body, if she is denied that, she will be a victim—a victim of this Government thinking that, in fact, it knows better than she or the people who love her, and that the Government would think it would know better than her family, her God, and her conscience to make such a basic decision.

So it is a good day to talk about Roe v. Wade. As we look at new rights we are giving people, let's also make sure we don't take away any rights.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROTECT THE RIGHTS OF CRIME VICTIMS—MOTION TO PROCEED—Continued

Mr. KYL. Mr. President, the proponents of the crime victims' constitutional rights amendment, as I understand it, have about 6 minutes remaining. Senator FEINSTEIN has asked that I conclude our portion of this opening debate.

People who are viewing this might wonder what the last 35, 40 minutes have been about. This wasn't supposed to be about abortion. How did that get involved in the crime victims' rights amendment? Perhaps Senator LEAHY began this trend when he first spoke this morning about the possibility of gun control, abortion, and the balanced budget amendment.

I think the point is that people who are not motivated to adopt a constitutional set of rights for crime victims are willing to try to use our hard work, our efforts, and our energy to bring this proposed constitutional amendment to the Senate—which is very difficult to do—as a means of trying to tack on their favorite proposal, or to delay the Senate action on the crime victims' rights amendment to the point that we will have to move on to other pressing business. Either of those possibilities, I think, would be very sad.

Let me recount what has happened here. For almost 4 years, Senator FEINSTEIN and I have worked very patiently to bring forward a crime victims' constitutional rights amendment. It is very difficult to get a constitutional amendment to the floor of the Senate. We have had 66 witnesses appear at hearings, with I think something like 15 pages of testimony transcript. We have had hearing after hearing. We have gone through 63 different drafts to make this as perfect as we could. We have gotten it out of the Judiciary Committee on a strong, bipartisan vote. Then we got the majority leader to give us some floor time, which is very precious.

In other words, we put a lot of work into this in support of victims of violent crime in our society. Throughout this building, and in others, there are scores of victims and victims' rights organizations around television sets watching these proceedings, having finally gotten what they hope to be their ''day in court''—an argument about the crime victims' rights amendment and a vote on that.

What is beginning to emerge is a very disturbing tactic by those who oppose us, and that is either to try to delay this to the point that the majority leader will have to move on to something else, by offering all kinds of extraneous amendments, or by seeking to achieve what they have never been able to achieve through the normal legislative process, by using our proposal as a vehicle to attach their idea onto—in this case, perhaps, abortion. What better way to kill ours while getting some time to discuss their proposal.

Some of these same proponents are those who argue most vigorously against so-called riders to appropriations bills. They say, well, you should not have an extraneous amendment on an appropriation bill. If you are going to bring something to the floor, you should not debate something else. You should not amend it with something extraneous. We are willing to allow germane amendments to victims' rights in an effort to resolve how to best protect victims' rights. But what I fear I have seen here is a tactic either to defeat what we are trying to do or to use what we are trying to do to advance an entirely different agenda. That would be wrong.

The people watching this debate must be saying: There they go again. What are these Senators doing? They had a proposal to bring forth a crime victims' rights amendment to the floor, and, by procedural legerdemain, is that going to be prevented, overcome by an abortion amendment or something of that sort? We hope not. The bottom line is that there is a reason all of the people who support this amendment have said it is now time for a Federal constitutional rights amendment.

As we have seen this morning, States have been unable to protect the rights of crime victims with State statutes and their own State constitutional amendments. Attorneys general and prosecutors support this. Law enforcement supports it. The Attorney General of Wisconsin, Jim Doyle—a very respected Democratic attorney general—said this before the Judiciary Committee:

> I believe that most prosecutors strongly support victims' rights.

He notes some of the concerns of prosecutors. He said:

> I believe these concerns are more than adequately addressed in S.J. Res. 3.

The bottom line is that we have support from victims' rights groups, prosecutors, attorneys general, and Governors, and it is time now to decide whether we want to protect crime victims or not. We have an opportunity by bringing this matter to the floor. At 2:15, we will have a vote on what is called a cloture motion on a motion to proceed. If 60 colleagues agree, we will be able to go forward and debate the motion to proceed, which I assume will be adopted later today. Then we can proceed with debate on the constitutional amendment itself. We look forward to that. If people want to bring forward relevant amendments to that, so be it. That is what the process is about. But I fear what will happen if, instead, we get a series of nongermane amendments or attempts to delay this, to the point that we run out of time and, in effect, a filibuster has killed any hope these crime victims have of protecting their rights in our courts.

We have waited too long. Eighteen years ago President Reagan's Commission on Crime Victims recommended the constitutional amendment to address these rights. Eighteen years is long enough to wait. I hope when we finally have an opportunity on the Senate floor, that opportunity is not snatched away by people who want to pursue other agendas.

The PRESIDING OFFICER. The time of the proponents is expired; the opponents have 9 minutes.

Mr. KYL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Wyoming, requests the quorum call be lifted, and without objection it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:16 p.m.

Thereupon, the Senate, at 12:23 p.m., recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. INHOFE].

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROTECT THE RIGHTS OF CRIME VICTIMS—MOTION TO PROCEED—Continued

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 299, S.J. Res. 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims:

> Trent Lott, Jon Kyl, Judd Gregg, Wayne Allard, Robert Smith of New Hampshire, Richard Shelby, Gordon Smith of

Oregon, Bill Frist, Mike DeWine, Ben Nighthorse Campbell, Jim Bunning, Chuck Grassley, Rod Grams, Connie Mack, Craig Thomas, and Jesse Helms.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call under the rules has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S.J. Res. 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH), the Senator from Arizona (Mr. MCCAIN), and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nebraska (Mr. KERREY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 82, nays 12, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—82

Abraham	Fitzgerald	McConnell
Akaka	Frist	Murkowski
Allard	Gorton	Murray
Ashcroft	Graham	Nickles
Bayh	Gramm	Reed
Bennett	Grams	Reid
Bond	Grassley	Robb
Boxer	Gregg	Roberts
Breaux	Hagel	Rockefeller
Brownback	Hatch	Santorum
Bryan	Helms	Sarbanes
Bunning	Hutchinson	Sessions
Burns	Hutchison	Shelby
Campbell	Inhofe	Smith (NH)
Chafee, L.	Inouye	Smith (OR)
Cleland	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Coverdell	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
DeWine	Lieberman	Warner
Domenici	Lincoln	Wellstone
Edwards	Lott	Wyden
Enzi	Lugar	
Feinstein	Mack	

NAYS—12

Baucus	Dorgan	Hollings
Bingaman	Durbin	Lautenberg
Byrd	Feingold	Moynihan
Dodd	Harkin	Schumer

NOT VOTING—6

Biden	Kerrey	Mikulski
Jeffords	McCain	Roth

The PRESIDING OFFICER. On this vote the yeas are 82, the nays are 12. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. FEINGOLD. Mr. President, today I voted against a motion to close debate on the motion to proceed to S.J. Res. 3, a victims' rights constitutional amendment. Only twelve Senators voted no, although a far larger number oppose this resolution. I was prepared to vote yes on the motion, because the rights of victims are terribly important and a resolution like this ought to be thoroughly debated. But before the vote I learned that the language of this resolution to amend the Constitution is still being negotiated. This ought to be a solemn, soberly undertaken effort, for it presumes to revise the work of Madison and Hamilton and those great Americans who put to paper the ingenious design of the American republic in that hot Philadelphia room 224 years ago. But instead, we were asked today to begin that debate in earnest while the supporters of the resolution were still off in a room somewhere trying to agree on the language of the resolution.

So I said no. I said no to this casual, cavalier approach to amending the Constitution. It does not respect the seriousness of the process and has led to constitutional profligacy in the Congress—to hundreds of constitutional amendments being offered as if they were not gravely important, as if they were not an attempt to edit the organic law that has held our democracy together for two centuries. In the opening days of some recent Congresses, we have seen constitutional amendments introduced at a rate of more than one per day.

A few weeks ago, we considered a constitutional amendment to allow prohibition of flag desecration. I opposed that amendment, but I didn't oppose cloture on the motion to proceed. I voted for cloture because the backers of the flag amendment, wrong as I thought they were, at least showed some respect for the process. They believed there was a need for the amendment and they were able to point to particular events and precedents that they believed needed to be addressed. But no court has struck down the dozens of state constitution provisions and hundreds of statutes that protect victims' rights across America today, so why rush to amend the Constitution? The backers of the flag amendment argued, correctly, that their goal of allowing prohibition of some forms of speech could be realized only by a constitutional amendment. They offered a resolution that had been refined over time, whose supporters at least, had agreed upon. All of us were aware, long before the vote, what the resolution said. The vote on proceeding to the flag debate was not held in a fluid situation, where negotiations about language that might end up in our Constitution were still talking place. So we voted as Senators to proceed and we did proceed to a sober, deliberate and thoughtful debate and an informed vote about the flag amendment.

Today, on the victims rights amendment, the process was not respected. The Senate acquiesced in a casual exercise in constitutional improvisation, shunning the statutory alternatives that are readily available, to embrace the near immutability of constitutional language. So I voted no—to say we are not ready to have this debate, but we will have the debate and we may now add one more reason to the many reasons to oppose this resolution: its proponents have not respected the process and we are obliged to assume that their constitutional amendment, even if it were right in its general substance, must be flawed in its language and details.

Mr. LEAHY. Mr. President, what is the parliamentary situation now?

The PRESIDING OFFICER. The question is the motion to proceed to S.J. Res. 3.

Mr. LEAHY. Mr. President, there having been a cloture vote on that motion to proceed, what is the time situation?

The PRESIDING OFFICER. Each Senator would have up to 1 hour of debate, with a maximum of 30 hours total.

Mr. LEAHY. And within that 30 hours, am I correct, under the precedent of the Senate, Senators can yield part of their time to other Senators but not in such a way as to enlarge the 30 hours?

The PRESIDING OFFICER. As long as it does not extend beyond a total of 30 hours. The yielding of time must go to the managers.

Mr. LEAHY. The leaders or their designees?

The PRESIDING OFFICER. The leaders or their designees.

Mr. LEAHY. I thank the Chair. Mr. President, I will claim such part of my hour as I might consume.

It was less than a month ago, I recall, I stood on the floor of the Senate to defend the Bill of Rights against the proposed flag amendment to our Constitution. The Senate voted March 29 to preserve the Constitution and refused to limit the first amendment and the Bill of Rights by means of that proposed amendment. Apparently, preserving the Constitution in March does not mean the Constitution is safe in April. So here I am again as we begin to debate yet another proposed amendment to the Constitution. Yet, again, I am here to speak out in favor of the integrity of our national charter.

I support crime victims' assistance and rights, but I do not support this proposed amendment to the Constitution. Just as opposition to a flag desecration amendment does not mean a Senator is in favor of flag burning, opposition to a victims' rights amendment does not mean that a Senator opposes justice for victims of crime. In fact, during the course of this debate, we will have a statutory alternative to the proposed constitutional amendment that would serve to advance crime victims' rights.

I have been in the Senate for 25 years. I think it is safe to say that I have been a very strong advocate for victims' rights during that time. My initial involvement with victims' rights began more than three decades ago when I served as State's attorney for Chittenden County, Vermont. According to our population and under

our procedures at that time, by virtue of the office, at the age of 26, I became the chief law enforcement officer for the County. I saw firsthand the devastation of crime. I have worked ever since to ensure that the criminal justice system is one that respects the rights and the dignity of victims of crime and domestic violence, rather than one that presents additional ordeals for those already victimized.

