

an APHIS, Wildlife Services, Operations Program State Office located in Hawaii; and the expansion of long-term research into chemical and biological control techniques that could lead to large-scale reduction of brown tree snake populations in Guam.

H.R. 3497 is a product of collaboration between my office, the offices of Congresswoman BORDALLO and Congressman ABERCROMBIE, and the key Federal, State, and territorial stakeholders in the region. While the brown tree snake is just one of the more serious of many invasive species threats to Hawaii, the mechanisms strengthened and established under H.R. 3479 can serve as an exemplary model for addressing other invasive species issues, not just in Hawaii, but in our whole country.

The bill is supported by the Hawaii Department of Agriculture, the Hawaii Department of Land and Natural Resources, the Hawaii Invasive Species Council, the Nature Conservancy of Hawaii, the Coordinating Group on Alien Species, and others. Such coordinated support in Hawaii is illustrative of the seriousness that we take this issue and the assistance the federal government can anticipate receiving after enactment of this bill. Hawaii's stakeholders will not be silent and passive partners in this effort.

I am specially proud about the establishment of the Hawaii Invasive Species Council, which includes key State, county and Federal head officials in Hawaii, by legislation approved by the 2003 Hawaii State Legislature and Hawaii Governor Linda Lingle.

I understand that Hawaii is now only one of seven states in the country to establish such a council in addressing invasive species prevention and response measures at the State level.

Again, I urge my colleagues to support this important legislation.

Mr. ABERCROMBIE. Madam Speaker, I rise today in support of H.R. 3479, the Brown Tree Snake Control and Eradication Act of 2004. This measure will not only ensure continued security for Hawaii and Guam, but the entire Pacific region.

The Hawai'i Biological Survey has documented that an average of 177 alien species arrive in the State of Hawai'i each year. Out of all the possible alien plants and animals that could make their way to the Hawaiian Islands, one of the most feared is the brown tree snake.

The brown tree snake arrived in Guam on military materiel transport from the Solomon Islands after World War II. Because Guam has no natural predator for the brown tree snake, the snakes have been able to flourish and have been recorded as high as 10,000 snakes per acre. The brown tree snake is blamed for the extinction of 9 out of 11 bird species native to Guam. These snakes also cause frequent and costly power outages and are known to bite humans. Like Guam, Hawaii has no native snakes and no natural predators for snakes. Only one pregnant brown tree snake needs to reach Hawaii in order for the State to experience the same catastrophic consequences as Guam.

Wildlife Services under the Animal and Plant Health Inspection Service in the Department of Agriculture provides brown tree snake control on Guam by inspecting outgoing military and civilian cargo and providing trapping services at Guam's ports. These services interdict

6,000 to 7,000 snakes annually and have proved to be very successful in keeping the brown tree snake out of Hawaii.

For the past 10 years, the funding for these services has remained fixed. The program was able to make up for inflation and increasing costs by stopgap measures that have enabled them to continue services. However, this is no longer possible. Unforeseen vehicle repair or replacement costs, critical travel associated with program delivery, required training for staff, increased costs of operations and growing containment responsibilities are forcing significant reductions in operations. Compounding the problem, Wildlife Services has been informed by Anderson Air Force Base that it will have to begin to pay for in-kind services that have been provided to the program at no cost since 1994. To compensate for this additional unanticipated financial burden, further reductions in staffing are anticipated in early fiscal year 2005.

H.R. 3479 would begin to resolve these problems by recognizing the seriousness of the threat posed by the brown tree snake. This legislation authorizes the Departments of Agriculture and Interior to fund brown tree snake interdiction and control efforts and provide grants for these efforts. Just as important, this measure would support research efforts to control and eventually eradicate this harmful species from Guam. Current funding does not allow for in depth research that could lead to less labor intensive solutions than the current bait and trap method. This legislation also requires the establishment of pre-departure quarantine protocols for persons and cargo traveling from Guam. This will ensure that this species is not able to spread to other Pacific destinations.

Madam Speaker, this legislation is being considered at a crucial point in time. I urge my colleagues to support this bill and thank Chairman POMBO and Ranking Member RAHALL for their continued efforts to address the problems of the distant Pacific. I would also like to thank Congresswoman BORDALLO and her staff. Without the effort of all of these parties, this legislation would not be before the House today.

Mr. GRIJALVA. Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3479, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. SAXTON. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military con-

struction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MS. PELOSI

Ms. PELOSI. Madam Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. Pelosi moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4200 be instructed to agree to the provisions contained in title XXXIV of the Senate amendment (relating to the enhancement of local law enforcement and the prohibition of hate crimes).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from California (Ms. PELOSI) and the gentleman from Florida (Mr. FEENEY) each will control 30 minutes.

The Chair recognizes the gentleman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today to offer a motion to instruct conferees to the defense authorization bill to agree to the hate crimes prevention provisions contained in the Senate bill.

I thank the gentleman from Missouri (Mr. SKELTON), our ranking member on the Committee on Armed Services, for his commitment to including hate crimes prevention provisions in this bill.

Before I speak to the motion, I want to speak to the excellent credentials of the gentleman from Missouri (Mr. SKELTON). Every man and woman in uniform in our country, whether regular service or Reserves or National Guard, owes a deep debt of gratitude, as does our entire country, for his commitment to the national security of our country and to his commitment for the well-being of our troops in the United States and certainly in harm's way.

I have seen firsthand the respect that they have for him, both at Whiteman Air Force Base in Missouri, in his own district, and in Iraq and Afghanistan, where we have seen them in the theater of war. I say to the gentleman from Missouri (Mr. SKELTON), thank you for your magnificent leadership and service to our country.

Madam Speaker, hate crimes have no place in America. I think we can all agree to that. All Americans have a right to feel safe in their communities. Yet FBI statistics continue to demonstrate a high level of hate crimes in our country. Federal hate crimes prevention legislation is the right thing to do, and it is long overdue.

Some opponents argue that there is no need for Federal hate crimes prevention legislation because assault and

murder are already crimes. However, when individuals are targeted for violence because of their race, sexual orientation, religion, national origin, gender or disability, the assailant intends to send a message to all members of that community. The message is, you are not welcome.

When violence is visited upon people because of who they are, the color of their skin, how they worship and who they love, we all suffer. When this happens to one of us, it happens to all of us.

We all will remember very sadly the brutal murders of James Byrd in Texas, Matthew Shepard in Wyoming, Waqar Hasan in Texas, and Gwen Araujo in my own State of California.

Current law limits Federal jurisdictions to "federally protected" activities such as voting and does not permit Federal jurisdiction over violent crimes motivated by bias against the victim's sexual orientation, gender, or disability.

The gentleman from Michigan (Mr. CONYERS), our distinguished ranking member on the Committee on the Judiciary and a great leader in civil liberties and protecting the American people and public safety, has introduced H.R. 4204, the Local Law Enforcement Hate Crimes Act, to expand Federal jurisdiction to include hate crimes. Along with 175 of my colleagues, I am proud to cosponsor his bill; and I commend the gentleman from Michigan (Mr. CONYERS) for his untiring leadership and commitment to this and so many other issues. Thank you for your leadership.

When State and local law enforcement do not have the capacity to prosecute hate crimes, this bill would permit Federal prosecution regardless of whether a federally protected activity is involved.

This legislation would increase the ability of local, State, and Federal law enforcement agencies to solve and prevent a wide range of violent hate crimes. Numerous law enforcement organizations, including the International Association of Chiefs of Police, support the need for Federal hate crimes legislation.

