

Mr. NICKLES. Yes.

Mr. DURBIN. Could the Senator give me some assurance by the majority leadership that this issue should come to the floor this calendar year?

Mr. NICKLES. I will just tell my colleague, I have been charged with the responsibility of trying to make sure that we are ready to do that. It is my hope and expectation that we will be ready to do that—not tie this down to a particular timetable—but I hope that we will be able to do it in the not-too-distant future. Maybe we will be able to meet the timeframe as suggested by my colleague from Illinois. I am not ready to give a date. But you are saying for this year. I hope that will be the case.

Mr. DURBIN. If the Senator would further yield.

I will return and my colleagues will return with similar resolutions in the hopes that we can reach a bipartisan agreement for a timetable to consider this issue. Absent that agreement, many of us are afraid that we will once again fall into this morass of hearings and speeches and a lot of jawboning and very little progress on the subject. I hope that my colleague from Oklahoma will join me in that effort.

Mr. NICKLES. I thank my friend.

#### VICTIM RIGHTS CLARIFICATION ACT OF 1997

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 924 just received from the House.

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

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 924) to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime.

The Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I wish to thank my colleague and friend, Senator LEAHY, for his cooperation in bringing this bill to the floor. As I mentioned, the House passed this bill yesterday. It was by a vote of 418 to 9.

I also want to thank my colleagues, Senator HATCH, Senator INHOFE—who is an original cosponsor of this legislation with me—Senator GRASSLEY and Senator KENNEDY and their staffs for working together with our staff to make this bill possible.

And I want to thank the bipartisan and bicameral cooperation that we have had because we have negotiated with the House, came up with similar legislation to correct, I think, a mistake, a problem.

Mr. President, we introduce this legislation on behalf of the victims of the Oklahoma City bombing and other victims of crime. This legislation will clarify the rights of victims to attend and observe the trial of the accused and also testify at the sentencing hearing.

The Victim Rights Clarification Act is necessary because a Federal judge interpreted his sequestration power as authorizing the exclusion of victims of crime from trial who will only be witnesses at sentencing. The district judge presiding over the Oklahoma City bombing case basically gave the victims and their families two choices. They could attend the trial and witness the trial—or in this case we have closed-circuit TV for the families, since the trial is actually in Denver and many of the families are in Oklahoma City. So they have closed-circuit TV. They have two options: They can view the trial in Denver or in Oklahoma City, or they could participate in the sentencing phase of the trial.

Most of the families of the victims wanted to do both—or many wanted to do both. They should not have had to make that decision. This legislation will clarify that.

Such rulings as the judge made extend sequestration far beyond what Congress has intended. The accused has no legitimate basis for excluding a victim who will not testify during the trial. Congress thought it already adopted a provision precluding such sequestration in the victims' bill of rights. This bill clarifies the pre-existing law so it is indisputable that district courts cannot deny victims and surviving family members the opportunity to watch the trial merely because they will provide information during the sentencing phase of the proceedings.

This bill also applies to all pending cases and in no way singles out a case for unique or special treatment. Rather, a serious problem has come to light and Congress has responded by clarifying the applicable Federal law across the country from this day forward.

The U.S. Supreme Court has specifically upheld the power of Congress to make "changes in law" that apply even in pending cases. In *Robertson versus Seattle Audubon Society*, a unanimous court explained that Congress can "modify the provisions at issue" in pending and other cases. This bill makes it clear that Federal crime victims will not be denied the chance to watch the court proceedings simply because they wish to be heard at sentencing.

This bill will be enforced through normal legal channels. Federal district courts will make the initial determination of the applicability of the law. In disputed cases, the courts will hear from the Department of Justice, counsel for the affected victims, and counsel for the accused. If the district court persists in denying a victim the right to observe a trial in violation of the law, both the Department of Justice and the victims can seek appellate review through the appropriate pleadings.

Once again, Mr. President, this is an important piece of bipartisan legislation that will clarify the intent of Congress with respect to a victim's right to attend and observe a trial and testify at sentencing.

I very much appreciate the support of my colleagues in both the Senate and the House who have made this bill possible today. I am very grateful for their assistance. I know that I am speaking on behalf of hundreds of victims and the families in Oklahoma City, that they are grateful for this legislation, and a special thank you to my colleagues, Senator INHOFE and Senator LEAHY and Senator KENNEDY and Senator HATCH, for making this bill possible.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am pleased to join my friends, Mr. HATCH, the two Senators from Oklahoma, and Senator GRASSLEY, as an original cosponsor of the Victim Rights Clarification Act of 1997.