I will continue to work for victims of crime and domestic violence in the course of this debate. I support crime victims and their rights, but I oppose this constitutional amendment. As a prosecutor, I was able to make sure victims were heard, that sentencing decisions were made with the rights of victims in mind, that plea bargains were not entered into without the rights of victims in mind. They were all heard. I also knew we could do that individually, or by State statute, or by State constitution. But we didn't have to amend the United States Constitution.

The proposed amendment, S.J. Res. 3, goes on for over 60 lines. I believe the most important part of our national charter, the Constitution, is the first amendment. This magnificent part of our document, in just five or six lines, says that we have the right of free speech, we have freedom of religion—that is, to practice any religion we want, or none if we want—we have the right to petition our Government, and we have the right of assembly. These rights, enunciated in just five or six lines in the Constitution, preserve the diversity—actually, they almost demand diversity in our country, and they protect diversity in our country. If you have diversity, especially diversity that is protected, you have democracy. Those five or six lines are the bedrock of our democracy and our freedom.

Contrast this with S.J. Res. 3. As I said earlier, I don't doubt the sincerity of my two friends, the chief sponsors of this; they are my friends and they are two people I respect. But this is over 60 lines. It is like a complicated statute, which will be made more complicated as the courts get a hold of it, as prosecutors have to figure out what is going on, and as defense attorneys look for loopholes. No place in it does it mention what we have always built our criminal justice system on—the protection of the rights of the accused.

James Madison, the great framer of the Constitution, instructed that a constitutional amendment should be limited to ''certain great and extraordinary occasions.'' Well, we have one thing that is great and extraordinary and that is our country and our democracy. It has made us the most powerful and influential nation on Earth today. But these are not great and extraordinary occasions that demand the amending of the United States Constitution.

I find it distressing that we so ignore James Madison's instructions and advice and that there are almost 60 proposed constitutional amendments pending before this Congress alone, including an amendment to make it easier to adopt other amendments in the future. Now, if we are going to do this, let's do it on everything. Let's have an amendment on gun control. Let's have an amendment on abortion. Let's have an amendment on reapplying from where Senators can serve. Let's do a number of other things. Some of the amendments that have been proposed look as if they were before a local board of select people. We should not be so eager to amend our Constitution. Look at Article V of the Constitution and read the first part of the first sentence. It says:

> The Congress, whenever two-thirds of both Houses shall deem it necessary. . . .

Does anyone think the American people would ''deem this necessary''?

At one time, after the President at the time sent up unbalanced budget after unbalanced budget, Congress said the only way to stop us from spending was to have a constitutional amendment to balance the budget. Fortunately, we do not have such a constitutional amendment today. Instead, we have a President who had the guts to send up a balanced budget, and we had a Congress who had the guts to back him up and pass it. That is how to do it—the old-fashioned way.

I believe this particular proposed constitutional amendment regarding crime victims' rights fails to set the standards set by our founders in Article V of the Constitution. It cannot be necessary. Let me state why: Over the last several years, we have been making great strides in protecting crime victims' rights. We have accomplished much in 20 years to advance the cause of crime victims' rights, through State law and Federal statutory improvements, through increased training or education, and through implementation efforts. There is no basis today for concluding that this constitutional amendment is necessary for providing crime victims' rights in the criminal justice process.

There is a growing fascination in the Congress with amending our Constitution first and legislating second. No Member knows how long he or she will be in the Senate. I have been privileged in the State of Vermont. My friends in the State of Vermont have sent me here for over 25 years. They do remind me that Vermont is the only State in the Union that has elected only one member from my party to the Senate, but I am thankful they do it by ever increasingly large margins. I don't know how long I will be here; no Member does.

As long as I am here, I will take upon myself the duty to say to the Senate: Slow down on this idea of amending the Constitution. Slow down.

Whatever short-term political gain Members may feel today, your children and your children's children will in all likelihood live by what you do. The temptation was there for the framers of the Constitution. I am sure they looked at the differences between the States and thought, if I amend the Constitution just this way, my State has an advantage or I have an advantage over this person. Instead, they resisted the temptation. Maybe that is why we are the oldest currently existing democracy in the world. Maybe that is why we have a First Amendment, something not duplicated in any other nation on Earth. Maybe that is why we protect ourselves and our rights as we do, because we know we have resisted over the years the 11,000 suggested amendments to the Constitution. Of those 11,000 amendments, one has to assume that somebody in every single instance thought their amendment was extremely important. Every one of those 11,000 times, somebody somewhere thought: This is the amendment to the Constitution that we really need; this is the amendment that falls under Article V which says it is necessary.

I was the 21st person in the history of this country to vote 10,000 times in the Senate. Those 10,000 votes were not all necessary for this country. Sometimes they were votes called by the Sergeant at Arms, and sometimes they were to adjourn. Sometimes they were votes to commend ourselves for doing something we were paid to do anyway. Of course, sometimes they were extraordinarily important votes.

I took pride in being the 21st person in our Nation's history to vote that many times. But I wouldn't have taken pride to think I voted almost the same number of times for a different constitutional amendment. Yet 11,000 constitutional amendments have been before the Senate. Imagine our Constitution if the 11,000 amendments had passed. Heck, take half of them. Imagine our Constitution if 5,500 passed. Impossible. Say 10 percent, 1,100, passed; 5 percent, 550; 1 percent, 110, passed. If we had taken a tiny fraction of these 11,000 that were so essential to this Nation, our Constitution would not be something that would be revered around the world, that other countries would try to emulate; it would be a laughingstock.

Until we do our job with statutes, until we find the ways within the State, until we explore other ways to help with victims' rights, until we follow through with the commitment of necessary resources, until we look at all those States that have passed their own victims' rights laws, until we accept the fact that not one single court has found those unconstitutional, thus saying we don't need a constitutional amendment, until we do that, why do we amend the Constitution again?

As I said, I don't know how much longer I have in the Senate. However, I will stand on this floor, constitutional amendment after constitutional amendment. This is a wonderful document. Don't change it. Don't change it

unless an amendment falls under Article V and really is necessary. This is not necessary.

It is ironic, at the height of the key dynamic changes in increased rights and protections for crime victims over the last decade, the efforts on behalf of this constitutional amendment have had the unfortunate, and I believe unintended, fact of slowing that process and dissipating those efforts.

Who suffered? The crime victims. Crime victims are among the most sympathetic figures. And they should be. They are also some of the most politically powerful groups in our society today. We are all supportive of crime victims. That probably takes political courage, to say we should ask some questions, because it takes little political courage to say you are in favor of crime victims; we all our. It is not whether we support crime victims, because we all do. Certainly, those of us like myself who have been prosecutors, who have seen firsthand the beaten victims, the stabbed victims—I even had a murder victim die in my arms while he was telling me who killed him—understand victims. But this debate is not about those victims. It is whether the Senate will endorse the amendment to the United States Constitution. I will do all in my power to make sure we do not amend the Constitution.

April is an especially sensitive time of year for crime victims and those who advocate for them. Frankly, I feel every day we should be advocating for them. Two weeks ago was the 20th anniversary of Crime Victims' Rights Week. During that time, I was one of the few Senators who came to the floor to try to make progress on crime victims' rights by proposing an improved version of the Crime Victims Assistance Act, S. 934.

Last week, we observed the fifth anniversary of the bombing of the Alfred P. Murrah Federal Building. Some of us have worked long and hard for the victims of crime and terrorism around the world. I was proud to be the author of the Victims of Terrorism Act amendment to the anti-terrorism bill that passed the Senate in the wake of that tragedy of June, 1995, which served as the basis for what became the victims provisions ultimately enacted in 1996.

I worked with Senator NICKLES and others to provide closed circuit television coverage of the Oklahoma City bombing trials. I supported special assistance for victims and their families to attend and participate in the trials, including enactment of the Victims Rights Clarification Act in 1997 to help ensure those who attended the early portion of the trial could also testify or attend during the sentencing phase.

I do not need to be told by anybody that I have to be sympathetic with victims of crime. I have done that throughout my professional career. I have done it in legislation. I did it for 8 years as a prosecutor.

But I also look at some of the things we are not doing here in Congress. Last Thursday, we observed the first anniversary of the tragic violence at Columbine High School in Colorado. That anniversary served as a reminder of the school violence we have witnessed too often over the past few years. Yet the Senate and House have not completed their work on the juvenile crime bill, a bill that passed the Senate last May by a margin of almost 3 to 1.

The Hatch-Leahy bill passed this body 73–25. Since then, the Republican leadership continues its refusal to convene the House-Senate conference necessary to complete action on this measure. Tell that to the families who were at the zoo here in Washington D.C. yesterday. Tell them the gun lobby will tell us when we can meet and when we cannot, in the United States Congress. Tell those families.

We, oftentimes, have emotional issues that come before us. This past weekend Elian Gonzalez was reunited with his father, Juan Miguel Gonzalez. You know what happened there. The great uncle had temporary custody, custody was revoked, he refused to do a voluntary transfer of the child, the Attorney General finally had to act to reunite them and say the United States would uphold its own laws. I think it was done in the right way. Everybody is running around: We'll have a special citizenship bill, special amnesty bill, special whatever else. I say, remember what the Senate is supposed to be. Remember that wonderful story about the cup and saucer. We are the saucer that allows the cooling of the passions, and we should approach debate of a proposed constitutional amendment with the seriousness and deliberation that it requires.

We could go, instead, back to some of the legislative things we could do right now, that could be signed into law right now, that might help victims of crime.

I see the distinguished senior Senator from New Jersey, a man who, throughout his career here in the Senate, has worked so hard, not just for victims of crime but for those laws that might ensure that at least we have a diminution of crime, especially gun crimes. I am perfectly willing to reserve my time and yield to the distinguished Senator if he would care to speak.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first, I thank the distinguished Senator from Vermont, the ranking member of the Judiciary Committee. He has a homespun way of talking at times, but he always brings good sense and good judgment to the debate. I appreciate his comments about how we have to be so mindful of our responsibilities under the Constitution, and we ought not to trifle with amendments to the Constitution. The Constitution is the fundamental text of our democracy and we ought not to amend it if there are other ways to address the problem.

Some of those listening may have trouble following all of our twists of logic, but one thing should be clear—we all know we have too many victims in our society. We know we have families torn apart, even if they are not directly victims themselves. Look at Columbine High School. Who were the victims? Were they just the young people and the teacher who were killed and their families? Were they the only victims? Or was the whole high school population of Columbine a victim? Or was the whole community of Littleton, Colorado that was the victim? Was the whole country a victim? I think so.

All of us had images seared into our psyches that I think for most of us will last a lifetime. Were we victims of a sort? Were we victims of our lack of understanding of how we got to that point? Are we victimized by violence that does not touch us immediately? I think so because otherwise we would not see these magnetic detectors all over the place. We wouldn't have security guards all over the place, and we wouldn't be spending money building ever more prisons—money that could be used for education or health care or prescription drugs or to help young people in our society. So we are all victimized by crime.

That is the problem with the constitutional amendment that is proposed—defining who is the victim. Once again, is it the family whose house was broken into and the terrible deeds that followed? Or is it everybody in the neighborhood? Or is it young child who lost a friend who was 6 years old, who do not understand why the friend was murdered by another 6-year-old child? Who is the victim? Even the family of a perpetrator of a terrible crime is often a victim.

Given the difficulty of defining who is a victim, it might be better to address this statutorily. We ought to write a statute that very clearly says: Yes, victims' rights have to be protected. We have said it so many times over the years, writing laws as opposed to amending the Constitution. That is the question, really. No one is saying we should not take care of the victims. But the question is whether you try to address the problem by statute or if you take the much more drastic step of amending the Constitution.

And when we talk about victims we should remember all of the people who have suffered because of the proliferation of guns.