Four years ago, both Houses of Congress supported the hate crimes prevention provisions on a bipartisan basis as part of the defense authorization bill, only to see those provisions stripped by the conference committee. We cannot let that happen again.

This June the Senate, the other body, adopted an amendment to include language identical to H.R. 4204 in its version of the defense authorization bill on a strong bipartisan vote.

Today we have the opportunity to put the House on record in favor of Federal hate crimes prevention provisions. We must not allow the provisions to be stripped in conference again. We must continue to fight for justice, hope, and freedom by ensuring that hate crimes prevention provisions are enacted into law. That would be a

true and fitting memorial to James Byrd, Matthew Shepard, Waqar Hasan, Gwen Araujo and so many others who have died because of ignorance and intolerance.

I urge my colleagues to support this motion to instruct.

Madam Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS) and ask unanimous consent that he control said time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, whatever any one of us thinks about the merits of the specific language, it does not belong in a defense authorization bill. If these provisions were introduced as a free-standing piece of legislation, they would have been referred to the Committee on the Judiciary; and that is where they should appropriately be dealt with, not in a conference on a wholly unrelated topic.

Second and more importantly, let me address the merits of the proposal before us. All of us, as the gentlewoman from California pointed out, all of us deplore hate crimes. The perpetrators of such crimes deserve the harshest punishment under the law as the law allows. The evidence indicates that they are receiving such punishments under the current law in a wide majority of the cases.

However, this really is misnamed as a hate crimes piece of legislation. What it ought to be called is an unequal protection proposal, because what this bill basically does is to say that the dignity and the property and the person and the life of some Americans gets less protection under the law if we pass this amendment than other American lives. That sort of unequal treatment is exactly what the 14th amendment was designed to prohibit, in my view.

I completely understand the positions of those who want this legislation, but I fear they have not fully thought through the potential consequences of adopting this legislation.

When someone is murdered because the killer does not like the color of their skin, that killer deserves harsh punishment; but the killer deserves it because the victim is a human, not because of the killer's hateful thoughts.

We must honor the victim's humanity and do justice, irrespective of the race, gender, the sexual orientation, or any other given trait. It is the victim's humanity that matters here. Nothing that the killer has thought about the victim can alter the value of that human's life which has been taken.

This proposal does not target hate crimes; it just specifies certain types of hate crimes for special treatment. I think we go down the wrong road here when we value certain lives differently because of race, gender or other fac-

tors, and believe that the hate crimes provisions tend to do that. That road leads to all sorts of mischief that I do not like to think the well-meaning sponsors of this proposal intend to accomplish.

So I ask that we continue to honor the value that all human life is precious, and value it no matter what the person's skin color is, no matter what some vicious criminal thought of that person's skin color.

Justice ultimately ought to turn on the fundamental worth of the human being and not the thoughts of the specific criminal. Article XIV of our Constitution guarantees equal protection under the law. But in this regard, I would ask what about other groups that have not been targeted for special protection under this piece of legislation? What about children? What about senior citizens? What about the infirm, disabled, teachers, seniors, mailmen, women, veterans, and even public servants who may be the victims of the ultimate hate crime, terrorism?

The same spirit that hate compels a criminal to commit a crime due to one's race, gender or religious persuasion also may compel him or her to commit a crime against anyone in these and many other groups. Yet these others are excluded from protection. Under this hate crime proposal, they are protected and they are treated unequally.

So we oppose the inclusion of these provisions. The so-called hate crimes provision is a political feel-good statement that is anti-prosecution and anti-law enforcement and makes it less likely that violent criminals will ultimately be convicted and punished.

The bill will make it easier for criminals to create a shadow of a doubt and evade conviction for certain types of crimes if the prosecutor decides to roll the dice and include the necessity to prove the burden of intent based on race or the other special categories set out in the bill. It increases the burden on the prosecution to prove one additional element, and it increases the opportunities that criminals and their defense attorneys will have to create that certain shadow of a doubt and ultimately escape justice altogether.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield such time as he may consume to the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services.

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Madam Speaker, I thank the gentleman from Michigan for yielding me time.

I do rise in support of this motion to instruct conferees on the National Defense Authorization Act.

Madam Speaker, our Nation has seen far too many cases of violent criminal acts related to prejudice, bigotry, and

intolerance. The Federal Bureau of Investigation has reported a significant number of cases involving violence directed against a member of a religious, ethnic, disabled, race-based, or gender-specific association. Statistics show that nearly 8,000 acts of violence have occurred annually since 1994. Society cannot and should not tolerate the cowardly, mean-spirited, and hateful acts that we call hate crimes.

Indeed, such hate-based acts have a deeper impact on society than many other crimes. They are injurious to the community, and they are often committed by offenders affiliated with large extended groups operating across State lines.

I think all of us at one point or another in our lives have seen the ugly face of prejudice, bigotry, and discrimination. When hatred is a motivating factor in the commission of a crime, I believe it should be an aggravating factor that is taken into account in the sentencing process.

Moreover, Madam Speaker, as a former trial lawyer and State prosecuting attorney, I do not view the Senate proposal lightly. Although the ability to prosecute crimes against individuals exists today, the Senate bill would provide prosecutors with more tools with which to fight crimes and in which bias, prejudice, and discrimination are motivating factors.

The Senate bill is narrowly tailored. A hate crime would occur only if the person charged deliberately committed or tried to commit an act of violence resulting in bodily injury to another person. In addition, the Senate language only speaks to crimes involving the use of fire, a firearm, an explosive, or an incendiary device. So this is not a case which would criminalize free speech or would address a broad range of conduct.

Madam Speaker, agreeing to the Senate language is simply the right thing to do, and I urge my colleagues to support this instruction.

Mr. FEENEY. Madam Speaker, before I yield, I yield myself such time as I may consume.

Madam Speaker, I appreciate the esteemed gentleman from Missouri's comments. I happen to agree that in terms of sentencing, there ought to be consideration of certain aggravating factors like hate and bigotry, as he expressed.

□ 1645

I believe that under the current Federal sentencing guidelines for virtually all, if not all Federal crimes, that is exactly what the guidelines permit now, but they do not create the burden of a separate element.

Madam Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman for yielding me this time.

This is an issue, I think, that moves some of us to come to the floor to talk about it, because it sends us down a

path that is awfully hard to get back from.

One of the questions that we need to answer here before this Congress is, what is a hate crime? And that question seems real simple, but the answer to that question is almost always, any crime committed against any individual, especially a violent crime, which requires a certain amount of hatred or jealousy, a certain kind of emotional attachment or emotional reaction from the perpetrator towards the victim. I do not know how you could assault or murder or rape someone without having anger or hatred or fury in you.

So I will say that any of these crimes here that we are talking about with regard to this are all hate crimes.

The question is, what is not a hate crime? I do not have much of an answer to that, unless it be a crime against property rather than people, but I do not believe you can commit a crime against people and not feel an emotional effect one way or another on their personality.

So we have two significant cases here that were mentioned by the gentleman, the Minority Leader, the James Byrd case and the Matthew Shepard case. In both of those cases, there were murders committed in a most violent, hateful fashion. Also, there have been many other murders committed in this country in a violent, hateful fashion, but the perpetrators of those crimes, the murderers of James Byrd and Matthew Shepard, were quickly apprehended, prosecuted and sentenced to death. What more would we choose to do to people who have committed hate crimes than sentence them to the ultimate penalty, which I believe they deserve most vigorously?

