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

enforcement of the California death penalty capital sentence until April 21, 1992—for 14 years.

Over that time, he filed no fewer than 6 Federal habeas petitions and 10 State petitions. Five execution dates—five execution dates—were set during the pendency of his case. In all, Harris and his attorneys engineered almost 14 years of delay and piecemeal litigation by misuse of habeas corpus, and, I might say, it was 14 years of unresolved grief for the parents of the children.

I think cases like that one point out the need for habeas corpus reform, and, frankly, I want to commend the Judiciary Committee, and in particular the chairman, for seeing that that is included.

Senator HATCH also just mentioned the pathogens incident. In the Judiciary Committee, we had some full hearings, that were rather chilling to many of us, on how easy it is to obtain human pathogens.

I cannot help but note that the Chair is a distinguished physician and surgeon who knows this area well. But what we found out, essentially, is that one person—namely, Larry Wayne Harris—managed to order and to receive samples of bubonic plague through the mail less than a year ago.

Incredibly, although he was caught, he could be charged with only wire and mail fraud, because there were no laws on the books prohibiting the possession of bubonic plague pathogens. In fact, he made up a letterhead and sent it in to a lab, asked to purchase the plague bacteria, and it was sent to him, no questions asked. So this bill clearly takes care of that problem.

It adds that any attempt, threat, or conspiracy to acquire dangerous biological agents for use as a weapon are crimes punishable by fines or imprisonment, up to life imprisonment.

It also asks the Secretary of HHS to establish and maintain a list of biological agents which pose a severe threat to the public safety, and it directs the Secretary to establish enforcement and safety procedures for the transfer of human pathogens.

As a matter of fact, a number of us wrote a letter to the President and urged that emergency action be taken quickly because of the potential ability of people to acquire these bacteria prior to the enactment of this statute.

I want to also express my thanks that fundraising by terrorist organizations will be prohibited in the United States of America. I think it is extraordinarily important that this take place.

I am also very pleased that there is a section, known as 330, of the conference report—which, as a matter of fact, I offered—which prohibits the United States from selling weapons and defense services to countries that the President determines are not fully cooperating with U.S. antiterrorism efforts.

This is a commonsense provision, and I am amazed that there has been nothing in law that meets it. But there certainly is no reason the United States should continue to provide weaponry to any country that refuses to do all it can to combat terrorism.

My big disappointment—and I think because the Presiding Officer is relatively new to this body, he would be interested to know—is that on the Internet today, there is a volume called The Terrorist Handbook. The Terrorist Handbook describes how you can make bombs, whether those bombs are in baby food jars, in electric light bulbs or in telephones. To my knowledge, there is no legal use for a bomb in a baby food jar, for a bomb in a light bulb, or for a bomb in a telephone. You know that once you teach somebody how to do that, their only use of the knowledge is to slaughter and to kill.

So I have a very hard time understanding why simple language, which says if you knowingly publish material with the intent of enabling someone to commit a crime, shall not be permitted.

Let me quote the February 2, 1996, New York Times Metro section. Headline: ''3 Boys Used Internet to Plot School Bombing, Police Say.''

Three 13-year-old boys from the Syracuse area have been charged for plotting to set off a home-made bomb in their junior high school after getting plans for the device on the Internet. The boys, all eighth graders at Pine Grove Junior High School in the suburb of Minoa, were arrested Wednesday by the police. ''There is no doubt that the boys were serious,'' the captain said, adding that they've recently set off a test bomb in a field behind an elementary school and that it started a small fire.

This cartoon is exactly what is happening all across the United States with young people. The cartoon is a youngster, sort of a Dennis-the-Menace type sitting at his computer, wrapping dynamite and attaching a detonation and clock device to it, while his mother is on the telephone saying ''History * * * astronomy * * * science * * * Bobby is learning so much on the Internet.''

I have another article. The Los Angeles Times, just this past Saturday, April 13: ''Four Teens Admit to Bombs in Mission Viejo School Yard.''

The boys, all 15- and 16-year-olds, told investigators they learned how to build the small high-pressure explosives from friends who got it off the Internet. According to the chief, who is then quoted, ''It's something they're getting off the Internet. Any time you mix volatile chemicals and have a little bit of knowledge, you put yourself and others in jeopardy.''

A third article, Orange County Register, ''2 Home-Made Bombs Dismantled in Orange'' County.

Authorities theorize that teens are learning how to make the 2-liter bottle devices on the Internet. Ladies and gentlemen, how far do we wish to push the envelope of the first amendment?

Let me tell you what is also in this ''Terrorist Handbook.'' People say, ''Well, we have a first amendment right.'' There is a part on breaking into a lab. This ''Terrorist Handbook,'' which we downloaded yesterday on the Internet, let me quote from it. The first section deals with getting chemicals legally. This section deals with procuring them.

> The best place to steal chemicals is a college. Many state schools have all of their chemicals out on the shelves in the labs, and more in their chemical stockrooms. Evening is the best time to enter a lab building, as there are the least number of people in the building and most of the labs will still be unlocked. One simply takes a bookbag, wears a dress shirt and jeans, and tries to resemble a college freshman. If anyone asks what such a person is doing, the thief can simply say he's looking for the polymer chemistry lab or some other chemistry-related department other than the one they are in.

Then it goes on and it tells them how to pick the lock to break into the chem lab. It tells them what kind of chemicals to steal from the chem lab, and then to go out and how to make the bomb—baby food bomb, telephone bomb, light bulb bomb.

We know people are following this. Yet this conference committee deleted—deleted—a simple amendment which said, if you knowingly publish this kind of data with the view that someone will commit a crime, that is illegal—that is illegal. The conference committee voted it down, I would take it, at the behest of the National Rifle Association. Why? I cannot figure out why. I cannot to this day figure out why.

Let me give you one other quote that was on the Internet. It tells you where to go.

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

Then the computer bulletin board posting provides instructions on how to assemble and detonate the bomb. It concludes with:

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

This is what, by rejecting my simple amendment, the conference is saying is permissible on the Internet.

Let me give you one last thing so that it is, hopefully, indelibly etched in everybody's mind what we are doing. Following Oklahoma City, this was on the Internet.

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

How far are we pushing the envelope of the first amendment? What I have

tried to show is that not only is this kind of thing with knowledge, with intent, on the Internet, but that youngsters are using it. They have used it within the last 2 weeks in New York, in California, and they have used it to do bodily harm to others.

So this is my big disappointment in this bill, because I believe we have as much to fear from domestic terrorism, as I think the Unabomber has pointed out, as we do from foreign terrorism. It begins right here at home. It begins with a system that lets everybody do anything they want, including telling you how to steal, break in and steal the chemicals, make the bombs, go out and deliver them.

I believe it is the job of this Congress to try to do something about it. With that in mind, I will support the amendment to recommit this to committee. I realize that that is a useless gesture, but just to make the point.

I will vote for this legislation and I will at the earliest time possible reintroduce my amendment on another bill to take another crack at saying the time has come for the United States of America to say, indeed, everything does not go. There are some restrictions and some things that we are going to do to stop criminality in this country. I thank the Chair and I yield the floor.

Mr. THURMOND. Mr. President, I served as a conferee representing the Senate, and I am pleased that the House and Senate conferees have resolved the differences between our respective bills to combat terrorism. We must send a clear message to those who engage in this heinous conduct that the American people will not tolerate cowardly acts of terrorism, in any fashion—whether their source is international or domestic.

It is important that the Congress work closely with Federal law enforcement to provide the necessary tools and authority to prevent terrorism. Yet, I am mindful that an appropriate balance between individual rights guaranteed in the Constitution and the needs of law enforcement must be achieved as we meet our responsibility. The American people appropriately look to their government to maintain a peaceable society but do not want law enforcement to stray into the private lives of law-abiding citizens. The balance is to provide reasonable authority to law enforcement to investigate and prevent terrorism while respecting the rights of the American people to form groups, gather and engage in dialog even when that dialog involves harsh antigovernment rhetoric.

Mr. President, it is my belief that this conference report will enhance law enforcement capabilities to combat terrorism while respecting our cherished rights under the Constitution. This legislation includes provisions to increase penalties for conspiracies involving explosives and the unauthorized use of explosives, enhance our ability to remove and exclude alien terrorists from U.S. territory, provide private rights of action against foreign countries who commit terrorist acts, prohibit assistance to countries that aid terrorist states financially or with military equipment, and enhance prohibitions on the use of weapons of mass destruction. Also, there are a number of other measures designed to combat terrorism which were included and detailed earlier by the able chairman of the Judiciary Committee, Senator HATCH.

Clearly, one of the most important sections included in the conference report is language designed to curb the abuse of habeas corpus appeals. In fact, we heard from families of the Oklahoma bombing victims who demand that habeas reform be included to make this a truly successful bill.

Mr. President, for years, as both chairman and ranking member of the Senate Judiciary Committee, I have worked for reform of habeas corpus appeals. The habeas appellate process has become little more than a stalling tactic used by death row inmates to avoid punishment for their crimes.

Unfortunately, the present system of habeas corpus review has become a game of endless litigation where the question is no longer whether the defendant is innocent or guilty of murder, but whether a prisoner can persuade a Federal court to find some kind of technical error to unduly delay justice. As it stands, the habeas process provides the death row inmate with almost inexhaustible opportunities to avoid justice. This is simply wrong.

In my home State of South Carolina, there are over 60 prisoners on death row. One has been on death row for 18 years. Two others were sentenced to death in 1980 for a murder they committed in 1977. These two men, half brothers, went into a service station in Red Bank, SC, and murdered Ralph Studemeyer as his son helplessly watched. One man stabbed Mr. Studemeyer and the other shot him. It was a brutal murder and although convicted and sentenced to death these two murderers have been on death row for 15 years and continue to sit awaiting execution.

The habeas reform provisions in this legislation will significantly reduce the delays in carrying out executions without unduly limiting the right of access to the Federal courts. This language will effectively reduce the filing of repetitive habeas corpus petitions which delays justice and undermines the deterrent value of the death penalty. Under our proposal, if adopted, death sentences will be carried out in most cases within 2 years of final State court action. This is in stark contrast to death sentences carried out in 1993 which, on average, were carried out over 9 years after the most recent sentencing date.

Mr. President, the current habeas system has robbed the State criminal justice system of any sense of finality and prolongs the pain and agony faced by the families of murder victims. Our habeas reform proposal is badly needed to restore public confidence and ensure accountability to America's criminal justice system.

We have a significant opportunity here to fight terrorism and provide certainty of punishment in our criminal justice system. The preamble to the U.S. Constitution clearly spells out the highest ideals of our system of government—one of which is to ''insure domestic tranquility.'' The American people have a right to be safe in their homes and communities.

I am confident that this antiterrorism legislation will provide valuable assistance to our Nation's law enforcement in their dedicated efforts to uphold law and order.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I would like to thank Senator DOLE for setting aside the immigration bill, the illegal immigration bill, temporarily so we can pass this terrorism conference report.

I might mention to my colleagues this is a conference report and is not really amendable. It does not mean we do not have parliamentary procedures and it does not mean people cannot delay or procrastinate or mean we cannot say we can send it back to the conference with specific amendments. They have the right to do so. But I am going to urge my colleagues not to do so. If we do so, we are not going to finish this bill. I would like to finish this bill this week.

I would really like to compliment my colleagues, Senator HATCH, and also Senator BIDEN, as well as our colleague in the House, Chairman HYDE, for their work in the last couple of weeks in melding the two bills together.

This is a compromise bill. I do not make any bones about it. It is probably not perfect. But it is a good bill, and it needs to pass, and it needs to pass this week. If we recommit this bill, we are not going to get it done this week. So I urge my colleagues, it might be tempting and it may be politically appealing, for whatever reason, to recommit this bill and to score some points or run against the NRA or whatever, but I urge them to set that aside.

