of food and medicine to designated terrorist states. After considerable debate among my colleagues on this issue, relative consensus has been attained that suggests that unilateral sanctions against countries like North Korea, Sudan, Iran, and Libya are not effective, and that any future economic policy in this regard must include the multi-lateral cooperation of other like-minded governments. Even more importantly, many of my colleagues have come to the conclusion that official sanctions on food and medicine is an inappropriate way to achieve our foreign policy goals. The logic here is straightforward: not only do these sanctions hurt those individuals most in need in these countries—the innocent civilians who are being oppressed by oftentimes ruthless regimes—but they also hurt American businesses that would directly gain from such exports. American farmers in particular suffer under these constraints, and I am convinced those constraints should be removed immediately.

I should emphasize here that the elimination of sanctions does not imply that we as a deliberative body agree with the policy pronouncements or activities of terrorist countries. Quite the contrary, they are reprehensible and, as such, we will continue to register our opposition to them at every opportunity. But as a practical matter the elimination of the sanctions does suggest that we finally recognize that we cannot effectively punish dictators or despots through their own people. Perhaps more significantly in this regard, the United States should not be placed in the difficult position of defending such policies as, in my view, they run against some of our most basic values and traditions.

It is for this reason that the Agricultural Appropriations bill as it relates to Cuba is seriously flawed. What we have done in this bill is permitted the sale of food and medicine to most of these countries and, moreover, authorized U.S. public and private financing that would allow this to occur. But we have refused to apply these exact same provisions to Cuba. In the case of Cuba, we have permitted the sale of food and medicine, but we have prohibited U.S. financial institutions from assisting in this process. Of course, Cuba can still purchase food or medicine from the United States, but it must do so with its own capital, or with assistance from third-party financial institutions. In short, Cuba must somehow convince a foreign bank to lend it money to purchase food or medicine, an obvious liability given its current situation. Clearly this limitation placed on Cuba defeats the basic rationale underlying the bill, and makes the exercise of sanctions reform almost entirely symbolic in nature. The bottom line is that our farmers will gain little or nothing in terms of increased sales to Cuba, and that is just plain wrong.

This bill is also flawed in that it further restricts travel to Cuba, this after several years of moving forward in areas related to increased scientific, academic, social, and cultural exchange. I find this to be an ill-advised provision in that it runs counter to everything we have experienced in Eastern Europe, East Asia, and Latin America in terms of the dynamics of freedom and democratization. For a number of years now I have supported the right of Americans to travel to Cuba, and I continue to do so at this time. I have also suggested that we allow non-governmental organizations to operate in Cuba and to provide information and emergency relief when needed. Furthermore, I believe that Cuban-Americans with relatives still in Cuba should be permitted to visit Cuba to tend to family emergencies.

Let me state clearly that I personally deplore the Castro regime and its heavy-handed tactics toward its people. The lack of freedom and opportunity in that country stands in direct contrast to the United States, as well as most countries in the Western Hemisphere. Cuba now stands alone in the West in its inability to allow the growth of democracy and the protection of individual rights.

In my view, Cuba is ripe for change, and the best way to achieve positive change is to allow Americans to communicate and associate with the Cuban people on an intensive and ongoing basis, to re-establish cultural activities, and to rebuild economic relations. To allow the Cuban system to remain closed does little to assert United States influence over policy in that country and it does absolutely nothing in terms of creating the foundation for much-needed political economic transformation. The spread of democracy comes from interaction, not isolation.

So for all the positive attributes contained within this bill, I see the provisions as they relate to Cuba to represent a serious step backward that will ultimately harm, not help, the U.S. national interest. This is an anachronistic policy that does no one any good. It is my hope that what some of my colleagues are saying today on the floor is true, that this is merely an initial compromise that lays the foundation for more significant change through legislation in the future. If this is correct, I look forward to working with them to ensure that more constructive policy is indeed enacted. I am convinced it is long overdue.