Another misconception that I believe is here is that the list of those categories that would be used to define hate crimes, that list is: actual or perceived race, color, religion, national origin, ethnicity, gender, disability or sexual orientation of any person. That list sounds suspiciously like title VII of the Civil Rights Act, except it has been amended in a couple of places. In one place, it has replaced the word "sex" with the word "gender." Gender is what you think you are; sex is what you physiologically are. So only the person who is the bearer of gender can know what their gender is, and anything else that can be an independently verified, immutable characteristic is what sex is. Sexual orientation is another thing. That is self-identifying.

So we would put people in jail or potentially execute them for crimes committed when they may not even know the circumstances. Those two words are not legally sustainable, and they send us down a very dangerous path.

There is a question of federalism. The States are to be reserved everything that is not specifically designed in the Constitution, and yet we are reaching into the States' province here and stepping across them and saying, but we

know better here in Congress, better than you know in Wyoming, better than you know in Texas, better than you know in Iowa. I believe it is better off left up to the States. But I would oppose hate crimes in the States because they are discriminatory in their nature. They discriminate in favor of certain groups and against other groups, and sometimes, they backlash.

If we look statistically, and I have seen some of those in my internet blog searches, about how the hate crimes have backlashed, and there are more Caucasians now, American whites, that are using hate crimes against minorities. Where you have a prosecutor who is willing to go down that path, you are going to see this happen. There will also be the backlash on the prosecutor. When that prosecutor chooses to prosecute a crime and call it a hate crime, some of the people in the public will say, no, that is racist, that is bigoted for one reason or another. Or, if he chooses not to, there is going to be the challenge that he decided not to for discriminatory reasons. It opens up a whole other world here.

I would just boil it down to this, that we are all equal under the law. This Nation is a nation of equal rights for individuals. When God created us, he did not draw a distinction between us, and neither should we in our Federal law.

Mr. CONYERS. Madam Speaker, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Madam Speaker, this is the only civil rights measure that we will be considering in this Congress, and it is the first civil rights measure, as distinguished from voter rights, that we have handled on this floor since 1968 when 18 U.S.C. 242 was amended.

Please, let us understand that we have witnessed a dramatic increase in hate-motivated violence. The definitions are very clear. To my friends who have wondered what a hate crime is, there are 8,000 hate crimes each year.

I want my colleagues to know that we have already approved of this. The House has voted on this measure. The Senate has voted on this measure. And now, we are doing the same thing again.

For all of my colleagues who want to know where law enforcement stands on this, please know that the Police Foundation endorses the measure. The National Sheriff's Association endorses this measure. The International Association of Chiefs of Police endorses the measure. The Police Executive Research Forum likewise. So we have law enforcement realizing that we need a comprehensive law banning hate crimes, and what this bill essentially does is modify the Federal nexus that is connected with it.

Please, let us understand that this is the only opportunity we will have to go on record to show that we want to assist States in prosecuting their hate

crimes by re-endorsing and re-supporting this measure.

Madam Speaker, I reserve the balance of my time.

Mr. FEENEY. Madam Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Madam Speaker, I thank the gentleman from Florida for yielding me this time.

I rise in opposition to this motion by the gentlewoman from California. I believe sincerely all violent crimes are hate crimes regardless of race or any other classification.

My concern is, today, that as we begin to move down this road, what will happen to freedom of speech in this country? Some people might say, well, you are missing the big picture. Maybe I am, but I can tell my colleagues what has happened in Sweden already. A minister who spoke from the Bible and talked about certain lifestyles not being acceptable in the Bible spent a month in jail for speaking out and preaching.

I believe in compassion. I believe in respect. I believe in the civil rights of each and every one of us who lives in this great Nation. But my concern sincerely is that we might have it one day, as they do in other countries that have outlawed the use of Roman Catholic teachings and also Islamic teachings about certain lifestyles that are not acceptable based on their religion, and I would hate to see that happen in this great Nation.

Yes, I want to see every crime that is committed against any American, no matter what their lifestyle is, I want to see that person who committed the crime to go to jail. I believe in the death penalty, as my voting record would say. But I am saying here today, if we pass this motion and send this back, the Senate language, we will begin to go down the road of where one day, I am afraid; it has happened in Canada, it has happened in Sweden. I am afraid, one day, what we will see happen in this country is that certain religious leaders will have their free speech threatened, and I do not want to see that happen.

Mr. CONYERS. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Madam Speaker, I am torn. I cannot decide which argument has less merit. There was the gentleman from Florida who said, do not take it up on this bill; it is in the jurisdiction of the Committee on the Judiciary. It is in the dungeon of the Committee on the Judiciary. I envy the gentleman's ability to say that without smiling. This bill is introduced, and it is sent to the Committee on the Judiciary. And that committee, of which he is a member, consistently refuses to take any action on it. Of course, it would be better if the

Committee on the Judiciary did its duty and had a markup and let us vote on the bill.

The Committee on the Judiciary tyrannically refuses to deal with the bill. That is bad enough. But it literally adds insult to the democratic process to injury of the democratic process to refuse to act on the bill, and then complain when people find another way around. This is like locking somebody up, and she escapes through your backyard, and you charge her with trespassing. We have found a way out of your prison, and that bothers you. How can anyone seriously argue that, having refused to let the bill be subjected to the normal processes, we are the ones who are at fault because we have found another way to bring it up?

And then we have the gentleman from North Carolina who said this is a violation of free speech. I guess it is easy when you do not read the bill. This bill criminalizes actions that consist of violence against individuals. It allows the Attorney General to enter under certain limited circumstances, if it is a Federal crime of violence under the Federal U.S. Code. It allows certain other things if there is an act of bodily injury or an attempt to cause bodily injury. Nothing in here criminalizes speech. In fact, when people start talking about Sweden, it is a pretty good indication that they do not have anything to talk about with regard to the law that we are voting on in America. By the way, America, unlike Sweden, has a first amendment, and the Supreme Court would have banned that if anybody tried to.

Finally, to refute that argument, which is without any merit whatsoever; I mean, sometimes we get close questions here. That one has no merit. There is nothing remotely in this bill that threatens anybody's speech. But here is the proof of it, and it also is a sign of the gross inconsistency of those on the other side. We are not starting down any path today, except the path of their illogic. What we are doing is adding a category to existing Federal categories. There are already on the books laws that create hate crimes. It is not the case that every crime is treated equally.

By the way, there was one category of people, and violence against them is much more seriously treated than violence against anybody else. If you are so offended by that, where is your motion to amend the law and take away the statute that says it is a super Federal crime to assault one of us. If a Member of Congress and a private citizen are walking down the street and they are both assaulted, it is a much more serious crime against the Member of Congress. Where is your consistency? If you mean what you say, why have you not gone after that, or is it okay if you are protected, Madam Speaker?

And then we have race on the books, and we have religion. Has anybody ever found a case where they say, well, once

you do this, someone's free speech will be impugned? Are you telling me there are no racists in America? Are you telling me that no one makes racially offensive remarks? People do. And none of them, none of them have ever been prosecuted for hate speech.

So, in fact, you deny the reality, Madam Speaker, when people say this, that there are already on the books certain categories that are treated as hate crimes. None of them have led to there being any impugning of people's free speech.

Then the question is, why do we want to do this? In the first place, no one is saying that if you were violently assaulted, you will not be protected by the law. Why do we add an additional element if it is a hate crime? And here is the reason: When people are going out and singling out people because of their race or their color; and, by the way, if people who are white are being assaulted by people of another race because of their race, that is a hate crime, and it ought to be treated as such. I do not share the view that that is a bad thing. It is wrong for thugs to tyrannize people because of that, and it is worse than another crime for this reason.