Let us pass this bill. This is a positive bill. It is a good bill. It is a bill that has very, very strong support and a lot of emotional connections in my State. I think everybody is well aware of the fact that this Friday is the first anniversary of the Oklahoma City bombing that took 168 innocent lives of men, women, and children. The families of those victims have urged us to pass this bill. They have admitted maybe this bill is not perfect, but they think it is a good bill. I have met with several of the victims and families of the victims. They said, please pass this bill.

The No. 1 provision that they want in this bill is the so-called habeas corpus

reform. They want an end to these endless appeals of people who have been convicted of atrocious crimes and murders. An end to abusing the judicial system, abusing taxpayers, filing frivolous appeals, endless, endless appeals.

In Oklahoma actually several were wearing buttons that had a 17 with a line through it. They were referring to Roger Dale Stafford. In 1978, he murdered nine individuals in my State. First he murdered the Lorenz family—he was a sergeant. Sergeant Lorenz saw a stopped car with the hood up. So he pulled over and stopped to help Stafford. Lorenz was with his wife and his child. Roger Dale Stafford murdered him, murdered his wife, and went back into the car and murdered their son; and then shortly after that murdered six people. Most of them were kids in a Sirloin Stockade restaurant. He herded them into a freezer or refrigerator and murdered them in cold blood.

That was in 1978. His execution did not happen until last year, 1995. He was on death row for 17 years. The families of the victims of the Oklahoma City bombing have said we need habeas corpus reform. This is a Federal crime. They will be tried under Federal statute. The death penalty does apply. If convicted, they would like to have the sentence carried out swiftly, not 20 years from now. They feel very, very strongly about it.

I want to thank my colleagues for working over the last couple of weeks when the Senate was in recess. We do not usually do that. It does not happen very often around here. Usually we have a break or recess for whatever reason and staffs and Senators take off and not a lot of work is done. But this time was different.

I also again want to thank Senator DOLE and also Speaker GINGRICH because I personally appealed to both and said I would really like to get this bill up and passed through both Houses of Congress by this anniversary date. I would like to go back to Oklahoma on Friday and tell the families that, yes, we have passed this antiterrorism bill.

It has a lot of provisions, a lot of good provisions. I realize in the legislative process we make some compromises. It has been pointed out maybe there are a couple of provisions that should not be in or have been left out. My colleague from Delaware mentioned expanded wiretaps. A lot of people in my State have real second thoughts about that. I do not know. I supported it when it passed the Senate. It may be a good provision. Maybe I was wrong. I am not sure.

I am not an expert in that area, but I know that habeas corpus reform, or death penalty reform, needs to pass. That is the foremost thing on the minds of the victims of the Oklahoma tragedy. If we send this back to committee, we will not be able to pass this bill this week. I will be more than disappointed if that happens.

We have a couple of other provisions that are very important to the people of Oklahoma. We put in a provision, and I want to thank my colleagues, both Senator HATCH and Senator BIDEN for supporting this provision, that will allow and actually provide for closed circuit TV viewing of the trial proceedings in the Oklahoma bombing case. Unfortunately, the trial was moved to Denver. In Denver they have a courtroom, I believe, that holds 130 people. The judge said we will have an annex for audio, so in total, maybe 260 people including press would have the opportunity to attend or hear the trial. Frankly, that is not enough. That is not near enough. Not to mention the fact that the individuals and families would have to travel over 500 miles, and be away from the rest of their family. It would be an enormous inconvenience. We have raised some money to assist them. I am sure some families would like to personally attend the trial and we will try and help them financially, as well.

I thank the Attorney General for helping in that manner. She wrote me a letter saying they were contributing the travel fund. I asked the Attorney General's assistance so that those who could not travel to Denver could view the trial through closed circuit TV coverage. We think that a decision to permit this by the court is discretionary and it should happen. Unfortunately, she has declined to help us with the closed circuit TV provision. This bill says that the court must provide closed circuit coverage of the trial for victims and their families. It will be closely monitored. The court will have complete control over the coverage. This is not for public viewing but for the families, so they can view the trial without leaving their home, without leaving the rest of their families, maybe without having to take several months off from their jobs or their workplaces. This is going to be a very traumatic time for them and it would be much better for them as individuals to be able to view this at home and still be able to be with their family members and friends instead of dislocating them for several months, sending them to Denver, and only a very small percentage of them being able to even be present in court, and be more than frustrated by being so close yet so far away because they would not have access to the proceedings in the trial.

I am appreciative of this one provision, and again I thank my colleague from Utah and my colleague from Delaware for inserting this provision. There is a comparable provision in the House bill. This is most important to the families of the victims of the Oklahoma City bombing.

Finally, I want to comment on one other provision. This bill provides for mandatory restitution for victims of Federal violent crimes, property crimes, and product tampering crimes. This is a measure that we have spoken about on the floor of the Senate countless times. This is a measure that has passed the Senate three or four times. This is a measure that has bipartisan support. Senator BIDEN, Senator HATCH, myself, and others have worked to put this in. We have passed it in various crime control packages in the past. Unfortunately, when we have had a conference it has not remained in the conference package. This is a most important provision where we do give respect, treatment and assistance for the victims of crime—mandatory restitution for victims. We should pay more attention to victims instead of to the criminals, as we have done in the past. I am most appreciative. This is a very important provision.

I think our colleagues have put together a good bill. It may not be perfect. I have heard my colleague from Utah say, well, as far as some of the other provisions, maybe the provision that was alluded to by our colleague from California dealing with Internet and directions for explosives, that may be a good provision. I may well support it. It does not have to be in this package. I hope that if there are other good provisions not included in this bill, we can garner overwhelming support in the Senate, we can take them up separately and pass them this year. I would like to think that we have a window of opportunity of a couple of months where we can pass substantive legislation without playing politics. I hope we do not play politics with this bill.

I keep hearing statements about the NRA and others, there are a lot of people that are concerned about expanding wiretap authority and they do not have anything to do with the NRA. Maybe that is a good provision. I am not debating that. Maybe it should be debated, but debate it separately. If we put some of those provisions in, there will be problems in the House and we will not pass this bill this week. To me that would be a real shame. That would be something that we should not do. This is an important bill. This is a good bill, a bill that should pass, that should pass tonight. I would hope that my colleagues would join together, resist the temptation to send this back to conference, knowing it would delay it. Hopefully, they would join us in saying, ''Let's pass this bill,'' and if we want to consider separate measures dealing with taggants or anything else that was originally in the House bill or originally in the Senate bill, or maybe originally in the President's bill, we can consider that independently.

This is a conference report. Most of our colleagues are aware of the fact we do not usually amend conference reports, and if we do, we could put unnecessary delay on this legislation which would be a serious mistake. On behalf of the victims of the tragedy that happened on April 19, 1995, in Oklahoma City, on behalf of the families and the countless number of people who were impacted directly, I urge my colleagues, let Members pass this bill, pass this bill tonight, no later than tomorrow, get it through the House, as well, so we can let them know that we

have listened to them, we have heard them, and we have passed a good antiterrorism bill with real habeas corpus reform, with real death penalty reform, with a provision allowing them to have closed circuit TV viewing of the trial. I think they will be most appreciative. I know they will be most appreciative.

I yield the floor.

Mr. INHOFE. Mr. President, I have listened to the debate not just today but the debate on this for the past year. I remember so well the incident, when my fellow Senator from Oklahoma, Senator NICKLES, and I were in Oklahoma City right after it happened for the days following that, talking to families and the ones who actually had their own loved ones that were still in the building, not knowing whether they were alive or dead.

It is very difficult to get the full emotional impact watching TV of some remote place like Oklahoma from outside. When you are there, you feel differently about it. This is why Senator NICKLES and I have such strong feelings about this bill.

There is some opposition in this bill even in the State of Oklahoma by many people who felt that perhaps the wiretapping provisions went a little bit too far, the invasion of civil rights and privacy, perhaps was a little too strong. Many of my conservative friends did not want me to support it.

I was very pleased when the conference came out with its report. I believe the bill we have today is better than the House bill was. It is better than the Senate bill that we sent to them. I feel much stronger about it now and much more supportive than I did before. I think Senator NICKLES has covered most of the things that people in Oklahoma are concerned with. I can just tell you it is not a laughing matter that these people do want an opportunity. These are not wealthy people. They feel they should participate, at least be able to view the trial taking place. That is something that is in this bill. It will allow them to do it. Many of them could not sustain the hardship of making a trip to Denver.

There are a lot of things in here that I think are better than they were when we sent it over. The one area I want to concentrate on and just emphasize again is the habeas reform. My concern, and in fact, I can tell you, if that had been taken out I probably would have opposed the bill. Two months after the tragedy, the bombing tragedy in Oklahoma City, we had the families of the victims up here, in Washington, DC. I personally took them to many Senators' offices. They expressed to them that of all the provisions that would come out in an antiterrorism bill, the one that was the most significant to them was the habeas reform.

It happened to coincide with something that Senator NICKLES and I are very familiar with, a murder that had taken place 20 years ago, by a man named Roger Dale Stafford. Roger Dale Stafford murdered nine Oklahomans in cold blood. He sat on death row for 20 years. We just finally carried out that execution. These families are looking and saying, ''Here is a guy that sat on death row. He gained over 100 pounds, so the food was not too bad. He was in an air-conditioned cell and watched color TV.'' They are thinking about what happened to their own members of their family. I look at it behind that. If you get someone with a terrorist mentality, and particularly, someone, perhaps, from the Middle East who has a different value on life than we do, if he is looking at the down side and saying, should I do this act, should I perform this act, and the worst thing that can happen to me is that I will sit in an air-conditioned cell and watch color TV for 15 years, punishment ceases to be a deterrent to crime.

So I think that is a very significant provision that has to be saved. I think any chance on sending this back might jeopardize the chances of having that type of reform. Again, that was the one thing that was in this bill that the families of the victims in Oklahoma said we really have to have; that is the one thing that has to be in there that is going to give us any relief at all. Once the person is apprehended and the trials and sentence are over, and if it is an execution, they want to go ahead and go through with it and not have the perpetrator of the crime that murdered their families sitting on death row for most of their lifetimes.

So I think this is a very good bill. I will just repeat an emotional appeal from the victims and families of the victims in Oklahoma. Let us get this passed and let us get it passed before April 19, on Friday. It is very, very important for us, and I hope we move along on this. We have been considering this for quite a period of time. We started right after the bombing. So we have had adequate time to be deliberative—as deliberative as this body is famous for being. I think it is time to go ahead and pass it.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the antiterrorism conference report.

First, it is with great sadness that we approach the first anniversary of the bombing in Oklahoma City. It was truly a tragic event carried out by premeditated and dreadful murderers. I just hope that the people that carried out that act get the justice they so deserve.

Mr. President, one of the most important reforms made by this bill are those reforms to our death penalty procedures. For too long, murderers have been on death row, filing appeal after appeal, in the hopes of finding some small legal loophole—anything they can find that will nullify their sentence.

The people of this country are sick and tired of murderers being put on death row and then sitting there, as Senator INHOFE said, watching television, getting fat, and at an enormous cost to the American taxpayers.

Mr. President, since the death penalty was reestablished in 1977, over 400,000 people have been murdered. But only 200 have been executed. This is hardly a message that our justice system is swift or sure to those that break the law.

In my home State of North Carolina, we have over 100 people on death row, with an estimated cost of close to $50,000 a year to keep them there—per person. Yet, in the last 16 years, only 5 people have had the death sentence carried out in North Carolina, with 100 waiting. There have been delays, delays, and more delays, simply using one loophole behind another. Simply, the executions have not been carried out, at an enormous cost to the State of North Carolina for attorneys to fight these endless appeals.