Look at what happened yesterday at the National Zoo. Seven young people were shot. I have my four children and their spouses and seven grandchildren, the oldest of whom is 6, coming to Washington in a few weeks commemorating, with the grandfather of the family, my career in the Senate. We are going to celebrate. Because they are all so young, to amuse them I said we would go to the zoo. I am not as enthusiastic about going to the zoo today as I was a couple of weeks ago when we thought about this.

I am worried about what might happen in public gatherings. The two oldest of my grandchildren—again, they are little kids—are in school. I call my daughters and say: How are the kids? When I see something that goes awry in a school and a 6-year-old child can kill another 6-year-old child because of someone's careless possession of a gun, their careless abandonment of normal safety protections, I worry about them. I worry not only for my family. I worry mostly, obviously, as we all do, about my family. But I also worry about all of the violence that permeates our society. There is enough of that on television—even in cartoons. And I think that some of the depictions of violence may encourage violent behavior. The seeds may be there, but the encouragement, the nurturing of those seeds often takes place in movies and television where the hero is the guy who comes in with a gun blazing. Who he is killing we are never quite sure, but he is killing people.

If we want to take care of the victims, then we ought to pass a law and be bold about it and not fall prey to public posturing and say amend the Constitution. How many other rights ought to be included as we talk about victims? Should parents' rights be protected? Should grandparents' rights be protected? Should workers' rights be protected? Should women be protected? We think so. They are very often victims of crimes that do not necessarily leave a mark that one can see but often does enormous damage to their psyche and to their mental well-being—harassment, sexual harassment. Are we amending the Constitution to deal with that? No, we are not.

And we need to stop the political posturing about many issues. For example, we need to stop all of the posturing on gun control and take action.

I wrote an amendment and presented it to the Senate when we were discussing the juvenile justice bill. The amendment is very simple—it would close the gun show loophole. We received 50 votes on each side. No, that is not fair to say. Fifty votes for and 50 votes against, including some of my Republican friends who agreed with us that we ought to close a loophole in gun shows that permits people to buy guns without identifying themselves. I call it buyers anonymous: Someone goes in, puts their money down, and walks out with as many guns as they can physically carry. They can even come back for another load. There is no identification required. Even though some in this Senate want to protect that practice, my amendment prevailed. With the Vice President casting the tie-breaking vote, the amendment passed 51–50.

It was a dramatic day. We all worked so hard. But since then, the juvenile justice bill has been stalled in a conference committee.

There is a game played around here—political football. If you are in the majority and do not like something, you have the ability to stop the legislation from moving. We established a Senate conference committee with a House conference committee, which is the normal process. They confer on differences that each of the Houses has on their legislation. We sent it to the House. The conferees took forever to be named. Finally, we got conferees.

What did they do to keep the public from knowing, to keep potential victims from understanding what might be happening? They did nothing. The distinguished Senator from Vermont, who always brings sense to our body when he discusses issues with which he is so familiar, mentioned it. April 20 was the 1-year—I do not even like to use the word ''anniversary''—but it was one year since that horrible day we all witnessed—kids running, young people in the prime of life killed.

There is nothing more satisfying to me, perhaps because of my white hair and age, than seeing young people in the full blush of youth enjoying themselves. Sometimes they do silly things. It is fun when I see young people, whether they are little young people or 16, 17, or 19 years old. I joined the Army when I was 18. I did not realize how young it was until I looked back.

Young people who were enjoying themselves were mowed down by two young killers at Columbine High School. Families were brought to the worst grief anyone can imagine. A young man was hanging out the window pleading for help. We do not know what he was saying. One can imagine what he was saying. His hand was outstretched trying to reach for safety wherever he could go get it, a refuge from the madness surrounding him. That was April 20, 1999. April 20, 2000—nothing has happened. Nothing. I say let's vote on it—you can vote for gun safety or against it. Let the public see how you voted. But no, they do not want to do that because they are all scared in their own way. They are scared the public is going to see that they will not take steps to end gun violence.

Here we are. We had promises recently that we would be voting on a conference bill, and we ought to do that pretty soon. All they have to do is say to the conferees, ''Get the job done,'' and the bill will be on the floor. But we cannot get them to do that.

The majority—and I talk with all due respect in friendship about the majority—is in charge. That is the way it is. I wish it was otherwise, frankly, but the Republicans are in charge, and the Republican leader has not brought it up, though he said he wants to bring it up. He said it publicly. On April 9, when asked, he said he would bring it up soon. On ''Face the Nation,'' a very well-known program, he said he would be amenable to bringing it up. He was asked by Bob Schieffer: ''Don't you have to get the conference committee to meet? Why don't you at least have a meeting?'' in reference to the conference committee on juvenile justice, one part of which is an attempt to control gun violence.

The majority leader said they were talking about it.

Schieffer came back and said: ''Let me pin you down. Do you think you're going to get that conference committee to meet to kind of get this started?''

The response by the majority leader was, ''I do.''

That was April 9. Today is April 25. April 9 to April 25, that does not seem as if it is rushing to do things.

It was promised. Well, the majority leader said, ''I do.''

Schieffer said, ''This week?''

The majority leader, again, with all due respect, said, ''I don't know if it will be this week, but we will get it done in the next few weeks.''

There have been a few weeks. Why don't we get this done? We are all concerned about victims of crime, but let's pass legislation that will prevent people from becoming victims of crime.

I continue to urge the Congress to move forward on gun safety. And what is the response of the Republican Party—the Republican Senate group. Well, here is what GOP aide John Czwartacki said in Roll Call:

> It is a shame but no surprise that they would exploit the tragedy of these children's deaths to promote a political agenda.

That is what he said. He said it in response to a commitment that I and several other Senators made that we would do whatever we could to get that juvenile justice bill moved along so we could discuss ways of reducing gun violence.

At times I wonder what it will take for people in this chamber to get the message. Despite what the American public says, despite what parents say, despite the fact that there will be a million moms marching on Mother's Day—some members of this body refuse to act.

Why? Why is it that the voice of the NRA, the National Rifle Association, can be heard so clearly in this place and so clearly influences legislation. Why is it that special interest voice sound so loudly in this place that the majority will not bring up legislation that says: Close the gun show loophole so unlicensed dealers cannot sell guns to unidentified buyers? Why is it?

Why is it that it drowns out millions of voices? Look at some of the polling data. In overwhelming majorities, up as high as 90 percent, people say: Shut down that gun show loophole. But those voices do not get through here.

It is quite an amazing process of physics that the sounds travel all the way here from the NRA office in Washington, but across this country where everybody is supposed to be represented in this body, those voices do not get through. They do not see the tears. They do not understand the grief. They do not hear the pleas of people who have become victims as a result of a loss of a child or a loss of a loved member of a family. Those voices

do not get through. But the voice of the NRA, with its control of some of the people that work here and in the other body—control, that is what happens—they set the agenda.

As we discuss victims of crime and constitutional amendments, it bears a note of hypocrisy because buried in there, in my view, is this overhanging question about what constitutes a victim, as I earlier discussed. What should the Constitution be open to? In the more than 200 years we have had the Constitution and the Bill of Rights, it has been amended 18 times. It is a deliberate violation of what constitutes good judgment very sparingly.

One of the dreaded thoughts that passes through so many of our minds is amending the Constitution for one thing after another. We have had several goes at that very recently when it was thought maybe we would amend the Constitution to do things that we ought to take care of by law.

I will close, but just with this reminder. Here is a picture of one terrible person. He is on the FBI's Ten Most Wanted List. Guess what. He can go up to an unlicensed dealer at a gun show and buy guns. He does not even have to worry about them calling the cops because they do not ask his identification when selling weapons.

There is enormous pressure to keep this gun show loophole in place. Imagine, those criminals on the FBI's Ten Most Wanted List, and any one of them could walk in to a gun show and approach an unlicensed dealer and say: Give me a dozen of these or two dozen of those, and here is the money, and the deal is done.

It is my hope we will resolve the dispute that is in front of us now in a statutory fashion; that is, to write law, not to amend the Constitution. Start there. Extend the debate so that all points of view are sufficiently heard. Let's let the public know what we are talking about when we do this.

But even as we contemplate the course of action on this constitutional amendment—I think it was with 80-some votes that we said we ought to move ahead. Some of those who voted for cloture, however, are just interested in opening up the debate and not really supporting the constitutional amendment.

I say to all my colleagues, I intend to continue to push for the conferees on the juvenile justice bill to sit down and talk and to come up with a conference report. Come up with their conclusion, whatever that happens to be, and let the American public know that they are not just sitting on their hands as a way of killing this legislation. And those who oppose it should have the courage to speak up and say: No, I don't want to control gun violence that way. Guns don't kill. People kill. Or they may say: The little boy who is 6 years old is a criminal that the police should have been watching, I suppose, before he went to school that day with that gun.

There are so many times when a person becomes a criminal for the first time when they pull that trigger. But the response is always the same—guns don not kill, people kill. Well, you do not have many drive-by knifings. It's a lot easier to kill people with a gun.

So we are going to do whatever we can. We are going to seize whatever opportunities we can. We are going to stand and shout this message until it is heard all the way across this country, so that people will call this place, call their Senator, call their Representative, and tell them they want to see something done about gun violence in this country, that they are sick and tired of losing thousands and thousands of people to gun violence.

There are 33,000 victims in a year, when a country such as Japan and the UK and others have less than 100. We sure do not have 300 times their population.

There are ways to control violence. One of them is to take these lethal instruments out of the hands of people who are not qualified to have them.

I wrote a law to take guns away from those who are domestic abusers, guys who like to beat up their wives or kids, or guys who like to beat up their girlfriends.

We had a heck of a fight here. Finally, with President Clinton's help, we got a bill signed one night that was attached to an appropriations bill.

The opponents said: It is not going to do any good; it is not going to matter. That was done in the fall of 1996. Since that time, we have stopped 33,000 requests to buy guns. 33,000 times that a spouse or a friend or a child in a household doesn't have to hear somebody say, ''If you don't do this, I'm going to blow your brains out''; 33,000 times in just over 3 years.

The gun lobby fought me and said that is junk, you don't need that, that is silly, that is not where we ought to be going, we ought to be locking people up, and so forth. Of course, we do lock them up. They deserve to be locked up, if they are criminals. We lock up and enforce the law in more cases now than at any time in the past. Convictions are way up. Housing criminals has become a problem. We don't have a sufficient number of jails to accommodate them.

I go with this promise: We will be back again. Not just on this bill, but as we consider other pieces of legislation. We are going to fight on this floor. Whether it is kids pulling out guns to resolve fights, or someone using a gun when they want to rob someone, we have to stop the gun violence. I am sure the public will agree.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, as I understand it, to debate this amendment, S.J. Res. 3, I am entitled to 1 hour.

The PRESIDING OFFICER. The Senator is correct.

Mr. SCHUMER. I yield myself that hour.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCHUMER. Mr. President, I thank my colleague from New Jersey for his eloquent words, his passion and leadership on this issue. I join with him, helping in any way I can to see that we get to finally pass the Lautenberg amendment which the country so much wants. I thank him for his doggedness. We will prevail, I do believe. I thank the Senator from New Jersey.

I am here to address S.J. Res. 3, the constitutional amendment for victims' rights. As I guess my history in the Congress shows, I have been very concerned about crime issues. If one would have to say they had a signature issue, for me, that has been it. I came to the view when I came to Congress—and am still of that view—that particularly in the 1980s and early 1990s, the pendulum had swung too far in the direction of individual rights and not enough in the direction of societal rights. I spent a good portion of my time in the Congress trying to bring that pendulum to the middle, joined by Democrats and Republicans. I am very proud of that work.

