So working as the public body in the public interest, we reasoned, after these hearings, that there ought to be a transition to change over, to certainly not penalize established free broadcasts in America—it is not a gift, if you please, but, on the contrary, we need to get them to switch from analog to digital and then we'll take the one that they relinquished and auction it. Nobody is getting anything free. It is necessary to bring about that particular switch from the analog to the high-definition television that will truly benefit consumers.

Chairman Sikes, a Republican chairman of the Federal Communications Commission, enunciated this policy. We had 2 years of hearings in our Commerce Committee. We, in a bipartisan fashion, got the movement going with respect to the broadcasters. You have to sort of sell this idea to move them along.

We are trying now to get the criteria for high-definition television agreed upon by all the technical entities that are interested in this particular move. And the Federal Communications Commission is having hearings to determine the technology that should be used. Once that is done this spring, we hope to move forward and, as best we can, accelerate this improved television viewing for the American public.

And now this thing about balancing the budget, this crowd is running up $1 billion a day in interest costs. You raise spending $1 billion a day while we are talking that you do not want to pay for. I put in a value-added tax bill to pay for it, but nobody else around here wants to pay for it—talking about paying the bills and balancing the budget. But right is right and fair is fair.

The broadcasters have not been going around soliciting or asking for a giveaway of billions of dollars or whatever it is. We have to maintain free over-the-air broadcasting. They used to have almost 100 percent of the broadcast audience. They are down to 60 percent. Cable television and direct broadcast satellites are taking over and everything of that kind. In a very real sense, we are very careful about the regular analog stations that you and I watch every day and every evening.

So the air should be clear. You can have 100 hearings. You can go back on it. You can come up with the sale and make a lot of money, but the American public is not going to be served. Auctioning the second channel would only disadvantage the American consumer. You should not reverse a well-studied and well-thought-out policy by a Republican administration and a Democratic administration, a Republican committee and a Democratic committee. We should stick with the FCC plan—it is the best way to ensure free over-the-air television and the taxpayer will benefit when the original channel is auctioned.

This peripheral attack about I am Horatio at the bridge here and I am standing up and I am protecting the public, and we want to pay the bills and we want to balance the budget, is all hogwash. If you want to pay bills, then I say to the Senator, it is in your Finance Committee. Pull it out of the Finance Committee and let's vote up and down, because you cannot balance the budget without increasing taxes.

I will make my challenge one more time. I make it time and again. I would be delighted to jump off the Capitol dome if you can give me a 7-year balanced budget without increasing taxes. You cannot do it. I gave that to the distinguished chairman of the Budget Committee, and he did not do it. That was over a year ago. And I am still ready to jump.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 15 minutes.

Mr. FORD. Mr. President, I ask unanimous consent I might have 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Kentucky has 2 minutes.

Mr. FORD. I thank the Chair, and I thank my friend from Utah.

## GAGGING OF A SENATOR

Mr. FORD. Mr. President, yesterday the Senator from North Dakota was prevented from speaking on the Senate floor. They recessed the Senate in order to prevent him from speaking. I know the majority leader has certain privileges that other Senators do not have—leader's time, recognized first, and all that. But I think the majority leader made a mistake in trying to gag a colleague yesterday.

We are here, expecting to vote every 30 minutes, on an amendment or reconsideration—recommittal on this terrorism bill, and the majority leader comes in, as is his right—I do not say he did not have the right—but we talk about telecommunications and we talk about Bosnia. Yet, the Senator from North Dakota could not talk about Social Security and balancing the budget.

So, I want the Senate to know that some of us observe that. I believe the majority leader made a mistake. I think he realized he made a mistake. And we should not attempt to gag anyone here on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

## TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, for my friend from New York, I will just move to table this amendment. But I think, because he approaches things in such a scholarly manner, I should take just a few minutes to explain why we cannot accept his amendment and why I will move to table.

Mr. President, I think that part of the disagreement we have with respect to the appropriate standard of review in habeas petitions involves differing visions as to the proper role of habeas review.

Federal habeas review takes place only after there has been a trial, direct review by a State appellate court, a second review by a State supreme court, and than a petition to the U.S. Supreme Court. Thus we have a trial and at least three levels of appellate review. In a capital case, the petitioner often files a clemency petition, so the State executive branch also has an opportunity to review the case.

But that is not the end. In virtually every State, a postconviction collateral proceeding exists. In other words, the prisoner can file a habeas corpus petition in State court. That petition is routinely subject to appellate review by an intermediate court and the State supreme court. The prisoner may then file a second petition in the U.S. Supreme Court, and may also, of course, seek a second review by the Governor.