In the United States, as a whole, there are over 2,700 people on death row. Over half have been there longer than 6 years. Further, of those on death row, over half were on probation or parole when they were arrested for murder. What does this say about the justice system?

Is it any wonder that crime has increased 41 percent in the last 20 years? Is it any wonder that violent crime has increased by 100 percent in the last 20 years? Our judicial system has been made a mockery by those who set out to break the law.

For those that carried out the Oklahoma City bombing, they probably never thought they would get caught. Fortunately, and luckily, with good police work, they were caught. But they probably believe that they can beat the system. I hope not, but I am sure they believe it. They probably think they can make a mockery of the justice system, as so many others have. Certainly, we will be hiring the most expensive lawyers out there to help them to beat the system.

In this country, we need to reestablish a respect for the law. Criminals need to know that if they commit murder, they will receive the death penalty. And, more importantly, they need to know that it will be carried out, and they will not be held on death row with endless delays.

With this bill, we finally have broken the logjam on the issue. We keep passing bill after bill that increases penalties and provides new capital offenses; yet, we do nothing to reform our justice system to see that the punishment is carried out.

Finally, we have done something to end the frivolous appeals filed by death row inmates.

Mr. President, I support this conference report. I thank Senator HATCH, and others, who have pushed death penalty reform to the forefront in this bill.

I yield the floor.

Mr. BIDEN. Mr. President, I hope both of my friends from Oklahoma and my friend from North Carolina—speaking to my friends from Oklahoma—understand that we do not want the delay in this bill. This bill got delayed in the House of Representatives for close to 6 months. I did not hear people coming to the floor with me and saying, ''Where is the bill, where is the bill, where is the bill, where is the bill?'' Now we are told to make this bill workable, and we should not attempt to do better.

I cannot believe the Senator from North Carolina would support a provision allowing, for example, someone to be taught how to make another fertilizer bomb to blow up another Federal building—maybe this one in North Carolina—and maybe learn how over the Internet. He would not want that to happen. Yet, he is probably going to vote against adding that provision back into the bill. He will probably vote, ''No, I will not send it back to the conference and have them include that provision.''

We had a provision saying you cannot teach people how to make fertilizer bombs, plastic bombs, and baby food bombs on the Internet, when you know the intent is for that person to use it. Yet, they are all going to stand here and vote against me on that. I find that fascinating.

I hope the folks in every one of our districts remember this. They are going to vote against me when I say we want to prevent future Oklahomas. We want to take care of those victims of Oklahoma and make sure retribution is had. That is why the crime bill I authored set the death penalty for it. And there would not even be a death penalty had President Clinton's crime bill not passed. Those people in Oklahoma would not be able to get the death penalty.

Some of my colleagues voted against the crime bill, and now they are hailing the death penalty. The only reason why those people are being tried and, if convicted, will get death, is because of the crime bill they voted against. I find this kind of fascinating logic going on here.

The third thing I point out, and that was tried in Federal court—and then I will yield to my friend from Georgia, who has a very important amendment or very important motion to make—I also point out that we should be worried about future victims. Future victims.

The comment was made—and a legitimate comment—by one of my colleagues a moment ago, when he said, ''On behalf of the victims of the bombing in Oklahoma, please pass this bill.'' On behalf of the tens of millions of Americans who may be the next victims, on behalf of them, please give the police the authority they need to enhance their ability to prevent future Oklahomas by allowing them to wiretap these suspected terrorists under probable cause, just like we do the Mafia. What is good enough for the Mafia ought to be good enough for a bunch of whacko terrorists.

So not only mourn those who died, which I do, but pray for those who are living that they continue to be able to live. I mean, how in the Lord's name can we, after Oklahoma, stand here on the floor and vote against the motion I predict they will vote against which says you cannot teach someone how to make a fertilizer bomb on the Internet when you know it is going to be used? They are going to vote against that. What about future Oklahomas?

I see my friend form Georgia is ready to proceed. So I will yield the floor for the purpose of his making his motion after I make a concluding statement.

In each of these amendments that I offered yesterday, Chairman HYDE in the transcript of yesterday's proceedings said—this is what this is all about—and I quote. He said:

> Mr. Chairman, [Chairman HYDE speaking] may I say something? Mr. Chairman, let us cut to the chase. I agree with the Senator [i.e. Senator BIDEN] and have always agreed with the Senator on this issue, the wiretap issue. The facts of life are that we lose about 35 votes in the House if we pass the wiretap provision.

That is what this is about—35 folks in the House who do not like it. That is why we are going to vote against our interest probably in the next couple of hours.

I yield the floor.

Mr. HATCH. Mr. President, if I could take a second.

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

Mr. HATCH. I agree with the 35, but all of those oppose the bill anyway. But it is a lot more than 35 people who will vote. I just wanted to make that statement.

I thank the Senator from Georgia.

Mr. NUNN. Mr. President, I urge my colleagues to support Senator BIDEN's motion which he will, I understand, make in a few minutes—I do not think it has yet been made—to recommit the conference report because it fails to address a very significant gap in the law which we corrected when we passed the Senate bill regarding the use of chemical and biological weapons of mass destruction in criminal terrorist activities.

The Armed Forces have special capabilities, and they are the only people that have special capabilities to counter nuclear, biological, and chemical weapons. They are trained and equipped to detect, suppress, and contain these dangerous materials in hostile situations. The police authorities of our country and the fire departments of our country do not have the capability to deal with chemical and biological attacks or the threat of those attacks. They do not have the equipment. They do not have the protective gear.

We have had four hearings in the last 6 weeks in the Permanent Subcommittee on Investigations, of which I am the ranking member and Senator ROTH is the chairman. Let us be very clear. With the testimony from law enforcement officials, from fire officials, from city officials, State officials, and from our own people in the Federal Government, that, if there were a chemical or biological attack in this country, we would have as the first victims those who came to the rescue. It would be those personnel coming to the rescue of those innocent victims who are caught in that situation that would also become victims themselves because they are not equipped to detect. They are not equipped to really deal with and they certainly are not equipped to withstand the lethal capability of chemical and biological weapons. Over a period of time they may be able to.

One of the things I am going to be talking about in the weeks ahead is a package of legislation which I hope Senator LUGAR and I will be sponsoring. One of the things we are going to need to do is to give, I think, our military both the capability with funding and also the authority and responsibility to help begin training our police and law enforcement officials around the country. It is going to take a long time.

We are in a different era now, Mr. President. One of the things that many people do not recognize after the attack in Tokyo where the avowed goal of the group that had really prepared very extensive capabilities for chemical warfare on their own people is that if they had the kind of delivery system that a few weeks later they might have had, instead of 15 or 20 people being killed and several hundred being injured, there literally would have been tens of thousands of deaths right there in Tokyo. We are in that era now.

A lot of people do not also understand that in the World Trade Center bombing there was really very strong evidence that a chemical component was in the explosive material. There was an attempted effort at chemical attack there also, but the chemical element was consumed by the huge fire and explosion. So we have had that attempt also in this country.

My point is that it is a very dangerous omission in not giving the kind of clear authority in this conference report that we had in the Senate bill.

At the present time the statutory authority to use the Armed Forces in situations involving the criminal use of weapons of mass destruction extends only to nuclear material. Section 831 of title 18, United States Code, permits the Armed Forces to assist in dealing with crimes involving nuclear materials when the Attorney General and the Secretary of Defense jointly determine that there is an emergency situation requiring military assistance. There is no similar authority to use a special expertise in the Armed Forces in circumstances involving the use of chemical and biological weapons of mass destruction.

In the wake of the devastating bombing of the Federal building in Oklahoma City and also the World Trade Center, with the tragic loss of life in Oklahoma and the disruption of governmental facilities, I think it is appropriate and absolutely necessary to reexamine Federal counterterrorism capabilities, including the role of the Armed Forces.

For more than 100 years, military participation in civilian law enforcement activities has been governed by the Posse Comitatus Act. The act precludes military participation in the execution of laws except as expressly authorized by Congress. That landmark legislation was the result of congressional concern about increasing use of the military for law enforcement purposes in post-Civil War era, particularly terms of enforcing the reconstruction laws in the South and suppressing labor activities in the North.

There are about a dozen express statutory exceptions to the Posse Comitatus Act, which permit military participation in arrests, searches, and seizures. Some of the exceptions, such as the permissible use of the Armed Forces to protect the discoverer of Guano Islands, reflect historical anachronisms. Others, such as the authority to suppress domestic disorders when civilian officials cannot do so, have continuing relevance—as shown most recently in the 1992 Los Angeles riots.

It is important to remember that the act does not bar all military assistance to civilian law enforcement officials, even in the absence of a statutory exception. The act has long been interpreted as not restricting use of the Armed Forces to prevent loss of life or wanton destruction of property in the event of sudden and unexpected circumstances. In addition, the act has been interpreted to apply only to direct participation in civilian law enforcement activities—that is, arrest, search, and seizure. Indirect activities, such as the loan of equipment, have been viewed as not within the prohibition against using the Armed Forces to execute the law.

Over the years, the administrative and judicial interpretation of the act, however, created a number of gray areas, including issues involving the provision of expert advice during investigations and the use of military equipment and facilities during ongoing law enforcement operations.

During the late 1970's and early 1980's, I became concerned that the lack of clarity was inhibiting useful indirect assistance, particularly in counterdrug operations. I initiated legislation, which was enacted in 1981 as chapter 18 of title 10, United States Code, to clarify the rules governing military support to civilian law enforcement agencies.

Chapter 18, as enacted and subsequently amended, generally retains the prohibitions on arrest, search, and seizure, but clarifies various forms of assistance involving loan and operation of equipment, provision of advice, and aerial surveillance. Chapter 18 does not authorize military confrontations with civilians in terms of arrests, searches, and seizures. Chapter 18 also ensures that DOD receives reimbursement for military assistance that does not serve provide a training benefit that is substantially equivalent to that which would otherwise be provided by military training or operations.

The administration requested legislation that would permit direct military participation in specific law enforcement activities relating to chemical and biological weapons of mass destruction similar to the exception that already exists under current law that permits the direct military participation in the enforcement of the laws concerning the improper use of nuclear materials.

Mr. President, the nuclear kind of incident is entirely possible. We have to be prepared for it. We are much better prepared to deal with nuclear than we are with chemical or biological. We have the capability in the Department of Energy with a team that has been training and working on this for years, and they are much better prepared. We do not have a similar capability for chemical or biological.

So by the omission of this specific authority in this bill, we are taking the most likely avenue of attack for terrorism in this country with mass-destruction weapons—and that is chemical or biological—and we are not putting that in the same category as nuclear, which is possible, and we must be prepared for it. But a nuclear attack is not as likely to happen as a chemical or biological attack.

Last June, the Senate included such legislation in the counterterrorism bill with safeguards to ensure that it would only be used in cases of emergency and under certain specific, carefully drawn limitations. In my judgment, the question of whether we should create a further exception for chemical and biological weapons should be addressed in light of the two enduring themes reflected in the history and practice and experience of the Posse Comitatus Act and related statutes:

First, the strong and traditional reluctance of the American people to permit any military intrusion into civilian affairs.

Second, the concept of any exception the Posse Comitatus Act should be narrowly drawn to meet the specific needs that cannot be addressed by civilian law enforcement authority. The record is abundantly clear that we are talking about exactly that. These are cases where local law enforcement and State law enforcement simply could not handle the job.

These issues were examined at a hearing before the Judiciary Committee on May 10, led by the chairman of the committee, Senator HATCH, and the ranking minority member, Senator BIDEN. At the hearing, five major themes emerged:

First, we should be very cautious about establishing exceptions to the Posse Comitatus Act, which reflects enduring principles concerning historic separation between civilian and military functions in our democratic society.