If some individual is walking down the street and is randomly assaulted, he or she is traumatized. But if another individual is singled out because of her race or religion or sexual orientation or gender, then it is not simply the individual who has been assaulted but others who share that characteristic who are put in fear.

We do have a particular problem. The gentleman said, well, you are saying gender instead of sex. Yes, there are people who are transgendered in our society. They are sadly often victimized. They are often victims of violence. Yes, I think it is a good idea to come to their aid. And if the gentleman thinks it is a mistake to go to the aid of people who are transgendered who are more often than others victimized and who are put in fear for that, then we do disagree, and I welcome the chance to vote on it.

□ 1700

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in addition to the other arguments that we have put forth saying that it is just wrong to treat people unequally in terms of the protection we give victims, focusing on victims, I want to tell my colleagues a lot of us believe very deeply that, as with respect to every individual American before the law and before God, we are equal and ought to be treated equal and certainly our laws ought to include that.

What we oppose is the fact that what this bill does is specifies certain people for extra protection under the law. It necessarily says other people are not going to get that extra protection, and it tends to do the very things that a lot

of my friends on the other side say they do not want to do. It tends to divide Americans. It tends to Balkanize Americans. It tends to separate Americans. It tends to put hyphens in front of all Americans, because if one does not have a hyphen in front their name they are not eligible for protection under this piece of legislation.

Once again, this is misnamed. This is not a hate crimes proposal. This is an unequal protection under the law proposal.

Madam Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, I thank the gentleman for the time.

Does he then seek to undo the Federal law that singles out race and religion currently for a protection of this sort? If he thinks it is wrong to do division, does he oppose the existence of those laws and do we expect to see a law repealing these?

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

No, but I will support my colleague when he files the bill to take away the special protections of Members.

Mr. FRANK of Massachusetts. Well, why not race and religion?

Mr. FEENEY. Madam Speaker, I thank the gentleman for his question.

The point of this is that we should not be giving certain people special protections that we are not giving all Americans, and the gentleman earlier stated that he thinks it is very different for a thug to come along and batter, for example, somebody because of their race or their color or their ethnicity than it is to beat up somebody just on the street because of the fear it creates.

Madam Speaker, I can tell my colleagues that a lot of senior citizens, a lot of little old ladies carrying their purses from and to the market, one example, who are not protected by this bill live in fear every time they have to go out on to the streets. All of us deserve equal protection.

What we want to do in opposing this is make sure all Americans get the equal protection they are entitled to under the law.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield 2¼ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), an excellent member of the Committee on the Judiciary.

Ms. BALDWIN. Madam Speaker, I rise in support of our Democratic leader's motion.

It is tragic that hate crimes occur, but they do; and it is irresponsible and naive to deny that there are people out there who seek to commit violence against others because they are gay, lesbian or transgender, because they are female, because they have a disability. It happens far too often, and we must not be silent about it.

Enactment of Federal hate crimes protections is important for both substantive and symbolic reasons. The legal protections are essential to our system of ordered justice; but on a symbolic basic, it is important that Congress enunciate clearly that hate-motivated violence based on gender, sexual orientation, or disability is wrong. Because, quite frankly, too much of what we have been doing in this Chamber conveys the message that we really do not believe in full equality for all, and it is sort of like a wink and a nod that maybe a little discrimination is okay.

I want to speak briefly about why hate crimes differ from other violent crimes. A senior Republican Member of the other body said a few years ago, "A crime committed not just to harm an individual, but out of motive of sending a message of hatred to an entire community is appropriately punished more harshly, or in a different manner, than other crimes."

Hate crimes are different than other violent crimes because they seek to instill fear and terror throughout a whole community, be it burning a cross in someone's yard, the burning of a synagogue, or a rash of physical assaults near a gay community center. This sort of domestic terrorism demands a strong Federal response because this country was founded on the premise that persons should be free to be who they are without fear of violence.

The Local Law Enforcement Enhancement Act should stay in the defense authorization bill. For too long this body has failed to act to prevent or respond to hate crimes. We have the opportunity today to say something and do something about it.

I urge my colleagues to vote in support of this motion.

Mr. FEENEY. Madam Speaker, I yield myself such time as I may consume.

I agree with the gentlewoman from Wisconsin that the Americans she cited ought to be free from the fear of violence whether it is because of their color, their ethnicity, their race, their religious beliefs. But what about American veterans? Should they not be free from the fear of violence? What about senior citizens? They are not protected by this bill. How about America's children as they come to and from school every day. Is there anything in this that gives same protection it gives the special treated classes? Is there anything that protects our teachers in this bill and then protects the police officers that patrol our streets in this bill? Is there anything that protects a lot of Americans who have served their country and are just going about their business every day?

Madam Speaker, it is the position of those who oppose this unequal protection proposal that all Americans deserve equal protection under the law.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am delighted to yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), a former Secretary of State in his State.

Mr. LANGEVIN. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, as a member of the House Committee on Armed Services, I rise today to register my strong support to maintain the Senate's hate crimes provisions in the defense authorization conference report.

The brutal murders of Matthew Shepard and James Byrd graphically demonstrated to the Nation the horrors of violence motivated by hate and bigotry. In 2002 alone, law enforcement agencies reported 7,462 bias-motivated criminal incidents. Nearly half of those crimes were targeted at the victim's race with biases against religion, sexual orientation and ethnicity, also common reasons for violence. Fifty people were even harmed because of a physical or mental disability.

Unfortunately, four States have no laws against hate crimes, and the statutes in another 17 States fall far short of full protection. Even in a State such as Rhode Island, where we have strong laws against hate crimes, law enforcement officials recorded 38 cases of bias-motivated offenses in 2002. Because current Federal hate crimes laws cover only crimes motivated by racial, religious or ethnic prejudice, Congress simply must expand the definition to include violence based on gender, sexual orientation and disability, and promote the aggressive prosecution of all hate crimes.

Madam Speaker, no American should be targeted for violence based on prejudice; and we must, therefore, pass the Local Law Enforcement Hate Crimes Prevention Act which would provide Federal assistance to State and local authorities in prosecuting hate crimes. Additionally, the legislation would expand the Federal definition of hate crimes.

As a person with a disability, one of the categories that would be covered under the expanded definition, I know how important it is that our Nation protect all those that could be singled out for violence based on personal characteristics.

Madam Speaker, I urge all of my colleagues to vote for this motion to instruct conferees.

Mr. FEENEY. Madam Speaker, I yield 9¼ minutes to the distinguished gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Madam Speaker, I thank the chairman for the time, and let me start by saying that we all are opposed to hate crimes. They are a terrible thing, and any legislation that had a positive effect on stopping hate crimes I would be here supporting.

I sincerely believe by looking at this legislation that this legislation could not only interfere with our ability to, as a practical matter and in an effective manner, prosecute hate crimes; it

also would have some serious consequences for our enforcement of other laws which now exist.

I say also say that, first of all, there is already Federal hate crime legislation on the book, and I think it is well and narrowly drafted and takes care of the situation. So saying that, let me give my colleagues reasons why I feel that this legislation is a step back, not a step forward.

Look at this legislation. Hate crime, the language is so overbroad that hate is not even required. Nowhere in the legislation does it talk about hate. What that would do is that hate or any other type of animus is not even an element of this so-called hate crime legislation. It is not even in here. So if someone commits some certain broadly defined acts, and it says because if someone commits an act because of someone's race, sex, disability or sexual orientation, it violates this vague law.

If someone commits a crime because of someone's race because of someone's sex, is not all rape committed because of someone's sex? Could not that argument be made? So are we suddenly saying that all rape cases, almost all rape cases will be federalized? I mean, only a few rapists at the very most are indifferent to the sex of their victims. So we would be federalizing all rape cases.

