The GAO looked at the question of how frequently the homestead exemption is abused by wealthy people in bankruptcy. The GAO found that less than 1 percent of bankruptcies filed in States where there are unlimited homestead exemptions involve homesteads over $100,000. That means 99 percent of bankruptcy filings were not abusive.

This is not a loophole at all. In fact, the provision in this bill with respect to homestead is a significant improvement from current law. There is a Federal cap on homestead exemptions in current law.

Under the current bankruptcy law, the debtors living in certain States can shield from their creditors virtually all of the equity in their home. Consequently, some debtors relocate to these States to take advantage of the mansion loophole provisions that are, in most cases, in their constitution. This bill would take a strong stand against this abuse by requiring that a person be a resident in a State for 2 years before he can claim the State's homestead exemption. Current requirements can be as little as 91 days.

The bill further reduces the intent for abuse by requiring a debtor to own the homestead for at least 40 months before he can use State exemption law. Current law doesn't have any such requirement.

Furthermore, the bill would prevent individuals who have violated security laws or individuals who have engaged in criminal conduct from shielding their homestead assets from those whom they have defrauded or injured. Specifically, if a debtor was convicted of a felony, violated a security law, or committed a criminal act intentionally, or engaged in reckless misconduct that caused serious physical injury or debt, the bill overrides State homestead exemption laws and caps the debtor's homestead at $125,000 as the amount that would be protected.

To the extent that the debtor's homestead exemption was obtained through the fraudulent conversion of nonexempt assets during the 10-year period preceding the filings of the bankruptcy case, this bill requires such exemption to be reduced by the amount attributable to the fraud.

These homestead provisions were delicately compromised between those who believe that the homestead should be capped through Federal law—I am one of those—or others who are uncomfortable with a uniform Federal cap which may violate their own State constitution.

So, please, tomorrow when this debate is conducted on changing this provision that has been so carefully worked out over a period of at least two Congresses, don't believe it when people say we have a gaping loophole. The homestead provisions in the bankruptcy bill will substantially cut down on the abuses that might be referred to.

I would like to talk about another thing this bankruptcy bill does which is so important for those of us who represent agricultural States. This bill makes chapter 12 of the Bankruptcy Code, which gives essential protections to family farmers, a permanent chapter in the Bankruptcy Code. The bill enhances these protections. It makes more farmers eligible for chapter 12. The bill lets farmers in bankruptcy avoid capital gains tax. This is very important because it will free up resources to be invested in farming operations that otherwise would go down the black hole of the Internal Revenue Service. Farmers need this chapter 12 safety net.

In addition, the bankruptcy bill will for the first time create badly needed protections for patients in bankruptcy hospitals and nursing homes. Let me provide an example of what could happen right now without the patient protections contained in this bill.

At a hearing I held on nursing home bankruptcies, I learned about a situation in California where a bankruptcy trustee just showed up at a nursing home on a Friday evening and evicted the residents of that nursing home. The bankruptcy trustee didn't provide any notice whatsoever that this was going to happen. There was absolutely no chance for the nursing home residents to be relocated. The bankruptcy trustee literally put these elderly people out on the street and changed the locks on the doors so that they couldn't get back into the nursing home. The bankruptcy bill will prevent this from ever happening again. These are protections that we will be giving these deserving senior citizens for the first time.

The truth is that bankruptcies hurt real people. It isn't fair to permit people who can repay to skip out on their debts. Yes, we must preserve fair access to bankruptcy for those who truly need a fresh start. This bill does not in any way compromise that century-old principle of our Bankruptcy Code.

This bankruptcy reform act does that—it guarantees a fresh start. It lets those people who can pay their debts live up to their responsibilities as well.

Let us restore the balance. Let us pass this bill. This bill is a product of much negotiation and compromise over three Congresses. It is fair, it is balanced, but, more importantly, it is a bill that once got to President Clinton and he pocket-vetoed it. This bill that passed by overwhelming majorities of both Houses of Congress is long overdue legislation.

I urge my colleagues to support this legislation but, more importantly, help us defeat amendments that are opening all of the carefully crafted compromises that we worked on over the last 3 to 4 years.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THUNE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

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

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

### SUPREME COURT'S RULING IN ROPER V. SIMMONS

Mr. President, today, the Supreme Court struck down the death penalty for juvenile persons 17 years old or younger. I commend the Court for its wise and courageous decision.

Three years ago, the Supreme Court held that the eighth amendment to the Constitution prohibits the execution of the mentally retarded. In reaching that decision, the Court emphasized the large number of States that had enacted laws prohibiting executions of the retarded after 1989, when the Court had earlier declined to hold them unconstitutional. As the Court observed in reaching its decision 3 years ago to ban them, ''It is fair to say that a national consensus has developed'' against such executions.

The Court cited several factors showing why executing the mentally retarded is unconstitutional: Mentally retarded persons lack the capacity to fully appreciate the consequences of their actions; they are less able to control their impulses and learn from experience, and are therefore less likely to be deterred by the death penalty; they are more likely to give false confessions, and less able to give meaningful assistance to their lawyers.