Second, exceptions to the Posse Comitatus Act should not be created for the purpose of using the Armed Forces to routinely supplement civilian law enforcement capabilities with respect to ongoing, continuous law enforcement problems.

Third, exceptions may be appropriate when law enforcement officials do not possess the special capabilities of the Armed Forces in specific circumstances, such as the capability to counter chemical and biological weapons of mass destruction in a hostile situation.

Fourth, any statute which authorizes military assistance should be narrowly drawn to address with specific criteria to ensure that the authority will be used only when senior officials, such as the Secretary of Defense and the Attorney General, determine that there is an emergency situation which can be effectively addressed only with the assistance of military forces.

Fifth, any assistance which authorizes military assistance should not place artificial constraints on the actions military officials may take that might compromise their safety or the success of the operation.

The Senate provision was drafted to reflect the traditional purposes of the Posse Comitatus Act and the limited nature of the exceptions to that act. The motion to recommit that we will be voting on in a few minutes would require the conferees to reinstate that provision with a minor technical clarification that has come to our attention since the Senate bill was passed.

Under the motion to recommit, the Attorney General would be authorized to request the assistance of the Department of Defense to enforce the prohibitions concerning biological and chemical weapons of mass destruction in an emergency situation.

The Secretary of Defense could provide assistance upon a joint determination by the Secretary of Defense and the Attorney General that there is an emergency situation, and a further determination by the Secretary of Defense that the provisions of such assistance would not adversely affect military preparedness. Military assistance could be provided under the motion to recommit only if the Attorney General and the Secretary of Defense jointly determined that each of the following five conditions is present. This is very narrowly drawn.

First, the situation involves a biological or chemical weapon of mass destruction.

Second, the situation poses a serious threat to the interests of the United States.

Third, that civilian law enforcement expertise is not readily available to

counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fourth, that the Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological or chemical weapon of mass destruction involved.

Fifth, that the enforcement of the law would be seriously impaired if Department of Defense assistance were not provided.

I have a very hard time understanding why the House of Representatives would not accept this provision. Maybe there is a reason, but I certainly have not heard that reason. Nothing that I have heard indicates why our military could not be used, when we have a biological or chemical weapon of mass destruction involved in the situation, a serious threat is posed to the interests of the United States, civilian law enforcement expertise is not available to counter the threat, Department of Defense capabilities are needed to counter the threat, and law enforcement would be seriously impaired if DOD assistance is not provided.

I think the American people would expect us to be involved in that with the military, to protect the lives of American citizens.

The types of assistance that could be provided during an emergency situation would involve operation of equipment to monitor, to detect, to contain, to disable or dispose of a biological or chemical weapon of mass destruction or elements of such a weapon. The authority would include the authority to search for and seize the weapons or elements of the weapons.

We may get into a situation where it is not entirely clear whether there is a chemical or biological weapon but someone has threatened that that kind of weapon is contained in a basement somewhere in a city.

If the President of the United States does not have this statutory authority, he is going to be very reluctant to put the military into downtown New York to look for chemical or biological weapons. It would be extremely dangerous for law enforcement to undertake that task, but the President will be on the very conservative side and very reluctant to take that step unless he has absolute belief that there is such a weapon and a disaster is impending.

Unfortunately we are not going to have that kind of clarity, in my view, in the future. So it is important for Congress to speak to this issue.

If the Biden amendment is agreed to and it goes back to conference, and this becomes law, the Attorney General and the Secretary of Defense would issue joint regulations defining the type of assistance that could be provided. The regulations would also describe the actions that the Department of Defense personnel may take in circumstances incidental to the provision of assistance under this section, including the collection of evidence. This would not include the power of arrest or search or seizure, except for the immediate protection of life or as otherwise authorized by this provision or other applicable law.

This provision is set forth in the motion to recommit. If it is agreed to, and I hope it is, it would make it clear that nothing in this provision would be construed to limit the existing authority of the executive branch to use the Armed Forces in addressing the dangers posed by chemical and biological weapons and materials.

The motion to recommit would address two important concerns. First, as a general principle, the types of assistance provided by the Department of Defense should consist primarily in operating equipment designed to deal with the chemical and biological agents involved, and that the primary responsibility for arrest would remain with the civilian officials. As a law enforcement situation unfolds, however, military personnel must be able to deal with circumstances in which they may confront hostile opposition. In such circumstances their safety and the safety of others and the law enforcement mission cannot be compromised by putting our military in that dangerous situation and then precluding them from exercising the power of arrest or the use of force.

Mr. President, some people wanted to pass a statute saying the military could do everything but they could never make an arrest. I think they ought to defer to civilians in almost all circumstances. But we do not want to have our military team out there in chemical gear, looking for chemical weapons, some of which may already be escaping, no policemen being able to go in because they do not have the equipment, no fire authority able to go in, run right into the people perpetrating the act and not be able to do anything about it. So we have to give them that kind of limited authority in unusual, and hopefully circumstances which, God forbid—I hope they will never occur. But I must say the likelihood of something like this occurring in the next 5 to 10 years in America is, in my view, very high.

The motion to recommit would require the Department of Defense to be reimbursed for assistance provided under this section in accordance with section 377 of title 10, the general statute governing reimbursement of the Department of Defense for law enforcement assistance. This means that if DOD does not get a training or operational benefit substantially equivalent to DOD training, then DOD must be reimbursed.

Under the motion to recommit, the functions of the Attorney General and the Secretary of Defense may be exercised, respectively, by the Deputy Attorney General and the Deputy Secretary of Defense, each of whom serves as the alter ego to the head of the Department concerned. These functions could be delegated to another official only if that official has been designated to exercise the general powers of the head of the agency. This would include, for example, an Under Secretary of Defense who has been designated to act for the Secretary in the absence of the Secretary and the Deputy.

The limitations set forth in the motion to recommit would address the appropriate allocation of resources and functions within the Federal Government; and are not designed to provide the basis for excluding evidence or challenging an indictment.

The motion to recommit, which reflects the Senate-passed provision, is prudent and narrowly drafted. It was strongly supported in the Senate by the chairman of the Armed Services Committee, Senator THURMOND. It was unanimously adopted by the Senate. The administration, both the Department of Defense and Department of Justice, have testified that current law is inadequate and they need authority to deal with chemical and biological terrorism similar to the authority they now have for nuclear terrorism. It is irresponsible to leave our law enforcement officials and military personnel without clear authority to deal with these dangers.

I know the argument is made that we already have the insurrection statute on the books, which possibly could cover this situation. I would like to just share with my colleagues, before I close, a reading of that statute so they will understand why we need to have clarification.

Under the insurrection statute, sections 331–335, title 10 United States Code, the President can use the military in the following situations.

To suppress an ''insurrection'' at the request of a State.

To suppress ''unlawful obstructions, combinations, or assemblages, or rebellion [that] make it impractical to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings.''

To suppress ''any insurrection, domestic violence, unlawful combination, or conspiracy'' if it ''so hinders the execution of laws'' that a State or the Federal Government cannot enforce the laws.

Before using these authorities, the President must issue a proclamation that, ''order[s] the insurgents to disperse and retire peacefully to their abodes within a limited time.''

Can you imagine somebody coming into the President saying, ''Mr. President, we expect an attack. We cannot prove this but we expect a chemical attack in New York City or Chicago in the next 12 to 24 hours. We desperately need our military teams to go to a potentially hostile situation with protective gear to detect and determine if that kind of material is present within certain areas of New York.''

And the President says, ''How do I do that?''

They say, ''Mr. President, what you first have to do is issue a proclamation, saying that the insurgents should disperse and retire peacefully to their abodes within a limited time.''

Mr. President, can you imagine a President saying to his staff, ''You mean you want me to issue that? We have a terrorist group in New York City running around and you want me to issue a proclamation for the whole world to see and for the American people to laugh at, saying that the insurgents must disperse and retire peacefully to their abodes within a limited time? I will be laughed out of the White House if I do that.''

Any President would be extremely reluctant to use that kind of authority. Besides that, this is not an insurrection. It is not an unlawful combination or conspiracy designed to hinder execution of the laws. To fit chemical or biological terrorism under the insurrection statute would require an extremely awkward and very stretched application. I think the President would only use that if he was absolutely convinced that being scoffed at and made fun of all over the world by issuing such a ''disperse and retire peacefully'' order would be outweighed by almost the certainty that that kind of calamity was about to happen.

These statutes are designed to deal with civil disorders, not terrorism. When the terrorists are on the subway with chemical or biological agents of mass destruction, must we await the President's issuing of a proclamation and ordering the terrorists to ''retire peacefully to their abodes?''

The reason we have the statute that allows military assistance in the event of nuclear offenses is to provide for prompt and effective employment of military personnel to address the emergency, without the need to interpret the law or determine whether there is some inherent authority to assist. Chemical and biological weapons are more likely to be used, and they present the same problems of mass catastrophe as do nuclear weapons, and we should not delay clarification of the authority of the military personnel to provide specific assistance in emergency situations.

I do not understand why people oppose this. I cannot understand why the House opposes it. I think it is irresponsible not to proceed as the Senator from Delaware is urging us to proceed with his motion.

I know there is one other argument that says, because of a Supreme Court decision, there is inherent authority for the President to act with the military or with whatever he has to use to protect against the immediate threat to life. I would not deny that in certain situations the President might use this authority. Certainly in desperate situations he might. This is not statutory authority. It requires him to exercise constitutional, inherent authority. This is a very difficult situation and the military personnel involved, if the President is wrong in his assessment of inherent and immediate threat to life, would be at risk. They would be at risk of lawsuits and liability. They would be at risk of all sorts of problems if the President is wrong because they would not be acting under color of law.

So this immediate-threat-to-life inherent authority, though possibly available in desperate situations, is simply not the way to proceed. It would be a classic lawyers' debate. What we are doing now, if we leave the law as it is, as this bill before us will do unless it is amended, unless it is sent back to conference and amended, we are basically saying we are going to have one big furious debate among lawyers as to what authority would be used in what could be a matter of urgency, extreme urgency where every minute and every hour counted for the military to get into the business where we have a true emergency and American life is threatened.

So the present law is inadequate. The constitutional inherent authority of the President is inadequate in this situation, and the insurrection law would be, I think, resisted fiercely by any President where you would have to basically make an almost preposterous-type plea for the people who are perpetrating this act of terrorism to disperse and retire peacefully to their abodes within a limited time.

I would like to hear someone explain why this is not part of this conference report. I know that the Senate supported it. My colleague, Senator HATCH, I am sure, urged its adoption in the House of Representatives. I do not understand why this has been taken out of this bill.

Mr. President, I urge the adoption of the BIDEN amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I know the distinguished Senator from Washington would like to make some remarks, but let me just make a few comments about the remarks of my distinguished friend from Georgia.

I do not entirely disagree with Senator NUNN, the distinguished Senator from Georgia. At the outset, I want to call my colleagues' attention to the fact that the Congress has already acted in this area this year. Section 378 of the National Defense Authorization Act of fiscal year 1996, which is already law, specifically provides the military can provide training facilities, sensors, protective clothing and antidotes to Federal, State, and local law enforcement in chemical and biological emergencies.

From this country's earliest days, the American people have sought to limit military involvement in civilian affairs. In the wake of the terrible tragedy in Oklahoma, with the heightened sensitivity to the threat of terrorism this country faces, some feel like giving the military a more prominent role in combating terrorism both here and abroad. This is not a policy we should rush into.

I must add, I support the provision, which is known as the Nunn-Thurmond provision, in the Senate bill. Americans have always been suspicious of using the military in domestic law enforcement, and rightly so. Civilian control of the military and separation of the military from domestic law enforcement feature prominently in the early history of this country, from the Declaration of Independence to the Constitution and Bill of Rights. Indeed, the Declaration of Independence listed among our grievances against the King of England that he had ''kept among us, in times of peace, Standing Armies without the Consent of our legislature,'' and had ''affected to render the Military independent of and superior to the Civil Power.''

