the modern death penalty was reinstated in the 1970s, we have released 82 men and women from death row. Why? Because they were innocent. That's one death row inmate found innocent for every seven executed. One in seven! That's a pretty poor performance for American justice.

Another reason we need to abolish the death penalty is the specter of racism in our criminal justice system. Even though our nation has abandoned slavery and segregation, we unfortunately are still living with vestiges of institutional racism. In some cases, racism can be found at every stage of a capital trial—in the selection of jurors, during the presentation of evidence, and sometimes during jury deliberations.

After the 1976 Supreme Court Gregg decision upholding the use of the death penalty, the death penalty was first enacted as a sentence at the federal level with passage of the Drug Kingpin Statute in 1988. Since that time, numerous additional federal crimes have become death penalty-eligible, bringing the total to about 60 statutes today. At the federal level, 21 people have been sentenced to death. Of those 21 on the federal government's death row, 14 are black and only 5 are white. One defendant is Hispanic and another Asian. That means 16 of the 21 people on federal death row are minorities. That's just over 75%. And the numbers are worse on the military's death row. Seven of the eight men, or 87.5%, on military death row are minorities.

One thing is clear: no matter how hard we try, we cannot overcome the inevitable fallibility of being human. That fallibility means that we will not be able to apply the death penalty in a fair and just manner.

At the end of 1999, at the end of a remarkable century and millennium of progress, I cannot help but believe that our progress has been tarnished with our nation's not only continuing, but increasing use of the death penalty. As of today, the United States has executed 585 people since the reinstatement of the death penalty in 1976. In those 23 years, there has been a sharp rise in the number of executions. This year the United States has already set a record for the most executions in our country in one year, 85—the latest execution being that of Ricky Drayton, who was executed by lethal injection just last Friday by the state of South Carolina. And the year isn't even over yet. We are on track to hit close to 100 executions this year. This is astounding and it is embarrassing. We are a nation that prides itself on the fundamental principles of justice, liberty, equality and due process. We are a nation that scrutinizes the human rights records of other nations. We are one of the first nations to speak out against torture and killings by foreign governments. It is time for us to look in the mirror.

Two former Supreme Court justices did just that. In 1994, Justice Harry Blackmun penned the following eloquent dissent:

> From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court's delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies.

Similarly, after supporting Supreme Court decisions upholding the death penalty, Justice Lewis Powell in 1991 told his biographer that he now thought capital punishment should be abolished. After sitting on our nation's highest court for over 20 years, Justices Blackmun and Powell came to understand the randomness and unfairness of the death penalty. It is time for our nation to follow the lead of these distinguished jurists.

The death penalty is at odds with our best traditions. It is wrong and it is immoral. The adage ''two wrongs do not make a right,'' could not be more appropriate here. Our nation has long ago done away with other barbaric punishments like whipping and cutting off the ears of suspected criminals. Just as our nation did away with these punishments as contrary to our humanity and ideals, it is time to abolish the death penalty as we enter the next century. The continued viability of our justice system as a truly just system requires that we do so.

I ask my colleagues to join me in taking the first step in abolishing the death penalty in our great nation. Last week, I introduced a bill that abolishes the death penalty at the federal level. I call on all states that have the death penalty to also cease this practice. Let us step away from the culture of violence and restore fairness and integrity to our criminal justice system. As we head into the next millennium, let us leave this archaic practice behind.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, I ask unanimous consent that I be allowed to proceed for 10 minutes in morning business.

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

The Senator from Wyoming is recognized.

FEDERAL LANDS

Mr. THOMAS. Mr. President, I wanted to take some time, since we have a little on our hands this morning, to talk about an issue that continues to be very important for our part of the country, the West. The Presiding Officer comes from a State that is similar to Wyoming. The ownership of land by the Federal Government continues to be an issue, and I think it is more of an issue now than it has been in the past, largely because of some of the actions in recent times by the administration of not only obtaining more land for the Federal Government but also changing some of the management techniques.

This issue, of course, has been one of controversy for a long time within the West. The West has large amounts of land that belongs to the Federal Government. So when you develop the economy of your State, management of the lands has a great deal to do with it. In Wyoming, for example, the three leading economic activities are agriculture, minerals, and tourism, all of which have a great deal to do with public resources, with lands. So it is one of the most important issues with which we deal.

