

used that in order to expedite consideration of matters and everybody understands that, and everybody can then debate.

Mr. SESSIONS. I just recall when Senator DASCHLE was the majority leader, he brought up huge legislation outside of the committee that could not have been passed in the committee. We were forced to debate that legislation on the floor under rule XIV. To say there is some procedural problem here, when Senator HATCH has managed the bill through the committee process, when we have debated the bill, and when we have voted on the bill in committee, it came out 12 to 7, is baffling. As far as rule XIV is concerned, everybody was given notice of what would happen, this is just pure obstructionism. This is just an excuse to delay, delay, obstruct, obstruct.

We are coming to the end of this legislative session. We have a lot of things to do. One of the things we absolutely ought to do is to move this bipartisan bill to fix class action litigation in America. It is the right thing to do. It has the overwhelming majority support of the Members of this body. Yes, it has the opposition of a small but powerful little group of trial lawyers who put a lot of money in the political campaigns, but it is the right thing to do, and we ought to move forward with it.

I think there is every reason for those who believe in improving the legal system to be upset at the obstructionism that we are facing by a majority leader who has approved this. I think if we had some leadership on the other side by Senator DASCHLE, we could move this bill. To lay back is to allow the trial lawyers to control this matter.

There are a lot of reasons why we ought not have a single state judge in Madison County, as the Senator said, trying cases that have impact all over America. That is not good. A Federal court, with a Federal judge, with a quality group of law clerks, a fine staff, and by far a smaller caseload than most State judges have—I would say on the average, in my experience, that the State judges would carry maybe 10 times as many cases on their docket as a Federal judge has on the Federal court docket. The Federal judges give more attention to the cases and they have more ability to focus on a case. There is the ability to issue subpoenas nationwide and make things happen in ways that are more difficult in State court. So a major class action involving millions of dollars and thousands of plaintiffs from different states ought to be tried in Federal court when there is a majority of the people involved who are out of State.

This reform fixes some of the problems associated with class actions. It sets up legislation that gives special scrutiny for those abused coupon-related settlements, where the victims get coupons and lawyers get big fees.

It guarantees that notifications to class Members to be in plain English. It

scrutinizes against a negative awards, where plaintiffs who may not have even known they were plaintiffs end up having to pay attorney's fees in a case they never authorized to go forward. It provides protection against unwarranted higher awards for certain class members, just because they are in a certain area of the country. And there are prohibitions on the payment of bounties.

It makes it more difficult, when you are facing a fair judge who you believe will rule on the law and give you a fair shake, not in a county that has a reputation of just hammering defendants in favor of the attorneys who file the cases. That allows defendants to litigate with integrity, and not feel they must just pay up, almost in the form of blackmail, to get the matter away so they can go on about their business. This is not a fair way to do business.

This bill has a lot of good things in it that will make this area of the law, class actions, better, more fair, and more objective.

I thank the chair and I yield the floor.

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

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

#### MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### TRIBUTE TO BRECK WALL

Mr. REID. Mr. President, I rise today to express my congratulations and best wishes to my longtime friend and fellow Nevadan, Mr. Breck Wall.

Born in Jacksonville, FL in 1934, Mr. Wall has lived an interesting and exciting life. As an entertainer, he has known many talented and famous people in the world of show business. He has also crossed paths with well-known people in other walks of life. In the early 60s, he performed in the Dallas nightclub owned by Jack Ruby, the man who shot Lee Harvey Oswald.

The Las Vegas Sun has called Breck "one of the most durable performers in Las Vegas," and that is no exaggeration. This year he is celebrating the 45th anniversary of a show called "Bottoms Up," which he created in 1959 at the old Adolphus Hotel in Dallas.

Breck based this show upon slapstick vaudeville comedy, which explains its long-running appeal. The show is very Las Vegas, therefore, is enjoyed all over America.

After producing "Bottoms Up" in Dallas and Houston for several years, Breck brought the show to Las Vegas in 1964 . . . and he has never left.

The show is now a Las Vegas institution. It has played at many of the finest hotels in town, including Caesar's Palace and the old International Hotel where Elvis used to perform—now the Las Vegas Hilton. It is currently enjoying a run of several years at the Flamingo.

Breck has done more than 15,000 performances of this show, but he never gets tired of it . . . and neither do the audiences. The secrets of his longevity are a strong work ethic, and the kind of good nature that brings a smile and laughter to everyone who meets him.