Even assume that there is a need for a Federal hate crimes law. This is a poorly drafted bill. It should be debated. It should be amended significantly in committee before it is considered by the full House and the Senate because of this one thing, because we are fixing to federalize all rape cases.

Second, I believe that this actually could have a negative effect on our national security. Let me tell my colleagues why I believe that. This proposed legislation would swamp Federal law enforcement responsibilities; and in doing so, it would certainly distract them from some of our national goals. Now, more than ever, Federal law enforcement officers and prosecutors must concentrate their scarce resources on combating national threats or uniquely Federal crimes, and hate crime, there is not anything uniquely Federal about that. Those that commit them are doing it because of hate, not because of some Federal jurisdiction.

Terrorism, we have got our hands full of terrorism. On the Federal level with kidnapping cases, with auto theft, with espionage cases, to divert all our resources over to hate crimes and take them away from our State and local prosecutors and our State prosecutors is a tremendous redeployment of our resources.

I also fear that Federal officials might selectively enforce the law. The only other option for Federal officials other than seriously abandoning their other vital responsibilities is to enforce hate crime laws in a highly selective way. That increases the risk of politicizing prosecutions. If we federalize all these vague types of crimes, like all

rape cases, they are going to have to pick and choose which ones they prosecute. Using the criminal enforcement agencies for political or ideological purposes, picking and choosing which cases to prosecute, by its very definition that is tyrannical.

A very important point, I think this legislation is going to undermine State and local criminal enforcement. Because of the broad expanse of Federal hate crime laws in this definition, I think it undermines State and local efforts to fight crime in several ways. It would undermine the morale of our frontline State and local law enforcement officials because it tells them they cannot handle this traditional role that they have been handling, prosecuting rape cases, prosecuting murder cases, prosecuting assault cases.

All of the sudden we are telling them this is such a serious problem, they are doing such a lousy job, we are going to take jurisdiction away from the State, and only the Federal Government has the ability to prosecute these cases. As I said, there is already a narrowly and well-constructed Federal hate law, and I have looked at this. Every one of these acts, and maybe the gentleman could respond to this, defined in this already constitutes hate crimes and are prosecuted by State courts today. Not a one of these things is a new crime.

Mr. CONYERS. Madam Speaker, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Michigan.

Mr. CONYERS. Madam Speaker, I just wonder if the gentleman is aware that many States have asked for this assistance; that this merely amends the Federal nexus that already exists; and that the civil rights organizations and more than half a dozen police and law enforcement organizations have all strongly supported the request and the Department of Justice has not taken the point of view that is brilliantly argued by my friend from Alabama?

Mr. BACHUS. Madam Speaker, I think that is actually predictable and let me tell my colleague why.

Some States, but not all of them, but some of them already have hate crimes statutes, and they can already prosecute these cases; but all States, all of them, prosecute murder cases. They all prosecute assault cases. They all prosecute assault with intent to murder cases. They all today prosecute a battery case as a battery, assault as assault, rape as rape, murder as murder.

What this would do is it would expand the jurisdiction. In every one of those cases, a person could go to Federal court or State court, every one of them, and, yes, the States are strapped for money. The counties are strapped for money. Sure, they would like for us to come in and pass a law that suddenly says that every crime out there, even armed robbery with a pistol or robbery, all of those, but particularly rape, murder, assault, battery cases,

assault with intent to murder, suddenly these are all Federal cases, yes.

I mean, from a money standpoint, how many Federal courts are we going to build? We would have to double the size of the Federal court, and sure, there are States that would just as soon take all these responsibilities away from them. There are other States, other law enforcement agencies, that think that their States are doing a good job.

As I said, all of these acts defined by this thing are today prosecuted by the States and prosecuted in State court. The only difference is we are going to let all of them go to Federal court now, and I do not think that is a good idea. Maybe this is an indictment saying the State courts are doing a horrible job. I do not know which States are doing a horrible job.

□ 1715

Final point. Murderers who face the death penalty under State law, now listen to this, murderers who face the death penalty under State law are not going to be deterred by an additional Federal hate crime law, especially a proposed Federal law that does not have the death penalty.

We are going to pass this, and we are going to end up with somebody being prosecuted in Federal Court that could have gotten the death penalty in State court and we will not be able to give the death penalty in Federal Court. Now, a lot of Members think that is just fine because it does away with the death penalty in a number of cases. It does in this.

And last, it is no less horrible for someone to be molested or murdered because the murderer liked him or her or than because the murderer hated him or her. If somebody kills me and they liked me, or at one time they were a friend of mine, I am just as dead. And I do not think that part of every case ought to be a day or two where we determine how much hate there was involved in the case.

Let us prosecute and convict them and get them off the streets and quit this tremendous shift to Federal jurisdiction.

Mr. CONYERS. Madam Speaker, I am delighted to yield 3½ minutes to the gentleman from Maryland (Mr. HOYER), the whip of the Democrats, who has been a strong civil rights advocate throughout his career, and who I have been pleased to work with.

Mr. HOYER. Madam Speaker, I thank my distinguished friend, the chairman-in-waiting of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), for yielding me this time.

Madam Speaker, I support this motion to instruct conferees on the DOD authorization bill to keep the Senate-passed hate crimes legislation in the conference report. This straightforward legislation would provide assistance to State and local law enforcement officials to investigate and prosecute hate



crimes. It also would add gender, disability, and sexual orientation to the existing Federal hate crimes law and clarify the conditions under which such crimes could be federally investigated and prosecuted.

Enacting these important additions to existing law will send, I believe, a very powerful message that crimes committed against any American just because of who he or she is are absolutely unacceptable and that the Federal Government stands ready to assist or, yes, step in to assure that perpetrators of these crimes are brought to justice.

While the heinous murder of Matthew Shepard and James Byrd, Jr., will never be forgotten, thousands of other brutal crimes are committed every year that may not command the Nation's attention, yet nonetheless strike fear among entire communities in which they occur. That is exactly what makes forcefully addressing hate crimes so essential.

This legislation should have become law 4 years ago, when the Senate added hate crimes legislation to the Department of Defense authorization bill and the House, on a strong bipartisan vote, instructed conferees to accept the Senate's position. Unfortunately, however, because the Republicans' leadership opposed such a move, the hate crimes provisions was dropped in the conference, thus opposing the will of the majority of the House and the Senate.

Let us right that wrong this year. We should adopt this motion to instruct. And if the motion succeeds, I urge the leadership of this House and of the Senate to include it in the conference report.

In conclusion, Madam Speaker, let me say this. Why do we include hate crime as a specific and distinct crime? Clearly, if one knocks me over the head, he or she commits an assault. That is a crime at the State and local level. It is also a crime at the Federal level. Why should there be a specific crime if the motivation for hitting me over the head is that I am, well, I used to say blond, like my grandson, but gray haired?

The reason for that is that this Nation holds as a principle truth that all men and women are created equal and endowed by their creator with certain inalienable rights. Therefore, because we believe that every individual is entitled to rights, an assault on that individual is a crime; but if it is because of the class to which that person belongs, it is the undermining of the very essence of America, of our welcoming of diversity, of our rejecting prejudice and bigotry, of assuring every American equal protection of the laws. That is why this is a distinct and different crime.

We have found all over the world that hate is dangerous, that bigotry is dangerous. It undermines democracy. It undermines the safety and security of individuals. Let us pass this motion to instruct.