I am glad we are considering and passing this important legislation. They are doing this in an expeditious and bipartisan manner.

Two of the most important rights Congress can safeguard for crime victims are the right to witness the trial of the accused and the right to be heard in connection with the sentencing decision. The Victim Rights Clarification Act is not the first time Congress has addressed these two ideas. In 1990, we passed the Victims' Rights and Restitution Act, providing that crime victims shall have the right to be present in all public court proceedings related to the offense, unless the court determines the testimony by the victim would be materially affected.

In the Violent Crime Control Act of 1994, Congress included several victims' rights provisions. For instance, we amended rule 32 of the Federal Rules of Criminal Procedure to require Federal judges at the sentencing for crimes of violence or sexual assault to determine if the victim wishes to make a statement.

Last year, we enacted the Televised Proceedings for Crime Victims Act as part of the Antiterrorism and Effective Death Penalty Act of 1996. That responded to the difficulties created for victims of the Oklahoma City bombing.

Mr. President, I think this is important because so often what we set in the criminal procedures in the Federal court are then adopted by the State courts. During my days as a prosecutor, I felt victims should have complete access to the court during a trial and that victims should be heard upon sentencing. Frankly, I found many times when the person being sentenced had suddenly gotten religion, had suddenly become a model person, usually dressed in a better suit and tie than I wore as a prosecutor and was able to cry copious tears seeking forgiveness and saying how it was all a mistake, sometimes reality came to the courtroom.

only when the victim would speak. I remember one such victim had very little to say, with heavy scars on her face that would probably never heal. That said more than she might.

I say that, Mr. President, because in enacting this legislation, we affect not only Federal courts directly, which of course I think is important, but I say to my colleagues in the Senate that after this is experienced in the Federal courts for a couple of years, we are going to find the same procedures followed by State courts all over this country. We saw it in the Federal Rules of Civil Procedure. We see it in the Federal Rules of Criminal Procedure. If they work in the Federal courts, they tend to work in the State courts.

I am glad to join with my friend from Oklahoma, the distinguished senior Senator from Oklahoma and his colleague, Senator INHOFE, in support of this legislation which shows how responsive Congress can be to victims' rights.

The Supreme Court has also spoken to whether victim impact statements are permissible in death penalty cases.

In the 1991 case *Payne* versus Tennessee, the Supreme Court made clear that a sentencing jury in a capital case may consider victim impact evidence relating to the victim's personal characteristics and the emotional impact of the murder on the victim's family.

The Court observed that it is an affront to the civilized members of the human race to say that at sentencing in a capital case, a parade of witnesses may praise the background, character, and good deeds of the defendant, but nothing may be said that bears upon the character of, or the harm imposed upon, the victims.

Unfortunately, the victims in the Oklahoma City bombing case are being categorically excluded from both watching the trial and providing victim impact testimony. Thus the victims are faced with an excruciating dilemma: If they sit outside the courtroom during the trial, they may never learn the details of how the justice system responded to this horrible crime. On the other hand, if they attend the trial, they will never be able to tell the jury the full extent of the suffering the crime has caused to them and to their families.

I do not believe that current law thrusts this painful choice upon victims in this country. However, recent court rulings reveal the need to clarify and even hone existing law. That is exactly what Congress is doing by passing the Victim Rights Clarification Act of 1997.

This important legislation will:

Clarify that a court shall not exclude a victim from witnessing a trial on the basis that the victim may, during the sentencing phase of the proceedings, make a statement or present information in relation to the sentence.

Specify that a court shall not prohibit a victim from making a state-

ment or presenting information in relation to the sentence during the sentencing phase of the proceedings solely because the victim has witnessed the trial.

Just as importantly, the Victim Rights Clarification Act will not:

Apply to victims who testify during the guilt phase of a trial.

Eliminate a judge's discretion to exclude a victim's testimony during the sentencing phase that will unfairly prejudice the jury. Specifically, the legislation allows for a judge to exclude a victim if he or she finds basis— independent of the sole fact that the victim witnessed the trial—that the victim's testimony during the sentencing phase will create unfair prejudice.

Attempt to strip a defendant of his or her constitutional rights.

Overturn any final court judgments.

My cosponsors and I worked together to pass this legislation within a time-frame that could benefit the victims in the Oklahoma City bombing cases.

Our final legislative product, however, will not only assist the victims in the Oklahoma City bombing case, but crime victims throughout the United States.

In response to real people, real problems and real pain, Congress has demonstrated its ability to find a real solution—the Victim Rights Clarification Act of 1997.