It was abuse of military authority in domestic affairs, especially in the South after the Civil War, that motivated Congress to impose the first so-called posse comitatus statute. The term ''posse comitatus'' means power of the country and has as its origin the power of the sheriff through common law to call upon people to help him execute the law.

The statute, in 18 U.S.C. 1385, prevents the Federal Government from using the Army or Air Force to execute the law, except where Congress expressly creates an exception. Domestic law enforcement thus remains as is, in the hands of local communities.

Currently, as I understand it, Congress has created only limited exceptions to the Posse Comitatus Act. The President can call out the military if terrorists threaten the use of nuclear weapons or if the rights of any group of people are denied and the State in which they reside is unable or unwilling to secure their lawful rights.

The military is also authorized to share intelligence information with Federal law enforcement in attempts to combat drug trafficking. These are limited exceptions to the act, however, and do not generally empower the military to be actively involved in the enforcement of domestic laws. We have done well with a separation between military authority and domestic law enforcement. Although this proposal seems sensible and appears simply to expand upon the military's preexisting authority, to become involved if the use of nuclear weapons or biological or chemical weapons is threatened, it may, in fact, be unnecessary.

The premise underlying this amendment is that there does not exist among civilian law enforcement the expertise to deal effectively with chemical or biological agents. However, I believe that such expertise is available outside of the military. Particularly in the area of chemical agents, civil authorities and even the private sector have considerable experience in containing these substances.

Moreover, the military can already assist civil authorities in all aspects of responding to the type of crisis contemplated by this amendment but one: The actual use of military personnel to disable or contain the device. The military can lend equipment, it can provide instructions and technical advice on

how to disable or contain a chemical or biological agent, and it can train civil authorities, if necessary.

The one thing that this amendment adds to the military's ability to assist civil law enforcement is the permission to put military personnel on the scene and inject them directly into civilian law enforcement. This is, in my view, the one thing we should not do.

This amendment would raise troubling implications going to the heart of the Posse Comitatus Act. It recognizes, as it must, that whenever law enforcement personnel are engaged in an evolving criminal event, there are unpredictable and exigent circumstances. The personnel on the scene must be able to take the necessary steps, including making arrests, conducting searches and seizures and sometimes using force to protect lives and property. Yet, the posse comitatus statute was enacted precisely to ensure that the military would not engage in such civilian law enforcement functions.

Let me just say this. I agreed to the language that the distinguished Senator would like to put back in this bill in the Senate bill. I would not be unhappy if that language was in this bill. Unfortunately, the reason it is not is because we have people in the other body who basically are concerned about some of these issues that I have just raised. Rightly or wrongly, they are concerned, and we were unable in our deliberations, as much as we got this bill put together, as much as we have made it a very strong bill, we were unable to get that provision in.

Let us just be brutally frank about this. If there is a motion to recommit on this issue, or any other issue, and that motion is approved by the Senate, then the antiterrorism bill is dead. If we do not, there will be a chance to put it through.

Frankly, we have a very good bill here. It may not have every detail in it that I would like to have. It does not have every detail in it that the chairman of the House Judiciary Committee would like to have or our distinguished colleagues Senators BIDEN or NUNN would like to have. I might add, it does not have all the provisions in it that Congressmen BARR and MCCOLLUM and BUYER and SCHIFF and others would like to have.

Nobody is totally going to get everything they want in this bill. But what it does have is a lot of good law enforcement provisions that will make a real difference, in fact, right now against terrorism in our country and internationally. We simply cannot shoot the bill down because we cannot get a provision in at this particular time that we particularly want.

We all understand this process. We all understand that we cannot always get everything in these bills that we want to. But I will make a commitment to my friend and colleague from Georgia, as I have on other matters. I do not disagree with him in the sense that this is something that perhaps we should do. I will make a commitment to do everything in my power to make sure we look at it in every way, and if we do not do it here—and I suggest we should not do it here on this bill under these circumstances—then I will try later in a bill that we can formulate that will resolve some of these conflicts that both the distinguished Senator from Delaware and I and the distinguished Senator from Georgia and I would like to see in this bill—and others, I might add.

So there is no desire to keep anybody's provision out of the bill. There is no desire to not solve this problem. The problem is we cannot do it on this bill and pass an antiterrorism bill this year. I think one reason the President called me last Sunday, I am sure, is because he has been asking us to get him a terrorism bill. This is it. This is the week to do it. I think we have done a really extraordinary job of bringing this bill back from what it was when the House passed its bill.

I give credit to the House Members. There have been a lot of wonderful people over there who have worked hard on this. I have mentioned some of them in my remarks here today. But certainly the distinguished chairman over there, CHUCK SCHUMER, and others, and BOB BARR and others, have worked very hard on this bill.

None of us have everything we want in this bill. And none of us want to see it go down to defeat because of any one provision that we can solve later as we continue to study and look at this matter.

Also, one of the problems we have had in trying to bring together people on this very important piece of legislation is that there have been some perceptions over in the House as a result of some of the mistakes that law enforcement has made that perhaps we might be going too far if we follow completely the Senate bill as it came out of the Senate Chamber.

I think those perceptions are wrong, but the fact is they are there. I think we have to work on them and educate and make sure that we, by doing future bills, will resolve these problems, solve them in the minds of not only Members of the House of Representatives who have complaints against some of this information, but also in the minds of others who would like their own provisions in the bill.

I have to say there are some—and I do not include the distinguished Senator from Georgia among them—but there are some who are just plain and simply trying to stop this bill. They hate the habeas corpus provisions of this bill. I know the distinguished Senator from Georgia does not, that he is with me on those issues, but they do. And they will use any strategy to try to stop this bill because they do not want to have death penalty reform. This bill is going to bring that to all of us. It is worth it.

If that is all we had in this bill, it is the one provision that every victim who appeared here yesterday and in the past has said they want more than anything else. There is a very good reason to pass this bill for that reason alone. But there are so many other good provisions in the bill that we ought to pass it. We ought to pass it, even though one or more provisions that we think might make the bill better cannot be put into it at this time.

We have really worked our guts out to come out with a bill that I think can be supported in a bipartisan manner. We have really worked hard on that. I do not care who gets the credit for this bill. I can say we have worked very, very hard to have a bill that all of us can be proud of. And I think we do have one. Does it have everything in it? No. But it has so much in it that we really have to go ahead and get it done.

If this motion or any subsequent motions to recommit are passed, this bill will be dead. I think that would be one of the most tragic things that this body could do this week, just a few days before the anniversary date of the Oklahoma City bombing.

Yesterday, we had people from Pan Am 103 here as well. We had others. Frankly, they all asked us to get this bill through. I am doing everything I can to get it through. So I hope people will vote against this motion even though I myself have a great deal of respect for the Senator from Georgia, a great deal of empathy for his position, and I would, even if I did not understand it, I would want to support him as I often have done through the years here on the floor of the U.S. Senate.

I think basically that says it. I hope people will vote against any motion to recommit because it would be tragic for this bill to go down. I cannot imagine the majority voting it that way. I hope they will not in this particular instance.

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I will just make a few brief remarks.

I have tremendous respect for my friend from Utah. He knows that. He and I have been on the same side of the habeas corpus issue for a long time. Now the Governor of Florida, then Senator from Florida, Lawton Chiles, and I came to the floor for 2 or 3 weeks in a row every day back in the 1970's, I believe—time slips by—about the importance of reform in habeas corpus. So I certainly share his view on that.

As much as I think that needs reforming, I do not think that habeas corpus statutes are the problem now. It has been somewhat modified by the courts themselves. I do not think that is as urgent as what we are talking about here, because with the hearings we have had and with the tremendous amount of effort that I have made and Senator LUGAR and others have made in this whole problem of the proliferation of chemical and biological weapons, I do not know whether anything is

going to happen next week, next month, or next year.

I do know that we could have some calamity happen without any notice in this area. I hate to see our Nation so ill-prepared to deal with a threat that is much more likely to happen than some of the threats that we are prepared to deal with.

Mr. President, something has happened to our Republican friends in the House of Representatives. I am not sure what deal was struck over there, but I recall very well being on the floor of the Senate—and my friend from Utah probably recalls this, too—when the House of Representatives passed an amendment—this was a good many years ago during the Reagan administration—that basically gave an order, waived the posse comitatus statute, gave the order, I believe by Congressman HUNTER from California, to shut the borders down with our military, basically shut them down, I believe, within 45 days saying the military would be deployed all over the borders of the United States to basically close the borders, not let any drugs come through.

We computed that we would have to bring all our military forces back from Europe, from Korea, from Japan, everywhere else to put them side by side virtually on the border to comply with that. It passed the House, and it was a Republican-sponsored amendment. Of course, after some light was shone over here on the floor of the Senate, we rejected that amendment. It did not happen.

I also have a long history in this posse comitatus area because I thought certain carefully crafted exceptions to the statute needed to be made in the law enforcement and drug area, but carefully constructed so we did not get our military involved in search and seizure and arrest on a routine basis. I found myself debating the then-Senator from California, now Governor of California, where he proposed an amendment that would have had the military be able to make any kind of arrest and search and seizure for drug transactions in the domestic United States.

That was another very, very broad waiver of the posse comitatus statute that I would have opposed. This would have made, on a routine basis, a military response for law enforcement. I opposed that. That was going too far.

Here we have my colleagues on the House side, and for some reason now they have switched all the way over and they are worried about even using the military in a situation where we have a desperate situation with chemical and biological weapons where nobody else can handle it. I do not understand it. I do not understand what has transpired. But something strange has taken place here.

I do think we have to approach this whole posse comitatus area with great care. We do not want our military engaged in law enforcement except as an absolute last resort when there is no other alternative and when the result of failure to be involved would be catastrophic.

I also would ask my friend from Utah—and I know he has tried to sustain the Senate position on this; I know him well enough to know that he has done that, and you cannot do it on every item in conference—but I do not understand how people who supported the exception on the nuclear side to the posse comitatus statute that was made at the Reagan administration's request have a different view now. During the Reagan administration, they said they needed this exception. We had the same Constitution then, the same Supreme Court decisions, the same insurrection statute, but they wanted an exemption in the nuclear area so they could clearly have statutory authority. We supported that. That was not a partisan issue at all. Democrats and Republicans supported it. President Reagan signed it into law.

Now we have the same kind of situation, almost identical, in the chemical and biological area. We have a different President in the White House, who is a Democrat, and we have a whole switch in positions where people say, ''Oh, we don't need this. We don't need it. We can't give them this authority,'' and so forth. I do not understand it. I understand partisan positions, but I do not understand completely switching philosophical positions on something of this nature.

I make one other point. The Senator from Utah mentioned the provision we passed recently in the defense authorization bill that allowed the equipment of the military to be used and to be loaned to law enforcement and other domestic officials in situations that are chemical-biological. That is a very useful addition to the present authority. What you have to have there is personnel who are trained to use that equipment. You cannot jump into chemical protective gear and know how to operate it in an emergency situation, if the Defense Department brings it in and hands it to local police. You have to be trained in that.

The military spends hundreds of hours training people in that regard. It will take years and years and years to train our domestic law enforcement and fire officials all over this country in the use of that kind of equipment. Unless they are already trained, that statute will not be available for practical use in an emergency situation. They may try to use it, but it will not do the job because it does not authorize military personnel to operate the equipment.

We simply have a multiple number of cities around this country that could be struck, and we cannot freeze out and prevent our military from being involved in an emergency dire situation as a last resort. We have to have people who are trained and know how to use the equipment, not only protective gear but protective equipment. It cannot be done at the last minute when there is an immediate threat of attack.

