

least make DNA testing available in the kind of case in which it can determine guilt or innocence and at least provide basic minimum standards for defense counsel so that capital trials have a chance of determining guilt or innocence by means of the adversarial testing of evidence that should be the hallmark of American criminal justice.

Our bill will not free the system of all human error, but it will do much to eliminate errors caused by the willful blindness to the truth that our capital punishment system has exhibited all too often. That is the least we should demand of a justice system that puts people's lives at stake.

I have been greatly heartened by the response of experts in criminal justice across the political spectrum to our careful work, and I would like to just highlight one example. A distinguished member of the Federal judiciary, Second Circuit Judge Jon O. Newman, has suggested that America's death penalty laws could be improved by requiring the trial judge to certify that guilt is certain. I welcome Judge Newman's thoughtful commentary, and I ask unanimous consent that his article, which appeared in the June 25th edition of the *Harford Courant*, be printed in the RECORD.

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

(See Exhibit 1.)

Mr. LEAHY. It is my hope that the national debate on the death penalty will continue, and that people of good conscience—both those who support the death penalty and those who oppose it—will join in our effort to make the system more fair and so reduce the risk that innocent people may be executed.

#### EXHIBIT 1

[From the *Harford Courant*, June 25, 2000]

#### REQUIRE CERTAINTY BEFORE EXECUTING

(By Jon O. Newman)

The execution of Gary Graham demonstrates the need to make one simple change in America's death penalty laws: a requirement that no death sentence can be imposed unless the trial judge certifies that the evidence establishes the defendant's guilt to a certainty.

Under current law, a death sentence requires first a jury's finding of guilt of a capital crime and then a jury's selection of the death penalty. In deciding both guilt and the death penalty, the jury must be persuaded beyond a reasonable doubt. That is a high standard, but it is not as high as a requirement that the trial judge certify that guilt is certain.

Experience has shown that in some cases juries have been persuaded beyond a reasonable doubt to convict and vote the death penalty even though the defendant is innocent. The most common reason is that one or more eyewitnesses said they saw the defendant commit the crime, but it later turned out that they were mistaken, as eyewitnesses sometimes are.

But when even one eyewitness testifies that the defendant did it, that is sufficient evidence for a jury to find guilt beyond a reasonable doubt, and neither the trial judge nor the appellate judges can reject the jury's guilty verdict even though they have some doubt whether the eyewitness is correct.

Our system uses the standard of proof beyond a reasonable doubt, rather than certainty, to determine guilt and thereby accepts the risk that in rare cases a guilty verdict might be rendered against an innocent person. Procedures are available for presenting new and sometimes conclusive evidence of innocence at a later time.

But with the death penalty, such exonerating evidence sometimes comes too late. Every effort should therefore be made to assure that the risk of executing an innocent person is reduced as low as humanly possible.

Requiring the trial judge to certify that guilt has been proven to a certainty before a death penalty can be imposed would limit the death penalty to cases where innocence is not realistically imaginable, leaving life imprisonment for those whose guilt is beyond a reasonable doubt but not certain.

Certification of certainty might be withheld, for example, in cases like Gary Graham's, where the eyewitness had only a fleeting opportunity to see an assailant whom the witness did not previously know, or in cases where the principal accusing witness has previously lied or has a powerful incentive to lie to gain leniency for himself.

On the other hand, certification would be warranted where untainted DNA, fingerprint or other forensic evidence indisputably proved guilt or where the suspect was caught in the commission of the crime.

In state courts (unlike Connecticut's) where judges are elected and sometimes succumb to public pressure to impose death sentences, certification of certainty might be entrusted to a permanent expert panel or might be made a required part of the commutation decision of a governor or a pardons board. In federal courts, the task could appropriately be given to appointed trial judges.

Even certification of certainty of guilt will not eliminate all risk of executing an innocent person. But as long as the death penalty is used this is a safeguard that a civilized society should require. Adding it to the innocence protection bill now being considered in Congress would help that act live up to its name.

#### H1-VISAS

Mr. LEAHY. Mr. President, I rise today to comment briefly on the issue of H1-B visas. Like most if not all Democrats, I believe that the number of H1-B visas—which are used by foreign workers wishing to work in the United States—should be increased.

I also believe that we should address other immigration priorities. First, we should ensure that we treat all people who fled tyranny in Central America equally, regardless of whether the tyrannical regime they fled was a left-wing or a right-wing government. Congress has already acted to protect Nicaraguans and Cubans, as well it should. It is now time to apply the same protections to Guatemalans, Salvadorans, Hondurans, and also Haitians.