I first met Breck in 1977 when I was chairman of the Nevada Gaming Commission. We were introduced by some mutual friends at an event, and we exchanged a few jokes. I could immediately sense Breck's warmth and his sharp wit.

We really became good friends a few years later, when I ran for Congress and Breck helped me with my campaign. Breck has produced shows for my campaign that have been exciting, entertaining and fun.

Helping other is typical of Breck Wall. Despite the demands of his travels and his work, he always finds time to contribute something to his community.

Most recently, he participated in the Golden Rainbow's 17th annual "Ribbon of Life" AIDS benefit at the Paris hotel in Las Vegas. This summer show helped raise more than a quarter of a million dollars for an organization dedicated to helping the men, women, and children living with HIV and AIDS.

I ask all my colleagues to join me in sending our good wishes to Mr. Breck Wall as he celebrates the 45th anniversary of "Bottoms Up," a Las Vegas entertainment tradition.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a horrific crime that occurred in West Hollywood, CA. After hugging a male friend outside of his home in September 2002, actor Treve Brody was beaten with a baseball bat. Mr. Brody was in a coma, and spent 10 weeks in the hospital after being struck in the back of his head. He suffered memory loss and impaired vision that prevents him from reading or driving.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement

Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### MISCARRIAGE OF JUSTICE IN MEXICO

Mr. LEAHY. Mr. President, as one Member of Congress who believes that we have a strong interest in broadcasting and strengthening our relations with Mexico, I was appalled to read a recent Washington Post article entitled "Three Americans Jailed in Bizarre Mexican Land Dispute."

Mexico is a country of 100 million people. We share a border. We share a wide range of cultural, economic, political, and other interests. Yet our history has been a troubled one, and the election of Vicente Fox offered an historic opportunity to begin to build a new relationship based on trust, mutual understanding, and shared goals.

Regrettably, President Bush, who shortly after his inauguration spoke convincingly of his intention to give a high priority to U.S.-Mexican relations, has failed to turn those words into action. Little has been accomplished. I am afraid that once again, the hopes and aspirations of both Mexicans and Americans will be for naught.

The President needs to recognize that as important as the Middle East and the Persian Gulf are to U.S. and global security, we have vital interests right here in our own hemisphere. I remember how during the 1980s we spent billions of dollars to wage proxy wars in Central America. Yet when those wars were over, we turned our back. Today, with the exception of our counter-drug programs in the Andes, which as we have seen recently in Bolivia are of dubious merit, we spend a pittance to support economic and political development in these countries the majority of whose people remain impoverished and without meaningful political or legal rights. Our policy is short sighted and it will cost us in the long run.

Of all countries in the hemisphere, none is more important to U.S. interests than Mexico. It would be difficult to think of any issue—immigration, tourism, trade, infectious disease, water security, environmental pollution, democracy and the rule of law, organized crime—that does not cry out for broader cooperation. I hope President Bush, and his capable new Assistant Secretary of State for Western Hemisphere Affairs, Roger Noriega, will give renewed attention to these issues during the remaining years of President Fox's term.

I mention this because earlier this year, I sponsored, with Senator REID, Senator DASCHLE and others, an amendment which authorized \$100 million to be spent in Mexico to promote micro credit programs, small business entrepreneurship, private property ownership, and support for small farm-

ers who have been affected by adverse economic conditions. I felt it was important to make a strong statement, through legislation, that we need to devote significant resources to help address these problems. Our amendment was adopted, and it is my hope that we can include a portion of those funds for Mexico in the fiscal year 2004 Foreign Operations Act.

But my support for providing those funds will depend on whether the case which is the subject of the Washington Post article I mentioned is satisfactorily resolved. The three Americans who have been arrested are the victims of an absurd miscarriage of justice. Fortunately, according to the article, the American Embassy in Mexico is following the case closely, and recognizes that these three people have done nothing wrong. To the contrary, they have generously cared for an ailing, elderly American, Russell Ames, who lost his wife Jean Ames three years ago. Jean Ames was a wonderful woman, and her death was a great blow to Russell Ames. Ames, already in his late eighties at the time of his wife's death, would never have been able to continue to live in his home in a small village near Oaxaca, Mexico, without the around-the-clock care of Mary Ellen Sanger and the other Americans who lived on the property.