Mr. President, I would not be speaking in favor of this motion to recommit on an important bill like this if I did not think that the failure to act in this regard could have a very serious consequence. None of us can predict at what time interval something like this will occur. I hope never.

I must say, the probability of having some kind of chemical or biological attack in the United States in the next several years is, in my view, a rather high probability. We will have to do a lot more than we have done so far to get ready for it. I hope that somehow the House of Representatives will recognize that.

I know the Senator from Utah is absolutely sincere in his willingness to revisit this issue and try to put it on another bill. If this motion does not pass, I will work with him in that regard. I hope that those in the House will reexamine their position. I hope they get some of their staff to go through the records. We have had a considerable number of hearings on this explicit point.

We have had all sorts of expert testimony from the fire chiefs around the country, from law enforcement officials, from Justice Department officials, the FBI, the military. We have had detailed hearings on the attack in Tokyo, what occurred there. Not only are we not prepared law enforcement-wise in this regard, we do not have the emergency medical training required in most of our American cities to deal with the aftermath of this kind of event if it did occur. We would simply be overwhelmed, and people would ask all of us, ''Where were you when this threat was being discussed, when you were, basically, responsible for doing something about it? Why did somebody not try to prevent it from happening, or at least prepare us to deal with the terrible medical, tragic consequence of this kind of attack?''

Again, I urge the Biden amendment be adopted.

Mr. GORTON. Mr. President, in monitoring the beginning of this debate, a set of lyrics from a source that I usually do not use came to mind as a bit of advice for the distinguished Senator from Delaware. These lyrics come from the Rolling Stones: ''You can't always get what you want. But if you try real hard you just might find, you just mind find, you get what you need.''

Now, Mr. President, the conferees have tried real hard. They have tried real hard and I think indisputably, they have produced a bill that we very, very much need.

Most of this afternoon, however, has been spent pointing out the bill's shortcomings, elements that the Senator from Delaware or the Senator from Georgia or, for that matter, the Senator from Utah wish were in the bill but are not. Certainly, this bill is not everything that the Senator from Delaware wishes, but it does contain a

lot of what he thinks is constructive. Even he admits, and I think I am quoting correctly, it is a ''useful, if frail'' antiterrorism bill.

Senator HATCH, the distinguished Senator from Utah, has already outlined the positive steps in connection with a campaign against terrorism which are included in the conference report that is before the Senate now. I will not take up the time of the Senate simply by repeating them now. What we are faced with in the course of the current debate, however, is the question of whether or not we should reject what the conference committee has done, send it back, and ask that the committee effectively start all over again.

This conference committee has labored long enough. I do not believe that the Senator from Utah has left anything on the table. I do not think that he walked away having omitted anything from this bill that his very best efforts and the help of other Senate Members in both parties could possibly have gotten included for us to make better an already fine proposition.

What we have here is a meaningful antiterrorism bill, one that will make the law better than it is at the present time, one that will help the President and our Federal law enforcement officers by adding to the tools to deal with a new, highly regrettable situation with which our society is faced.

But there is something else in this bill, Mr. President. That something else is highly controversial, something that I believe the President of the United States would just as soon not have in it, something that I think a number of other Members wish were not a part of this bill. Something, however, that I think is particularly important. That is the reform of our entire habeas corpus procedures in connection with the conviction for serious crimes.

Doing something about a flawed habeas corpus system has been discussed in this Senate since I began serving here over a decade ago. We finally have an opportunity this evening in connection with this bill to do something positive about it.

I believe that the Senator from Delaware has complained that habeas corpus reform is not relevant to an antiterrorism bill. Just as an aside, Mr. President, I find it a charming argument coming from the side of the aisle which insists on our voting on Social Security amendments and minimum wage amendments as a part of the debate over immigration. I am tempted to say that we might have stronger rules of relevance in connection with all of our debates. Be that as it may, I am convinced that habeas corpus is relevant to a bill with respect to terrorism.

Mr. President, to deal effectively with any criminal challenge, we must have effective, clear, and cogent criminal statutes. We must have strong and skilled law enforcement officers to enforce those statutes and to arrest people who violate them. It is also absolutely vital, Mr. President, that when we do so, that when our system of justice has moved from apprehension through trial and conviction, that the people of the United States have a degree of confidence in the finality of those convictions after appropriate appeals, and that the punishments prescribed in those statutes will actually be carried out. That is an area, a field in which we have been a significant failure, Mr. President, because of the almost unlimited nature of our habeas corpus provisions.

We talk of doing something about terrorism and the fear it instills because the people of the United States lack trust and confidence in their criminal justice system and feel unsafe on their streets, at least in part because they see delay after delay, appeal after appeal, a total lack of finality, thousands of dollars after thousands of dollars going into the endless delays in the execution of sentences, particularly related to capital punishment.

Now, reforming habeas corpus is vitally important in that connection, Mr. President, and not just with respect to antiterrorism legislation, but with respect to all of the other serious crimes principally contained in our State and Federal criminal codes.

Let us move from the abstract to the concrete for just a few moments. I would like to remind my colleagues of the subject on which I have spoken a number of times in the course of the last Congress—one particular case in the State of Washington, which illustrates the frustration that our people feel with a system of endless appeals.

Charles Campbell was tried and sent to jail for the rape of a particular woman in a county just north of Seattle, WA. When he was on work release he went back to the home of this woman and murdered her, together with her 8-year-old daughter and a neighbor who just happened to be in the way. In 1982, he was charged with capital murder for those offenses and convicted. By 1984, that conviction had gone through the entire State court system, and the conviction and sentence had been affirmed by the Supreme Court for the State of Washington. From 1984 to 1994, Mr. President—10 additional years—57 separate actions were taken in the Federal courts of the United States—a first direct appeal to the Supreme Court of the United States, which was turned down, followed by innumerable petitions for habeas corpus and appeals from various orders in those habeas corpus petitions.

Remember, Mr. President, that even after a capital case has gone through all of its State court appeals and has been appealed to the Supreme Court of the United States, which has either affirmed it or failed to act, a single Federal district court judge can interrupt the process. That single judge can make a determination that all of the previous judges were wrong and send the case back to the State courts. More frequent than that, of course, is that the single Federal court judge, and then a circuit court of appeals, and perhaps then, again, the Supreme Court of the United States, finds nothing in error in these processes and affirms the State court decisions, at which point the process often starts over again with the filing of another petition for habeas corpus.

That, Mr. President, more than any other single factor, I think, has caused the people of the United States to lose an important degree of faith in their criminal justice system.

A reform of that system, not to deny a right of appeal, but in effect—except under extraordinary circumstances—to give only a single bite at the apple through the Federal court system, is the subject of the habeas corpus provisions that have been shepherded through both Houses of Congress by the distinguished Senator from Utah.

It is my opinion, Mr. President, that these provisions complement, and are as important, or more important, than the strictly antiterrorism elements of this legislation. It is my opinion that the more strictly antiterrorism provisions of this legislation are themselves important. I find myself in agreement with all of those here, and I think that includes every Member of the Senate who has spoken on this subject, that we ought to do better, that we ought to have more antiterrorism legislation. I think it very unlikely that that is going to happen in the course of this Congress.

As I have said before, I think the Senator from Utah got everything out of this conference committee that he could get, and the effect of a motion to recommit would simply be that we would either have no legislation on this subject, or this identical legislation, which is important, would be delayed.

Delays have already been too long, Mr. President. I sincerely hope that the Members of the Senate will reject a motion to recommit and will promptly pass this legislation. The House is certain to do the same. We will, when the President has signed it, move forward on two distinct but related fields—significant progress with respect to antiterrorism, and significant progress with respect to reforming our habeas corpus system. For that, the Senator from Utah, and all who have worked on this legislation, deserve our grateful thanks and the thanks of the American people.

Mr. BIDEN. Mr. President, I am sure my friend from Washington is aware that these are Federal offenses we are creating here. They have nothing to do with State habeas corpus. He is aware of that, is he not?

Mr. GORTON. Yes. I think the Senator from Washington said when the Senator from Delaware was off the floor that he regards it as rather touching that the Senator from Delaware wants to make sure everything

we do is relevant to Federal antiterrorism legislation, when I believe he has been supporting the proposition on the other side of the aisle that immigration legislation should carry Social Security amendments with it and a number of other subjects of that sort.

This legislation is, of course, dealing with Federal statutes and with Federal courts. Habeas corpus legislation, of course, deals primarily with State laws and State convictions, but with the interference by the Federal courts in those procedures.

If the Senator would further yield a moment, I ask unanimous consent that a chronology of the Campbell case be printed in the RECORD.

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

April 14, 1982: Campbell beats and murders Renae Wickland, in her Clearview, WA home, then beats and murders Wickland's 8-year-old daughter, along with a neighbor who stopped by the home.

November 26, 1982: Campbell is convicted of aggravated first degree murder in Snohomish County Superior Court.

December 17, 1982: Campbell is sentenced to death in Snohomish County Superior Court.

November 6, 1984: Washington State Supreme Court affirms Campbell's conviction and sentence.

April 29, 1985: The United States Supreme Court denies Campbell's request to hear an appeal of his conviction.

July 22, 1985: Campbell files an appeal in federal district court.

February 16, 1986: Federal district court denies Campbell's appeal after an evidentiary hearing.

February 18, 1986: Campbell appeals to the Ninth Circuit Court of Appeals.

October 6, 1987: The Ninth Circuit Court affirms the district court's decision denying Campbell's appeal.

June 8, 1988: The State of Washington moves to remove the stay on Campbell's execution.

July 10, 1988: Ninth Circuit Court of Appeals denies the state's request.

August 19, 1988: Campbell appeals his case again to the United States Supreme Court.

November 7, 1988: The U.S. Supreme Court refuses to hear Campbell's appeal.

November 8, 1988: State of Washington files motion to move forward with execution of Campbell.

December 6, 1988: State Supreme Court agrees with State's motion, denying the stay of execution.

January 25, 1989: Ninth Circuit Court of Appeals agrees with State Supreme Court, dissolving the stay of execution.

February 15, 1989: Snohomish County Superior Court issues a death warrant for Campbell's execution for March 30, 1989.

March 7, 1989: Campbell files appeal with State Supreme Court and a motion to stay the execution. In both documents he raises several unsupported challenges to hanging as a method of execution.

March 23, 1989: The State Supreme Court unanimously rejects all of Campbell's challenes against hanging and denies his motion to stay the execution. The court concludes that none of his issues warrant further consideration.

March 24, 1989: Federal District Court Judge John Coughenour, anticipating another appeal by Campbell in federal court, summons attorneys for both sides into his chambers to discuss the matter. Upon learning from Campbell's attorneys that they intended to file an appeal the following Monday, March 27, the judge calls for an evidentiary hearing that day and in no way limits the issues that Campbell and his attorneys will be allowed to raise. The judge also orders Campbell and his former trial attorney to be present regarding Campbell's claim of ineffective counsel.

March 27, 1989: Campbell files another appeal and, at the evidentiary hearing, raises three issues regarding hanging: (1) hanging will deprive him of constitutional right against cruel and unusual punishment; (2) the state has no one qualified to perform the hanging; and (3) having to choose between execution by lethal injection or hanging violates his protection against cruel and unusual punishment and his First Amendment freedom of religion. Campbell and his attorneys offer no evidence to substantiate these issues and he again claims he was represented by ineffective counsel. Later that day, Judge Coughenour rejects Campbell's charges against hanging, and denies his motion to stay the execution.

March 28, 1989: Campbell appeals Judge Coughenour's denial to the Ninth Circuit Court of Appeals. The Ninth Circuit stays Campbell's execution, pending the appeal.

June 27, 1989: Attorneys for the State and for Campbell present oral argument to the Ninth Circuit Court.

February 21, 1991: The Ninth Circuit orders the withdrawal of Campbell's latest appeal, pending responses by the attorneys on the question of whether Campbell has exhausted all legal avenues in state court.