Mr. HATCH. Mr. President, I rise today to speak briefly in support of H.R. 924, the Victims' Rights Clarification Act of 1997. A companion to this bill was introduced this past Friday by Senator NICKLES as S. 447, which is cosponsored by Senator INHOFE, myself, Senator LEAHY, and Senator GRASSLEY. I was proud to be an original cosponsor of this vital bill because it advances the rights of crime victims in the criminal justice process. This bill will ensure that victims of a crime who may be victim-impact witnesses at the sentencing phase of a trial are able to attend that trial and still testify at sentencing.

Mr. President, too often the victims of crime seem to be forgotten as the wheels of justice turn. In a sense, they are victimized twice—first by the criminal, and then by a justice system that too frequently treats them as irrelevant to the administration of justice.

This legislation clarifies that the victims and survivors of crime who might present testimony at sentencing about the effects of the defendant's act should not be prevented from observing the trial. It also clarifies that, conversely, observing the trial is not grounds for excluding a victim or survivor from presenting impact testimony at sentencing. In 1991, the Supreme Court ruled in *Payne v. Tennessee* [501 U.S. 808] ruled that victims and survivors may be given the right to provide testimony at sentencing about the victim and the impact of the crime on the victim's family. Since then,

Congress has ensured that the Federal Rules of Criminal Procedure provide this right to victims of violent crimes when the defendant is tried in federal court.

Recent court decisions have made it evident that some clarification of this right is badly needed. These decisions have excluded from trials victims and survivors who might give impact testimony at sentencing.

Generally, witnesses may be excluded from viewing a trial until they have testified. The rationale for this rule, known as the rule on witnesses and embodied in rule 615 of the Federal Rules of Evidence, is the need to prevent witnesses from collaborating on their testimony, as well as the need to prevent each witness from shaping his or her testimony to the testimony that already has been presented. Those rationales do not apply, however, when victims testify at sentencing about the effect of the crime on their own lives. As a result of this bill, victims and survivors will be permitted to observe the trial and still testify about the effect of the crime on their lives, without running afoul of the policy underpinnings for excluding witnesses from viewing a trial.

Another rationale for application of the rule on witnesses, and one that has been advanced to prevent victims from both observing the trial and presenting impact testimony, holds that a victim may testify only about the effect of the crime on his or her life, not about the effect of the trial on his life. But, Mr. President, for the victim the trial is one of the effects of the crime and becomes forever a part of the victim's life.

Remember, this amendment deals only with victim impact testimony. By that point in the process, the defendant already has been convicted. In my view, it is not unfair for the law to treat the effect on a victim of viewing a trial as part of the effect of the crime, since the trial is a proximate, reasonably foreseeable consequence of the commission of a crime. As the result, a victim should be free to see the trial and still give victim-impact testimony at sentencing.

This bill will ensure that victims of crimes have an opportunity to alleviate some of their suffering through witnessing the operation of the criminal justice system. Moreover, this bill will accomplish this salutary result without having forced upon them the cruel choice of observing the trial or giving impact testimony at sentencing. Indeed, the bill before the Senate is a significant improvement over the legislation originally introduced in the other body because, unlike the original House bill, it specifically ensures that victims have the right both to attend the trial and provide impact testimony at sentencing. The opportunity to do both is critical to providing closure to victims and ensuring justice for victims, as well as defendants and society.

Mr. President, this provision is not controversial. I hope that it can be

passed by the Senate and sent to the President for his approval without delay.

Mr. INHOFE. Mr. President, I am pleased to join my colleagues, Senators NICKLES and LEAHY in getting through the Senate H.R. 924, the Victim Allocation Clarification Act. This is an important issue for victims and their families of the Murrah Federal Building bombing. Clearly, we would not have been able to get this through unless there was widespread support for clarifying congressional intent with respect to the rights of victims and their families.

Although the Victims Rights and Resolution Act of 1990 provided that victims have the right to be present at all public court proceedings, it conditioned that on a court determination that the testimony by the victim would not be materially affected if the victim heard other testimony at the trial. Recent courts decisions have held that victims cannot attend the trial and submit a victim's impact statement. H.R. 924 clarifies congressional intent by allowing the victim and their family to both attend the trial and submit a statement during the sentencing phase.

I believe this language has reached a delicate balance between protecting the rights of the victims while maintaining the constitutional protections of the defendant. As noted by Senator NICKLES, it is critical that we pass H.R. 924 before the trial in the Oklahoma City bombing case begins on March 31. I appreciate the efforts of all involved in getting through the Senate and House expeditiously.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 924) was deemed read a third time and passed.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator LEAHY from Vermont. We have done something rather unusual. We worked together in a very bipartisan fashion to do some good work, and we did it very quickly. It is not often that Congress passes legislation this quickly, and we did so.

