

have actually been to East Timor. You can add to that a key person of the Clinton administration he kept mentioning, our distinguished Ambassador to the United Nations, Richard Holbrooke, who also went to East Timor in late November and came back and told me and others that the conditions and circumstances with regard to the refugees in West Timor, many of whom want to get home to East Timor, are not good. He has a long and distinguished record of seeing these kinds of situations throughout the world in the over 30 or 40 years he has been in diplomacy. He was deeply troubled by the fact the job was not done.

The people of East Timor and the people of East Timor who are in West Timor and want to come home have not had their rights fully protected. That is why we are trying to put pressure on the military in Indonesia. That is not an unfriendly act to the Government of Indonesia. That is a friendly act because that is the toughest challenge the President of Indonesia has right now—making sure the military accepts democratic rule of that country. We are in an effort to support democracy in Indonesia, and it cannot go forward as the kind of democracy we support unless this situation in East Timor is properly resolved. That is the spirit of our amendment, and that is the spirit of our bill. I appreciate the additional time.

Let me add, Senator LEAHY is another who has done an enormous amount on this issue of East Timor and can certainly tell you the job is not done with regard to using our leverage and our ability to persuade and make sure the people of East Timor have full independence and that the people who want to return to East Timor have the opportunity to do that.

AMENDMENT NO. 2667, WITHDRAWN

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. FEINGOLD. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. LEAHY. Mr. President, I commend Senator FEINGOLD, Senator REED of Rhode Island, and Senator HARKIN for the leadership they have shown on the East Timor issue. They have all been to East Timor and have consistently spoken out in support of independence for East Timor and human rights for its people.

Senator FEINGOLD's resolution would end all U.S. military cooperation with Indonesia on account of the Indonesian military's appalling abuses in East Timor. This would send an unequivocal

message, not only there but throughout the world, that the United States will not resume any relationship with the Indonesian military until it is thoroughly reformed, and not only reformed, but the members who are responsible for the abuses are punished.

Some of these abuses, well documented by independent news media and eyewitness accounts, are so horrible they are reminiscent of the Dark Ages.

I understand the resolution is going to be withdrawn on account of the progress being made by the Indonesian Government in asserting control of the military. However, Senator FEINGOLD's determination to keep the Senate's attention on this important issue is well worthwhile.

Last September we watched in horror as a systematic campaign of terror and destruction waged in East Timor: Hundreds of innocent people were killed, hundreds of thousands more were forcibly uprooted from their homes, villages and towns were ransacked and family members were killed in front of other family members. Even today, U.N. investigators are unearthing what we are seeing too often in modern times: bodies in mass graves.

In the past two days, an Indonesian Government commission and a United Nations commission independently concluded that the Indonesian military bears ultimate responsibility for the bloodbath, and must be held accountable for its abuses in East Timor. This is an extremely important and encouraging step.

Under tremendous pressure—tremendous pressure to turn a blind eye to what happened in East Timor—and at great personal risk, Indonesian investigators have done a commendable job in determining the extent of the violence and identifying the individuals responsible, including not only those who gave the orders but those who had the power to stop the mayhem and instead simply stood by and let it happen.

There are sins of commission and there are sins of omission. If you are a military officer with the power to stop something from happening—an atrocity, a murder—and you stand by and allow it to go on, in my mind you are as equally guilty as those who commit the act.

As the leader of Indonesia's new democratic government, President Wahid has courageously voiced his willingness to confront the powerful Indonesian military establishment. He has called for the prosecutions of army leaders, including General Wiranto, former commander of the Armed Forces, who, until recently, was lauded by officials of our own Pentagon.

The United Nations commission called for the establishment of an independent national tribunal to bring those responsible for the violence in East Timor to justice. It is a proposal which the Indonesian Government has rejected, insisting it is capable of punishing the perpetrators itself.

