

passing this legislation and changing current law, we can change hearts and minds as well.

COLLOQUY ON CAMCORDER  
PROVISION OF S. 1932

Mr. HATCH. Mr. President, Section 3 of the ART Act establishes a new provision of Title 18 entitled, "Unauthorized Recording of Motion Pictures in a Motion Picture Exhibition Facility." I ask Senator CORNYN, what is the purpose of this provision?

Mr. CORNYN. Section 3 addresses a serious piracy issue facing the movie business: the use of camcorders in a motion picture theater. Sad to say, there are people who go to the movie theater, generally during pre-opening "screenings" or during the first week-end of theatrical release, and using sophisticated digital equipment, record the movie. They're not trying to save \$8.00 so they can see the movie again. Instead, they sell the camcorder version to a local production factory or to an overseas producer, where it is converted into DVDs or similar products and sold on the street for a few dollars per copy. This misuse of camcorders is a significant factor in the estimated \$3.5 billion per year of losses the movie industry suffers because of hard goods piracy. Even worse, these camcorder versions are posted on the Internet through "P2P" networks such as KaZaa, Grockster and Morpheus—and made available for millions to download. The goal of our bill is to provide a potent weapon in the arsenal of prosecutors to stem the piracy of commercially valuable motion pictures at its source.

Mr. HATCH. I have heard it said that this bill could be used against a salesperson or a customer at stores such as Best Buy or Circuit City if he or she were to point a video camera at a television screen showing a movie. Is this cause for concern?

Mr. CORNYN. Absolutely not. The offense is only applicable to transmitting or copying a movie in a motion picture exhibition facility, which has to be a movie theater or similar venue "that is being used primarily for the exhibition of a copyrighted motion picture." In the example of Best Buy—the store is being used primarily to sell electronic equipment, not to exhibit motion pictures. For the same reason, the statute would not cover a university student who records a short segment of a film being shown in film class, as the venue is being used primarily as a classroom, and not as a movie theater.

Mr. HATCH. Does the Senator from California agree with our colleague from Texas?

Mrs. FEINSTEIN. Absolutely, on all points.

Mr. HATCH. I have also heard some say that this statute could be used to prosecute someone for camcording a DVD at his home. Is this a fair concern?

Mrs. FEINSTEIN. No, it is not. The definition of a motion picture exhibi-

tion facility includes the concept that the exhibition has to be "open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances." This definition makes clear that someone recording from a television in his home does not meet that definition. It is important to emphasize that the clause "open to the public" applies specifically to the exhibition, not to the facility. An exhibition in a place open to the public that is itself not made to the public is not the subject of this bill. Thus, for example, a university film lab may be "open to the public." However, a student who is watching a film in that lab for his or her own study or research would not be engaging in an exhibition that is "open to the public." Thus, if that student copied an excerpt from such an exhibition, he or she would not be subject to liability under the bill.

Mr. HATCH. Do the users of hearing aids, cell phones or similar devices have anything to fear from this statute?

Mrs. FEINSTEIN. Of course not. The statute covers only a person who "knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under Title 17, or any part thereof. . . ." In other words, the defendant would have to be making, or attempting to make, a copy that is itself an audiovisual work, or make, or attempt to make, a transmission embodying an audiovisual work, as that term is defined in Section 101 of Title 17. As such, the Act would not reach the conduct of a person who uses a hearing aid, a still camera, or a picture phone to capture an image or mere sound from the movie.

Mr. HATCH. It appears that there is no fair use exception to this provision. Is that correct?

Mrs. FEINSTEIN. This is a criminal provision under Title 18, not a copyright provision under Title 17. Accordingly, there is no fair use exception included. However, Federal prosecutors should use their discretion not to bring criminal prosecutions against activities within movie theaters that would constitute fair use under the copyright laws. The object of this legislation is to prevent the copying and distribution of motion pictures in a manner that causes serious commercial harm. This legislation is not intended to chill legitimate free speech.

Mr. HATCH. Does the Senator from Texas agree?

Mr. CORNYN. Yes, on all points.

BOYS AND GIRLS CLUBS OF  
AMERICA

Mr. FEINGOLD. Mr. President, I wish to express my strong support for S. 2363 and the Boys and Girls Clubs of America. For over a hundred years, the Boys and Girls Clubs of America have been empowering the youth of our Nation by

giving them tools to help them become productive citizens and future leaders. Providing children a safe place to learn and grow is just the beginning for this wonderful organization, which supports and inspires its members to participate in community service, arts, and culture, and sports and fitness activities, to learn important health and life skills, and much more.