Mr. FEENEY. Madam Speaker, I am glad to yield 3 minutes to the gentleman from Indiana (Mr. PENCE), my great friend.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Madam Speaker, I rise in the midst of, I think, a very important debate on the floor of this Congress, although I am sure many of my constituents in Indiana wonder why we are debating such a contentious social issue in the midst of a critical National Defense Authorization Act. Nevertheless, we are here, and I am grateful for the opportunity to speak.

I deplore violence for any reason against any person; and I believe, without hesitation, that that is the view of the good and decent men and women who serve on the floor of this Congress. But I oppose the motion to instruct and hope our conferees will remove the so-referenced hate crimes language because in addition to questioning whether this issue has a place in the defense bill, I consider it, as many have argued more eloquently than me, unnecessary, repetitive of State jurisdiction, and it is constitutionally suspect, claiming as its constitutional basis the 13th amendment, which would likely be rejected in the courts, as the gentleman from Florida (Mr. FEENEY) has argued.

But I rise today, Madam Speaker, as a member of the House Committee on the Judiciary and a civil libertarian deeply concerned over the issue of creating a crime for thought. It is difficult for me to understand how the governing of thought in any way, Madam Speaker, is consistent with the principles underlying a free society. That the Kennedy bill serves to punish thought *per se* is nowhere more obvious than in how, if passed, it will discredit the public mores of tens of millions of Americans on matters of sex and sexuality.

Specifically, the Kennedy language in the bill that we are considering includes a prohibition against gender-based and sexual-orientation-based crimes. As the 2001 committee report of the Senate committee on the bill made clear, the use of the term "gender," instead of the proper term "sex," is a deliberate effort to extend the law's protections to individuals in the categories of transvestites and those who have undergone sex change operations.

Obviously, Madam Speaker, it goes without saying that a great many Americans have deeply felt, sincerely held moral beliefs about homosexuality and about the various derivatives thereof. And make no mistake about it, the language in this legislation condemns implicitly those thoughts.

We all condemn actions that take the form of crimes, whatever their motivation. Crimes of violence are to be deplored, and they have been eloquently deplored by my colleagues on the other side of the aisle today. But legislation that focuses on the thoughts of Americans who have moral reservations

about certain behavioral choices ought not to be a crime.

Mr. CONYERS. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER), a civil rights leader from California.

Mrs. TAUSCHER. Madam Speaker, I take that as a high compliment from the gentleman from Michigan (Mr. CONYERS), and I thank him for yielding me this time.

Madam Speaker, at a time when the House has so much important work to do, I am deeply disappointed that I have to arise to address the political posturing occurring on what should be one of the most important bipartisan bills before us, the defense authorization bill.

As a member of the House Committee on Armed Services, I strongly support the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS) and to agree and to accede to the language passed in the other body that includes this hate crimes legislation.

We have been here before. I am also a proud cosponsor of the gentleman's Local Law Enforcement Hate Crimes Prevention Act. Congress needs to be on the record supporting State, local, and tribal governments in their efforts to combat crimes committed against people based solely on their race, gender, sexual orientation, or religion.

□ 1730

I support including this hate crimes provision in the final version of the defense bill and urge the conferees to do so, as they have done before. We have included this vitally important language in previous defense bills with bipartisan support, only to have the Republican leadership strip it out in the end.

Mr. Speaker, it is irresponsible and unacceptable that Congress has not been assisting those in need in the fight to eradicate these crimes. Now is the chance to improve upon our previous actions and work with the conferees to allow this hate crime legislation to become law. Please support the Conyers motion to instruct.

Mr. FEENEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, in the 1 minute that I have, I would like to seek to illustrate what goes wrong if hate crimes legislation is implemented into law.

One example would be just a little over a week ago I used the phrase "cultural continuity" on the floor of this Congress. Within hours, there was a press release out declaring I was a racist. Now cultural continuity does not define anything other than this great unity of America, but the Members on the other side leaped to that conclusion, and I would ask the body would people who simultaneously pass public judgment be the same kind of people who would decide a case of hate crimes as jurors. If that is the case, I submit that prejudice is so great there cannot be an objective decision made.

The SPEAKER pro tempore (Mr. CULBERSON). The gentleman from Michigan (Mr. CONYERS) has 5 minutes remaining. The gentleman from Florida (Mr. FEENEY) has 3 minutes remaining.

Mr. FEENEY. Mr. Speaker, just as a parliamentary inquiry, does the gentleman from Michigan have the right to close?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) has the right to close.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY) who has worked with the civil rights community in her State and Nation since she has come to Congress.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to assure the gentleman from Iowa (Mr. KING) that his position is a perfectly legitimate one, and for anyone to attack him as a racist on that regard I would take issue with. I want the gentleman to know that would not be the sentiments of anyone I know here in the Congress on this side of the aisle, and we apologize for any misunderstanding which may have resulted from that.

Ms. WOOLSEY. Mr. Speaker, every day at least four hate crimes are reported in the United States, at least four. But even worse are the crimes that are not reported. They are not reported out of fear of retaliation or feeling that law enforcement just will not follow through.

That is why we need tough Federal hate crime language to protect all Americans, and we need to include it in the Department of Defense authorization bill. If we do that, then the lack of response will change because no one in this country should live in fear, even for one day, because of his or her ethnic background, his or her religious affiliation, gender, disability, or sexual preference.

Mr. Speaker, that is why it is so important to pass meaningful hate crimes legislation and pass it now, today; and today we can send a message to all Americans that hateful behavior is wrong and will not be tolerated any longer. It is clear that existing Federal law is inadequate to vigorously fight and prosecute hate crimes.

Too often our law enforcement officials lack the resources and/or the education required to deal with these crimes. They do not have what they need within their own communities to step up to these criminal charges.

In California, for example, a report called "Reporting Hate Crimes," a study commissioned by Attorney General Bill Lockyear, reveals there is a general lack of understanding by California law enforcement agencies on

how to deal with hate crimes in local communities. The study found that in some communities, and this is horrible, in some communities public officials and business leaders actually discourage law enforcement officers from reporting hate crimes for fear of adverse publicity.

If law enforcement officers do not report hate crimes, what in the world happens to their credibility when they are supposed to be addressing the problem in the first place? Their credibility diminishes.

What is even more alarming is that hate crimes based on gender and disability are generally not reported at all. It is obvious we need hate crimes language in the Department of Defense authorization bill. We need it now. We need not have one person ever faced with a hate crime based on who they are. I urge my colleagues to support this motion to instruct.

Mr. FEENEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to close in opposition to this motion, I would say again that the arguments against this proposal being added by the conferees are very strong. This is a Department of Defense authorization bill. It is about defending our country, and we are interjecting an extra issue that we should not be dealing with here. This needs to go to the Committee on the Judiciary.

Number two, States can and often do prosecute these types of crimes. We ought to preserve the 10th amendment and allow traditional State crimes to be prosecuted at the State level.

Number three, this gives enormous prosecutorial discretion. Prosecutors could add this as a bargaining chip to threaten that they are going to bring a hate crimes allegation when in fact really are just trying to impose a stiffer sentence through the plea bargaining process.

Number four, we have not discussed how freedom of speech, as the gentleman from Indiana (Mr. PENCE) so eloquently argued, can be tied up in who should be charged with a hate crimes allegation and who should be charged with just a typical crime allegation. Often it is political correctness that determines who gets punished and who does not.

Finally, the most important reason is this is misnamed as a hate crimes proposal. This is an unequal protection proposal.

Since before 1868 in this country, since before the 14th amendment, sadly some Americans got less protections under the law than other Americans. Fortunately, since 1868 we have made a lot of progress in that regard.