While it is too early to say whether an Indonesian tribunal would have sufficient resources or authority to conduct what are likely to be long and expensive trials of military leaders, one thing is clear: now is not the time for the United States to follow the European Union's recent example of renewed military assistance or sales of military equipment to Indonesia. With all due respect to our European friends, sometimes I think they have a terribly short memory.

Indonesia is at a critical juncture in its transition to democracy. The commission's findings will heighten the already tense relationship between the Indonesian Government and the Indonesian military. As pressure on the military increases, it is likely that rumors of a coup will become louder and more threatening. I believe the United States has to continue to show strong support for President Wahid and for an end to the long history of impunity and immunity enjoyed by members of the Indonesian military.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### NORTHERN IRELAND

Mr. LEAHY. Mr. President, I don't pretend to know all the history or intricacies of the effort to bring about peace in Northern Ireland, notwithstanding the number of visits I have made there, notwithstanding the historic ties to that island that I have through my father's family, or even with the work I have done with our distinguished former colleague, George Mitchell, a man who deserves the highest credit for his tireless efforts towards peace in Northern Ireland. But I have met with those who are key figures in Ireland: David Trimble from the loyalists side; Seamus Mallon, Gerry Adams, and another key figure, John Hume. Mr. Trimble and Mr. Hume shared the Nobel Peace Prize for the work they did, and deservedly so.

I was one of those in the Senate who urged, near the beginning of President Clinton's term in office, to give a visa to Gerry Adams, the head of Sinn Féin and the one most visibly connected in this country with the IRA. I recall the State Department and the Justice Department being opposed to that visa, and the President courageously saying we are going to give him a visa. I think most people now accept the fact that because the President overrode the qualms of his own State Department and Justice Department in giving that visa, that we moved forward on peace for the first time.

For people who have always looked at each other through distrust and hatred—many times because of killings on both sides, killings of Catholics by Protestants and Protestants by Catholics, apparently all in the name of the greater good—they have come far and put together a government in Northern Ireland, which can start to govern itself. Men and women of good will on both sides of this issue—men and women who a few years ago would never speak to each other—have come together.

This was recently disturbed by articles in the press indicated that the IRA still refuses to turn over any of their weapons. Ironically enough, this is at a time when the Republic of Ireland and authorities in Northern Ireland continue to find and destroy caches of weapons belonging to the IRA. I don't know what kind of stubborn humility or holding of ancient grudges would not allow the IRA to make this move. I brook no favor for those on either side who have been involved in atrocities because whether it is from the Ulster side or from the IRA side, there are atrocities aplenty—innocent people killed because of their religion, because of their allegiance.

In many ways, I want to say a pox on both your houses. But that only means that generations from now the fighting will continue over things that gain nothing for anybody, feuds of hundreds of years, and memories sometimes of just a few years. It is time, in a new century, to stop the killings, to finally allow Northern Ireland, this beautiful land, to move forward and join the rest of the island in the new economic prosperity—but in peace.

As a group of mothers, Catholic and Protestant, told me once—together—they agreed with my speech of the night before in which I had said in Belfast—or just outside of Belfast—that I condemn violence from either side. They said how much they agreed, and what they wanted was for their children to be able to go to school and be educated, to live in peace, to walk down the street without worrying about being shot. What mother would want otherwise?

Frankly, those in Sinn Fein who have called on their friends here in the Congress to help them with visas, to help them move forward, best help themselves because it would be tragedy compounded on tragedy if after all these years of seeking peace, after all the work of people such as John Hume and George Mitchell, David Trimble, and Gerry Adams—people who might not want their names put in the same sentence—after all their work, what a tragedy it would be if one party, one piece of this puzzle opted out by not at least doing the first necessary steps to build confidence; that is, give over their weapons.

(Mr. GORTON assumed the Chair.)

#### THE GROWING CRISIS IN THE ADMINISTRATION OF CAPITAL PUNISHMENT

Mr. LEAHY. Mr. President, I wish to call attention to a growing national crisis in the administration of capital punishment. People of good conscience can and will disagree on the morality of the death penalty. But I am confident that we should all be able to agree that a system that may sentence one innocent person to death for every seven it executes has no place in a civilized society, much less in 21st century America. But that is what the American system of capital punishment has done for the last 24 years.