I come to the floor because nothing in my time in the Senate has troubled me more, has bothered me more, than the amendment we are beginning to debate. I greatly respect the Senator from Arizona, Mr. KYL, and the Senator from California, Mrs. FEINSTEIN, for the work they have done on this issue. Frankly, my views are not dissimilar to theirs on the issue of victims' rights. I helped write the law for right of allocution, for the victim to stand up at sentencing and say his or her piece. I have been extremely supportive of victims' rights.

Then why would I find this amendment so troubling, more troubling than any other bill we have debated? Because I revere the Constitution. I consider America to this day the noble experiment the Founding Fathers called it when they had written the Constitution. I believe the Constitution is a sacred document. The more I am in Government, the more I almost tremble beside the wisdom of the Founding Fathers. Someone called them the greatest group of geniuses. There may have been other individual geniuses who were greater than any single member who wrote the Constitution, but their collective genius was the greatest group assemblage of genius the world has known, a person wrote. I tend to share that.

Amending the document they put together is an awesome responsibility, something that should not be taken lightly, something that should be done with the utmost care and forethought. One should only debate constitutional amendments when there is no other way to go. We should not mess with the Constitution. We should not tamper with the Constitution.

Yet here we are today debating a victims' bill of rights, a constitutional amendment on victims' rights, when not a single State supreme court, and certainly not the U.S. Supreme Court, has declared any victims' rights statute unconstitutional. I repeat that amazing fact for my colleagues. For the first time we are here debating a constitutional amendment with the other 19 amendments and with, of course, the 10 amendments in the Bill of Rights being different, where not a single State supreme court and not the U.S. Supreme Court has ruled any part of victims' rights unconstitutional.

What is called for here is a statute. I would support making a statute, a law, almost the exact amendment, perhaps even the exact amendment, the Senator from Arizona and the Senator from California are proffering. But a constitutional amendment? Why? Why? Why amend the Constitution when no law has been declared unconstitutional? We have never done that in the over-200-year history of this Republic. We have never taken something we believe in and said, let's immediately make it a constitutional amendment.

We have debated constitutional amendments here because statutes were thrown out. We just did it on the flag burning amendment. People believe strongly that the flag should not be burned. The U.S. Supreme Court said it was under the aegis, the penumbra, of the first amendment. So we did our duty on this floor and debated whether we should amend the Bill of Rights. For the first time ever, we would do it to say that flag burning was prohibited. It was what the Founding Fathers thought the constitutional process should be. It was an amendment that had been thought about. It was an amendment that had been debated. It was an amendment that went to the core of great constitutional issues.

My guess is if a Washington or a Jefferson or a Madison were looking on the floor during that debate, they would have smiled, they would have said that was the Senate they hoped to have.

If a Washington or a Jefferson or a Madison were looking on the floor as we debate this, I believe they would recoil, not because of the issue of victims' rights but because of the thought of passing a constitutional amendment, only the 20th since the Bill of Rights, when no law had been declared unconstitutional, when no aspect of the Constitution itself needed to be clarified.

I ask my colleagues—and I will ask them when they are here because this debate will go on for some time, as it should—why not a statute? I have heard my colleague from California say: Because we have to show how important victims' rights are. With all due respect, we can show that importance with a statute.

I believe in the rights of working people. I have worked for laws such as minimum wage and protecting rights in the workplace. I would not put in the Constitution that we must protect the rights of working people, unless, of course, there were a series of statutes about working people that had been thrown out by the courts. Even in the early 1900s, when the wage laws and child labor laws were thrown out as unconstitutional, we didn't amend the Constitution—when there might have been reason to. But here? Now? As the lawyers say, no stare decisis, no final opinion. It doesn't make sense.

I have to tell my colleagues, if we were to pass this amendment, we would be fundamentally changing constitutional history, the way the laws of this country are made, because we would say that the new Constitution is open to things we believe in and feel strongly about, even where a statute might have solved the problem.

My colleague from California and I—I regret that she is not here—had this conversation after our caucus. She said to me, well, there have been two Federal courts that ignored victims' rights even though we passed statutes. Well, that means the statute was poorly drafted. A judge cannot ignore statutory law. I asked her, ''Well, why wouldn't that be appealed if it wasn't well drafted?'' It wasn't appealed. But to rush to a constitutional amendment?

This amendment has been below the radar screen. It has crept up upon us stealthily. It hasn't gotten the airing and debate it needs, and already we are rushing to judgment, attempting to pass a constitutional amendment. Again, it was said that the constitutional amendment is still being negotiated by one of the chief sponsors. What is this? We are negotiating a constitutional amendment at the same time we are debating it—something that if it becomes part of the Constitution cannot be changed without huge movement? You don't do that. The Constitution is a sacred document. The greatest group of practical geniuses in the world put it together. It is not something willy-nilly, if somebody feels strongly about it—and I respect the energy and passion—that we just go ahead and amend the Constitution. This is a dispiriting day in a certain way, in my judgment, because we are debating whether to take that great document, the Constitution of the United States, and cheapen it by saying when we feel passionately about something, we skip the statutory process, the judicial process, and we go right to amending the Constitution.

I am not debating the merits of the provisions. As I said, I believe in almost every one of them. But every one of these could be accomplished by statute, by law. And then, if we found out one was poorly drafted, we could change it; then, if we found out there was something people didn't take into account—and that happens when we write laws—we can change it. Not so with a constitutional amendment.

If you look at the amendment that has been drafted, it is longer than the entire Bill of Rights. If you look at the language, it is not the language of the Constitution of the United States, which talks about great concepts. Victims' rights is a fine concept, but the language, which I have here, is the language of a statute.

Again, I have not received an answer—a good answer—from my colleague from Arizona and my colleague from California as to why not a statute. You can pass it more quickly and more easily. It fits the amendment. It fits what you are trying to do. No court, no supreme court, no final authority has thrown it out. And to say there were two Federal cases where the judge ignored a statute, and we immediately go to a lower court judge, and we immediately go to a constitutional amendment, again, cheapens the Constitution.

I intend to debate this amendment at some length. I know some of my colleagues will, too. As I said, this has not gotten airing. In fact, a month ago, if you talked to most people, they shrugged their shoulders and said, ''Don't worry, this won't come up.'' Well, it is here and it is being debated. We are on the precipice of changing what an amendment to the Constitution of this great country means. We ought not to do it lightly. We ought not to do it simply because we feel a need, as I do, to say that victims have rights in the courtroom. We ought to do it because there is no other alternative. And here there is. We ought to do it because the judicial and legislative processes have been exhausted and the Constitution hasn't anticipated a new change. This clearly is not that case. We ought to do it because this issue has reached its fulsomeness.

My colleagues, I believe if this body were to pass this amendment, we would regret it shortly thereafter. We would experience, as we never have, debate about what specific little clauses in the Constitution mean—not the interpretation of what is freedom of speech, but how do you define a victim. How do you deal with certain phrases and clauses? It is a troubling day. It is a troubling day because almost without debate, almost without national focus, we are thinking of changing what an amendment to the Constitution means. It is not simply supposed to make us feel good. It is not simply to make a political statement to the people back home. It is to fundamentally change the rights, privileges, and obligations of the Government and the citizenry.

Again, to my colleagues, why can't we try to pass this very same language as a statute? I am going to introduce that as an amendment if we are allowed to—the exact language they have but make it a statute. I have not heard a good argument and, until I do, I urge every one of my colleagues, Democrat and Republican, to refrain from the understandable desire to do something quickly and instead do something correctly.

Mr. President, I reserve the remainder of the hour that has been ceded to me to debate this amendment.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I don't understand the procedure at this moment. I don't know if I seek recognition through the Senator from New York or the Chair.

The PRESIDING OFFICER. The Senator can seek recognition in his own right for up to 1 hour.

Mr. DURBIN. I ask to be recognized on S.J. Res. 3.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, I commend my colleague from New York on the statement he has made on the floor of the Senate. It is interesting that when Members of the Senate are brought into this Chamber and asked to become official Members of this body, we are asked to take an oath. It is an oath which in one part—and perhaps the most important part—is to preserve and defend the Constitution of the United States. When you consider all of the great documents that have been produced in the history of this great country, it is clear that when it comes to our service in the Senate, the one document that we are asked to hold above all others, to preserve and defend, is the Constitution of the United States.

Of course, it is understandable because those who created the Senate and its counterpart, the House of Representatives, did it in this document, this Constitution, a copy of which I carry. They believed that future Senates and future Members of the House of Representatives, if they preserved this document, would preserve this union.

The job of preserving this Constitution of the United States is not often easy nor popular. Some say 11,000 different times in the last 100 years Members of the Senate have come to the floor in an attempt to change this document. It is interesting that in the course of the history of this Nation, after the adoption of the first ten amendments to the Constitution, the so-called Bill of Rights, we have only amended this Constitution 17 times—the Bill of Rights and 17 additional amendments. Today, we are being asked to amend the Constitution for the 18th time since the adoption of the Bill of Rights.

It is curious that in the history of our politics, the Republican Party, which so often claims to be the conservative party—and to take that literally, I assume that means to conserve the values and principles of this country—has so often been in the leadership not to conserve but to overturn and change the most basic document, the Constitution of the United States.

I am told in the last 4 weeks there have been four proposals—one in the House and three in the Senate; this is the third in the Senate—to change the Constitution of the United States. This document has endured for over 200 years. It appears many of our colleagues want to change it as quickly as possible in a variety of ways. Some want to change it when it comes to balancing the budget. Others want to change it when it comes to flag burning. Now today there is a suggestion that we want to change it when it comes to the rights of the victims of crime.

With all due respect to the wisdom and intelligence of all of my colleagues in the Senate, frankly, I think they are anxious to take a roller to a Rembrandt. They want to make their mark on the Constitution believing that what they suggest matches up to the stature of the words of Thomas Jefferson, Madison, and the Founding Fathers of this country.

With all due respect to my colleagues, Senate Joint Resolution No. 3 before the Senate now pales in comparison. This resolution has been around a while. It is shop worn. One of the sponsors of the resolution, Senator KYL, came to the floor today and said with some pride that this was the 63rd draft of this constitutional amendment, and as we stand today and debate, the 64th draft is being written in a back room. At some point it will pop out of that room and on to the Senate floor and we will be told: Here it is; this is the next amendment to the Constitution of the United States.

Forgive me if I am skeptical, but I believe on reflection we would regret passing this proposed constitutional amendment. If the authors of this amendment who have been working on it for years—and I give them credit for all of their effort, but they still haven't gotten it right. As the matter comes to the floor of the Senate, do we honestly believe the words in this document will endure as our Constitution has endured for over 200 years? No, I think we are in haste producing a product which we will come to regret.

Now to the merits of the issue. It is one which, frankly, cannot help but touch your heart. Far too many people are victims of violent crime. These victims are frightened, they are fed up, and they are determined. They are rightfully frightened because they and others have far too great a chance of falling victim to a violent crime. These victims have endured needless and unjustified physical and emotional suffering. Just last night at 6 p.m., in the Nation's Capital, at the National Zoo, one of the real attractions in this city for visitors from across this region, around the Nation, and even around the world, seven children were shot while visiting the zoo. One of the seven, an 11-year-old boy, was shot in the back of the head and is in grave condition.

The statistics on violent crime and gun violence are staggering in the United States of America. Twelve children die every day in America as a result of gun violence.

Many crime victims are justifiably fed up. They feel as if the criminal justice system has wronged them. These people were innocent victims, but they feel deprived of the fundamental need to participate in the process of bringing the accused to justice. Victims of crime are understandably determined to ensure that other victims of violent crime have the right to an active and meaningful involvement in the criminal justice system. I believe every effort to ensure that crime victims are not victimized a second time by the criminal justice system should be taken. Today, we are here to begin the hard task of determining how best we can achieve this shared goal.