So, after conviction, we have at least six levels of review by State courts and two rounds of review—at least in capital cases—by the State executive. Contrary to the impression that may be left by some of my colleagues, Federal habeas review does not take place until well after conviction and numerous rounds of direct and collateral review.

The Supreme Court has clearly held that habeas review is not an essential prerequisite to conviction. Indeed, this very term, the Supreme Court reaffirmed the principle that the Constitution does not even require direct review as a prerequisite for a valid conviction.

Now that we have set the proper context for this debate, let us just look at the proposed standard. Under the standard contained in the bill, Federal courts would be required to defer to the determinations of State courts unless the State court's decision was ''contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court . . . .''

This is a wholly appropriate standard. It enables the Federal court to overturn State court decisions that clearly contravene Federal law. Indeed, this standard essentially gives the Federal court the authority to review, de novo, whether the State court decided the claim in contravention of Federal law.

Moreover, the review standard proposed allows the Federal courts to review State court decisions that improperly apply clearly established Federal law. In other words, if the State court unreasonably applied Federal laws, its determination is subject to review by the Federal courts.

What does this mean? It means that if the State court reasonably applied Federal law, its decision must be upheld. Why is this a problematic standard? After all, Federal habeas review exists to correct fundamental defects in the law. After the State court

has reasonably applied Federal law, it is hard to say that a fundamental defect exists.

The Supreme Court, in Harlow versus Fitzgerald, has held that if the police officers' conduct was reasonable, no claim for damages under Bivens can be maintained. In Leon versus United States, the Supreme Court held that if the police officers' conduct in conducting a search was reasonable, no fourth amendment violation would obtain and the Court could not order suppression of evidence obtained as a result of the search. The Supreme Court has repeatedly endorsed the principal that no remedy is available where the Government acts reasonably.

Why then, given this preference for reasonableness in the law, should we empower a Federal court to reverse a State court's reasonable application of Federal law to the facts?

Our proposed standard simply ends the improper review of State court decisions. After all, State courts are required to uphold the Constitution and to faithfully apply Federal laws. There is simply no reason that Federal courts should have the ability to virtually retry cases that have been properly adjudicated by our State courts.

I think that once we cut away the camouflage surrounding the arguments against our proposed habeas reform package, we find two things: First, a disagreement with the death penalty as a punishment. That is a legitimate disagreement. I, personally, am in favor of the death penalty, but I would very sparingly use it. But there are others who very sincerely believe that the death penalty is wrong. I can understand that. Many people have moral or ethical concerns about the death penalty, and many more in this country, the vast majority, believe we should have a death penalty for the most heinous murders and crimes in our society. I am appreciative, though, and sensitive to the concerns of others who feel otherwise. Many of my colleagues have heartfelt views on this matter, and I respect the sincerity of those views.

But if the arguments against meaningful habeas reform are in reality arguments against the death penalty, then let us debate the efficacy of the death penalty. Let us decide whether death is the appropriate sanction for people like those who murdered the 168 individuals in Oklahoma City. I am prepared to debate the point. But let us not disguise this argument.

The second argument I think my friends are making is that they fundamentally distrust the decisions of State courts. They believe that State courts are somehow incompetent to try important cases. They believe that State juries are somehow not as good as Federal juries; that State court judges are not as qualified as Federal judges; that State prosecutors and defense attorneys are not as adept as their Federal counterparts. Although I generally disagree with this argument, I can understand it. I can debate it. I can argue about the merits of having State criminal justice systems at all. I can debate the issue of whether something magical happens when a State court judge becomes a Federal judge. But if this is what really concerns the opponents to the habeas reform, then let us debate the point straight up. We should not allow this debate to be derailed.

My good friend, the Senator from New York, referred to the Great Writ, which is part of the Constitution. He need not fear for the Great Writ, if this proposal is enacted, in other words, if our bill is enacted. The Great Writ of Habeas Corpus contained in the Constitution applied to only two circumstances: No. 1, to challenge an illegal imprisonment before trial; and, No. 2, to determine whether the trial court had jurisdiction to hear the case.

The habeas corpus we are reforming is the statutory form of habeas corpus. There are some in this body who oppose such reform. I believe they are motivated in part, in major part, by their desire to stop the death penalty or to oppose the death penalty. I can understand that position, although I disagree with it, and I think the vast majority of Americans disagree with it.