Second, we should prevent people on the verge of gaining legal permanent resident status from being forced to leave their jobs and their families for lengthy periods in order to complete the process. U.S. law allowed such immigrants to remain in the country until 1997, when Congress failed to renew the provision. It is now time to correct that error.

Third, we should allow people who have lived and worked here for 14 years or more, contributing to the American economy, to adjust their immigration status. This principle has been a part of American immigration law since the 1920s and should be updated now for the first time since 1986.

Vice President GORE shares these priorities, as reflected in a letter he wrote on July 26 to Congresswoman LUCILLE ROYBAL-ALLARD. In this letter, he endorses an increase in the number of H1-B visas and each of the three proposals I have outlined briefly here today. The Vice President's position on this issue is the right position, and it is the compassionate position. I urge the Senate to take up S. 2912, the Latino and Immigrant Fairness Act—a bill that would accomplish each of the three immigration goals I have just discussed—and pass it without further delay.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE VICE PRESIDENT,  
Washington, July 26, 2000.

Hon. LUCILLE ROYBAL-ALLARD,  
Member of Congress,  
Washington, DC.

DEAR LUCILLE: As Congress concludes this work period, with few legislative days left this session, I want to communicate my continued support for legislation addressing fairness for legal immigrants.

America's economic prosperity stems in large part from the hard work of American workers and the innovation offered by American firms. As a result of the longest period of economic growth in our history, it is not surprising that we have achieved record low levels of unemployment. This positive employment picture is especially true among highly skilled and highly educated workers. In some sectors of the economy, it appears there may be genuine shortages of highly skilled workers necessary to sustain our economic growth. As a result, our Administration has offered a series of proposals aimed at dramatic improvements in the education and training of American workers. These proposals ought to be enacted by the Congress to assure that any gap between worker skills and employer needs is addressed comprehensively.

I recognize that periodically American industry requires access to the international labor market to maintain and enhance our global competitiveness, particularly in high-growth new technology industries and tight labor markets. For these reasons, I support legislation to make reasonable and temporary increases to the H-1B visa cap to address industry's immediate need for high-skilled workers. However, this increase must also include significant labor protections for American workers and a significant increase in H-1B application fees to fund programs to prepare American workers—especially those from under-represented groups—to fill these and future jobs.

In addition, I support measures that provide fairness and equity for certain immigrants already in the United States. Therefore, as Congress considers allowing more foreign temporary workers into this country to meet employers' needs, I urge Congress to correct two injustices currently affecting many immigrants already in our nation. I want to urge Members to pass two important immigration proposals that have long been

Administration priorities—providing parity to Central Americans and Haitians under NACARA and changing the registry date to allow certain long-term migrants to adjust to legal permanent resident status. These proposals are much-needed and would restore fairness to our immigration system and American families. The registry date and the Central American and Haitian Parity Act proposals would provide good people who have developed ties to this country—families, homes, and roots in their communities—the opportunity to adjust their status. I am extremely disappointed that many in the Congressional majority seem intent on refusing to pass or even vote on these important immigration provisions. One way or another, however, the Congressional majority has an obligation to allow a vote on these issues and to join us in passing these measures of basic justice and fairness. The migrants and their families who would benefit from the registry date proposal have been in immigration limbo for up to two decades and are in desperate need of a resolution to their efforts to become full members of American society. In the case of Central Americans and Haitians, the parity provision would not only provide compassion and fairness for the affected immigrants, but also contribute to the stability and development of democracy and peace in their native countries.

I also urge Congress to pass and fund other Administration priorities that would address the needs of immigrants. Reinstatement of section 245(i) would allow families to stay together while an adjustment of status application is pending. The Administration's FY 2001 budget proposal would fund programs to ensure that immigrants' services have the resources needed to reduce the backlog of applications from people seeking naturalization and adjustment of status.

Finally, I urge Congress to fully fund the Administration's \$75 million request for the English Language/Civics and Lifeskills Initiative that will allow communities to provide more English language courses that are linked to civics and lifeskills instruction to adults with limited English language proficiency. Immigrants are eager to learn English and all about civic responsibility, but the demand for programs outweighs the supply. We need to provide opportunities for these new Americans to become full participants in our society.

For these reasons, Congress should consider and enact these legislative proposals and fund the programs we requested. I commend your leadership in this area, and I look forward to working closely with you to enact these important immigration measures.

Sincerely,

AL GORE.

