

up the Tribunal's work is not in dispute—in my meetings with Tribunal officials, no one suggested that the Tribunal should not aim to finish its work by 2008. This consensus, however, does not change the fact that much important still remains to be done, and the tribunals will need continued support to complete it.

Some have also suggested that the existence of tribunals has given the international community a rationale for neglecting developing of indigenous justice systems in countries subject to the tribunals. And I agree that this is a pitfall that must be avoided, and I strongly support efforts to strengthen the capacity and independence of the judiciary in countries that have suffered from wide-scale human rights violations. Last week, Ambassador-at-Large for War Crimes Pierre Prosper told the House International Relations Committee that "the United States stands prepared to assist the states in rebuilding their shattered judicial systems to make them capable of dispensing truth-based justice and establishing systematic respect for the rule of law." I certainly hope he is right, because this is an indispensable element in the global effort to bring some stability to the heart of Africa. But I am not yet convinced that our actions will match this rhetoric, and I am specifically concerned that no funding is being requested in 2003 for the Great Lakes Justice Initiative. And while I am encouraged by the Rwandan Government's efforts to address the massive backlog of genocide-related cases through a system of community courts known as *gacaca* and believe that the international community should help the government in Kigali to ensure the integrity and efficacy of this effort, I also respect the Rwandan's decision not to attempt to try those most responsible for the genocide—known as Category One suspects—in these untested courts in which judges have very little training and where only limited safeguards exist for victims and for the accused.

Madam President, it is important to acknowledge that much of the criticism that has been leveled at the tribunal is fair, and it reflects real, and in some cases ongoing problems with the ICTR. Too often in the past, allegations of waste and mismanagement proved to be accurate, and the tribunal must exercise constant vigilance to fight corruption and abuse. Decisive steps must be taken to address the issue of fee-splitting between those on trial and defense counsel. I was pleased to learn about some of the efforts currently underway during my visit. I have raised these issues with the Chief Prosecutor, I have raised them with U.N. officials in New York, I raised them in Arusha, and I will continue to raise them. And overall, the tribunal simply has to pick up the pace of its work. I believe that this, too, is being addressed. During my visit there were three cases being heard simulta-

neously. And as I have mentioned, providing additional judges to the ICTR will help to address this problem.

Madam President, because this tribunal is so important, the international community must keep working to get it right. The ICTR still has a great deal of work to do, and the international community, including the United States, must ensure that they are operating with all the necessary support, and operating under clear demands for accountability and integrity. These two initiatives—supporting the court and demanding an end to corruption and waste—are not contradictory, they are complementary. I urge my colleagues and the administration to pursue both with equal vigor.

The PRESIDING OFFICER. The Senator from Nevada.

#### TRIBUTE TO PFC MATTHEW COMMONS

Mr. ENSIGN. Madam President, I rise to speak of a brave young nevedan, PFC Matthew Commons, who was killed in combat in Afghanistan. I am humbled and grateful that he was willing to make the ultimate sacrifice to preserve our freedom.

For he is one of the noble soldiers of whom Thomas Jefferson spoke when he warned that "the tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants."

In doing his duty for God and country, he gave up all so that we could grow and thrive and learn and love in the greatest Nation in the world.

He is our fallen hero. A grateful Nation should never forget, he had family, friends, and plans for the future. He was just 21 years of age, old enough to dedicate his life to protecting our country, but too young to have a family of his own.

His mother told me that one of the hardest burdens she now has to bear is the knowledge she will never get to hold Matthew's children.

Matthew was an all-American kid, growing up in Boulder City. He ran track and played soccer at Boulder City High. He was elected secretary of his senior class.

On September 11, al-Qaida terrorists attacked the United States.

On March 4, Matthew Commons sought to make sure that would never happen again.

He died to make sure that no American was left behind at the mercy of al-Qaida. His mission was a success. And his fellow soldiers endured heavy fire so that he, too, ultimately would come home from the front.

In fighting for our Nation, he ensured that we would be free.

In dying, he left in his wake the grief of those who knew and loved him, including his mother, Patricia Marek and his father, Greg Commons.