I believe convicted killers should be punished, and the particularly heinous killings ought to be punished with the death penalty. I think the survivors and family, the victims of this type of heinous murder, have a right to see that those who killed their loved ones are justly punished. That is why we have to pass this provision. It is long overdue.

To me, and I think to many others, almost everybody in law enforcement today, the habeas corpus provision that we have in this bill is a good one. The standard is a good one. The deference to State law is good, because it just means that we defer to them if they have properly applied Federal law. We should not give some judge who hates the death penalty a right to disrupt that whole process when there is no legal justification for doing so. Frankly, we have allowed the procedural justifications to exist for far too long and that is what this is all about.

So, having said that, I have letters from all kinds of law enforcement organizations, including some organizations that have fought for civil liberties all of their existence, that support our habeas corpus reform because it is time to have that in law. It is time to get rid of the charade. They support the habeas corpus reform more than any—or the death penalty reform, more than any other provision in this bill, although there are many good provisions in this bill.

Having said all that, I am prepared to yield back the remainder of my time, and, on behalf of Senator DOLE and myself, I move to table the amendment and ask for the yeas and nays.

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

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, might I ask for 30 seconds to thank my friend and respond?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank him for his thoughtful, careful response. I would like to make the point that my concern is not with the death penalty but with habeas corpus itself. I have had a long experience, as the manager has had, with problems of terrorism. As I said a moment ago, the only time the terrorists ever win is when they begin to make you change your own fundamental political and judicial processes, and that is what I fear this will do. It is of some relief to hear the distinguished manager's statement that the Great Writ will remain substantially intact.

Mr. HATCH. Mr. President, if I can have 30 seconds. The Great Writ will not be affected by this one bit. I appreciate his concerns, and I believe he will find this provision will help us in fighting violent criminals.

So I move to table the motion. I believe we have the yeas and nays.

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

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

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—64

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

NAYS—35

| | | |
|---|---|---|
| Akaka | Daschle | Kerrey |
| Biden | Dodd | Kerry |
| Bingaman | Dorgan | Kohl |
| Boxer | Exon | Lautenberg |
| Bradley | Feingold | Leahy |
| Breaux | Glenn | Levin |
| Bumpers | Harkin | Mikulski |
| Byrd | Heflin | Moseley-Braun |
| Cohen | Inouye | Moynihan |
| Conrad | Kennedy | |

| | | |
|---|---|---|
| Murray | Pryor | Simon |
| Pell | Sarbanes | Wellstone |

NOT VOTING—1

Mack

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

Mr. HATCH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I move 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 language to prohibit the distribution of information relating to explosive materials for a criminal purposes.

I send the motion to the desk.

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

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

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

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

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

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself such time as I may use within the limit of the time I have.

This provision is very straightforward and simple. It is beyond me why it was taken out of the Senate version of the language that was sent to the House.

I have heard many colleagues stand up on the floor here and rail against pornography on the Internet, and for good reason. Even when we thought we had corrected the language that Senator EXON introduced to comport with the first amendment, I still hear in my State, and I hear of people writing about how so and so is promoting pornography on the Internet because they will not ban pornography on the Internet.

Yet, in the bill, we came along—all of us here—and the genesis of this came from Senator FEINSTEIN, when it was initially offered. The majority leader, Senator HATCH, and I had some concerns with this, and we thought the language to ban teaching people how to make bombs on the Internet or engage in terrorist activities on the Internet might violate the first amendment. Senators DOLE, HATCH, and I worked to tighten the language and came up with language that was tough and true to civil liberties. It was accepted by unanimous consent.

We have all heard about the bone-chilling information making its way over the Internet, about explicit instructions about how to detonate pipe bombs and even, if you can believe it, baby food bombs. Senator FEINSTEIN quoted an Internet posting that detailed how to build and explode one of these things, which concludes that ''If the explosion don't get'em, the glass will. If the glass don't get'em, the nails will.''

I would like to give you a couple of illustrations of the kinds of things that come across the Internet. This is one I have in my hand which was downloaded. It said, ''Baby food bombs by War Master.'' And this is actually downloaded off the Internet. It says:

These simple, powerful bombs are not very well known, even though all of the materials can be obtained by anyone (including minors). These things are so—

I will delete a word because it is an obscenity.

powerful that they can destroy a CAR. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of a house out if you mess up while building it. Here is how they work.

This is on the Internet now. It says:

Go to Sports Authority or Herman's Sport Shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or an adult. They don't keep it behind the glass counter, or anything like that. It is $2.96 for 25 shells.