I don't think many will ever be able to appreciate fully the impact of crime on a person. In my family's history, we have had a home burglarized and felt violated, as most people would when they come home to find someone has been through your belongings and taken something away. This is an eerie feeling as one walks through the house.

I have had one of my children assaulted. Thank goodness she wasn't hurt seriously. As a parent, I felt rage at the thought that somebody would do this to my daughter. Thank God she survived it. They never caught the person responsible for it. I felt in a way that she was not the only victim. All of us who loved her were also victims of this violence.

A violent crime irreparably alters the texture of life for the victim, that victim's family, and many of their friends. The awareness and memory of that crime pervades and alters the victim's very being. I don't think a victim ever totally gets over it.

We know a criminal justice system at its best cannot undo a crime. We surely also realize the way to fully address the effect of crime is not just through the criminal justice system. If we are serious about dealing with the impact of crime upon an individual victim, a family, or a community, we must act systematically and consciously—not just with symbolism and political effort. I believe one of the worst things we can do is to pass a constitutional amendment that contains illusory or unenforceable promises regarding crime victims. In order to genuinely address this issue, we must understand the way crime rewrites a victim's life. Then we must do what we can to ensure that the rewrite is not inevitably tragic.

I support crime victims' rights. I confess to concerns about amending this Constitution. I view the Constitution, and in particular the Bill of Rights, as one of the most enlightened, intelligent, and necessary documents ever created. I believe any efforts to amend it must be reserved for the most serious circumstances.

I cannot help but remember as I stand on this floor, as I often do, debating constitutional amendments which seem to be the order of the day, how many leaders of newly emerged democracies come to the United States of

America as one of their first stops. These men and women who have seen their countries liberated from totalitarian rule, Communist rule, come to the United States and make their stop right here on this Hill, in this city, in this building.

They believe, as I do, that the validation of democracy lies right here within the corners of the walls of this great building, because this generation of leadership in the Senate and in the House tries to carry on a tradition, a tradition of freedom and democracy, a tradition that is not embodied in a flag but is embodied in a book—the Constitution of the United States.

When you look at the political atmosphere surrounding this debate on this constitutional amendment, you will see that it is different from any other debate we have had on an amendment to this Constitution. A constitutional amendment is really only necessary when there is a concern that the rights of the minority may not be respected by the majority. When there was first a suggestion of a Bill of Rights, it was opposed by James Madison. He said: It is not necessary. The original Constitution, as written, defines what the Federal Government can do, and therefore all of our rights as individuals, as State governments, and as local governments, are certainly ours and preserved. We do not need to add any language preserving them, it is assumed that they will be preserved.

But as the Constitution was submitted to the various States for ratification, more and more delegates came back and said: We disagree. We want explicit protection. We want the Bill of Rights to explicitly protect the rights of American citizens, and we want to spell it out.

One of the primary arguments used for the validity of the Bill of Rights is that the first amendment, so often quoted for freedom of speech and press and assembly and religion, is often heralded as the first amendment because it was so important. A little reading of history shows us it was not the first amendment in the Bill of Rights. The first two amendments submitted to the States in the Bill of Rights were rejected. The third amendment, which is now our first amendment, moved up. The first two that were rejected related to the question of reapportionment of the Congress and the ability to be compensated or receive additional compensation during the course of a congressional term.

That little footnote in history notwithstanding, we value these 10 amendments in the Bill of Rights as special.

Then, beyond that Bill of Rights, concerns about the rights of the minority rose again in the 13th and 14th amendments, when we repealed slavery, or in regard to the 19th amendment and the provision of suffrage to women.

This amendment, however, does not fit in that description. All but a very small number of American politicians and organizations emphatically support victims rights. Every State in the Union has at least statutory protection of victims of crime when it comes to the procedure of criminal prosecution. Some 33 States have amended their State constitutions to provide similar protection, including my own home State of Illinois in 1992. I fully support that. I think the State was right to pass a crime victims protection in our State constitution.

Second, any amendment to the Constitution should be more than just a symbolic gesture. I want to grant crime victims real and concrete rights. The proposed amendment, however, has certain provisions which are illusory and unenforceable. Indeed, the amendment lacks definable language and does not address its implementation. What is the most important single word in a crime victims protection amendment? Let me suggest it is ''victim,'' the word ''victim.'' That is the group they seek to protect and honor and empower. Yet search, if you will, S.J. Res. 3, you will not find a definition of the word ''victim.''

For those who are listening to the debate, who say, ''How can that be a problem? We know who the victim of the crime is''—are you sure? My daughter was assaulted. She was certainly the victim of a crime. As her father, was I victimized?

Some say: That is a stretch, we just mean the person who was actually assaulted.

Let's try this from a different angle. Let's assume someone is a victim of a crime and is murdered. Are they the only victim of the crime? Is the spouse of the murdered victim also a victim? I could certainly argue that. I could argue a lot of other members of the family could be victims.

Let's consider this possibility. If you are going to empower victims to change the prosecution and the procedure in a criminal case, think about a battered wife. A battered wife, who has been the victim of domestic violence for a long period of time and who finally strikes back and assaults the spouse who has battered her, she is then brought in on criminal charges of assault and battery, and the abusing spouse becomes a victim, too. According to this amendment, the abusing spouse now has crime victim's rights, even though he was the one who battered his wife, giving rise to her response and retribution. It gets a little complicated, doesn't it?

We know who a crime victim was—someone who was hurt. When you start playing this thing out, you understand why the authors of this proposed constitutional amendment, despite 63 different drafts of this amendment, have never defined the word ''victim.'' Because if you empower that victim to slow down court proceedings or speed them up, to be notified, to be part of the process, you had better take care to understand who is going to receive these rights and how these rights will be exercised, because if you are not careful, you can have a lot of unfortunate consequences.

The amendment lacks this definable language. It does not direct the law enforcement court personnel, who are supposed to enforce the newly created victims' rights, on how to do so.

Finally, the important goal of establishing victims' rights can be achieved through legislation. A constitutional amendment is simply not necessary. Due to the respect I have for the Constitution, I am extremely reluctant to amend it unless there is no other means by which the victims of crime can be protected. Every state in the United States have a state statute to protect the rights of victims. Thirty-three States have constitutional amendments to protect the rights of victims. Frankly, there appears to be across the United States, in every State of the Nation, a protection of crime victims.

The obvious question of those who bring this amendment to the floor, then, is, why is this necessary? Why do we need to amend the Constitution of the United States if existing State law and State constitutional provisions already protect the victims of crime? There may be flaws in these State amendments, State constitutional amendments, State laws, but these flaws can be corrected on a State basis, as needed.

In addition, a statutory alternative to this constitutional amendment can reach all of the goals it seeks to achieve. Indeed, there is legislation that has been proposed by the Senator from Vermont, Mr. LEAHY, which I enthusiastically support, which would put in statute these crime victim protections. I think this is the best way, the most effective way, to deal with this.

Let me give a few illustrations of how complicated this situation can become. Some of them are real-life stories that give evidence of problems prosecutors have run into in States where individuals have the right to come forward and to assert their rights as victims of crime. Let me give you two of them.

In Florida, a Miami defense lawyer tells of representing a murder defendant who accepted a plea from the prosecution. Of course, the acceptance of a plea is a decision that you will plead guilty under certain circumstances and waive the right to a trial. The judge refused to accept the offer after the victim's mother spoke out against it. The victim's mother insisted that the criminal defendant go to trial, despite the agreement by the Government and the defense that he would accept a plea. The client went to trial, was acquitted, and released.

In the second case, in California, relatives of a homicide victim complained to a judge that a plea bargain between the prosecution and the defense was too lenient. They got what they wanted, withdrawal of the plea and prosecution of the man on murder charges. At

the close of the trial, the defendant was acquitted and went free.

In each of these instances, in each State, the victim or victim's family asserted their rights to overturn a decision by the prosecutor based on that prosecutor's evaluation of the evidence and the likely outcome of a trial, and the net result of it was that the wrongdoer ended up walking out of the courthouse door without a penalty.

The suggestion that the victim's involvement or intervention is always going to lead to a stiffer penalty is, frankly, shown in these two cases not to apply.

I also make note of the fact that, during the course of this debate, those who support the constitutional amendment, the Senator from Arizona, Mr. KYL, and the Senator from California, Mrs. FEINSTEIN, have said on occasion that this would in no way jeopardize the rights of the accused; in other words, that empowering and giving new rights to crime victims will not be at the expense of the accused defendant. Our Constitution is very clear when it comes to criminal defendants, that there are certain rights which shall be protected. We, of course, know the right to trial by jury, the right to confront your accuser, and all of the rights which have been cataloged over the years.

When this constitutional amendment came before the Senate Judiciary Committee 2 years ago, I was a member of that committee. I offered an amendment to this legislation in committee which said nothing in this proposed constitutional amendment shall diminish or deny the rights of the accused as guaranteed under the Constitution. It was said over and over that is the case of this language and this proposal. Yet my attempt to put it into the amendment was refused. I understand Senator FEINGOLD of Wisconsin offered the same amendment in committee this time when it was being considered, and it, again, was refused.

As I stand here today, I suggest to my colleagues that we are considering a constitutional amendment which, though it is important, is not necessary. Before we amend the Bill of Rights in the United States of America, it should be something that we all believe, or at least the vast majority believes, is necessary. The existing State constitutional protections of crime victims, the existing State statutes all provide protection to the victims of crime. The suggestion that we can pass a Federal statute which can be modified if we find it is not perfect gives us an option to do something responsible without invading the sanctity and province of the Constitution of the United States.

In addition, I suggest that protecting the rights of victims, as important as it is, must be taken into consideration with base constitutional rights and protections for the accused as well in this free society, recalling the premise of criminal justice in America: innocence until guilt is proven. That is something which is painful to stand by at times, but it is as American as the Constitution which guarantees it.

I suggest to my colleagues in the Senate and to my friend, the Senator from New York, who I see is on the floor, that we should think twice before proceeding with this amendment to the Constitution. I will join my colleagues during the course of this debate in further discussion of the merits of this proposal. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I congratulate the distinguished Senator from Illinois for saying, but taking one exception, we ought to think twice about this matter. Dare I hope we might think once. It comes wholly unexpected to us, a massive departure from two centuries of constitutional practice, a measure—one amendment which was longer than the whole of the Bill of Rights, and there is not a single Member on the other side of the aisle listening, wishing to speak, present. There are three of us on the Senate floor with the Constitution in our hands in a matter of 27 hours—the casualness.

George Will said on Sunday that we were cluttering the Constitution. We do things palpably ill advised. In the House, they put us on a 1-year balanced budget back into an agricultural cycle, long since gone. There was no mention whatever of the rights of the accused, about which we were very concerned. A people should be concerned when Government accuses someone, and that is why we have the Fourth, Fifth, Sixth, and Fourteenth amendments. Then to have this endless, tedious, complex amendment about victims' rights and, as the Senator says, no definition whatever of what a victim is.

I say to those not present on the opposite side—and there are, of course, supporters on this side—the capacity of American culture in this stage to think of new forms of victimhood is unprecedented. It has been a characteristic of the culture for a generation now to find victims and to declare oneself a victim and demand compensation and consideration therefore. It may become a permanent feature of American culture. I do not know. I doubt it. But it is at high moment now and would this amendment—oh, my goodness. And for the law schools, yes, and for those who design and build courthouses, oh, sure, and judges—there will be no more judges held up in this Senate. We will need double the Federal judiciary in no time at all.