THE INNOCENCE PROTECTION ACT

Mr. LEAHY. Mr. President, I have come to the floor several times this year to focus attention on the national crisis in the administration of the death penalty. I rise today, in what I hope are the closing days of the 106th Congress, to report on how far we have come on this issue in Congress and across the country, and to discuss the important work that is yet to be done.

In recent years, many grave flaws in the capital punishment system nationwide have come to light. Time and again, across the nation, we have heard about racial disparities, incompetent counsel who make a mockery of our adversarial process, testimony and scientific evidence that is hidden from the court, and the ultimate injustice, the conviction and sentencing to death of innocent people.

In the last quarter century, some 88 people have been released from death row, not on technicalities, but because they were innocent. Those people were the ''lucky'' ones; we simply do not know how many innocent people remain on death row, and how many have been executed.

Earlier this year, after it came to light that his State had sent more innocent people to death row than it had executed guilty people, Governor Ryan announced a moratorium on executions in Illinois and launched a systematic inquiry into the crisis and to consider possible reforms.

At around the same time, along with colleagues from both sides of the aisle, from the Senate and from the House, I introduced the Innocence Protection Act as a first step to stimulate a national debate and inquiry and begin work on national reforms on what is a nationwide problem.

Almost a year later, our informal national public inquiry has yielded a wealth of evidence. The American people have reached some compelling findings. And our reform effort has gained the endorsement, and—more important—the wisdom and insight, of Republicans and Democrats, of judges, law enforcers and defense attorneys, and of scholars and ordinary people who have experienced the system first hand.

The evidence has shown that the system is broken, and the American people are demanding that it be fixed or scrapped. We have meaningful, carefully considered reforms ready to be put into place. It is now time for Congress to act.

Let me first review just a few highlights of the evidence that has mounted since we first introduced the bill.

On June 12, Professor James Liebman of the Columbia Law School released the most comprehensive statistical study ever undertaken of modern American capital appeals. This rigorous study, which was nine years in the making, revealed a death penalty system fraught with error reaching crisis proportions. It revealed a system that routinely makes grave errors, and then hopes haphazardly and belatedly to correct them years later by a mixture of state court review, federal court review and a large dose of luck.

During the 23-year study period, courts across the country threw out nearly seven out of every ten capital sentences because of serious errors that undermined the reliability of the outcome. The single most common error, the study showed, was egregiously incompetent defense lawyering.

Before the Columbia study came out, there was speculation that the problems in the administration of the death penalty were confined to a few atypical States with lax procedures. That is clearly not the case. The study documented high error rates across the country, in nearly every death penalty State. It left no room for doubt: This is not a local problem, this is a national problem, and it requires a national response.

Shortly after the Columbia study issued, the Senate and House Judiciary Committees held hearings to consider some of the issues raised by the Innocence Protection Act. I had hoped that these hearings would be the first in a series of hearings that would help focus the Congress' attention on steps we can take to help restore public confidence in our death penalty system.

The Committees heard from judges, prosecutors, and defense attorneys about when and how post-conviction DNA testing should be required by law, and about the overwhelming importance of providing the accused with qualified and adequately funded defense counsel.

We also heard from two men who between them spent over 20 years in prison for crimes they did not commit before being cleared by DNA evidence and freed. One of these men, Dennis Fritz, was represented at trial by a civil liability lawyer who had never handled any type of criminal case, much less a capital murder case. When Mr. Fritz finally got access to the crime scene evidence for DNA testing, the results not only cleared him, they also cleared his codefendant, who had come within five days of being executed. The tests also established the identity of the real killer.

Now, hardly a month goes by that we do not hear about more wrongfully convicted people who owe their freedom to DNA testing.