And then it says:

Now for the hard part. You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gun powder. The place where you can cut is CRUCIAL. It means a difference between it blowing up in your face or not.

Then there is a diagram, which is shown as to how to do that on the Internet. Then it says:

You must not make the cut directly where the gun powder is, or it will explode. You cut it where the pellets are.

And then it goes through this in detail. And then it gets to the end, and it says:

Did I mention that this is also highly illegal? Unimportant stuff that is cool to know.

And then it rates shotgun shells by two numbers, gauge, pellet size, and goes into great detail. It is like building an erector set. It does it in detail.

So what Senators DOLE and HATCH and I did, we said you should not be able to do this, but we have a first amendment problem, possibly. So we added a provision that says that you have to have the intent, when you are teaching people how to do this, that the person using it is using it for the purpose of doing harm.

So it seems to me that this is pretty straightforward. Granted, I want to stop pornography on the Internet. I think pornography does harm to the minds of the people who observe it, particularly young people. But if that does harm, how much harm is done by teaching a 15-year-old kid, a 12-year-old kid, or a 20-year-old person, with great detail, how to build a baby food bomb, or how to build an automatic particle explosion provision, or how to build light bulb bombs.

It says:

An automatic reaction to walking into a dark room is to turn on the light. This can be fatal if a light-bulb bomb has been placed in the overhead light socket. A light-bulb bomb is surprisingly easy to make. It also comes with its own initiator and electric ignition system. On some light-bulbs, the light-bulb glass can be removed from the metal base by heating the base of the light bulb in a glass flame, such as that of a blowtorch and a gas stove.

And so on and so forth. It goes on to explain how if you attach a plastic back to the light bulb when you remove the glass part but leave the filament and attach it and tape it there, when someone comes in and turns on the light, it blows up the room. Or, if you want to just play a prank, you could put odorous, smelling materials in the bag. It would blow up the bag. But you can put anything in it, and it blows it up.

We said in the language we passed that it shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials if the person intends or knows that such explosive material, or information will be used for, or in the furtherance of, activity that constitutes a Federal criminal offense, or a criminal purpose affecting interstate commerce. And the House took it out. The House removed it.

I want to say to all of you who are going to probably vote down my putting this back in, I want to hear you explain to your folks back home when a commercial is run on your television station that Senator Jones or Senator whoever voted against prohibiting on the Internet explicit directions how to make a bomb knowing that the person intends to use it. I want to hear your

explanation of that. I want to be there when you explain that one.

Let me read the statute again. It says: It shall be unlawful for a person to teach or demonstrate, et cetera, if the person intends or knows that such explosive material or information will be used for, or in the furtherance of, activity that constitutes a Federal crime. ''Knows or intends'' is a pretty a high standard falling, in my view, and in the view of constitutional scholars, well within our first amendment privileges. I just think this is crazy.

Let me go on just a few more moments, and then I will stop. The provision is pretty straightforward. If you are one of the guys who has made a name for himself by bringing manifestoes like ''The Terrorist Handbook'' or ''How to Kill With Joy,'' which literally are on the Internet, and if someone comes to you and says, ''Tomorrow morning a group of police officers are going to be meeting at the Fifth Street precinct, and I want to blow them up,'' and if you say to them, ''Here, let me tell you how to make a bomb,'' arguably at that point the police can get you on a conspiracy charge. That is possible. That is possible. But if you just know what they are about, you see them all out there in a car, you look down and see that they have this plan, and you go ahead and tell them how to make a bomb, it is not a violation of the law to teach them how to make the bomb. Is not that incredible?

Last June, all of us in this body agreed to this. I hope we will agree to it again because let me tell you, if this will kill the bill, as I am sure my colleague from Utah is going to say it will, I want to hear—if this is the only change in the bill—I want to see those House Members stand up and say, ''The reason I am not voting for this terrorist legislation is because I want to continue to allow people to teach people how to make bombs,'' knowing that they are going to be used to commit a crime or kill someone, ''And that is why I am voting against this bill,'' because it now contains a provision that prohibits that, I think maybe this is time to face down some of those people over there. Let them stand up and tell all of our colleagues around the Nation, and tell the parents around the Nation, that that is the reason they are voting against the terrorism bill.

I retain the remainder of my time and yield the floor.

Mr. HATCH. Mr. President, I will only take a couple of minutes, and then I am prepared to yield back the remainder of my time.