Today, the Supreme Court recognized that this logic also applies to the execution of juveniles. The Court cited a number of factors—including the rejection of the juvenile death penalty in the majority of States, the infrequency of its use even where it remains legal, and the consistency of the trend toward abolition of the practice. It concluded that these factors provide ''sufficient evidence that today our society views juveniles, in the words used respecting the mentally retarded, as 'categorically less culpable than the average criminal' ''

Today's ruling is a welcome victory for justice and human rights. Since the death penalty was reinstated in the United States in 1976, there have been 21 executions of juvenile offenders. In the last 5 years, only the United States, Iran, the Democratic Republic of Congo, and China have executed a juvenile offender. It is long past time that we wipe this stain from our Nation's human rights record.

Other steps need to be taken as well to reform our system of capital punishment.

For too long, our courts have tolerated a shamefully low standard for

legal representation in death penalty cases. Some judges have even refused to order relief in cases where the defense lawyer slept through substantial portions of the trial.

I am hopeful that the legislation proposed by our colleagues PATRICK LEAHY and GORDON SMITH in the Senate, and BILL DELAHUNT and RAY LAHOOD in the House, and signed into law by the President last year, will serve to improve the quality of counsel in capital cases.

I am heartened by the strong statement in President Bush's State of the Union Address last month in support of that program. I am also encouraged by the President's pledge to dramatically expand the use of DNA evidence to prevent wrongful convictions.

As we work together to remedy the most flagrant defects in the application of the death penalty, however, we must never lose sight of its basic injustice. Experience shows that continued imposition of the death penalty will inevitably lead to wrongful executions. Many of us are concerned about the racial disparities in the imposition of capital punishment and the wide disparities in the States in its application. The unequal, unfair, arbitrary and discriminatory use of the death penalty is completely contrary to our Nation's commitment to fairness and equal justice for all, and we need to do all we can to correct these fundamental flaws.

I yield the floor.

## RULES OF PROCEDURE—PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the RECORD not later than March 1 of the first year of each Congress. On February 28, 2005, a majority of the members of the Committee on Homeland Security and Governmental Affairs' Permanent Subcommittee on Investigations adopted subcommittee rules of procedure.

Consistent with Standing Rule XXVI, today I am submitting for printing in the RECORD a copy of the rules of the Permanent Subcommittee on Investigations.

I ask unanimous consent that the text of the committe rules be printed in the RECORD.

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

RULES OF PROCEDURE FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

1. No public hearing connected with an investigation may be held without the approval of either the Chairman and the Ranking Minority Member or the approval of a majority of the Members of the Subcommittee. In all cases, notification to all Members of the intent to hold hearings must be given at least 7 days in advance to the date of the hearing. The Ranking Minority Member should be kept fully apprised of preliminary inquiries, investigations, and hearings. Preliminary inquiries may be initiated by the Subcommittee majority staff upon the approval of the Chairman and notice of such approval to the Ranking Minority Member or the minority counsel. Preliminary inquiries may be undertaken by the minority staff upon the approval of the Ranking Minority Member and notice of such approval to the Chairman or Chief Counsel. Investigations may be undertaken upon the approval of the Chairman of the Subcommittee and the Ranking Minority Member with notice of such approval to all members.

No public hearing shall be held if the minority Members unanimously object, unless the full Committee on Homeland Security and Governmental Affairs by a majority vote approves of such public hearing.

Senate Rules will govern all closed sessions convened by the Subcommittee (Rule XXVI, Sec. 5(b), Standing Rules of the Senate).

2. Subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chairman, or any other Member of the Subcommittee designated by him, with notice to the Ranking Minority Member. A written notice of intent to issue a subpoena shall be provided to the Chairman and Ranking Minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him, immediately upon such authorization, and no subpoena shall issue for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member waive the 48 hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member that, in his opinion, it is necessary to issue a subpoena immediately.

3. The Chairman shall have the authority to call meetings of the Subcommittee. This authority may be delegated by the Chairman to any other Member of the Subcommittee when necessary.

4. If at least three Members of the Subcommittee desire the Chairman to call a special meeting, they may file in the office of the Subcommittee, a written request therefor, addressed to the Chairman. Immediately thereafter, the clerk of the Subcommittee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Subcommittee Members may file in the office of the Subcommittee their written notice that a special Subcommittee meeting will be held, specifying the date and hour thereof, and the Subcommittee shall meet on that date and hour. Immediately upon the filing of such notice, the Subcommittee clerk shall notify all Subcommittee Members that such special meeting will be held and inform them of its dates and hour. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

5. For public or executive sessions, one Member of the Subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter.

Five (5) Members of the Subcommittee shall constitute a quorum for the transaction of Subcommittee business other than the administering of oaths and the taking of testimony.

6. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

7. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

8. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he is testifying, of his legal rights, Provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Subcommittee Chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Subcommittee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

9. Depositions.

9.1 Notice. Notices for the taking of depositions in an investigation authorized by the Subcommittee shall be authorized and issued by the Chairman. The Chairman of the full Committee and the Ranking Minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions. Such notices shall specify a time and place of examination, and the name of the Subcommittee Member or Members or staff officer or officers who will take the deposition. The deposition shall be in private. The Subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Subcommittee subpoena.

9.2 Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 8.

9.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Subcommittee Members or staff. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Subcommittee Members or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or such Subcommittee Member as designated by him. If the Chairman or designated Member overrules the objection, he may refer the matter to the Subcommittee or he may order and direct the witness to answer the question, but the Subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Subcommittee.