Also, I want to thank Senator DASCHLE and Senator LOTT because we wanted to expedite this. We would like to get it to the President before he leaves the country today. This trial happens to start on the 31st of this month.

I might mention that this is the third piece of legislation that we have passed that deals directly, or has had some impact, I guess, as a result of the Oklahoma City bombing. Last Congress, we passed legislation dealing with habeas corpus reform, one of the most significant improvements, I think, in our statutes dealing with criminal law in a long time. We wanted to have an end to endless appeals. I think the Oklahoma City tragedy gave us great momentum to make that happen. I remember several of the victims coming to testify, urging Congress to enact a crime bill, but also urging Congress to enact habeas reform because they wanted to see justice soon rather than later.

We also passed legislation to allow closed-circuit TV so victims would not have to go all the way to Denver. I was disappointed the decision was made that the trial would be held in Denver. Originally, the judge said the people would have to attend to witness the trial. This trial could last for months. We passed legislation basically mandating that closed-circuit TV would be allowed in this case and, hopefully, other cases. Hopefully, we will not have other cases, but if we have another case that might be identical to this, the victims and their families would not have to travel several hundred miles just to be able to witness the trial.

Finally, we passed this legislation, this important legislation, to allow victims and their families to be able to witness a trial and also, if they desire, to be able to testify during the sentencing phase. This would not have happened if we did not have bipartisan support.

Again, I thank my colleagues for making it happen. I am delighted. On behalf of hundreds of Oklahoma City families who are directly impacted, we say thank you to both our colleagues in the House and the Senate for passing this legislation today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

#### CAMPAIGN FINANCE REFORM NEEDED

Mr. CLELAND. Mr. President, I rise to speak on the floor of the U.S. Senate for the first time. I do so with mixed emotions. Following in the great tradition of this seat once held by such notables as Dick Russell and Sam Nunn, I am poignantly aware that freshman Senators should be seen and not heard. However, there is an issue building in this country which I feel obligated to comment on and regarding which I can no longer remain silent. This is the issue of reforming the way we finance our political campaigns at the Federal level, particularly seats in the U.S. Congress, and especially seats in the U.S. Senate.

There are many other issues facing our Nation to which we are all com-

pelled to pay time and attention: issues such as eliminating the Federal deficit, taking care of those who have served this Nation in the Armed Forces, caring for our elderly and our young, improving our environment, and recommitting our educational system to excellence. However, as important as these issues are, in my opinion, they are all secondary to the basic issue before us—the need to recapture the public's faith in our democratic processes and our democratic institutions. Without that faith, all of these other endeavors will be undermined.

Confucius, the noted Chinese sage, once wrote that there were three things that make up a great nation: First, a strong defense; second a vigorous economy; and third, the faith of people in their government. Confucius noted that a great nation might do without a strong defense, or that a great nation might be able to do without a vigorous economy, but, Confucius noted that a great nation could not remain great without the faith of the people in their government.

Mr. President, I am committed to supporting programs and plans for a strong defense for our Nation. I serve on the Senate Armed Services Committee with great pride and a sense of awesome responsibility in this regard. I also am committed to a vigorous economy, and to upgrading the quality of education in America, in particular to creating hope for all of our qualified youngsters that they will have an opportunity to go to college or to receive vocational training. In furtherance of this objective, I am a cosponsor of S. 12, a program designed to provide a \$1,500 tax credit and a \$10,000 tax deduction to working families so they can see their children achieve the American dream. But I am especially committed to doing those things which we need to do to enhance the faith of people in this country in their own Government by cleaning up the campaign finance mess.

When I first came to Washington as a young college student in the fall of 1963, I was inspired by President Kennedy to get involved in public service. I especially enjoyed meeting and learning from Members of the Senate. I can vividly recall personal meetings with Senators Russell and Talmadge from Georgia, and a young Senator from West Virginia named ROBERT C. BYRD. In those days, my heart was stirred to devote my life to politics.

Many of us in this Chamber today got our first taste of politics in the early sixties. For me, that introduction was a positive one.

However, when I was sworn in here on the Senate floor on January 7 of this year, I could not help but think how differently our current leaders and our current institutions are perceived by today's public, especially our young people. I do not believe that our leaders or our institutions are of lesser caliber than those of my youth, but something has obviously gone wrong. We in public