It is interesting to see the percentages of Federal land holdings by State. As shown on this chart, you can see that here in the East generally 1 to 5 percent of the lands are federally owned. When you get to the West, it becomes 35 to 65 percent and as high as 87 percent in some States. So when you talk about how you operate an economy in New Jersey or in North Carolina, it is quite different. When you talk about public lands, it is seen quite differently. The impact in States such as that is relatively minor, where the impact in the West is much greater. Look at Alaska, for example. It makes a great deal of difference.

There are several kinds of lands, of course, and nobody argues with the idea that the purpose of dealing with these public lands is to preserve the resources. All of us want to do that. The second purpose, however, is to allow for its owners, the American people, who use them, to have access to these lands for hunting, fishing, grazing, timber—all of the things that go with multiple use and healthy public lands. Really, that is where we are. No one argues about the concept of these resources, but there is great argument about the details of how you do it.

One of the things that is happening now—and part of it is in the appropriations bills that will be before us tomorrow—relates to the purchase of lands and changing some of the management techniques so the lands become less accessible to the people who live there, less a part of the society of these States.

It is difficult to see on this chart, but this is Wyoming, where over 50 percent of the land belongs to the Federal Government. The green colors are Forest Service lands which were set aside by action of the Congress, action of the

Federal Government, for specific purposes, and we still fulfill those purposes.

Some of the lands were set aside as wilderness. When the wilderness was set aside, others were proclaimed to be for multiple use. Before that changed from multiple use to wilderness, it said specifically in the Wyoming wilderness bill that Congress had to act on it. The red area is Federal lands, Indian reservations. Yellow is the BLM lands. The light green in the corners is national parks which were set aside for a very specific purpose. That purpose continues to be one that is very close to the hearts of the American People. I happen to be chairman of the parks subcommittee and work on those very much. The yellow—the majority of the public lands in our State, as is the case with most other Western States—is Bureau of Land Management lands. Interestingly enough, when the Homestead Act was in place and people were taking homesteads in the West, BLM lands were basically residual lands, not set aside for any particular purpose. They were simply there when the homestead expired, and they are there now to be managed for multiple use.

Let me go back to the notion that this is what has created some of the current controversy—the fact that these lands change when they are used differently. Congress should have a role in this. This is not a monarchy, a government where the President can decide suddenly he is going to acquire more lands without the authority of the Congress. That is kind of where we are now. There are several of these programs that are threatening to the West, including the concept of the Federal Government's intrusion into the whole of society in States in the West.

A number of things are happening. One is the so-called ''land legacy'' that the administration is pushing. It is an idea presented by the President—I think largely by Vice President GORE—that the Federal Government somehow should own a great deal more land than it owns now. Indeed, they have asked for a set-aside from the offshore royalties of a billion dollars a year to acquire more lands. In many cases, their idea is not to have any involvement of the Congress at all but simply to allow them to have this money set aside, without the appropriations process, so that they can purchase additional lands each year. A portion of that is in this year's Interior program, but the big one, of course, is still controversial in the Congress, and it was being dealt with in the House last week or the week before.

So the question is, if there is to be more Federal land, where should it be? The other is, if there is to be more, what is the role of Congress to authorize it and appropriate funds for that as opposed to having a sort of monarchy set-aside to do that.

The other, of course, in my view, has to do with the use of these dollars. We talked about the parks. That is one of the things. We have 378 parks, or units, managed by the Park Service in this country; they are very important to Americans. The infrastructure in many of them needs to be repaired and updated. I argue this money that might be available from these kinds of sources ought to be used for the infrastructure of these parks so that we can continue to support the maintenance and availability of enjoyable visits for the American people. I believe we need to do that.

Another that has come along more recently is a pronouncement by the Forest Service that they would like to set aside 40 million acres in the forest as ''roadless.'' Nobody knows what ''roadless'' means. Is that a synonym for wilderness? We don't know. We had a hearing to try to get that answered by the Secretary of Agriculture and by the Chief of the Forest Service. We were unable to do so. Many people I know believe that would limit the access and would not allow people to hunt, for example, in places where they aren't able to walk because they are elderly, or whatever the reason, and that it will be most difficult to have a healthy forest, where you cannot remove some of the trees that are matured and, rather, let them die or let insects infect them. These are the kinds of things that are of great concern.