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#### 65TH ANNIVERSARY OF THE SOCIAL SECURITY PROGRAM

Mr. LEVIN. Mr. President, for more than 60 years, the Social Security program has been one of the most successful governmental initiatives this country has ever witnessed. August 14, 2000 marks the 65th anniversary of the Social Security Act, signed by President Franklin D. Roosevelt in 1935. This historic event in 1935 changed the face of America by providing protections for retired workers and for those who face loss of income due to disability or death of the family breadwinner. We must look to the future to ensure a strong Social Security program for every individual in America.

During the time of the Great Depression, jobs were scarce and many were

unable to compete for new employment. President Roosevelt recognized that a change was needed, he called for reform and the Social Security Act was born.

Social Security has changed remarkably over the past six decades. Under the 1935 law, Social Security only paid retirement benefits to the primary worker. A 1939 change in the law added survivor benefits and benefits for the retiree's spouse and children. In 1956 disability benefits were added. Thus, we have seen how Social Security has grown to meet the needs of not only retirees, but also their families.

For many Americans, Social Security has become a crucial component of their financial well-being. In fact, an estimated 42% of the elderly are kept out of poverty because of their Social Security checks. Today more than 44 million people receive retirement, survivor, and disability benefits through the Social Security program, 1.6 million in Michigan. Social Security has had an enormous effect on the lives of millions of working Americans and their families.

As we celebrate this historic event, we remember what America was and how Americans have shaped their country into the prosperous nation that it is today. Since 1935 Social Security has served the American people well and will continue to do so into the future.

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#### VICTIMS OF GUN VIOLENCE

Mr. WELLSTONE. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read some of the names of those who lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

July 27: Jesus Campos, 19, Chicago, IL; Steven Conley, 29, Memphis, TN; Stephen Daniels, Jr., 24, Miami-Dade County, FL; Willie G. Dulaney, 68, Memphis, TN; George Julian, 83, Hollywood, FL; Javier Marrero, 18, Chicago, IL; Eric McAlister, 33, Dallas, TX; Charles Oliver, 50, Atlanta, GA; Deondra Stokes, 21, Detroit, MI; Barreto P. Williams, 26, Chicago, IL; Unidentified male, 25, Newark, NJ.

We cannot sit back and allow such senseless gun violence to continue. The deaths of these people are a reminder to all of us that we need to enact sensible gun legislation now.

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#### WELCOMING ZELL MILLER TO THE U.S. SENATE

Mr. REID. Mr. President, today we welcome a new colleague to this body,

former Governor, now Senator ZELL MILLER. We welcome Senator MILLER at the same time that we mourn the passing of his predecessor, PAUL COVERDELL. So it is a bittersweet moment.

ZELL MILLER isn't replacing PAUL COVERDELL. He can't be replaced, rather, I prefer to think he is following the footsteps of a consummate and formidable legislator. I worked closely with Senator COVERDELL to move legislation when people thought legislation couldn't be moved. And I look forward to working with Senator MILLER in that same vain.

In thinking about what I would say about Senator MILLER's arrival to the senate, I ran across a quote by the great Senator J. William Fulbright. He talked about what it takes to be both a legislator and an executive and I think it is a fitting characterization of the work of both PAUL COVERDELL and ZELL MILLER.

Fulbright said: "The legislator is an indispensable guardian of our freedom." "It is true," he said, "that great executives have played a powerful role in the development of civilization, but such leaders appear sporadically, by chance. They do not always appear when they are most needed. The great executives have given inspiration and push to the advancement of human society, but it is the legislator who has given stability and continuity to that slow and painful progress."

ZELL MILLER, to borrow Senator Fulbright's eloquent words, appeared in Georgia when he was most needed. As Governor, he advanced the prospects of the people of Georgia by creating the HOPE scholarship program. The initiative was so successful that President Clinton and the Congress made the HOPE scholarship initiative a national program. As a result, not only do Georgians have the opportunity to pursue their dreams through higher education, so do millions of Americans.

Looking at his career, you learn that ZELL MILLER also understands Sam Rayburn's dictum that "you cannot be a leader, and ask other people to follow you, unless you know how to follow too." Whether it was his service in Marine Corps, his tenure in the Georgia State Senate or as Lieutenant Governor or Governor, he learned leadership by following those who walked the walk before him and then by focusing on what matters most to the American people. The central focus of ZELL MILLER's career has been on what he aptly calls "kitchen table issues." The issues that affect the daily lives of the American people—education, taxes, crime, and health care.

Some may be surprised to learn that ZELL is fulfilling a childhood ambition of serving in the U.S. Senate. According to a recent news report, he wrote to his boyhood friend, Ed Jenkins, in their high school yearbook that "we will be friends forever until and unless you decide to run against me for the