How could we have come to the point where we have so little sense of our history, as the Senator from Illinois so rightly said. James Madison did not think a bill of rights was necessary since the Constitution only gave powers, specifically enumerated powers, to the Federal Government. What it was not given, it could not do. Still, George Mason and others persuaded him and prudence—a hugely important aspect of good government—prudence said: Well, why not have a bill of rights? And we have learned to be glad that we did.

Do my colleagues recall the impeachment trial we went through a year ago? I was struck by the managers—fine persons all—but how little reference they gave to the Constitution which provides for impeachment. I may be mistaken—I hope I am—but I did not hear one reference to Madison's notes which he kept during the Convention in Philadelphia, or the notes of the one day in which the impeachment clause was settled.

On that day, it was stated, for example, the most important impeachment of the age then was the impeachment of Warren Hastings going on in London. Edmund Burke, well known here as a supporter of the colony's rights, managed the case by the House of Commons in the House of Lords. The point was made by Mason that Hastings was not accused of a crime. That was not why he was being impeached. It was abuse of office. Hence, we have the term ''high crimes and misdemeanors.'' High crimes.

Now. Do my colleagues know what the references were in that debate? They were to Hollywood movies. And do my colleagues remember Marlene Dietrich in ''Witness for the Prosecution''? Are we trivializing our oath to uphold and defend the Constitution of the United States against all enemies foreign and domestic? It is scarcely to be believed.

Why are the seats empty on the other side? I cannot be certain, but I offer a thought, and I would be happy to hear differently. The administration is negotiating with the sponsors because the administration has indicated a willingness to support this atrocity, this abomination, this violation of all we have treasured in two centuries and more.

That the administration should do this is something I could not imagine I would ever see. Yet we have it in writing that they are prepared to do it. I only hope the negotiations break down.

I shall have more to say at another time. But I just wanted to make this comment. Now I leave the floor. Our revered senior Senator from Vermont will be the only one remaining. I do not doubt he will have thoughts to disclose. But even he will eventually find himself somewhat distracted by the fact that no one is listening. The distinguished Presiding Officer is here. But there will not be another soul present with such attention and energy as we take up a matter of the greatest possible importance, which is amending the Constitution of the United States.

Mr. LEAHY. Mr. President, if the distinguished senior Senator from New York would yield to me before leaving?

Mr. MOYNIHAN. I am happy to yield.

Mr. LEAHY. I hope all Senators get a chance to read what the distinguished Senator said. He is recognized as one of

the foremost historians of this country and certainly of the Senate. He is so right: We are talking about amending the Constitution, and nobody is here to talk about it.

I say to my friend from New York, there have been 11,000 proposed amendments to the Constitution that have been brought before the Congress. Article V speaks of amending the Constitution when necessary.

The Senator from New York is a far greater student of history than I, but does he think that by any stretch of the imagination—we have had civil wars; we have fought in world wars; we have gone through Presidential assassinations; we have done all these things—we have ever come close to 11,000 times in the history of this great Nation where it has been necessary to amend the Constitution?

Mr. MOYNIHAN. We have not, sir, as is evidenced by the fact that I believe we have done it 18 times including the Bill of Rights, which was basically part of the Constitution.

Mr. LEAHY. I say to my friend from New York, it is the Senate that is the saucer that cools the passions. That should make us slow up and look at these things.

I wonder what would have happened if, say, during all those times, 10 percent of those amendments had gone through. That would be 1,100 amendments. If 1 percent went through, there would be over 100 amendments. What a different country this would be with much less democracy, if we would be a democracy at all.

The first amendment in our little pocketbooks of the Constitution is only four or five lines. The first amendment really protects the diversity of this country to make sure we remain a democracy, that we have the right to practice any religion we want, or none if we want—both thoughts are protected—that we can say what we want, that we can assemble and petition our Government. All of that is protected. Yet we have something that, when we print out this proposed amendment, goes on for something like 60 lines.

I am a lawyer. I loved doing appellate work. The distinguished Presiding Officer is a distinguished former attorney general. I am sure he would love to do appellate work. I can tell you right now, this is a lawyer's dream. We might as well quadruple the number of courts, the number of judges. They would not keep up with the appeals that would come just from this one amendment alone.

It is hard for me to emphasize enough, and I hate to hold up the Senator from New York on this, but there is nobody else here to express my frustration to.

Mr. MOYNIHAN. Please.

Mr. LEAHY. He and I are on the same side of this. I have the privilege, as I said earlier, of being the 21st Member of the Senate, in all its history, to cast 10,000 votes. Some votes were important; a lot were not important. But I thought it was pretty impressive—10,000 votes. Even with all the unimportant ones, even after all of them, I did not vote enough to have voted on all the proposed constitutional amendments. There have been 11,000.

Our highly respected and beloved two most senior Members of this body, Senator THURMOND and Senator BYRD, have cast 15,000 votes. They are about the only ones who might have cast enough votes. But those votes encompassed all kinds of things.

Here we are talking about changing the Constitution at the drop of a hat. Some of us—Republicans and Democrats alike, conservatives and liberals—ought to stand up and say: We will pass statutes; we will experiment. If we are wrong, we will change the statutes; we will change the law. But we will not amend the Constitution. No matter that the proposal comes from the left or the right, no matter what it is, we should not pass it unless it is, as the Constitution says, necessary.

This resolution is not necessary for the security and for the continuation of the world's greatest democracy.

Mr. MOYNIHAN. May I just make a closing remark.

Not meaning to be disrespectful, but there is a joke, a witticism, if you like, that says libraries file the French Constitution under the heading of periodicals: It comes; it goes; it comes; it goes.

We have a treasure here, the oldest written Constitution on Earth. It has preserved a republic which is without equal. There are two nations, the United States and Britain, that both existed in 1800 and have not had their form of government changed by violence since then. We live in a world where a century ago there were approximately, as I count, 8 nations on Earth that both existed then and have not had their form of government changed by violence since.

If we are to trivialize the Constitution because of passing enthusiasms about this economic theory, that economic theory, we risk the stability of this institution.

I make just one reference to the fact that several years ago we passed a law providing for a Presidential line item veto on legislation. It was elementally unconstitutional. The Senate passed it. The House passed it. The President signed it.

Three of us—our revered senior Democratic Member, Senator BYRD, Senator LEVIN, and I—brought suit in the U.S. District Court for the District of Columbia, which in good time held that the line item veto was indeed unconstitutional. The government appealed to the Supreme Court that as members of Congress we did not have the requisite standing.

Then in the following term, the veto had been exercised. We clearly did have standing. We went there as amici. And, bang, the Court said: This is unconstitutional.

Does the President not have lawyers? Are there no counsel on the Judiciary Committee here and in the House? It is something that elemental.

Sir, we are approaching a dangerous moment in the history of the Republic. As I leave the floor, as I am required elsewhere, I leave the Senator from Vermont who is alone defending the Constitution of the United States. He is alone on the Senate floor. There is not a single person here who supports this monstrosity, this abomination, willing to come forward and say why.

Does that not say something?

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I greatly appreciate the comments of the distinguished Senator from New York. He and I have been friends for over a generation. I for one have learned from him and have been inspired by him. He is so right on this. This debate is treated as a matter of such passing moment that nobody is here. I want them to have a chance to come back.

I suggest the absence of a quorum and ask unanimous consent that the time for the quorum be charged not against any individual Senator but against the overall 30 hours.

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

The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I yield my time under the pending measure to the Senator from Vermont, Mr. LEAHY, 1 hour. I suggest the absence of a quorum and ask unanimous consent that the time during the quorum not be charged to either side at this time.

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

The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. Mr. President, I rise to oppose S.J. Res. 3, the victims' rights constitutional amendment. I agree with the goals of the proponents of the amendment. We have to do more to protect and enhance the rights of victims of crime. But I disagree with the particular means they have chosen to bring about that end. We do not need to amend the Constitution to protect victims. We can protect the rights of victims by enforcing current State and Federal laws. We can protect the rights of victims by providing the needed resources to prosecutors and courts to allow them to enforce and comply with existing laws. We can protect the rights of victims by enacting additional statutes, if needed, to deal with remaining concerns or any issues that

might arise in this regard in the future.

The framers of the Constitution made the process of amending the Constitution very difficult. Those who propose to change that long-lived and successful charter bear a heavy burden. I have thus opposed proposals to amend the Constitution, and especially the Bill of Rights, even when the subject of the amendment was very close to my heart, as it was with the recent proposal to amend the Constitution to allow for mandatory campaign spending limits. Similarly, I believe deeply in the need to ensure that our criminal justice system treats victims fairly, but I do not believe we have to amend the Constitution to do so.

Throughout history, Members of Congress have thought of more than 11,000 different ways to amend the Constitution—as of this last recess, 11,045, by one count. Luckily, only 27 have become part of our national charter. Ten of those, the Bill of Rights, were part of the package of ratification, and two, the ones on prohibition, canceled each other. Three others followed the enormous upheaval of the Civil War and addressed the wrongs of slavery and inequality that spawned that conflict. But the pace at which Members have introduced and proposed amendments has picked up in modern times. More than half of the constitutional amendments proposed in the entire lifetime of our Nation have come in the last 40 years. Fewer were proposed in the first 173 years of our Nation. This Senate has now considered three so far in this session alone—and the year is still young.

In a sense, there is a certain lack of humility about proposing so quickly to amend the Constitution. To propose to change the Constitution now is to say we have come up with an idea that the framers of that great charter did not, or that we have come to a conclusion on how our Government should work fundamentally different from the one they had and fundamentally different from the one all the Congresses since have had. We should come hesitantly, if we do, to the conclusion that we know better than they did. Yes, there will come occasions where times have changed, as with women's right to vote, and we need to bring the Constitution up to date; but it is hard to consider the basic calculus of prosecutor, defendant, and victim to have changed this much since the foundation of the Republic.

I have to admit that of the constitutional amendments I have seen proposed in recent Congresses, this is less objectionable in some respects than most. But I still have significant concerns about the prospect of amending the Constitution, even for this very worthy purpose. We must use the constitutional amendment process sparingly. Before taking the grave step of amending our country's founding charter, we have to make sure we have exhausted all statutory alternatives. When it comes to victims' rights, we are far from exhausting those statutory alternatives. We currently have Federal and State laws protecting victims. Indeed, many States have passed their own constitutional amendments to protect victims, including my own State of Wisconsin—a proposal that I voted for when I was in the Wisconsin State Senate.

According to the proponents of this constitutional amendment, these existing laws are not being fully enforced. I would say we should therefore see to it that the existing laws are enforced. Let us enact legislation to improve the existing law, and let us provide the needed resources to prosecutors and courts to comply with existing laws. That is where the real struggle lies. Only when we have exhausted these legislative avenues should we possibly consider a constitutional amendment.

Let's address this important issue one step at a time. Statutes protecting victims are on the books in each and every State. Amendments to State constitutions have been adopted by at least 31 States. At the Federal level, prudent legislation has already been enacted and additional legislation proposed. Let us work with the current law and proposals to improve our Federal laws. In fact, additional statutory protections for victims have been introduced during this Congress by Chairman HATCH and by the ranking member and Senator KENNEDY. I believe these represent the right direction in which to go.

Chairman HATCH has introduced the Victims' Rights Act of 1999. Senators LEAHY and KENNEDY have introduced the Crime Victims Assistance Act. Senator LEAHY announced an improved version of that bill, taking into account many suggestions made by the chairman of the Judiciary Committee. I understand Senator LEAHY will offer his bill as a substitute to this constitutional amendment, if the majority leader allows Senators to exercise their traditional rights to offer amendments.