What this proposal does is to give certain Americans more protections than others, exactly what we tried to do in 1868 with the 14th amendment. This does nothing to give protection to children, veterans, teachers, police, or to our many seniors throughout the country; and that why it is fatally and morally flawed, despite the best of intentions by the proposer.

This proposal divides America. It hyphenates America, it balkanizes America, and you get special protection if you are a member of a special class under this bill.

Mr. Speaker, criminals are like wolves. They are like lions. They prey on those who get the least protection from the herd. If we say children and seniors and veterans should not get the same protection, we need to be aware what the criminals will do. They will prey on those left unprotected.

Finally, Mr. Speaker, I would say to my friends on the other side of the aisle, the way to fight hate in America is to teach, it is to preach, it is to love, and it is to respect. It is not to divide, to balkanize, to hyphenate Americans and to grant special privileges and protections.

Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I appreciate the debate we have had here today. I close with a reminder from the International Association of Chiefs of Police in the United States: this is not a door-opener for State prosecutors to get rid of cases or get into the Federal jurisdiction. They can only bring these cases if the Department of Justice agrees that they can be brought. Without that, the Department of Justice wants to make sure that they need this help and in some cases will grant programs to the State and local law enforcement to cover the costs of investigating and prosecuting.

So this hate crimes law will greatly assist law enforcement officers in investigating hate crimes.

Mr. Speaker, 175 organizations, law enforcement, civil rights, Hispanic national law groups, the Presbyterian Church, the Episcopal Church, Anti-Defamation League, Leadership Conference on Civil Rights, the NAACP, National Council of La Raza, American-Arab Anti-Discrimination Committee, National Asian Pacific American Legal Consortium, Sikh Mediawatch and Resource Task Force, Human Rights Campaign, the American Association of People With Disabilities, and the National Center For Victims of Crime pray that we will take action today.

Mr. FARR. Mr. Speaker, I rise today in support of the motion to instruct conferees on the DOD Authorization bill to accept the bipartisan Senate-passed provisions on hate crimes.

The purpose of the Senate provisions is to strengthen and close loopholes in current law by making it easier for federal authorities to prosecute or assist local authorities in prosecuting crimes motivated by race, religion or ethnicity when appropriate. In addition, these provisions expand current law to include gender, disability, and sexual orientation. The Senate provisions are overwhelmingly supported by both the civil rights community and law enforcement organizations.

Many of my colleagues have questioned the relevance of these hate crimes provision in the DOD Authorization bill. However, it is naïve to



presume that the military need not concern itself with hate crimes, and there is devastating evidence that hate crimes occur in the military. I am referring to the July 5, 1998 murder of Pfc. Barry Winchell at Fort Campbell, KY. Twenty-one year old Private First Class Barry Winchell was beaten to death while he slept by a fellow soldier. During the court-martial trial, testimony from other soldiers showed that Pfc. Winchell's murderer engaged in harassment, rumor-mongering and prying into Pfc. Winchell's personal life in direct violation of the Don't Ask Don't Tell policy. The horrible murder of Pfc. Winchell is a lasting reminder of the need for vigilance in fiercely opposing and prosecuting all hate crimes and for providing our law enforcement organizations with the ability to prosecute these heinous crimes.

Every American, regardless of their race, religion, ethnicity, gender, disability, and sexual orientation deserves the right to live life to the fullest without the fear of bullying, persecution, or violence. I urge my colleagues to support this motion to instruct conferees on the DOD Authorization bill to accept the bipartisan Senate-passed provisions on hate crimes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Motion to Instruct Conferees on agreeing to the Local Law Enforcement Enhancement provision of H.R. 4200, the Department of Defense Authorization bill for fiscal year 2005. Since the 105th Congress in 1997 there has been legislation introduced that is designed to enhance the ability of local law enforcement to fight hate crimes more effectively. Hate crimes legislation passed the Senate during the 107th Congress as part of the Department of Defense Authorization bill. Similarly, it was approved by the House pursuant to a motion to instruct on a 232–192 vote. Despite these bicameral, bipartisan votes, the hate crimes provisions were stripped from the Department of Defense bill in 2001. We must use the powers on Congress to fight hate crimes in all its forms and this motion will put a much needed piece of legislation into effect.

I am proud to be a cosponsor of the hate crimes bill that we introduced this Congress, which is identical to the Senate's amendment and has 177 bipartisan cosponsors. The Senate also supported this legislation as a bipartisan effort, with a 65–33 vote to include the Local Law Enforcement Enhancement Act as an amendment to the Department of Defense Authorization bill. Clearly, it has been the will of Congress to include this hate crimes legislation. Let us not waver and wait another day as Americans continue to be attacked and intimidated by those who commit hate crimes.

There may be those out there who say that effective hate crimes legislation is no longer necessary, they would be dead wrong. From 2000 to 2002 alone, there were over 25,000 hate crime incidents. That alone should be a staggering enough number to make us want to act immediately. With this legislation, state and local authorities will have the enhanced support of the federal government when prosecuting hate crimes as the Justice Department will provide them with technical, forensic, or prosecutorial assistance. The Attorney General can also make grants to state and local law enforcement agencies which have incurred extraordinary expenses associated with the investigation and prosecution of hate crimes. Finally, this legislation will ensure that state and local authorities continue to take the

lead on this issue and prosecute the overwhelming majority of hate crimes by mandating that high ranking DOJ official approve all federal prosecutions under this law. It is truly the responsibility of the federal government to make sure that those who commit hate crimes are punished to the full extent of the law. Otherwise, we will only be showing a sign of weakness to those bigots and racists who have no qualms about violating people's basic human rights.

It saddens me but even to this day we see hate crimes in our own neighborhoods. Recently, I have seen a rash of hate crimes against Muslims in the state of Texas. There was an incident a week ago in which a man was arrested after allegedly throwing two home-made gasoline bombs into a mosque courtyard in El Paso during Friday Prayers. The bombs landed in a play area and splattered gasoline on children, luckily neither fire-bomb ignited. There was also an incident in the Houston area in July where a home-made bomb exploded in the mailbox of the Champions Mosque in Spring, Texas, again it was in the vicinity of children. In August, law enforcement authorities in McAllen, Texas were asked to investigate an intentionally-set fire at a Muslim store as a possible hate crime. The fire followed two separate incidents in which unknown parties painted the phrase "Go Home" on the door of the store. The hate-graffiti appeared just after the store began running advertisement on local television that featured a Muslim woman wearing an Islamic head scarf. Earlier this year, a man was arrested for threatening the same El Paso Islamic center targeted in the October 2nd incident. In San Antonio, Chief Albert Ortiz said a series of arsons, all at Muslim-owned businesses, were probably hate crimes. The Associated Press reported: "The first fire was set March 24 at a store in the northwest corner of the city near the University of Texas at San Antonio. The second came five days later in north central San Antonio. The third blaze occurred on Monday off Interstate 35 in southwest San Antonio. Clearly the great majority of people in Texas are not hateful. Clearly, law enforcement is doing all it can to prevent future attacks against the Muslim community, but they can use all the help they can get against this scourge."

There can be no doubt that this legislation we hope to attach to the Defense Authorization will help in our fight against hate crimes. After the terrible murder of Paul Byrd our nation awakened to fact that our nation is not free of unthinkable hatred. After the terrible murder of Mathew Shephard our nation realized that hate is not just directed at those who are racially different. Now, after Sept. 11th we realize that even at times when our nation came together there will be those who will use hatred to try to tear us apart. My point is that Hate Crimes do not affect any one people and they have not disappeared from our great nation. It is time we pass this needed legislation so that those who commit these heinous crimes will know that their hate has no refuge in the United States.

