that they put in the manufacture of weapons, of bombs, of material that goes into bombs. So when the bomb goes off, the easiest way to think of it as a lay person, if somebody has a little Geiger counter, metal detector, they go around and pick up these taggants. They blink. They make sounds. So they can identify. Then they can look and see the taggant, and they can put it under a microscope and find out that this taggant, this material used in this bomb, was made in Dover, DE, or Sacramento, CA, at such and such a place, such and such a batch, and such and such a time. Then they can trace who purchased that batch of material, and they trace it back. And they find the guy who put the bomb together. That is what a taggant is. That is what it means.

We had a very strong provision. The House had a weak provision. But to the credit of my friend from Utah, last night he put in the process that guarantees there will be taggants because everyone should know this: That, although there will be a study, the study once completed automatically goes into effect. So anyone who objects to it will have to get a majority vote in the House and the Senate to defeat it. That is a very positive thing he did; very positive thing. And I compliment him for it.

Although it will delay by 28 months what we wanted to do, it will make it likely that that automatically will be the law, and it will require affirmative action to knock out the use of taggants.

The other point that I want to make is that many of the things that the Senator said—all of the things he said—are accurate about the additional provisions in the law. But if I can make an analogy, it is kind of like giving a police officer a revolver that has six chambers in it and giving him one bullet. You are giving the revolver. That is good. You give him one bullet. That helps protect. But we should give him the other five bullets.

My friend cited as one of the sterling objectives and achievements of this legislation as one example that would create a new crime, a new Federal crime—terrorism—that says that providing material support for terrorists is now a Federal crime. That is good. That is the gun and one bullet. But guess what we do? We say that you cannot use a wiretap under Federal law to go after people who have provided material support for terrorist groups. We do not include that in the list of crimes for which you can get a wiretap under Federal law. The Senate did. The House did not. So we do not include that. So we give them a gun. We give them the bullet. But we do not give them the full chamber. It is positive; agreed. But why in the Lord's name would you allow people to get a wiretap for bank embezzlement and not a wiretap for materially supporting a terrorist organization? Why would you do that? I do not understand that.

Lastly, I would point out that—there is much more to say but I am not going to take as much time as my colleague because my friend from California has been standing here for all of this time—the Senator went into great detail about human pathogens and chemical and nuclear and biological warfare. He is right. We added those crimes. We added enhanced penalties. But guess what we did? We said, if it is a chemical or biological weapon, you cannot do what you can do for nuclear weapons. You cannot bring in the only people who know about them; the military—the only people trained with the equipment to dismantle them, the only people who know how to identify them. You cannot bring them in for chemical, or for biological weapons. But you can for nuclear. Again, an example of a half-step that is very positive. It is in the right direction. But then you make it not useless but incredibly difficult to enforce, or to deal with because you cannot call in the experts.

It is like that movie you all saw, that one with Dustin Hoffman, and the danger that breaks out in the town, "Outbreak." Let us assume a terrorist under this law uses a biological weapon. You are not going to have Dustin Hoffman flying in with the people in helicopters who are military who can deal with this. They are not going to be allowed to deal with it because we prevent them from dealing with it. We do not allow them to. The local cops are going to have to take care of it. You are not allowed to bring them in. Hollywood is going to have to revamp their scripts.

I mean, see again, a positive step but a half tentative step. And, when you are going to close the deal because a few people disagree with it, we back off. We back off.

I have much more to say. I will withhold the rest of my comments but conclude by saying there are two pieces here. There is dealing with the apprehension of, the conviction of, and the imposition of a penalty on those who

commit terrorist acts. That is very important. We do some of that in here. But there is an equally important aspect of preventing and apprehending before they commit the heinous act, those engaged in terrorist activities. We do not do a very good job of that in here.

I yield the floor, and I beg my colleague to yield and not take the floor because I will have to respond to him—and he is talking a lot more than I am—and let my friend from California proceed.

Several Senators addressed the Chair.

Mr. HATCH. Mr. President, I will only take a moment, with regard to posse comitatus. In true emergency situations the President has full authority to resolve those and use the military if he wants to. The reason the President would want us to put posse comitatus language in there is because it takes him off the hook. The fact is, the President has that authority.

Mr. BIDEN. I will respond to that later, Mr. President.

The PRESIDING OFFICER. The Senator from California.

THE ILLEGAL IMMIGRATION BILL

Mrs. FEINSTEIN. Mr. President, both the Senator from Utah and the Senator from Delaware are certainly hard acts to follow.

I want to comment on this bill, but before I do so I want to make a public appeal to the majority leader to please, please, please bring back on the floor the illegal immigration bill. This bill, I believe, has widespread bipartisan support. But more fundamentally, I cannot tell you how important this bill is to the safety and well-being of the people of California.

Right now on the border you have miles without a Border Patrol agent. Right now, for both Senator BOXER and I, Border Patrol people come in and tell us how they have rocks thrown at them, how they are concerned for their own safety.