Enforcing and enacting comprehensive Federal statutes is the best way to protect victims. The Leahy-Kennedy bill will accomplish the same goals the proponents of this amendment want, but it will do it faster and also protect the integrity of the Constitution. The Leahy-Kennedy bill includes the right for a victim to be heard at the detention and sentencing stages, the right to be notified of escaped or released prisoners, and the right to be heard during consideration of a plea agreement. These are sensible protections that victims can see take effect in only a matter of weeks—the time it takes for consideration and passage of a statute—not years from now when maybe two-thirds of the Congress approves and three-fourths of the States ratify a constitutional amendment.

Another reason I oppose this measure is that a constitutional amendment, as you well know, is far less flexible than a statute when provisions must be improved over time. A constitutional amendment cannot easily be modified. Changing it at all—even one letter of it—would again require the approval of two-thirds of the Congress and ratification by three-fourths of the State legislatures. This is a real problem in this case because there are numerous uncertainties about the effect of this amendment. Even the sponsors are finding things they want to change. Each time this amendment has been brought before the Judiciary Committee, it has been different. In fact, the amendment was modified as recently as last spring when we marked it up in the Constitution Subcommittee. At that time, my good friend, Senator ASHCROFT, successfully offered an amendment to include the rights of victims to be involved in the pardon process. Such a change has inspired a good deal of criticism from the executive branch, which is concerned with its impact on the exclusive power of the President to grant pardons.

Whatever one thinks of the change to the amendment, it is the sort of thing that ought to give us pause when we are dealing not with a statute but with what is likely to be a permanent constitutional amendment. What if Senator ASHCROFT had not realized that this change was needed until after the pending proposed constitutional amendment was already adopted? What if, instead, we had approved the victims' rights amendment in the last Congress, as I am sure its sponsors would have preferred? Then, to change the amendment, Senator ASHCROFT would have been required to get two-thirds of the Congress and three-fourths of the State legislatures to agree to the change.

The pardon issue isn't the end of the matter. Other Senators have raised concerns about the specifics of this amendment; for example, its focus on the victims of violent crimes rather than all victims of crime. If any further changes are needed, we will have to, again, go through the lengthy and difficult process of amending the constitution. I have no doubt that further changes will be necessary. I have heard the main authors of this constitutional amendment saying with some pride that there have been 63 versions of this amendment. They offer that as a sign that this is a very well-honed, carefully drafted piece of legislation or amendment. What I suggest it means is that it is highly volatile, likely to change, and likely to be inappropriate for the Constitution, even after it is ratified, given all the changes that have been made and the problems with it. This constitutional amendment really reads as a statute. It is almost as long as the entire Bill of Rights. It is full of terms and concepts that will undoubtedly provoke years of litigation and years of attempts to overturn a court decision that one group or another doesn't like.

It even contains an extraordinary clause that might be called the ''emergency eject button.'' The Government

can ignore the amendment. Remember, this language will be in the Constitution. The Government can ignore the amendment to achieve a ''compelling interest.''

What if the prosecutors in a high-profile case sought to avoid the impact of the amendment and the courts determined the justification they gave did not rise to the level of a compelling interest? If we, as a Congress, agreed with the prosecutors, we would not be able to pass a statute to override that judicial ruling because it would have to actually pass a constitutional amendment to deal with the problem.

It is clear that despite years of effort that have gone into this amendment, it will have to be fine-tuned in the future. We fine-tune statutes all the time, but we all know constitutional amendments can't really be fine-tuned. That is a big problem the Senate needs to face up to.

This amendment also poses major federalism problems. I am troubled this amendment could well result in extensive oversight of State criminal justice systems by the Federal courts. Victims who believe their rights have not been recognized in State court proceedings will undoubtedly file lawsuits in Federal district courts. Federal courts will end up second-guessing the decisions of State prosecutors or judges about how long a case took to get to trial or what victim should be notified of a bail hearing. That is why the Conference of Chief Justices, representing the chief justices of the supreme courts of all of our States, oppose this amendment and strongly prefer that we deal with this problem statutorily.

The State chief justices have also expressed concern that this year's version of the amendment, as opposed to previous versions, allows Congress, but not the States, to pass legislation implementing the amendment. They appropriately note that the States can better determine what laws are needed to implement the amendment, as it is the operation of their own criminal justice system that is really at issue. But that would again lead to precisely the patchwork of laws and protections varying from State to State that the sponsors of this amendment wish to avoid and claim is the reason they need a constitutional amendment.

I cannot emphasize enough that I am deeply committed to protecting the victims of crime. As a State senator in the Wisconsin State Senate in 1991, I voted in favor of amending the Wisconsin State Constitution to include protections for victims. As I have noted, most States have a State constitutional protection for victims, and every State in the country has at least a statute to protect victims.

I draw my colleagues' attention to the example of Wisconsin because the Wisconsin State Constitution repeatedly clarifies that the rights granted to the victim in the Wisconsin Constitution are not intended to diminish the rights of the accused. The Wisconsin amendment contains language that explicitly forbids victims' rights from impairing the rights of the accused that are otherwise guaranteed by law. Unfortunately, the victims' rights amendment before this body does not contain a similar provision.

For that reason, I offered an amendment during the Judiciary Committee markup that would have included a clarification similar to the Wisconsin language. It is troubling and puzzling to me that the majority of the Judiciary Committee did not agree with that amendment because they stated over and over again in defense of this amendment that it would in no way derogate the rights of the defense. If that is so, why did they oppose such a simple clarification that we found so useful when passing a similar provision in Wisconsin?

When, in the wake of the Boston massacre, John Adams defended the British soldiers accused of committing the killings there, he said:

> [I]t [is] more beneficial that many guilty persons should go unpunished than one innocent person should suffer.

Surely, if there is a central pillar of the American system of justice, this is it: Above all, we must protect the rights of the innocent.

That is why our Constitution enshrines limitations on the State and protections of the individual whose liberties the State would seek to curtail.

Sadly, even with our manifold protections for the rights of the accused, history has demonstrated that time and again America has on occasion brought innocence itself to the bar and condemned it to jail or even to die.

Many proponents of the amendment before the Senate today state categorically that the rights of victims and the rights of the accused can comfortably coexist. They claim the amendment would not reduce the rights of the accused. They may be right, although I fear that cases may arise where judges will believe that to give the amendment force will require a lessening of protections for the accused. Be that as it may, the proponents of this amendment have refused to make this protection of the rights of the accused crystal clear by writing that intent into the amendment itself. Until they do, it is not unreasonable for Senators to fear that this constitutional amendment in some cases would actually end up curtailing the legitimate rights and liberties of defendants in courts of law.

For those who believe in individual freedom and civil liberties, this should be troubling, indeed.

The Constitution should be modified sparingly, where no other alternative provides an adequate solution. That showing has not been made. The laws on the books now should be fully enforced. Courts and prosecutors should be given the resources they need to protect victims under current law. Congress and State legislatures should enact additional legislation where needed to give additional protection.

I urge my colleagues to join me in supporting prudent, statutory safeguards for victims. But I urge my colleagues to vote against this victims' rights amendment to the Constitution.

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 2458 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. THOMPSON. Mr. President, I want to address the pending so-called victims' rights constitutional amendment.

There is no question but that there are instances when victims of crimes in this country are not heard as they should be heard. Our criminal justice system does not work perfectly. But these duties are given to local judges and local district attorneys. They are elected officials. In most cases, they are responsible to the people in their jurisdictions. It is in their interest to make sure victims are treated appropriately.

Certainly, in most cases, the defendants are not the ones who have the public support on their side. It is certainly the victims. In most cases, it is in the interest of those charged with the responsibility of notifying victims of proceedings in court and treating them as they should be treated in carrying out those responsibilities.

Having said that, we must acknowledge that some things slip through the cracks. We have a constitutional amendment that is proposed basically to cover those instances when these local officials let things slip through the cracks and victims are not notified of court dates or sentencing or parole hearings. The sentiment is understandable, but if we look a bit closer, we have to conclude that a constitutional amendment to address this problem is not the way to go. It is constitutional overkill, to say the least.

All 50 States have recognized we can do better in terms of victims, we can notify them when important things happen with regard to the trial of a defendant, and all 50 States have passed legislation, constitutional amendments, or both, to address this problem.

Even still, we in Washington, DC, say we are going to pass a constitutional amendment, in effect mandating—an unfunded mandate at that—mandating these States behave in certain ways to take care of this problem.

People say: State laws and State constitutions still do not always work. There are still some cases where people are not notified, even though the State constitution and the State statute require it. A constitutional amendment will, in some way, solve that problem.

I suggest there is no reason to believe whatsoever that in individual cases where this problem still persists, a Federal constitutional amendment will do any better than a State constitutional amendment will do in ensuring those rights.

I believe this amendment will interject complexity into the judicial process, will cause increased litigation, and will actually have the effect of harming victims more than helping victims. The primary interest of a victim of a crime is to make sure a guilty defendant is, in fact, found guilty and properly punished. This constitutional amendment will make the procedure by which the DA's around the country are trying to prosecute these defendants more complex, more costly, more time consuming in many respects, and ultimately will harm the very end in which the victim is most interested, and that is seeing justice done and a guilty defendant found guilty by our court system.

This constitutional amendment gives nine new rights to a new category of people. The Constitution sets out our form of government. The Bill of Rights basically is restrictions on the power of that Government. It tells the Government things they cannot do because we have been mindful of the down sides of an all-powerful federal government. We have set forth specific things the Government may not do toward individuals. That has usually been the purpose of amendments to our Constitution; that is, again, limiting the Government in what they can do with regard to the individual. This constitutional amendment creates nine new rights on behalf of a new category of people; that is, so-called victims.

It has taken, in some cases, 200 years, or thereabouts, to have our courts pass on the issues that have come about because of the wording of our Constitution and the wording of the Bill of Rights—what is a reasonable and unreasonable search and seizure, for example.

This will, in language that is more lengthy than most of the amendments in the Bill of Rights, create additional complexity and raise additional questions that can only be resolved by courts of law. It will be many years before issues as to how this works are resolved. Who is a victim, how do you define a victim? For example, suppose we have a battered woman who is on trial for stabbing her husband. What if she is the defendant? What if the husband was, in fact, attacking her? Who is the victim in that case? The reasonable notice victims are supposed to get to court proceedings, it sounds good on its face, but what is reasonable notice? We have hundreds and hundreds of cases of trying to decide what is reasonable.

In another context, what if a victim is not notified of a court proceeding on time? Or what if they say they are not but perhaps they have been? They may come in and say: This proceeding you have just finished, I did not get notice of it.

The district attorney may say: Yes, we did give you notice.

They may say: No, you did not.

The district attorney may say: Yes, we did.

They may say: It was not reasonable notice.

The prosecutor may say: We gave you so many days.

All of these issues ultimately will have to be decided by a court that should be devoting its attention to the proceedings in the case, along with the district attorneys devoting their attention to prosecuting the defendant and not having these collateral issues making their job that much more difficult.

To understand the potential mischief of this constitutional amendment, I think you have to really understand our system and the way it is set up under the Constitution.

The Constitution was mindful of the inherent problems with a centralized government. Our founding forefathers' experience with a powerful government, with a king, led them to decide we would have a federal system whereby the States would have certain rights. They decided against a national police state. We have certain defined Federal responsibilities with regard to law enforcement. But there is no inherent police authority in the Constitution for the Federal Government. The basic police authority is out in the States. We do not want a national police force in this country or a centralized policing authority for every kind of crime that might occur. Murder, robbery, rape, burglary—those are crimes that are handled at the State level.