Most recently, on October 2, 2000, the Governor of Virginia finally pardoned Earl Washington, after new DNA tests confirmed what earlier DNA tests had shown: He was the wrong guy. Earl Washington's case only goes to show that we cannot sit back and assume that prosecutors and courts will do the right thing when it comes to DNA. It took Earl Washington years to convince prosecutors to do the very simple tests that would prove his innocence, and more time still to win a pardon. And he is still in prison today.

Several other recent reports have provided additional evidence of a system in crisis. The Justice Department released a report in September concerning the administration of the Federal death penalty. The report revealed dramatic racial and geographic disparities in the Federal death penalty system. Of the 682 cases submitted to the Justice Department in the last five years for approval to seek the death penalty, 80 percent involved defendants who were black, Hispanic, or another racial minority, and five jurisdictions accounted for about 40 percent of the submissions.

Also in September, the Charlotte Observer published a study of capital cases in the Carolinas, which found that those who are on trial for their lives are often represented by the legal profession's worst attorneys. The high stress and low pay of capital trials limits the pool of lawyers willing to take them on. Some lawyers abuse drugs and alcohol, some fail to investigate evidence that could clear their client. Judges in the Carolinas have overturned at least 15 death verdicts because of serious errors made by defense lawyers, and another 16 death row inmates were represented at trial by lawyers who were later disbarred or disciplined for unethical conduct.

Much has been written about the appalling state of affairs in the State of Texas. The Dallas Morning News reported on September 10 that more than 100 prisoners awaiting execution in Texas as of May 1—about one in four convicts on Texas's death row—has been defended by court-appointed lawyers who have been reprimanded, placed on probation, suspended, or banned from practicing law by the State Bar of Texas.

The infractions that triggered the extraordinary step of bar discipline included failing to appear in court, falsifying documents, failing to present key witnesses, and allowing clients to lie. In about half of these instances, the misconduct occurred before the attorney was appointed to handle the capital case.

Just this week, a comprehensive new report by the Texas Defender Service described that State's death penalty system as thoroughly flawed and in dire need of change because of problems like racial bias, prosecutorial misconduct and incompetent defense counsel. The report, which reviews hundreds of cases and appeals, confirmed that indigent defendants in Texas are routinely represented in trials and during appeals by underpaid court-appointed lawyers who are inexperienced, inept, or uninterested.

These lawyers spend little time on the cases and present inadequate arguments and flawed defenses. In several notorious cases, defense lawyers slept in court, drank heavily, or used illegal drugs during a death penalty case.

Time and again, we hear defenders of the status quo say that as long as an accused person has access to the courts, the system is working properly. Statements of this sort reflect either ignorance or worse. The question we must ask is whether the promise of access to the courts is real, or just a cruel joke. Does access mean meaningful access, with qualified defense counsel who know what they are doing and have the resources to do the job properly, or does it mean merely token access. The evidence shows that it is too often the latter.

The evidence is overwhelming that the capital punishment system is broken—not just in Illinois, where the high error rate has prompted a moratorium on executions—not just in Texas, with its sleeping lawyers and racial biases—but across the Nation.

The people have heard this evidence, and they know this. A recent poll conducted by Peter D. Hart Research, a Democratic research firm, and American Viewpoint, a Republican research firm, shows that the public discourse on the death penalty has matured from a debate over whether the death penalty system is broken into a constructive dialogue on how broken it is, and about how much reform we need to fix it—if indeed it can be fixed at all.

New developments in DNA technology have helped expose some of the flaws in the system, and they have been invaluable in freeing innocent Americans like Dennis Fritz. But the public knows that the injustices revealed by DNA testing are just the tip of the iceberg. The central theme running through the vast majority of the tragedies we have seen has been incompetent, under-funded trial counsel making a mockery of our adversarial system.

Any reform that does not deal with the counsel issue is inadequate. The American people understand this. When it comes to matters of life and death, most Americans—55 percent of those surveyed—believe that it is not enough to ensure access to DNA testing without also ensuring access to competent and experienced defense counsel.