A few weeks ago you had a major freeway accident with 19 people killed, illegal immigrants in a van. More recently you had an incident, publicized all over the United States, of an unfortunate law enforcement action which involved unrestrained force against illegal immigrants who pummeled on a freeway, hitting other automobiles, trying to get away from a sheriff's officer in pursuit.

This is the State that passed Proposition 187, which was a call for help from the Federal Government to enforce the law and change the law and stop illegal immigration.

Mr. President, there is so much that this bill—worked on so hard by Senator SIMPSON, worked on I think on both sides of the aisle in the subcommittee and in the full committee—does. Let me just say it adds 700 Border Patrol agents in the current fiscal year; 1,000 more in the next 4 years. It takes the

total number of agents up to 7,000 by 1999. That is double the force that was in place 3 years ago. Every border State wants that.

It establishes a 2-year pilot project for interior repatriation. When somebody comes across the border, they are not just returned to the other side of the border, but they are returned deep into the interior to stop them from coming right back again.

It adds 300 full-time INS investigators for the next 3 fiscal years to enforce laws against alien smuggling, and it adds alien smuggling and document fraud, a big problem, as predicate acts in RICO statutes, something that Federal prosecutors have asked for.

It increases the maximum penalty for involuntary servitude, to discourage cases like the one we saw very recently where scores of illegal workers from Thailand were smuggled in and forced to work in subhuman conditions, against their will, in a sweatshop in southern California.

Mr. President, this bill is critical. It is an important thing for border States and particularly for the State of California. If Proposition 187 was not the bellwether that said, "Federal Government, do your job," I do not know what else will be.

So I earnestly and sincerely, please, I beg the majority leader to bring this bill back on the floor, let us debate it, let us resolve it, let us pass it, let us get it signed, and let it get into law in the State of California.

TERRORISM PREVENTION ACT— CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished chairman of the Judiciary Committee for his work on this bill and the distinguished ranking member for his work on this bill.

I am particularly disappointed that the House succeeded in gutting the commonsense prohibition on distributing instructions for bomb making for criminal purposes. I will talk about that in a minute. But the good news is that the conference report also restored good provisions to this bill. I am especially gratified that the conference committee restored my amendment which gives the Secretary of Treasury the authority to require taggants for tracing explosives.

The Senator from Delaware, the distinguished ranking member, just explained what taggants are: simple little coded plastic chips that are mixed with batches of commercially available explosives. They allow law enforcement to trace a bomb that has exploded, just like one would trace a car by knowing the license plate number. That is exactly what taggants are.

It was studied 16 years ago. Everybody said go ahead with it. They have been available. And it has now happened.

Incidentally, it took the Unabomber 18 years to, quite possibly, get caught.

Three people have been killed, 23 people have been wounded, in bombs that really plagued nine States. This time could have been cut in half, perhaps, if we had tagging of explosives.

Unfortunately, the bill completely exempts black powder from either tagging or study requirements. I must say, how can a bill even refute the ability to study tagging of black powder? The amendment I submitted on taggants essentially provided for its addition, taggants' addition, where explosives would be bought in larger amounts. But, where small amounts of black powder were purchased to use in antique guns and for small arms, the taggant would not be included.

The NRA opposes this. What the National Rifle Association is clearly saying is they do not want any taggants in black powder explosives period, or even a study of it. Can you imagine the power of an organization that is able to successfully say we will not even study the impact of tagging black powder, which is also used as the triggering device on major explosive bombs that are used by terrorists? I have a very hard time with that.

I heard the distinguished chairman of the Judiciary Committee just say the NRA opposed excluding alien terrorists from this country. The NRA opposed excluding alien terrorists from this country—unbelievable. I think I just heard him say the NRA opposed a prohibition on fundraising in this country by terrorist groups.

Let me tell you something, if anybody believes that Hamas is in this country raising money to use it for charitable purposes, I will sell you a bridge tomorrow. I will sell you a bridge tomorrow. That is just unbelievable to me.

Nevertheless, I thank the chairman of the Judiciary Committee for standing Utah tall in the conference committee on the issue of taggants. I would like to thank Senator BIDEN and Senator KENNEDY for their help as well. I think this is a very important step forward and I do not mean to diminish it in any way.

I also must say that I view the habeas corpus reform also as an important step forward. Abuse of the writ of habeas corpus, most egregiously by death row inmates who file petition after petition after petition on groundless charges will come to an end with the passage and the signature of this bill. I believe it is long overdue.

For anyone who believes that habeas is not abused, let me just quickly—because it has been thrown out before, and I know others want to speak—speak about the Robert Alton Harris case. It, I think, is a classic case on what happened with Federal habeas corpus, and State habeas corpus.

Mr. Harris was convicted in 1978 for killing two 17-year-old boys in a merciless way, eating their hamburgers, and then going out and robbing a bank.

His conviction became final in October of 1981. Yet, he was able to delay