There is also what is called an action plan, the conservation of water action plan, which seems to be put forth by EPA and other agencies more to control management of the land than clean water. The clean water action plan says you can do certain things and you cannot do certain things. The key is there needs to be participation by people who live there. There needs to be some participation in cooperating agencies, participation with the State, participation with the agencies there, so we can work together to preserve the resource but also preserve access to those resources and continue to allow them to be part of the recreational economy in our States.

There are other programs that also put at risk the opportunity to use these lands, such as endangered species, about which there is a great controversy in terms of whether there is a scientific basis for the listing of endangered species, whether there are, in fact, ways to delist endangered species when it is proven there has been a recovery in terms of numbers. You can argue forever about that. These all go together to make public lands increasingly more difficult for owner utilization.

I guess one of the reasons that is difficult—and people who work with these problems are basically in the minority—is that the Western States are the ones that have almost all Federal ownership.

With respect to some of the things we might do with regard to the land legacy and the idea of putting money aside for public land purchase, we are prepared to try to put in this bill some sort of protection and say we ought not, in States that have more than 25 percent of their surface owned by the Federal Government, to have any net gain—that there may be things the Federal Government ought to acquire because they have a unique aspect to them, but they can also dispose of some so that there is no net increase. I think that is a reasonable thing to do and one we ought to pursue.

In terms of endangered species, it is very difficult to do anything with a law that has been in place for 20 years. We have 20 years of experience as to how to better manage it. Everyone wants to preserve these species. But they shouldn't have to set aside private and public lands to do that. We believe if we would require more science in terms of nomination and listing—and indeed, when a species is listed, to have a recovery plan at the same time—that would be very important.

One of the other activities is the Natural Environmental Protection Act, NEPA, a program in which there are studies designed to allow people to participate in decisions. Is that a good idea? Studies could absolutely go on forever.

We are faced currently, for example, with the problem in grazing. Obviously, you have a renewable resource, grass. It is reasonable to have grazing. You have that on BLM forest lands. Now we find in this case that, under BLM, you can get through the NEPA process to renew a contract, and they say: Too bad; your contract is dead, unless we can get to it, and we can't.

We are trying to change that. It is an unreasonable thing to do. If there is all of this difficulty with the agency, we ought to change that. Indeed, there is language in this year's appropriations bill to do something about it.

I think we are faced with trying to find the best way to deal in the future with public lands. In States where there is 50 percent or more of land in Federal ownership, there is no reason we can't continue to protect those resources; that we can't continue to utilize those lands in a reasonable way; that we can't involve people locally in the States in making these decisions and making shared judgments. We can do that.

Unfortunately, we find this administration moving in the other direction—moving further way from working with NEPA. We hear about all of these kinds of partnerships. A partnership means there is some equality in working together. That is not the kind of partnership we hear a lot about from the Federal agency. I am hopeful that there can be.

We are very proud of these resources: Yellowstone Park, Devil's Tower—all kinds of great resources in Wyoming. Here is where I grew up, near the Shoshone Forest. I am delighted there is a forest there. It should be, and it should continue to be there. But we need to have a cooperative management process to do that. I am committed. I am

also committed to working toward that in the coming session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Mr. President, I understand we are in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 30 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAHAM. Thank you, Mr. President.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Stacy Rosenberg, a staff member of my office, be granted floor privileges for the duration of today's session.

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

Mr. GRAHAM. Thank you very much, Mr. President.

NATIONAL PARK PRESERVATION

Mr. GRAHAM. Mr. President, on October 31 of this year, I saw yet another example of the challenges we are facing in our National Park System.

Two weekends ago, I visited Bandelier National Monument in New Mexico, located about 1 hour west of Santa Fe.

Bandelier National Monument was claimed a national monument under the jurisdiction of the Forest Service in 1916. In 1932, it was transferred to the National Park Service.

Bandelier contains 32,737 acres, of which 23,267 acres are designated as wilderness. It is a park that is intended to preserve the cliff houses of the Pueblo Indian.

I draw your attention to this photograph taken near the entrance to Bandelier National Monument. One of the cliff homes can be seen at the base of this large cliff which forms the most dramatic signature of Bandelier National Monument. This photograph gives some idea of the magnitude of the cultural resources which are located in this park.