Mr. DELAHUNT. Mr. Speaker, I rise in support of the Motion to Instruct.

As this debate goes on, the memory is still fresh of the vicious attack on the Jewish Community Center in Los Angeles, and the brutal slayings of Matthew Shepard in Wyoming, James Byrd in Texas, Arthur Warren in West Virginia, and Joseph Iletto in California.

These episodes are tragic illustrations of the price we pay in human lives for hatred and ignorance—and powerful testimony of the need for hate crimes legislation.

Some have said that hate crimes legislation punishes thoughts rather than deeds. I disagree. It punishes neither thoughts nor words, but actions. Actions whose defining characteristic is that the victim is selected—singled out—as a proxy for the social group to which he or she belongs. Actions whose express purpose is to send a message of hatred and intolerance to an entire community.

When such actions take place in other countries—when individuals are persecuted because of their membership in a "social group"—U.S. law recognizes that it is no ordinary crime and grants them a remedy. We entitle them to petition for asylum. Why would we do less to protect our own citizens from the very same crimes?

Some have said we shouldn't pass this law because hate crimes are a local matter. I agree. The authors of this legislation agree. The vast majority of these crimes are investigated and prosecuted at the State and local level. And if this measure is enacted they will continue to be.

Federal hate crimes laws have been on the books for 36 years. All this legislation will do is ensure that when local authorities request assistance, or are unable or unwilling to act, Federal law enforcement agencies will have the ability to come to their aid.

That's why the legislation is supported by the National Sheriff's Association, the International Association of Chiefs of Police, the Federal Law Enforcement Officers Association, and other major law enforcement organizations.

And that's why we need the Hate Crimes Prevention Act. For all the Matthew Shepards and James Byrds and Joseph Iletos who can still be saved.

Mr. STARK. Mr. Speaker, I rise in strong support of the Motion to Instruct Conferees on the National Defense Authorization Act for Fiscal Year 2005. This motion would instruct conferees to include the hate crimes bill in the conference report, to stop the perpetration of violence against Americans merely because of who they are.

The fact is that while there has been a significant drop in overall crime in this country, the number of hate crimes continues to grow. Hate crimes send a chilling message that some Americans are second-class citizens who should fear for their lives because of their race, religion, gender, sexual orientation, or disability. These crimes target entire communities with the message that others in the community could be next.

The hate crimes bill would seriously address this oppression by expanding existing Federal law involving acts of violence motivated by bias against race, religion, or national origin. In addition, the bill would broaden Federal jurisdiction to include offenses that are motivated by bias against gender, sexual preference, or disability.

Mr. Speaker, we should be embarrassed that we're having this vote today, because in 2000, in response to several shocking hate crimes that received national attention, 232 Republicans and Democrats in the House and a bipartisan group of 57 Senators voted to pass the hate crimes law. It was later taken out of the defense bill at the insistence of the

Republican leadership in closed-door negotiations. So for 4 years, thousands of American hate crime victims have gone without the protection of their government because the will of the majority was subverted. I urge all of my colleagues to right this wrong and vote "yes" on the motion.

Mr. MEEHAN. Mr. Speaker, I rise today to express my strong support for the Motion to Instruct Conferees to the National Defense Authorization Act on hate crimes.

As a member of the Conference Committee and a cosponsor of the hate crimes legislation, I will urge my fellow conferees to retain the Local Law Enforcement Enhancement Act language.

According to the FBI, more than 7,400 hate crimes were reported in 2002. Hate crimes based on racial bias represented nearly half of all of those reported; sexual orientation-based hate crimes constituted nearly 17 percent; and nearly 15 percent were the result of bias against one's ethnicity or national origin.

In addition, many hate crimes go unreported. The Southern Poverty Law Center estimates that the actual number of hate crimes committed in the U.S. each year is closer to 50,000.

Hate crimes terrorize more than a single individual. Instead, they victimize an entire community.

Current Federal law on hate crimes is out of date. It does not cover hate crimes based on sexual orientation, gender, or disability. Also it severely limits the Justice Department's ability to respond to hate crimes against religious, racial and ethnic groups.

The Local Law Enforcement Enhancement Act will strengthen the ability of Federal, State and local governments to investigate and prosecute these vicious crimes. Cooperation between State, local, and Federal law enforcement officials offers the best chance of bringing perpetrators of hate crimes to justice.

The Local Law Enforcement Enhancement Act is supported by more than 175 law enforcement, civil rights, civic and religious organizations.

I urge Members to support this Motion to Instruct.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Ms. PELOSI).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

#### AUTHORIZING PRINTING OF COMMEMORATIVE DOCUMENT IN MEMORY OF PRESIDENT RONALD WILSON REAGAN

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of

the Senate concurrent resolution (S. Con. Res. 135) authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LARSON of Connecticut. Mr. Speaker, I reserve the right to object, although it is not my intention to object; and I turn to the gentleman from California for an explanation of his request.

Mr. DOOLITTLE. Mr. Speaker, will the gentleman yield?

Mr. LARSON of Connecticut. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Speaker, I rise today to support this resolution which authorizes the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan. I will be offering an amendment that will require the document to be printed under the direction of the Joint Committee on Printing, to be compiled by both bodies of Congress for the use of the full Congress.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman for that explanation. Clearly, Congress most recently published tributes to President Nixon and in the past President Johnson and President Truman, and I am in concurrence with our distinguished gentleman from California.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 135

*Resolved by the Senate (the House of Representatives concurring),*

#### SECTION 1. COMMEMORATIVE DOCUMENT AUTHORIZED.

A commemorative document in memory of the late President of the United States, Ronald Wilson Reagan, consisting of the eulogies and encomiums for Ronald Wilson Reagan, as expressed in the Senate and the House of Representatives, together with the texts of the state funeral ceremony at the United States Capitol Rotunda, the national funeral service held at the Washington National Cathedral, Washington, District of Columbia, and the interment ceremony at the Ronald Reagan Presidential Library, Simi Valley, California, shall be printed as a Senate document, with illustrations and suitable binding.

#### SEC. 2. PRINTING OF DOCUMENT.

In addition to the usual number of copies printed, there shall be printed the lesser of—

(1) 32,500 copies of the commemorative document, of which 22,150 copies shall be for the use of the House of Representatives and 10,350 copies shall be for the use of the Senate; or

(2) such number of copies of the commemorative document that does not exceed a production and printing cost of \$1,000,000, with distribution of the copies to be allocated in

the same proportion as described in paragraph (1).

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOOLITTLE: In section 1, strike "Senate document, with illustrations and suitable binding" and insert "House document, with illustrations and suitable binding, under the direction of the Joint Committee on Printing".

The amendment was agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. Con. Res. 135.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1745

#### AMENDING CONGRESSIONAL ACCOUNTABILITY ACT TO PERMIT SECOND TERM FOR BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the bill (H.R. 5122) to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from California?

Mr. LARSON of Connecticut. Mr. Speaker, I reserve the right to object, though it is not my intention to object, and I yield to my distinguished colleague from California for an explanation.

Mr. DOOLITTLE. I thank the gentleman for yielding.

Mr. Speaker, I offer this bill which would amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve two terms instead of one. The committee believes that amending the act to allow for the reappointment of members of the Board of Directors to a second term will improve the efficient operation of the Office of Compliance.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman for his explanation. I applaud the effort to bring this forward. I think it covers four basic principles. First, fairness requires that congressional employees be