March 4, 1991: The State responds to the 2/21/91 order, demonstrating that Campbell has exhausted all other state remedies.

June 3, 1991: Campbell's attorneys inform the State Supreme Court that they intend to file another appeal. This will be his third separate appeal.

August 7, 1991: The Ninth Circuit grants Campbell's request to discharge his attorney, and delays its ruling on other issues, pending review of Campbell's new appeal, which has not yet been filed.

September 13, 1991: Campbell files his third appeal.

October 25, 1991: Bypassing the Ninth Circuit, the State asks the U.S. Supreme Court to compel the Ninth Circuit to resolve Campbell's earlier appeal (not the third appeal filed on 9/13/91).

January 13, 1992: The U.S. Supreme Court denies the State's request to compel the Ninth Circuit to rule on Campbell's appeal, but indicates the State may make additional requests ''if unnecessary delays or unwarranted stays'' occur in the Ninth Circuit's handling of the Campbell case.

March 9, 1992: The U.S. District Court dismisses Campbell's third appeal filed on 9/13/91.

April 1, 1992: The Ninth Circuit Court affirms the district court's denial of Campbell's earlier appeal (not the appeal denied by the district court on 3/9/92).

April 22, 1992: The State asks the Ninth Circuit to allow Campbell's execution to move forward and to conduct an expedited review of Campbell's third appeal (the appeal filed on 9/13/91).

May 5, 1992: The Ninth Circuit denies both requests by the state.

May 14, 1992: The State asks the Ninth Circuit to reconsider both of its May 5 rulings.

May 15, 1992: Campbell's attorney and Campbell himself ask the Ninth Circuit Court for a rehearing.

June 4, 1992: Campbell's attorney files legal brief in Campbell's third appeal.

December 24, 1992: The Ninth Circuit affirm's the district court's denial of Campbell's third appeal.

January 20, 1993: The Ninth Circuit hears oral arguments on Campbell's second appeal.

January 26, 1993: The Ninth Circuit grants a request by Campbell's attorney for a rehearing of Campbell's third appeal, the denial of which the court affirmed on 12/24/92.

January 29, 1993: The Ninth Circuit, in its reconsideration of Campbell's second appeal, orders attorneys for Campbell and the State to submit written arguments on whether hanging is cruel and unusual punishment, and whether an evidentiary hearing should be held in federal district court on the issue of hanging.

April 28, 1993: The Ninth Circuit orders Campbell's case back to federal district court for an evidentiary hearing on whether hanging is cruel and unusual punishment.

May 4, 1993: The State asks the Ninth Circuit to reconsider its April 28 order.

May 7, 1993: The Ninth Circuit denies the State's request.

May 10, 1993: The State appeals to the U.S. Supreme Court, asking it to set aside the evidentiary hearing in federal district court and to require the Ninth Circuit court to rule on whether hanging violates the Constitution.

May 14, 1993: Supreme Court Justice Sandra Day O'Connor issues a four-page chamber opinion indicating a single high court justice does not have the authority to overrule an order by the Ninth Circuit. She cites the ''glacial progress'' of the Campbell case and dismisses the State's appeal ''without prejudice,'' leaving open the door for the state to press its case before the full Supreme Court.

May 17, 1993: The State appeals the Ninth Circuit order to the full Supreme Court.

May 24–26, 1993: Judge Coughenour conducts an evidentiary hearing on whether hanging is cruel and unusual punishment.

June 1, 1993: The U.S. Supreme Court denies without comment the State's request to vacate the Ninth Circuit's order to conduct the evidentiary hearing.

June 1, 1993: Judge Coughenour issues his findings and conclusions, ruling that Washington's judicial hanging protocol fully comports with the Constitution and does not constitute cruel and unusual punishment.

February 8, 1994: The Ninth Circuit rules 6–5 that hanging does not constitute cruel and unusual punishment and that being forced to choose death by lethal injection, or face death by hanging does not violate Campbell's constitutional rights. The ruling states that the stay of execution will be lifted and the mandate ordering the execution will be issued 21 judicial days following the order.

February 15, 1994: Attorney General Christine O. Gregoire files a motion with the Ninth Circuit to lift the stay of execution. Attorneys for Campbell also file motions to continue the stay of execution and to request reconsideration of the Ninth Circuit's February 8 ruling by the full Circuit Court.

March 21, 1994: After waiting more than one month for the 9th Circuit to act on her motion, Attorney General Gregoire asks the U.S. Supreme Court to remove the stay of execution. Also on this date, the U.S. Supreme Court rejects Campbell's appeal for a hearing on his third habeas petition.

March 25, 1994: Justice Sandra Day O'Connor refuses to lift the stay of execution.

March 28, 1994: This date marks the fifth anniversary of the stay of execution imposed by the 9th Circuit Court of Appeals.

April 14, 1994: This date marks the 12th anniversary of the three murders committed by Campbell.

April 14, 1994: 9th Circuit Court of Appeals lifts stay of execution.

April 15, 1994: State sets May 27, 1994 executive date.

May 3, 1994: Campbell asks U.S. Supreme Court to stay execution and rule on claim

that hanging is unconstitutional method of execution.

May 27, 1994: Campbell is executed.

Mr. BIDEN. Mr. President, once again, my friend misses the point. I am not objecting to the State portion being put in here. That is not relevant. It has nothing to do with terrorism. It is not going to effect the bill. My colleague talks about this having an impact on terrorism. I believe we should reform State habeas corpus. We should, and it is appropriate to do it in this bill, as long as my friend from Washington does not have any illusions that he can go back and tell the people of Washington that by effecting State habeas corpus he has done something about terrorism. That is the point. It is relevant, just not relevant to stopping terrorism.

The second point I will make—and then I will make my motion—is that people have been asking me about time. I am willing to enter into a time agreement. There are a maximum of a possible 14 motions. I doubt whether they will all be used. I am prepared to agree to one-half hour, equally divided, and to a time certain to vote tomorrow, or tonight, or whenever anybody wants to vote on it. So I want everybody to know that. I understand we may be trying to work that out now.

Mr. HATCH. If the Senator will yield, that would be fine with me—one-half hour equally divided. I am prepared to go and get it done. This is that important. The President has asked for it. He said he wants it as quickly as we can do it. We have all week, but we might as well find out whether we can do it at all. I believe we can, and with cooperation we can get this done. I am happy to cooperate and do it that way—just go bing, bing, bing, from here on out.

Mr. BIDEN. I have no objection to keep going now. That is a call of the leadership. That is up to them. In the meantime, while we are figuring out how long we are going to go——

Mr. HATCH. If the Senator will yield, we need to see what all the motions are. We need to know what those are. We would appreciate that.

Mr. BIDEN. I would be happy to do that.

MOTION TO RECOMMIT

Mr. BIDEN. I offer a motion on behalf of Senator NUNN and myself to recommit the conference report with instructions to add a provision to give the military authority in the cases of emergency involving chemical and biological weapons of mass destruction.

Mr. President, once I formally make that motion, I would suggest to my colleagues that we will regret mightily if there is a chemical attack and this does not pass.

I now formally offer that motion to recommit.

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

The PRESIDING OFFICER. The clerk will read the motion.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. NUNN, for himself and Mr. BIDEN, moves to recommit the conference report with instructions to add provisions.

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

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

The motion is as follows:

Motion to recommit the conference report on the bill S.735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORITY TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.

(a) BIOLOGICAL WEAPONS OF MASS DESTRUCTION.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

''(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving biological weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

''(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving biological weapons of mass destruction exists; and

''(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

''(2) As used in this section, 'emergency situation involving biological weapons of mass destruction' means a circumstance involving a biological weapon of mass destruction—

''(A) that poses a serious threat to the interests of the United States; and

''(B) in which—

''(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

''(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

''(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

''(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a biological weapon of mass destruction or elements of the weapon.

''(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

''(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

''(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

''(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

''(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [this Act].''.

''(b) CHEMICAL WEAPONS OF MASS DESTRUCTION.—The Chapter 113B of Title 18, United States Code, that relates to terrorism, is amended by inserting after section 2332a the following:

''§2332b. Use of chemical weapons

''(a) OFFENSE.—A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon—

''(1) against a national of the United States while such national is outside of the United States;

''(2) against any person within the United States; or

''(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(2) the term 'chemical weapon' means any weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

''(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving chemical weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

''(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving chemicals weapons of mass destruction exists; and

''(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

''(2) as used in this section. 'emergency situation involving chemical weapons of mass destruction' means a circumstance involving a chemical weapon of mass destruction—

''(A) that poses a serious threat to the interests of the United States; and

''(B) in which—

''(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the chemical weapon of mass destruction involved;

''(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

''(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

''(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a chemical weapon of mass destruction or elements of the weapon.

''(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any direct participation in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life, unless participation in such activity is otherwise authorized under paragraph (3) or other applicable law.

''(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

''(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

''(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

''(7) Nothing in this section shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before the date of enactment of [the Act].''.

(c)(1) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce civilian law enforcement officials' reliance on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States, including—

(A) increasing civilian law enforcement expertise to counter such threat;

(B) improving coordination between civilian law enforcement officials and other civilian sources of expertise, both within and outside the Federal Government, to counter such threat.

(2) REPORT REQUIREMENT.—The President Shall Submit to the Congress—

(A) ninety days after the date of enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(B) one year after the date of enactment of this Act, a report describing the actions planned to be taken and the attendant cost pertaining to paragraph (1); and

(C) three years after the date of enactment of this Act, a report updating the information provided in the reports submitted pursuant to subparagraphs (A) and (B), including measures taken pursuant to paragraph (1).

(D) CLERICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a the following:

''2332b. Use of chemical weapons.''.

(e) USE OF WEAPONS OF MASS DESTRUCTION.—Section 2332a(a) of title 18, United States Code, is amended by inserting ''without lawful authority'' after ''A person who''.

Mr. GRASSLEY. Mr. President, I rise in strong support of the antiterrorism bill. In my view, this bill strikes a reasonable balance between the needs of the law enforcement and national security communities and the constitutional rights of the American people. I applaud the efforts of Senator HATCH and other conferees in crafting this important and much-needed piece of legislation.

Perhaps one of the more important provisions of this bill relates to restitution to victims of crime in Federal courts. I am proud to say that key provisions of S. 1404, the Victim Restitution Enhancement Act of 1995, which I introduced on November 8, 1995, with Senator KYL, have been incorporated into the conference report. This bill, I believe, provides victims of crime with a valuable and important way of vindicating their rights and obtaining restitution. S. 1404 provides that court orders requiring restitution will act as a lien which the victims themselves can enforce. I think this lets victims help themselves and ensures that crime victims will receive the restitution they are entitled to.

To understand why giving victims of Federal crimes the ability to seek restitution from their victimizers is a positive development, you need to understand the nature of most of the Federal crimes which give rise to restitution liability. Federal Crimes, by and large, are not crimes of violence like State crimes are. Once you exclude Federal drug prosecutions—which do not give rise to restitution liability as that term is generally understood—many Federal prosecutions are for fraud and other so-called white crimes. With fraud and white collar crimes, the victims may have substantial resources. These persons may wish to obtain restitution themselves, rather than relying on overworked prosecutors to do that job. That's what the lien does, its gives victims a powerful tool use to get restitution.

With respect to terrorism, and the Oklahoma City bombing, this means that the families of the bombing victims can seek restitution. So if the bombers come into money from any source, the victims' families can receive restitution. This is very positive development.

How does the current bill, like S. 1404, do this? Section 206(m) of the conference report establishes a lien in favor of crime victims, very similar to the lien procedure contained in S. 1404. I believe that this section will prove to be of enormous value.