My office has conveyed my concern about the unlawful arrests and detentions of these three Americans to the Mexican Embassy in Washington. These people should be immediately released and the cases against them dismissed. And, just as important, President Fox, who has repeatedly said that his presidency stands for the rule of law, should determine whether the Mexican official who is responsible for this travesty should be removed from his position.

I ask unanimous consent to print the aforementioned article in the RECORD.

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

[From the Washington Post, Oct. 18, 2003]

#### THREE AMERICANS JAILED IN BIZARRE MEXICAN LAND DISPUTE

CARETAKERS OF MAN, 91, HELD IN STANDOFF INVOLVING A MEMBER OF PRESIDENT FOX'S CABINET

(By Kevin Sullivan)

OAXACA, Mexico—Three U.S. citizens, including a man dying of cancer, have been jailed here and face up to 14 years in prison in a land dispute involving a member of President Vicente Fox's cabinet.

The Americans, two men and a woman, are long-term friends and caretakers for a former U.S. college professor, Russell Ames, 91, who has lived in Oaxaca since 1959. Ames and his late wife sold their land to the University of the Americas in Mexico City in 1988 in exchange for lifetime rights to remain on the property. But now the university, whose president, Alejandro Gertz Manero, is on leave serving as Fox's minister of public security, is trying to force Ames off the land.

A municipal judge and a squad of state police officers arrived at Ames's property on Friday in an attempt to evict him. Neighbors said about 60 people who live in a nearby vil-

lage, including the mayor and police chief, came to support Ames, blocking his removal.

Ames said that arresting his three friends on charges of trying to take over the land for themselves was a "ridiculous" attempt to intimidate him into leaving.

"These three Americans are innocent bystanders and the embassy feels what has happened to them is an outrage," said Laura Clerici, consul general at the U.S. Embassy in Mexico City, which has sent officials to monitor the case.

U.S. Ambassador Tony Garza has complained about the case to Gertz, who is also a university trustee. Gertz said the arrests were legal and that he has not improperly used his influence in the case.

The case is one of a number of land disputes involving Americans who live or own property in Mexico. Earlier this year an American couple was forced off land they owned in the southern state of Chiapas by local residents wielding machetes. Three years ago scores of U.S. citizens lost millions of dollars in investments when they were evicted from oceanfront homes they bought in Ensenada in the western state of Baja, California. U.S. officials at the time blamed the losses on a lack of consistency and transparency in Mexican property laws. At least half a dozen more major disputes are pending over property owned by Americans along the Caribbean coast.

"We are being held hostage," Mary Ellen Sanger, one of the three jailed Americans, said in an interview in a state prison here. Sanger, 45, a native of Schenectady, N.Y., said she had been assigned latrine-cleaning duty in the prison and slept on a concrete floor with 44 other women in a communal cell.

Sanger has been a caretaker, feeding, dressing and walking with Ames for almost three years. Joseph Simpson, widower who is about 72 and suffering from late-stage terminal throat cancer, has been a caretaker on the property for more than a decade. He is now under police guard at a Oaxaca hospital, where U.S. Embassy officials who visited him said he was in grave condition. John Barbato, 58, from Nevada City, Calif., a poet and artist who has known Ames since 1985, rents a small house on the property and is in prison with Sanger.

Despite their longstanding ties to Ames and the property, the three were arrested on Oct. 6 and charged with violently taking possession of the land on May 1. U.S. officials said the arrest warrant claimed the three Americans moved onto the property that day in a conspiracy to take the land for themselves, charges that carry a penalty of three to 14 years in prison.

"That's the stupidest thing I've ever heard," said Ames, who was being fed dinner and ice cream by Sanger when a squad of police arrived at his house to make the arrests. "They took care of me for several years. I felt enormously lucky to be taken care of by them. Most people my age don't have anybody, or are just miserable."

The underlying issue behind the arrests is the dispute over the land where Ames lives, a parcel worth an estimated \$250,000 in one of Mexico's most popular tourist destinations.

Ames said the sale of his land to the university was part of a charitable donation. Records show that the property was in the name of his wife, Jean Ames, who transferred ownership to the university for \$60,000, half of its assessed value at the time. Ames said he and his wife never received that money; the listed purchase price was simply a legal formality for tax purposes. In return, Ames said the university agreed to allow him and his wife to live on the land for the rest of their lives, and to pay them up to \$4,000 a year.