There is one more key lesson to be learned from listening to the American people. We are a nation founded on tolerance, but not tolerance of incompetence and failure. When there's a broken product out there endangering innocent lives, Americans rightly demand that it be fixed or recalled. Some irresponsible corporations are currently learning what comes of those who continue to put more and more broken, dangerous products into circulation.

As conservatives like George Will have pointed out, there is a parallel American tradition that we here in Washington know well of demanding that incompetent officials and broken government programs shape up or face the scrap heap.

Now that they have heard the evidence, Americans are ready to apply that same common sense to the government program known as the death penalty. Americans may be divided on whether the capital punishment system needs to be recalled, but there is a clear and growing consensus that the system needs to be reformed. An overwhelming majority—some 80 percent of those surveyed—want to see concrete measures to ensure competent and adequately funded counsel.

An even larger majority—nearly 90 percent of those surveyed—want to ensure that death row inmates can obtain DNA testing.

When a government program has a record of incompetence, failure, and

harming innocent lives, ordinary Americans say fix it or scrap it; do not under any circumstances expand it. In the past few years, as the defects of our capital punishment system have become more and more obvious, the States have largely ignored the problem, while they have expanded the program, executing more and more people. Neither history, nor the American people, will be kind to a Congress that stands by and does nothing while this trend continues.

The evidence has shown that the death penalty is broken; the American people know the death penalty is broken; and they are calling upon us, their elected representatives, to fix it or scrap it.

The bipartisan Innocence Protection Act is a real, practical response to that demand. Of critical importance, it meaningfully addresses not just the tip of the iceberg—DNA testing—but also the bulk of the problem—ineffective and under-funded defense counsel.

Our bill does not go as far as some Americans would like. It does not scrap the death penalty; it does not place a moratorium on executions; and it does not tackle all the injustices inflicted upon racial minorities and the mentally retarded by the present capital punishment system. Rather, it embodies a consensus approach, informed by the wisdom of Democrats and Republicans in the Senate and House, the Department of Justice and experts and ordinary Americans on all sides of our criminal justice system.

Because of this, it has been gaining ground. We now have 14 cosponsors in the Senate, and about 80 in the House. We have Democratic and Republican cosponsors, supporters of the death penalty and opponents. President Clinton, Vice-President GORE, and Attorney General Reno have all expressed support for the bill.

I had hoped that my colleagues would heed the American people's call for practical, bipartisan reform and expedite passage of this important legislation. Unfortunately, every opportunity for progress has been squandered. Even with respect to post-conviction DNA testing, where there is strong bipartisan consensus that federal legislation is appropriate and necessary, we could not even manage to report a bill out of committee.

While our lack of progress on Federal legislation is regrettable, there have been some positive developments that may facilitate broader access to post-conviction DNA testing. On September 29, a federal district judge in Virginia held that State prisoners may file federal civil rights suits seeking DNA testing, reasoning that the denial of possibly exculpatory evidence states a claim of denial of due process. If this decision is upheld, it could go a long way toward persuading State prosecutors and courts to stop stonewalling on requests for postconviction DNA testing.

I was also greatly heartened this week to read that the Virginia Supreme Court has moved to eliminate that State's shortest-in-the-nation deadline for death row inmates to introduce new evidence of their innocence. Currently, inmates in Virginia have only 21 days after their sentencing to ask for a new trial based on new information. The proposed rule change would re-open Virginia's courts to inmates like Earl Washington, who had to wait six years for a Governor to order additional DNA tests and grant a pardon.

Outside of Virginia, some State legislatures have begun considering the need for criminal justice reforms. Since the initial introduction of the Innocence Protection Act early this year, Arizona, California, Oklahoma, Tennessee, and Washington have passed laws providing prisoners greater access to post-conviction DNA testing, and other States are considering similar measures. I am especially pleased that California's legislators saw fit to model their law in part on the Innocence Protection Act.