I am especially proud of the vibrant 115-year history of the Boys and Girls Clubs of Milwaukee, whose five clubs currently serve more than 22,000 Milwaukee-area members. The Milwaukee clubs have won national awards for their technology and dental programs, and have achieved tremendous success in inspiring their members to strive to attend college. An impressive 85 percent of Milwaukee Club alumni credit Club staff for helping them learn leadership skills and build self-confidence. I am pleased that the legislation passed by the Judiciary Committee and the full Senate will help the Milwaukee-area clubs continue their important work.

I strongly support this bill, and I express my gratitude to Judiciary Committee Chairman HATCH and Ranking Minority Member LEAHY for giving this important cause the attention it deserves. The Boys and Girls Clubs of America are integral in fostering a safe and productive environment for our Nation's young people, our country's greatest resource for the future.

ADDITIONAL STATEMENTS

TRIBUTE TO JAMES A. ZIMBLE,  
M.D.

● Mr. INOUE. Mr. President, today I pay tribute to James A. Zimble, President of the Uniformed Services University of the Health Sciences, USUHS. On August 3, 2004, this remarkable individual will mark the end of his 46-year career in Federal service.

Dr. Zimble, Vice Admiral, Medical Corps, United States Navy (Retired), and 30th Surgeon General of the United States Navy, was born on October 12, 1933, in Philadelphia, PA. He served as a senior medical student and ensign in the Navy Reserve Program from 1958 through 1959, earning a Medical Degree from the University of Pennsylvania, School of Medicine (SOM). Thus commenced a career dedicated to service to his nation, medical readiness, and force health protection.

Dr. Zimble's 33-year career in the Navy began with his internship and residency at the Naval Hospital in St. Albans, New York. By 1969, he was board certified by the American Board of Obstetrics and Gynecology. From 1972 through 1987 he served with distinction in a series of assignments directing clinical services and strategic planning. His Navy career culminated with his selection to serve as Surgeon General of the Navy, from 1987 through 1991. Vice Admiral Zimble earned multiple honors and awards during his

Navy career, including the Department of Defense Distinguished Service, Superior Service, and Meritorious Service Medals, the Department of Navy Legion of Merit, the Naval Reserve Association Distinguished Service Award, and the Association of Military Surgeons of the United States Founder's Medal.

Dr. Zimble was selected by the Secretary of Defense to serve as the President of USUHS in 1991. He was first to initiate strategic planning and assessment processes, which focused on mission accomplishment and the annual achievements of the 1,824 members of the USUHS community. Today, the University provides a comprehensive, performance-based annual report to the Office of the Secretary of Defense (OSD).

In 1996, under Dr. Zimble's leadership, the Graduate School of Nursing was established and officially recognized by OSD, thereby, providing uniquely qualified advanced practice nurses for the military. In December of 2000, the OSD Joint Meritorious Unit Award was presented to Dr. Zimble and the University, which officially recognized the multiple products and services of USUHS and their generation of cost avoidance for the Department. In addition, research conducted at USUHS was recognized in Science as one of the top ten scientific breakthroughs of 2002. In 2003, the University received the maximum term of ten years of accreditation with commendation from the Middle States Commission on Higher Education. Today, the USUHS School of Medicine Graduate Education Programs in Public Health rank sixth in the Nation according to U.S. News & World Report's 2004 Rankings of America's Best Graduate Schools on the list of the top 10 community health master or doctoral programs. The American Medical Association has recognized that USUHS not only educates its own graduates, but also provides a significant national service through its continuing medical education courses for military physicians in combat casualty care, tropical medicine, combat stress, disaster medicine, and medical responses to terrorism, courses not available through civilian medical schools. Significantly, the Emerging Infectious Diseases Graduate Education Program provides courses on the agents and effects of bioterrorism and is the only graduate program in the Nation to offer formal training in these critical areas. Over the past 13 years, USUHS has gained recognition and evolved into the Academic Center for Military Medicine.