The constitution of conspiracy to use an explosive to commit a felony is already provided for in precedent law, 18 U.S.C. 844(h). Thus, anyone who trains a terrorist to make a bomb as part of such a conspiracy would certainly be prosecuted under current law.

I want to make it clear that I do not entirely disagree with Senator BIDEN's position. However, we have been facing down this problem for a year now. Friday is the day where we commemorate this awful tragedy. Frankly, we have gone through every detail in this bill, and we have not been able to get it exactly to Senator BIDEN's desire, or even mine, but this is it. This is the bill. And anything short of this is going to amount to losing the bill.

Like I said, I do not entirely disagree with Senator BIDEN's position. However, there are many who have raised first amendment and intellectual property concerns about this provision. They are legitimate concerns. As the chairman of the Judiciary Committee, which handles all of the patents, copyrights, and trademark issues, I can say they are legitimate. So, consequently, we have included a study in the bill to ensure that we can criminalize efforts to distribute bombmaking materials without impinging upon constitutional freedoms. Besides, there is little doubt that anyone who knowingly transmits information to use explosives to commit a felony is already subject to Federal law; 18 U.S.C. 844(h) does that.

So, frankly, I would like to accommodate the distinguished Senator from Delaware, but we tried to and we have been unable to accommodate him. Frankly, I contend that any return to the conference will kill this bill.

I am prepared to yield. I apologize for not being able to do more. But we think we have brought this bill back to a very, very strong level, and we have had a lot of cooperation with Members of the House in doing so and the leadership on the Judiciary Committee—both Democrats and Republicans.

Yes, it is not a bill that any one of us in here thinks is totally what we want, but I think the vast majority of us will believe that it is a pretty darned good bill that is going to make a real dent in terrorist activities in the future and will, I think, correct some inequities of terrorist activities in the past.

So I am prepared to yield the remainder of my time.

Mr. BIDEN. Mr. President, let me respond about this conspiracy. I acknowledge that, if, in fact, there is an agreement with the bombmaker, the bomb teacher, and the bomb user, and they could prove that, then they can get the bomb teacher as part of this conspiracy. That is not how this happens. The way it happens is someone walks in telling me—and looking like they are something out of a movie—telling me, and I do not know them, that they want to learn how to make a fertilizer bomb. ''I want to learn how to make a bomb out of baby food, a baby-food bomb, or a light-bulb bomb''—that is all they tell me, and I do not know them from Adam. I sit down and tell them how to make the bomb. The ability to prove that there was a conspiracy to commit a crime requires that there be an ability to be an agreement between the two of us about the crime that was about to be committed.

I am saying it should be a national crime if you intend, or you know the person is about to do something wrong regardless of whether you know what the crime is, what they are going to do with it. Obviously, if a 14-year-old kid comes to you and says, ''By the way, I want to learn how to make a baby-food bomb that has the ability to blow up, has the power, like advertised here, that can bend the frame of a car,'' you are telling me that you have to be able to prove conspiracy. If the guy says, ''I am happy to show you how to make that, just like I can show you how to make a rocket in the field for a science class,'' there is no distinction. And under this law, there is no conspiracy.

You vote against this, and it means someone can show a kid how to do that and not have to wonder why this kid is asking me how to make a powerful bomb that can bend the frame of a car. You cannot prove conspiracy. But it should be wrong. It should be wrong. And how any of you can vote here and say that is not wrong is beyond me.

I think it is about time we make some of those people hiding over in the House side stand up. Make them stand up.

I want to be there when some punk on the New York subway decides he wants a baby food bomb just for the kicks of it, just to see what it is like, and sets it off. You mean to tell me when we find the guy who taught him how to do it, we should say, ''No problem; you didn't do anything wrong. It's OK; no problem.'' I think we should throw the sucker in jail.

I cannot understand how you all can vote against this. I understand the rationale. The rationale in part is 35 House Members, or 75 House Members or 99 House Members will turn down the whole bill because of this. I do not believe for 1 second that if this single provision were added to the bill, with all the stuff they have on habeas corpus they want, with all the other stuff they say they want, they are going to vote down this bill because now you are going to be able to arrest some wacko teaching our kids how to make bombs when you know they are going to use them. I cannot believe that. I think we are being cowardly in our willingness to confront whoever the cowards are over there who will not allow us to protect ourselves. This is crazy.

I yield the floor. I yield back my time. I am ready to vote.

The PRESIDING OFFICER (Mr. INHOFE). The Senator's time has expired.

Mr. BIDEN. That is a good reason to do it.