God bless you, Matthew Commons.

And God bless America.

Would the senior Senator from Nevada like to make some comments?

The PRESIDING OFFICER. The senior Senator from Nevada.

Mr. REID. Madam President, I certainly applaud my colleague from Nevada for making his heart-felt statement. I am not much for calling people when there is a tragedy. I tend to write letters. It is difficult for me to speak to people upon the loss of a loved one because it brings back memories of those loved ones of mine I have lost. So I normally just write a letter.

But I thought it was appropriate yesterday, when I learned about the death of Matthew, that I call and speak to the parents; and I did that. Certainly, it was not a pleasant call in the sense that you call and talk to grieving parents, but it was a call I will never forget.

His mother asked me if I would write her a letter. I said I would be happy to. She said: The reason I want the letter is because I will have that to refer to. I will not have my son anymore. And she broke down and cried a little bit about that.

As I just indicated, I talked to his mom, Patricia, who lives in Las Vegas. I also talked to his dad, Gregory. Gregory, as do most fathers, put up a very brave front during the first part of our conversation. Like all dads, toward the end of it, his emotions got the best of him. He shed a few tears, I know. I could tell by his voice that he was crying on the other end of the line.

I talked to him about Matthew's brothers. Matthew had three brothers. Matthew was the oldest. And his dad said: Matthew always looked out for his brothers, that if anyone tried, in any way, to get the better of his little brothers, he was always standing there making sure that they did not.

And I said to Mr. Commons: You have to explain to your sons that they have a great example to live up to because their brother gave his life for our country.

So I was saddened to see that one of those who died was from Bolder City, NV. As indicated in the Washington paper today, in their comments about his death, Matthew was the youngest of those who were killed, but the parents and the wives of the other men who were killed are grieving just as Matthew's parents, no matter where they live in this great country of ours.

But I do say that as a result of the courageous act of Matthew, who was actually going to the aid of one of his comrades, we are going to win the war on terrorism—because there are people all over America today like Matthew Commons willing to give their lives for their country.

#### GENETIC INFORMATION NONDISCRIMINATION ACT OF 2002

Mr. ENZI. Madam President, I rise today to join my colleagues in introducing the Genetic Information Nondiscrimination Act of 2002. I am particularly grateful to Senators SNOWE, JEFFORDS, FRIST and GREGG for their

leadership on the extremely important policy matter of protecting individuals from genetic discrimination.

This bill would effectively and fairly protect against genetic discrimination in health insurance and employment. The group of members assembled to introduce this bill is bipartisan. We all worked together in the past on a bill that dealt strictly with genetic discrimination in health insurance, and today are introducing a bill that includes a new title to also protect individuals from genetic discrimination in employment. During the last Congress, our bill dealing with health insurance discrimination passed the Senate three times. I hope this new bill just has to pass once before the President can sign it into law.

As I have previously stated, I believe there is unanimous support for enacting legislation which prohibits discrimination in both health insurance and employment. The promise that genetic information holds for revolutionary advances in the diagnosis and treatment of diseases such as cancer, Parkinson's disease, heart disease and diabetes should not be hindered by fears about the discriminatory use of this information.

As a result of a lot of hard work and a hearing held by Chairman KENNEDY on February 13, 2002, we are able to introduce a bill today that reflects the cutting edge knowledge about genetic science and also reflects the current regulatory state with respect to medical records privacy. Both the original Snowe bill and the alternative Daschle bill were drafted years ago. The Human Genome has since been mapped. Comprehensive medical records privacy regulations, which will cover genetic information, have since been promulgated. And, the Equal Employment Opportunity Commission, EEOC, has since stated the need to expressly protect individuals from employment discrimination based on genetic information.

In other words, this bill provides the most informed policy to meet the goal of protecting individuals from discrimination without denying the promise of genetic science. Here are just a few examples of how our bill has been improved.