By contrast, Tennessee's statute allows post-conviction DNA testing only to prisoners under sentence of death, leaving the vast majority of prisoners without access to what could be the only means of demonstrating their innocence. And neither of these laws addresses the larger and more urgent problem of ensuring that capital defendants receive competent legal representation. There is still much to do.

There can no longer be any doubt that our nation's capital punishment system is in crisis. I urge my colleagues on both sides of the aisle, those who support the death penalty, and those who oppose it, let us work together to find solutions.

ADDITIONAL STATEMENTS

TRIBUTE TO COMMEMORATE THE 65TH ANNIVERSARY OF THE CHINA CLIPPER'S FIRST FLIGHT

• Mr. INOUYE. Mr. President, this month marks the 65th anniversary of the world's first commercial trans-Pacific flight. I wish to pay tribute to those who possessed the vision and tenacity to achieve this historic milestone, which significantly altered the travel industry, mail service, and cargo service, and forever change my home state of Hawaii.

On November 22, 1935, Pan American World Airways' China Clipper traveled from San Francisco to Manila. This feat was remarkable for many reasons, including the following:

This inaugural fight was the longest ocean-spanning flight in history. The China Clipper traveled 8,746 miles and completed the one-way route in six days. Prior to this flight, the longest over-water flight was a 1,865-mile journey from Dakar in French West Africa to Natal, Brazil, in South America.

This aircraft delivered the first airmail across the Pacific ocean. It carried 110,865 letters weighing a total of 1,837 pounds.

This China Clipper, an M–130 aircraft built by G. L. Martin Company specifically to meet the demands of this trans-oceanic flight, was the largest flying boat ever.

About 125,000 people cheered as the four-engine China Clipper taxied out of a harbor in San Francisco Bay and headed for the Philippines. They watched from vantage points along the shore and the still-under-construction Golden Gate Bridge, and aboard recreational boats and small private planes. Postmaster General James A. Farley traveled from Washington, D.C. to witness this inaugural event and President Franklin D. Roosevelt sent a special message conveying his heartfelt congratulations.

The China Clipper made stops at several Pacific Islands. On November 23, 1935, its arrival in Oahu's Pearl Harbor was watched by about 3,000 people. Then the aircraft continued on, making stops at Pan American bases at Midway Island, Wake Island, and Guam. The China Clipper brought the staffs at these bases 12 crates of turkeys, and cartons of cranberries, sweet potatoes, and mincemeat. The meals represented these islands' first Thanksgiving celebrations.

The China Clipper's brave crew of seven were: Captain Edwin C. Musick, First Officer R. O. D. Sullivan, Second Officer George King, First Engineering Officer Chan Wright, Engineering Officer Victor Wright, Navigation Officer Fred Noonan, and Radio Officer W. T. Jarboe, Jr.

Captain Musick's own description of the landing at Wake Island, a barren atoll, offers a glimpse of what it was like to be aboard the China Clipper's inaugural trans-Pacific flight. According to Captain Musick, the landing was the ''most difficult'' on the trip and ''called for the most exacting feats of navigation on record.'' It was like striking a point that was ''smaller than a pinhead'' in the ''vast map of the Pacific Ocean.''

On November 29, 1935, the China Clipper landed in Manila and on December 6, it arrived in San Francisco to complete the round trip. Although the aircraft did not carry any paying passengers, its journey marked the beginning of trans-oceanic passenger commercial aviation.

Eleven months later, on October 21, 1936, Pan American inaugurated a passenger service route with stops in San Francisco, Honolulu, and Manila. The four-engine China Clippers cruised at 150 miles per hour. Passengers, who sat in broad armchairs and ate their meals with fine china and silverware, paid $1,438 for a round trip from San Francisco to Manila. The airlines purchased six Boeing B–314 aircraft to add to its Pacific-route fleet.

Thirty years later, the advent of the jet age brought Hawaii—located approximately 2,400 miles from the nearest major port—closer to the rest of