Mr. HATCH. Mr. President, I hear the Senator. I do really think, though, we ought to consider winding this up. Personally, I think there comes a time when enough is enough on these motions to recommit because what we are trying to do is to get this bill through. Frankly, we have people in the House on both extremes, both the far left and far right, who disagree on some of these things. I do not think it is unreasonable to request a study so that we

look at this matter, consider the first amendment implications and other implications and do it right, although I have some sympathy with what the Senator said.

I am prepared to yield back the remainder of my time, and I move to table.

Mr. BIDEN. Mr. President, I yield myself 20 seconds on the bill.

The PRESIDING OFFICER. The Senator has that right.

Mr. BIDEN. Mr. President, no one asked for a study on pornography. No one asked for that. I did not hear anybody stand up here and say, ''Let's have a study on pornography. I wish to stop pornography on the Internet.'' I did not hear anybody say, ''Let's not do it. Let's have a study.'' When it comes to a bomb, teaching our kids how to make bombs, we want to study it.

Mr. HATCH. Mr. President, like I say, I am sympathetic to what the Senator is trying to do. He knows that. But he also knows that we have gone through this and we have come up with this bill after a year of intensive battling, fighting. And it is not just the conservatives that were there; it is the far left.

We have worked hard on this, and this is the bill we could come up with. Do we want to do something about terrorism or do we want to kill the bill? That is what it comes down to. Frankly, it is not just any one of these things. It could be any one of these things. We have worked it out. It is a good bill, and it will make a difference. It will start fighting terrorism right now. In the end, it seems to me if we can ever get to a final vote on this, we will have something of which virtually everybody who thinks about it will be proud.

So I move to table the motion on behalf of Senator DOLE and myself 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.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—51

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

NAYS—48

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

NOT VOTING—1

Mack

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

## CLOTURE VOTE VITIATED—SENATE RESOLUTION 227

Mr. DOLE. Mr. President, I ask unanimous consent that the cloture vote with respect to the Special Committee to Investigate Whitewater be vitiated.

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

## WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

Mr. DOLE. Mr. President, I send a resolution to the desk, and I ask unanimous consent that the Senate turn to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 246) to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and related matters, and for other purposes.

The Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, the Senate is about to reauthorize the special committee's operations for a specific, limited period.

It is my understanding, and that of all my colleagues on this side of the aisle, that the special committee will conclude its hearing schedule no later than June 14, 1996, and further, that no other committee of the Senate intends to hold hearings on Whitewater-related matters thereafter. I have also discussed with the majority leader and will commit to him that it is not the intention of Members on this side of the aisle to object to the special committee meeting under the provisions of rule XXVI nor to obstruct the special committee's progress, thereby preventing them from completing their work pursuant to the latest deadlines outlined in this resolution.

It is the further understanding on this side that the report of the special committee, required to be submitted to the Senate pursuant to Senate Resolution 120, will be submitted no later than the close of business on June 17, 1996.

It is also our understanding that the majority leader does not believe any amendments, motions, or resolutions will be offered in the Senate regarding further extensions of the operations of the special committee beyond June 17, 1996.

Mr. President, I ask the distinguished majority leader whether I have correctly stated the situation as he now sees it?

Mr. DOLE. The Senator has correctly stated the understandings on both sides of the aisle as I see it at this time.

Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

So the resolution (S. Res. 246) was agreed to, as follows:

S. RES. 246

**SECTION 1. FUNDS FOR SALARIES AND EXPENSES OF SPECIAL COMMITTEE.**

There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use not later than June 17, 1996, by the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereafter in this Resolution referred to as the ''special committee''), established by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) to carry out the investigation, study, and hearings authorized by that Senate Resolution—

(1) a sum equal to not more than $450,000.

(A) for payment of salaries and other expenses of the special committee; and

(B) not more than $350,000 of which may be used by the special committee for the procurement of the services of individual consultants or organizations thereof; and

(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

**SEC. 2. TERMINATION OF THE SPECIAL COMMITTEE.**

(a) HEARINGS.—Not later than June 14, 1996, the special committee shall complete the investigation, study, and hearings authorized by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995).

(b) REPORT.—Not later than June 17, 1996, the special committee shall submit to the Senate the final public reported required by section 9(b) of Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) on the results of the investigation, study, and hearings conducted pursuant to that Resolution.

Mr. DOLE. Mr. President, I understand Senator D'AMATO and Senator SARBANES may want to speak briefly.

Mr. D'AMATO addressed the Chair.