First, the definition of genetic information correctly reflects the science of genetics as the best minds know it today, not 4 years ago. Secondly, the medical records privacy regulation called for under the Kennedy-Kassebaum Health Insurance Portability and Accountability Act of 1996, HIPAA, is nearly final. The Kennedy-Kassebaum law clearly intended that genetic information be considered medical information, and, therefore, should be equally protected under the same privacy standards. The Snowe bill we're introducing today codifies that intent.

The President has also called upon Congress to pass legislation prohibiting discrimination on the basis of genetic information that is fair, reasonable and

consistent with existing discrimination statutes when it comes to protecting individuals against employment discrimination. Consistency is mandated to protect the rights of employees and employers alike. Consistency is mandated to protect the carefully designed process for enforcing and redressing employment civil rights legislation.

Therefore, I believe that federal legislation prohibiting employment discrimination based on genetic information must not deviate from other employment discrimination laws, namely Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act, with regard to enforcement and remedies.

Furthermore, we cannot enact new employment discrimination legislation without examining its interaction with existing laws. We must be careful to avoid enacting legislation that places employers between a rock and a hard place. That is, in order to comply with one law, an employer violates another. For example, an employer should not be placed in the impossible position of violating genetic discrimination legislation by virtue of its requirement to comply with the ADA or Family and Medical Leave Act. Nor should employers be held to conflicting standards governing the disclosure of genetic information.

Let me briefly address the issue of enforcement of employment discrimination claims on the basis of genetic information. Under Title VII and the ADA, Congress gave the Equal Employment Opportunity Commission the role of investigating and enforcing complaints of violations of these laws. Under both of these laws, a claimant must first file a complaint with the EEOC before being able to file a private suit in court.

The EEOC plays a critical role in the compliance with and enforcement of employment nondiscrimination laws. The EEOC's mediation activities also serve to expedite resolution of employment cases and reduce the backlog of such cases in our courts.

Federal legislation on genetic nondiscrimination that would allow a claimant to bypass the vital role that the EEOC plays undermines the efficacy of such legislation. Furthermore, what is the justification for allowing an individual claiming genetic discrimination to circumvent the complaint process that claimants of other basis of employment discrimination must follow?

With regard to remedies for employment discrimination based on genetic information, federal legislation should not disregard the remedy structure of other employment discrimination laws. The Civil Rights Act of 1991, which applies to remedies available under Title VII and the ADA, places a cap on consequential and punitive damages that is progressive with the size of the employer.

I cannot see the justification for allowing unlimited damages for employ-

ment discrimination based on genetic information. Why should someone claiming genetic discrimination, but who is asymptomatic, be able to recover greater damages than someone who is actually disabled in the present or who is a claimant of race discrimination? We must guard against enacting legislation that, in an effort to protect individuals who have been subjected to one type of discrimination, creates inequities for individuals who have been subjected to another type. Unfortunately, I read the alternative bill sponsored by Sen. DASCHLE to create just such an inequity.

The issue of confidentiality of genetic information in the employment context in relation to existing privacy laws might seem very complex. However, I think that the issue is not as complex as we make it out to be. First and foremost, an employer should not be held to conflicting legal requirements regarding the confidentiality of such information.

The HIPAA medical records privacy regulation I mentioned before governs the disclosure of all medical information, including genetic information, by health plans, health care clearinghouses and certain health care providers. Therefore, an employer who is acting in its capacity as a group health plan will be subject to the HIPAA privacy regulation. Federal legislation that prohibits discrimination in health insurance and employment on the basis of genetic information should not create confidentiality requirements for employers acting as group health plans that conflict with the privacy regulation. Again, Sen. Daschle's bill would create this kind of conflict.

On a subject as important as the use and disclosure of genetic information, we must understand and build from existing federal laws and regulations. With this foundation and the benefit of today's understanding of genetic science, I look forward to passing legislation to prohibit discrimination in health insurance and employment on the basis of genetic information.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred January 30, 1993 in Wilmington, NC. A gay man was dragged from a bar and beaten. The assailants, Colin C. Hunt, 20, Patric G. Gardone, 23, and Walter G. Watkins, 26, were charged with four counts of assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of