In addition to the preservation of the cultural resource of the monument, the outstanding superintendent at Bandelier, Mr. Roy Weaver, also contends with preservation of historical resources such as 1930s CCC buildings which were constructed in order to properly present the park to its many visitors but which have fallen into a sad state of disrepair.

Using funds from the recreation fee demonstration program, Bandelier National Monument has refurbished several of these existing structures to a functional condition. This park, as many of our Nation's parks, is faced with a degradation of its core resources. One of the significant challenges is the unnatural pace of erosion within the monument's wilderness area.

This problem is in part due to intense grazing which occurred prior to the designation of the lands as a national monument in 1916. This activity ended over 60 years ago but is still impacting the resources and the health of the park. The heavy grazing prior to 1916 reduced the underbrush, allowing the pinon tree to take over the landscape. This tree is now firmly established and has prevented the growth of other natural species in the canyon of Bandelier. Without the diverse plant species in the forest to retain the soil, erosion occurs at a much more rapid pace. This erosion is one of the principal reasons why the archeological sites for which the monument was established are now severely threatened. We are in grave danger of losing artifacts, structures, and information about a people who spent hundreds of years building a society in the Southwest.

In addition to cultural resource damage to the unnatural state of the environment at Bandelier, human behavior has also had negative impacts. One of the first areas visitors to Bandelier approach, and just off the main trail, is a series of cave dwellings. Ascending the ladder into the cave is stepping back hundreds of years into a different culture. One arrives at the cave only to find the stark realities of contemporary America by a desecration of these caves with graffiti. This photograph showing an example of that desecration speaks a thousand words about the level of respect which we as a society have paid to our national treasures over the years.

There is some hope. In 1998, the Congress and the administration established a program at the suggestion of the National Park Service. It is called Vanishing Treasures. This program was the brain child of the national park superintendents from Chaco Culture National Historic Site, Aztec Ruins National Monument, and the Salinas Pueblo Missions National Monument.

The Vanishing Treasure Program seeks to restore the ruins to a condition where maintenance scheduled at regular intervals rather than large-scale restoration projects will be sufficient to keep the ruins in good condition. The program also has another very significant objective: Training the next generation of preservation specialists who can perform this highly specific, complex craftsmanship of maintaining national treasures such as these caves at Bandelier National Monument.

The original outline of the Vanishing Treasures Program called for $3.5 million in the first year, increasing by $1 million per year until it reached $6 million in the year 2001, after which it would decrease slightly until the year 2008. We hoped during that time period to have been able to have dealt with the residue of issues such as the desecration of the caves at Bandelier.

Unfortunately, beginning in fiscal year 1998, the funding was not at the recommended $3.5 million level but, rather, was at $1 million. In fiscal year 1999, it was increased to $1.3 million. The current Interior appropriations bill, which has been passed by both the House and the Senate, contains $994,000 for the Vanishing Treasures Program.

At this level of funding distributed throughout the entire Southwest, some 41 national park sites benefit from this program. At that level of funding, we cannot possibly come close to meeting the needs for the protection of our cultural treasures in the Southwest. We are effectively making the decision that we are prepared to see these cultural and historic treasures lost before we make funds available for their preservation.

We are at a crossroads in our Nation's historical efforts to protect and preserve those national treasures which are the responsibility of the National Park Service. The history of our Nation is marked by activism on public land issues. The first full century of the United States' existence—the 19th century—was marked by the Louisiana Purchase which added almost 530 million acres to the United States, changing America from an eastern coastal nation to a continental empire.

One hundred years later, President Theodore Roosevelt set the tone for public land issues in the second full history in our Nation's history. He did it both in words and action. President Theodore Roosevelt stated:

> Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that will come after us.

Roosevelt took action to meet these goals. During his administration, the United States protected almost 230 million acres of lands for future public use. The question for us as we commence the third full century, the 21th century of the United States, is, can we live up to this example? Can we be worthy of the standards of Thomas Jefferson at the beginning of the 19th century and Theodore Roosevelt at the beginning of this century?

I have discussed today the issues I witnessed at Bandelier National Monument and the small efforts being made to rectify this situation. Estimates of the maintenance backlog throughout the National Park Service system range from $1.2 billion to over $3.5 billion, depending on the calculation method.

Mr. President, I ask unanimous consent to have printed at the conclusion