Also, the conference report, section 206(n), drew on provisions in S. 1404, which provided that should prisoners who have been ordered to pay restitution file a prisoner lawsuit and receive a windfall, that windfall will go to the victims and not to the prisoner. This should take some of the lure out of prisoner lawsuits. Importantly, the conference report we are debating today also provides that windfalls received by prisoners from all sources, including lawsuits, will go to pay victims.

This conference report, in section 206(d)(3), like S. 1404, requires criminals to list all their assets under oath. This way, if criminals who owe victims try to hide their assets, they can be prosecuted for perjury. This too should help make sure that victims receive more of what they are entitled to.

While the restitution provisions of this bill are an important step in the right direction, I would also like to point out that unlike S. 1404, the conference report does not establish a hard-and-fast time limit within which restitution liability must be paid off. I think that this is a serious shortcoming. Without a bright-line for the payment of restitution, well-financed criminal defense lawyers will use legal technicalities to delay payment as long as possible. The reason that no definite time limit was included is that some Members of the minority opposed a definite time limit. So, in this respect, I believe that S. 1404 is superior to the current bill.

The conference report also makes serious and much-needed reforms of habeas corpus prisoner appeals. As even a casual observer of the criminal justice system knows, criminals have abused habeas corpus to delay just punishment.

I believe that this conference report strikes exactly the right balance on habeas corpus reform. It provides enough in the way of habeas appeals to ensure that unjustly convicted people will have a fair and full opportunity to bring forth new evidence or contest their incarceration in numerous ways. But the conference report sets meaningful limits, which should go a long way toward eliminating many of the flagrant abuses that make a mockery of justice.

If we do not pass this bill, with this habeas corpus reform package, we can pretend that we are for the death penalty. But, in reality, the death penalty will be virtually meaningless and

toothless. The families of the bombing victims in Oklahoma City know this, and they support this bill.

Let us not get ourselves in the position of making mere symbolic gestures, which do not really help the American people and which do not really restore faith in the justice system. I agree with President Clinton: Punishment should be swift and sure. Just punishment must be meted out in an appropriate amount of time.

I strongly support these reforms, and again applaud the conferees for bringing this bill to the floor. Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, I rise in strong support of the conference report on S. 735, the Comprehensive Terrorism Prevention Act. I would like to congratulate Chairman HATCH, Senator BIDEN, and the other Senate conferees on both sides of the aisle for their diligent work in conference with the other body. This bill left the Senate June 7, 1995, having passed by an overwhelming bipartisan vote of 91 to 8. Then the bill went over to the House, where it languished for 9 months. When it finally came up in the House for a vote on March 13, the most important anti-terrorism provisions were stripped from the bill.

When this occurred, many of us who strongly supported the Senate bill were dismayed and wondered whether it would even be possible for a conference committee to fashion a final bill that would garner the strong bipartisan support that the original Senate bill enjoyed. To emphasize the importance of this bipartisan support, I joined with Senator LIEBERMAN on March 29, in sending a letter to all five Senate conferees urging that they work to defend in conference key Senate provisions dealing with international terrorism. These included authority to exclude from the United States members of terrorist groups and authority to prohibit terrorist fundraising within the United States, both of which were indeed retained in this final conference report.

Mr. President, I am pleased to support this conference report, and I heartily congratulate our conferees for preserving these provisions. In fact, they went even further, and have given us a strong, positive antiterrorism bill that deserves our wholehearted support.

This legislation contains a broad range of needed changes in the law that will enhance our country's ability to combat terrorism, both at home and from abroad. The managers of this bill have described its provisions in some detail, so I will not repeat their comments. Briefly, however, this bill would increase penalties: For conspiracies involving explosives, for terrorist conspiracies, for terrorist crimes, for transferring explosives, for using explosives, and for other crimes related to terrorist acts.

The bill also includes provisions to combat international terrorism, to remove from the United States aliens found to be engaging in or supporting terrorist acts, to control fundraising by foreign terrorist organizations, and procedural changes to strengthen our counterterrorism laws.

This legislation will enhance the ability of our law enforcement agencies to bring terrorists to justice, in a manner mindful of our cherished civil liberties. This bill will enact practical measures to impede the efforts of those violent rejectionists who have launched an unprecedented campaign of terror intended to crush the prospects for peace for the Israeli and Palestinian people. Most important is the provision in this bill that will cut off the ability of terrorist groups such as Hamas to raise huge sums in the United States for supposedly ''humanitarian'' purposes, where in reality a large part of those funds go toward conducting terrorist activities. These accomplishments are real, and this legislation deserves our support.

Mr. President, I would like to concentrate the remainder of my comments on two provisions of mine that were retained in this conference report. These two provisions are the Terrorist Exclusion Act and the Law Enforcement and Intelligence Sources Protection Act, both of which I introduced separately last year.

Traditionally, Americans have thought of terrorism as primarily a European, Middle Eastern, or Latin American problem. While Americans abroad and U.S. diplomatic facilities have been targets in the past, Americans have often considered the United States itself largely immune to acts of terrorism. Two events have changed this sense of safety. The first was the internationally-sponsored terrorist attack of February 26, 1993 against the New York World Trade Center, and the second was the domestic terrorist attack just a year ago on April 19 in Oklahoma City.

I first introduced the Terrorist Exclusion Act in the House three years ago, and last year I reintroduced the legislation in the Senate with Senator BROWN as my original cosponsor. The Terrorist Exclusion Act will close a dangerous loophole in our visa laws which was created by the Immigration Reform Act of 1990. With its rewrite of the McCarran-Walters Act, Congress eliminated then-existing authority to deny a U.S. visa to a known member of a violent terrorist organization.

The new standards required knowledge that the individual had been personally involved in a past terrorist act or was coming to the United States to conduct such an act. This provision will restore the previous standard allowing denial of a U.S. visa for membership in a terrorist group.

I discovered this dangerous weakness in our visa laws in early 1993 during my investigation of the State Department failures that allowed the radical Egyptian cleric, Sheikh Omar Abdel Rahman, to travel to, and reside in, the United States since 1990. I undertook this investigation in my role as ranking Republican of the House International Operations Subcommittee, which has jurisdiction over terrorism issues, a role I have continued in the Senate as Chair of the International Operations Subcommittee of the Foreign Relations Committee.

Sheikh Rahman is the spiritual leader of Egypt's terrorist organization, The Islamic Group. His followers were convicted for the 1993 bombing of the World Trade Center in New York. The Sheikh himself received a life sentence for his own role in approving a planned second wave of terrorist acts in the New York City area.

The case of Sheikh Abdel Rahman is significant because he was clearly excludable from the United States under the pre-1990 law, but the legal authority to exclude him ended with enactment of the Immigration Reform Act that year. He was admitted to this country through an amazing series of bureaucratic blunders.

Then in 1990, as the U.S. government was building its deportation case against him, the law changed. As a result, the State Department was forced to try to deport him on the grounds that he once bounced a check in Egypt and had more than one wife, rather than the fact that he was the known spiritual leader of a violent terrorist organization.

A high-ranking State Department official informed my staff during my investigation that if Sheikh Abdel Rahman had tried to enter after the 1990 law went into affect, they would have had no legal authority to exclude him from the United States because they had no proof that he had ever personally committed a terrorist act, despite the fact that his followers were known to have been involved in the assassination of Anwar Sadat.

It is urgent that we pass this provision. Every day in this country American lives are put at risk out of deference to some imagined first amendment rights of foreign terrorists. This is an extreme misinterpretation of our cherished Bill of Rights, which the founders of our nation intended to protect the liberties of all Americans.

In my reading of the U.S. Constitution, I see much about the protection of the safety and welfare of Americans, but nothing about protecting the rights of foreign terrorists to travel freely to the United States whenever they choose.

The second of my bills contained in S. 735 is the Law Enforcement and Intelligence Sources Protection Act. This legislation would significantly increase the ability of law enforcement and intelligence agencies to share information with the State Department for the purpose of denying visas to known terrorists, drug traffickers, and others involved in international criminal activities.

This provision would permit a U.S. visa to be denied for law enforcement purposes without a detailed written explanation, which current law requires.

These denials could be made citing U.S. law generically, without further clarification or amplification. Individuals who are denied visas due to the suspicion that they are intending to immigrate to the U.S. would still have to be informed that this is the basis, and they would then be allowed to compile additional information that may change that determination.

Under a provision of the Immigration and Nationality Act, a precise written justification, citing the specific provision of law, is required for every alien denied a U.S. visa. This requirement was inserted into the INA out of the belief that every non-American denied a U.S.-visa for any reason had the right to know the precise grounds under which the visa was denied, even if it was for terrorist activity, narcotics trafficking, or other illegal acts. This has impeded the willing- ness of law enforcement and intelligence agencies to share with the State Department the names of excludable aliens.

These agencies are logically concerned about revealing sources or compromising an investigation by submitting the names of people known to be terrorists or criminals—but who do not know that they are under investigation by U.S. officials—if that information is then revealed to a visa applicant, as current law requires. This is information the United States should be able to protect until a case is completed and, hopefully, law enforcement action is taken. But for the protection of the American people we should also make this information available to the Department of State to keep these individuals out of our country.

Mr. President, I again congratulate Chairman HATCH, and all of the other Senate conferees on this bill for their achievements in negotiations with the House. Obviously, there were some Senate provisions that had strong bipartisan support in this body that I regret could not be sustained in conference. But I urge my colleagues to concentrate on the very substantial and important achievements of this conference report, and I urge broad bipartisan support for its adoption.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CHAFEE. I wonder if the Senator might yield for a question before the quorum call.

The PRESIDING OFFICER. Will the Senator withhold his quorum call?

Mr. HATCH. Yes. I am happy to.

Mr. CHAFEE. I am a little confused why we do not vote on this motion right now. Everybody is familiar with the issue.

Mr. HATCH. I think we are but the majority leader asked me to put the quorum call.

Mr. CHAFEE. Could I safely say that, if things go right, we are going to vote in a very few minutes?

Mr. HATCH. I hope so. I think so.

The PRESIDING OFFICER. Is there further debate on the motion?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Utah.

Mr. HATCH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to recommit, by the Senator from Delaware.

Mr. HATCH. Mr. President, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that during the consideration of the conference report to accompany the terrorist bill, the time on the conference report be limited to 20 minutes equally divided in the usual form, and all motions to recommit be limited to the following time restraints; that they be relevant in subject matter of the conference report or Senate- or House-passed bills and that they not be subject to amendments: 30 minutes equally divided in the usual form on each motion.

I further ask unanimous consent that following the disposition of all motions to recommit, if defeated or tabled, the Senate proceed to vote on adoption of the conference report, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the Biden motion to recommit.

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

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Florida [Mr. MACK] are necessarily absent.

I further announce that the Senator from Alaska [Mr. MURKOWSKI], is absent due to death in the family.

I further announce that, if present and voting, the Senator from Alaska, [Mr. MURKOWSKI] would vote ''yea.''

Mr. FORD. I announce that the Senator from Washington [Mrs. MURRAY] is necessarily absent.

The result was announced—yeas 50, nays 46, as follows:

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—50

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

NAYS—46

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

NOT VOTING—4

Hatfield	Murkowski
Mack	Murray

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

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is ordered.

NORDY HOFFMAN: A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to pay my respects to a dear friend, F. Nordhoff Hoffman, who died on Friday, April 5, 1996. Nordy Hoffman was a truly good man. He was a big man with a big faith—faith in his church, faith in his beloved alma mater Notre Dame, faith in his wonderful family and, perhaps most importantly, faith in his fellow men and women.

In the early 1970's, I had the honor of serving as chairman of the Democratic Senatorial Campaign Committee while Nordy was the executive director. He was excellent in that capacity, as he was in all of the endeavors he undertook.

As Senate Sergeant-at-Arms, Nordy showed his talents to their fullest. He