A total of 610 people have been executed since the reinstatement of capital punishment in 1976. During the same time, according to the Death Penalty Information Center, 85 people have been found innocent and were released from death row. These are not reversals of sentences, or even convictions on technical legal grounds; these are people whose convictions have been overturned after years of confinement on death row because it was discovered they were not guilty. Even though in some instances they came within hours of being executed, it was eventually determined that, whoops, we made a mistake; we have the wrong person.

What does this mean? It means that for every seven executions, one person has been wrongly convicted. It means that we could have more than three innocent people sentenced to death each year. The phenomenon is not confined to just a few States; the many exonerations since 1976 span more than 20 different States. And of those who are found innocent—not released because of a technicality, but actually found innocent—what is the average time they spent on death row, knowing they could be executed at any time? What is the average time they spent on death row before somebody said, we have the wrong person? Seven and a half years.

This would be disturbing enough if the eventual exonerations of these death row inmates were the product of reliable and consistent checks in our legal system, if we could say as Americans, all right, you may spend 7½ years on death row, but at least you have the comfort of knowing that we are going to find out you are innocent before we execute you. It might be comprehensible, though not acceptable, if we as a society lacked effective and relatively inexpensive means to make capital punishment more reliable. But many of the exonerated owe their lives to fortuity and private heroism, having been denied commonsense procedural rights and inexpensive modern scientific testing opportunities—leaving open the very real possibility that there have been a number of innocent people executed over the last few decades who were not so fortunate.

Let me give you a case. Randall Dale Adams. Here is a man who might have been routinely executed had his case not attracted the attention of a

filmmaker, Earl Morris. His movie, "The Thin Blue Line," shredded the prosecution's case and cast a national spotlight on Adams' innocence.

Consider the case of Anthony Porter. Porter spent 16 years on death row. That is more years than most Members of the Senate have served. He spent 16 years on death row. He came within 48 hours of being executed in 1998, but he was cleared the following year. Was he cleared by the State? No. He was cleared by a class of undergraduate journalism students at Northwestern University, who took on his case as a class project. That got him out. Then the State acknowledged that it had the wrong person, that Porter had been innocent all along. He came within 48 hours of being executed, and he would have been executed had not this journalism class decided to investigate his case instead of doing something else. Now consider the cases of the unknown and the unlucky, about whom we may never hear.

Last year, former Florida Supreme Court Justice Gerald Kogan said he had "no question" that "we certainly have, in the past, executed . . . people who either didn't fit the criteria for execution in the State of Florida, or who, in fact, were, factually, not guilty of the crime for which they have been executed." This is not some pie-in-the-sky theory. Justice Kogan was a homicide detective and a prosecutor before eventually rising to Chief Justice.

This crisis has led the American Bar Association and a growing number of State legislators to call for a moratorium on executions until the death penalty can be administered with less risk to the innocent. This week, the Republican Governor of Illinois, George Ryan, announced he plans to block executions in that State until an inquiry has been conducted into why more death row inmates have been exonerated than executed since 1977 when Illinois reinstated capital punishment. Think of that. More death row inmates exonerated than executed.

Governor Ryan is someone who supports the death penalty. But I agree with him in bringing this halt. He said: "There is a flaw in the system, without question, and it needs to be studied." The Governor is absolutely right. I rise to bring to this body the debate over how we as a nation can begin to reduce the risk of killing the innocent.

I hope that nobody of good faith—whether they are for or against the death penalty—will deny the existence of a serious crisis. Sentencing innocent women and men to death anywhere in our country shatters America's image in the international community. At the very least, it undermines our leadership in the struggle for human rights. But, more importantly, the individual and collective conscience of decent Americans is deeply offended and the faith in the working of our criminal justice system is severely damaged. So the question we should debate is, What should be done?