During his tenure, Dr. Zimble remained focused on the medical readiness and force health protection requirements of the Uniformed Services. Today, USUHS prepares its career-oriented physicians, advanced practice nurses, and scientists for the practice of health care in contingency environments. USUHS alumni possess the essential knowledge, skills, and attitudes

required during Joint Service deployments. Relevant knowledge in the psychological stresses of combat and trauma and the medical effects of nuclear, chemical, and biological weapons and extreme environments have been integrated throughout the USUHS educational programs. USUHS' internationally recognized operational exercises, Operations Kerkesner and Bushmaster, ensure flexibility in meeting the ever-evolving requirements of medical readiness. Dr. Zimble's meticulous focus has secured recognition for USUHS throughout the uniformed and civilian health care communities for providing uniformed physicians, advanced practice nurses and scientists with a better understanding of, commitment to, and preparation for the practice of health care in the military. Such accomplishments were recognized in 2000, when the Surgeon General of the United States awarded Dr. Zimble the Public Health Service Surgeon General's Medallion. In December of 1998 and 2001, the Association of American Medical Colleges confirmed the critical role of USUHS in national security by recognizing the USUHS is the one place where physicians of tomorrow, obtain today, thorough preparation to deal with many contingencies, including the medical aspects of chemical and biological terrorism. As of April 2004, the USUHS SOM alumni averaged approximately 20 years of active duty service and represent 22.2 percent of the 11,901 physicians on active duty. The Center for Navy Analysis has reported that where the median length of non-obligated service for physician specialists is 2.9 years, the median length of non-obligated service for USUHS SOM alumni is 9 years, making USUHS the most cost-effective and recommended accession source for leadership positions and ensuring continuity in the military health system. Today, USUHS alumni are globally deployed and providing essential care for our Armed Forces in every theater of operation.

Dr. Zimble provided visionary leadership in the establishment of the National Capital Area Medical Simulation Center and the immersive Computer-Aided Virtual Environment. Both projects serve as a template for civilian entities to model and participate in similar training scenarios.

Dr. Zimble's extraordinary contributions are respected and admired throughout the Joint Services and within the Federal and civilian health care communities. Our Nation is proud of Dr. Zimble's long and distinguished career and his devotion to the health of the Armed Forces and that of all citizens. I take this opportunity to thank him for his tremendous dedication and love for our country. I wish him fair winds and following seas. •

#### TRIBUTE TO BRUCE F. MUNDIE

• Mr. SARBANES. Mr. President, I wish to pay tribute today to Bruce

Mundie, Director of the Office of Regional Aviation Assistance for the Maryland Aviation Administration. Bruce is retiring after a distinguished career serving the public and the aviation community and I would like to extend my personal congratulations and thanks for his tremendous public service.

When the next chapter in Maryland's aviation history is written, Bruce Mundie's name is likely to figure prominently as one of the key leaders who helped make the sky more accessible and greatly improved Maryland's air transportation infrastructure. Over the past 17 years, Bruce has worked tirelessly to enhance aviation at Maryland's 34 regional general aviation airports and more than 100 private airports. Among his many other accomplishments, Bruce was instrumental in the development of the Maryland Aid to Private Airports program, the Maryland Airport Equipment Loan Program, and the Maryland Airport Managers Association. He also introduced the innovative system of using automated weather stations, allowing for the institution of all-weather commercial service at eight new airports. In addition, he oversaw the replacement of 27 visual approach slope indicators that violated FAA standards and introduced new units that will save Maryland 95 percent of the cost of new equipment.

I have had the privilege of working closely with Bruce since he was first appointed to the Maryland Aviation Administration. Over the years we worked to bring a new control tower to Salisbury-Ocean City-Wicomico Regional Airport, expand the runways at Hagerstown, Garrett County, and Carroll County Airports, and create a bi-state compact for the Greater Cumberland Regional Airport, to name just a few projects. In every instance, Bruce exhibited an extraordinary commitment to elevating airport efficiency and safety standards in Maryland.

But Bruce's passion for flying and aviation was not just exemplified in his work. As a founding member of Opportunity Skyway, Bruce introduced programs that target students at risk of dropping out of school, benefiting citizens across the State and allowing students to pursue their interests in aviation. He has worked to integrate aviation into school curriculums through an aerospace workshop for teachers entitled "Take It to the Top." Bruce also contributed to area institutions of higher education, teaching Aviation Management at the University of Maryland Eastern Shore.

Bruce's contributions and accomplishments to aviation and public service have been recognized numerous times with prestigious honors, including his National Association of Aviation Officials Distinguished Service Award in 2000. He also received the Distinguished Flying Cross in Vietnam and left the service a Lieutenant Colonel after a 26-year career in the United States Air Force.