Mr. President, 95 percent of the offenses in this country are prosecuted at the State level, not the Federal level. That is not the Federal Government's business. Absent the relatively few truly Federal criminal cases that we have, these State offenses are prosecuted at the State level. They are prosecuted by district attorneys and assistant district attorneys all over the country. They are given a good deal of discretion as to how they handle these cases.

Mind you, in most cases these people are elected officials in their local communities. They have every reason to want to do the right thing. They take an oath to uphold the law. They have an interest in making sure everybody is treated fairly. It does not always happen, but it is a system we are dealing with here. We cannot address every particular instance that might come along. It is a system with which we are concerned.

This is our system. District attorneys decide when to plea bargain. District attorneys have to decide how strong their case is. Only they will know how strong their case is, in making a decision whether to accept a plea bargain.

Sometimes, when you have multiple defendants, district attorneys have to make a decision to make a deal with one defendant for more lenience in exchange for testimony against another defendant. All of these are discretionary things that in our system we give local district attorneys the right to do.

It is basically a system involving two parties; that is, the State, or the people, on the one hand, and the criminal defendants on the other.

What this constitutional amendment would do is change that whole system in many material respects. Instead of having a two-party system, where you have a prosecutor, or the State, or the people, and a criminal defendant, you would now have three parties. You would have the prosecutor, the defendant, and the victim.

At every meaningful stage of the criminal trial, you would have all of these three parties vying for the court's attention to have their interests expressed. It is complicated enough, as anybody who has ever been a prosecutor, an assistant U.S. attorney at the Federal level or assistant district attorney, can tell you.

It is complicated enough when you just have two parties. You are trying to do the right thing. You are trying to prosecute the case. For the person who you believe is guilty, who has been indicted, you are going to bring them to trial. The defendant has not been convicted yet, but you believe they are guilty or you would not be prosecuting them. But you also know the limitations of your case.

You also know how many other defendants there are out there. You also know whether or not this guy you have before you is a small fry or a big fish. You also know there might be a chance of getting to someone bigger.

All those kinds of things you know are very complicated, very difficult. The defendants file motions for continuances. The defendants file motions to suppress evidence, if there is a search warrant involved. There are motions to dismiss and all those kinds of things.

Here we come along with this constitutional amendment and inject a third party into the process, third parties who certainly have an interest in the outcome, third parties who are allowed to attend, third parties who want to see that justice is done. But a constitutional amendment would not just say, let's give these third parties these rights, let's try to do them right, let's try to make sure they have their voices heard; we would, by amendment, put this in the Constitution of the United States, just like the first amendment on free speech or the fifth amendment on due process or the sixth amendment on the right to counsel.

We would elevate the rights of a victim, with whom we are all sympathetic, up there with the prosecutor and the defense in trying to juggle all of this business of giving notice and having a right to be in the courtroom at every stage of the game. The judge is going to have to decide whether or

not notice has been given correctly at all the right times, whether or not the right people are in the courtroom. All this new complexity injected in an already complex system.

As well meaning as it is, I think the result of it is going to be, as I said, more complexity, more litigation for people who believe the Constitution has not been followed, that they have not been given the right kind of notice, or they were late for court and they did not get to sit in the courtroom, or something of that nature. It is going to wind up hurting the ultimate interest of victims more than helping.

Under the constitutional amendment, the victim, as we would ultimately define a victim—as I said, it is not going to be that easy in many cases—would have a right to come in and object to a deal the district attorney might want to make.

Only the district attorney may know certain information. For example, let's say there is a gang involved and you have one cooperative witness. When the victims come in and object to the deal, the district attorney cannot stand up and say, this is the reason we are doing this, because everybody else would hear it. It would compromise possibly another case.

Or if the victim comes in and objects to a plea bargain with a particular defendant, the district attorney cannot get up and say, the reason we did this, Your Honor, is we really do not have much of a chance, and we are lucky to get this. He cannot do that because he may have to, in fact, go to trial. As happens sometimes, the judge is sympathetic and says: We agree with the victim. We are not going to accept this deal.

The district attorney is sitting there, unable to explain it fully on the one hand and then, on the other, having to go to trial, and in some cases, when in States that have such rules, has gone to trial and actually lost the case. So the attorney, instead of getting some punishment for a guilty defendant, has actually had to go to trial and at the trial, you have to prove guilt beyond a reasonable doubt—a high standard of proof—and the defendant walks because they were unable to make the deal that they were trying to make.

Under this amendment, there is a provision that is extremely troublesome; that is, that it becomes a constitutional right for a victim to be in court at all times during the proceeding. In most cases, in just about all States at one time, it was the rule. In fact, they just call it the rule. Every lawyer knows when you are trying a case, you say: Your Honor, I would like to impose the rule. When that happens, all of the other witnesses leave the courtroom because you don't want your witnesses to be hearing other witnesses testify. It might tailor their testimony. If somebody on your side of the case is testifying a certain way about how something happened, it makes sense that it is not in the interest of justice to have the other witnesses sitting there listening to that so when they get on the witness stand, they are not tempted to tailor their testimony and avoid any contradictions that the other side might take advantage of. It is kind of a horn book procedure.

What this amendment would do would say that the victim could sit in the courtroom and listen to all of the other witnesses testify. If the prosecutor decided to put the victim on last, they could listen to every one of the witnesses testify before the victim in the courtroom took the stand. That goes against experience and common sense and common practice for about 200 years in this country. We have to keep in mind that at this stage of the game, this defendant has not been convicted of anything. As angry as we might be at the defendant or as much as we think he might be guilty, we have to remember he hasn't been convicted of anything. In this country, everybody gets a fair trial.

If one of our loved ones was accused of something and we thought the accuser had their own reasons for accusing our loved one and we saw them sitting in the courtroom listening to all the witnesses talk about exactly how this happened and exactly how that happened and then they took the stand and kind of melded all the testimony together to make it all consistent and wrap it up in one big bow, I think we would be concerned about that. The trial judge at least ought to have the discretion of making a determination as to who sits in the courtroom and who does not. The Federal Government does not have any business micromanaging the trial of these lawsuits in every general sessions court in every little town in the country. That is what this constitutional amendment would do.

It would upset the balance we have always had in this country of a prosecutor, a defendant, tried in a State court with local rules. There have always been constitutional provisions the States have to abide by—there is no question about that—free speech, search and seizure, all of that, but we don't have a unitary government, we have a system of federalism whereby States decide these local cases and State judges make those decisions. We come along with a constitutional amendment that creates nine new rights, about 2½ pages of new Constitution, and goes totally away from the concept that we have had for 200 years in this country, the concept of federalism.

I think this proposal is another step down the road toward a Federal takeover of our criminal justice system. For most of America's history, Federal involvement in criminal law was limited to national issues. Yet in this age of mass media and saturation coverage, Congress and the White House are ever eager to pass Federal criminal laws. Chief Justice Rehnquist has said this. To appear responsive to every highly publicized societal ill or sensational crime, the Congress acts in these areas and creates more and more Federal crimes out of what should be State and local offenses.

We have reached the point where nobody really knows how many Federal crimes now exist. Nobody can really calculate them, but we keep piling them on, more and more. We have undoubtedly surpassed an old estimate that we had awhile back of 3,000. A hearing I chaired last year reviewed an American Bar Association task force report from leaders in the criminal justice system who counseled restraint in federalizing crime control.

Justice Brandeis once said:

> Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

That is the system we have. States address these issues in different ways. Why should we, as the Federal Government, impose one size fits all on a populace that is not in agreement on exactly what that should be? Why should the States not have the leeway to do what States have always done in our system?

Last but not least, this is a solution looking for a problem for the most part. Every State in the Union has addressed this issue. We have become more mindful that in some cases victims are not getting the attention they need. So every State in the Union has taken a look at this. We think the system works out pretty well. For the most part, our public officials are doing what they are supposed to do.

Some States have gone so far as to change their constitutions. Some States in the middle have passed legislation. But every State, one way or another, has addressed this, doing what States are supposed to be doing, responding to the demands of their local citizens. My State of Tennessee changed its constitution with regard to this. There is absolutely no need for us to federalize this particular area of criminal law.

Finally, my primary concern, besides the ones of upsetting our constitutional framework and system that we have enjoyed in this country for so long, is that—because of the complexity, because of the increased litigation and problems that we can't even anticipate now with a three-party procedure instead of a two-party procedure, questions that will have to be resolved by courts not knowing what kind of delays all this is going to produce and messing up our system and so forth—we will wind up in many cases hurting a victim's interests more than we will help them. As I said from the outset, the victim's primary interest is to make sure that a defendant who is guilty in fact be found guilty in

a fair, efficient way that is uncomplicated, uncluttered, and that does not go on forever.

Therefore, I urge that we reject this constitutional amendment. I thank the Chair.

Mr. LEAHY. Mr. President, I compliment the Senator from Tennessee for what he said. He is a very thoughtful Senator with great respect for what the Senate's role is in our whole Federal system. We miss him on the Senate Judiciary Committee. I think that can be fairly said by Senators on both sides of the aisle because of his thoughtful involvement and debate. I note that when he was there, he raised similar issues. His voice was one that helped shape the debate. I thank him for it. I compliment him for it.

Mr. KOHL. Mr. President, I understand that under the cloture rules, I am afforded 1 hour of debate time. I designate Senator DASCHLE to control my hour.

Mr. GRAMS. Mr. President, I rise today in support of S. J. Res. 3, the proposed constitutional amendment to establish certain rights for victims of violent crime. I am proud to be a cosponsor of this important legislative proposal introduced by Senators KYL and FEINSTEIN.

I have always cherished the basic freedoms established by the United States Constitution. This precious document provides important rights to every American—rights which have encouraged their active participation in the functions of our Republic. For example, the First Amendment encourages free speech and association, while the 19th and 26th Amendments were ratified to protect the voting rights of women and eighteen-year-old citizens.

As we debate the merits of the proposed Crime Victims Constitutional Amendment, I am reminded of the constitutional rights guaranteed to persons accused of crime. These include the right: to a speedy and public trial by jury; to know the nature of the accusation; to confront witnesses; to counsel; and rights against excessive bail, fines, or cruel or unusual punishment. These rights promote the involvement of the accused in court and should not be diminished by Congressional action.

In recent years, Congress has enacted legislation that seeks to establish certain rights for victims of crime, including the 1990 Victims Rights and Restitution Act, which required federal law enforcement agencies to make their best efforts to ensure that crime victims are treated with fairness and respect. Most recently, we enacted the Mandatory Victims Restitution Act of 1996 and the Victims Rights Clarification Act of 1997, which sought to allow crime victims to observe court proceedings even if they were expected to testify during the sentencing hearing. Additionally, all fifty states now have either constitutional amendments or statutes that seek to protect the rights of crime victims.

Despite these efforts by Congress and the States, I am very concerned that the United States Constitution does not protect the rights of victims and promote their involvement in the criminal justice process. In my view, the Crime Victims' Rights Amendment is the most effective way to address the current imbalance between the rights of defendants and victims within the Constitution. As a constituent from St. Paul recently wrote, the proposed amendment will, ''Prevent victims from being victimized twice. First, by the crime, then by the judicial system when they learn that those accused have all the rights.'' These concerns are shared by the Department of Justice, constitutional scholars, and various victim advocates such as the National Center for Missing and Exploited Children.

The proposed constitutional amendment to protect the rights of crime victims is not a new concept. As my colleagues may know, it was first recommended in 1982 by President Reagan's Task Force on Victims of Crime. Since its initial introduction during the 104th Congress, Senators KYL and FEINSTEIN have worked tirelessly to improve this proposal and preserve the rights of defendants and the authority of prosecutors. Importantly, the Crime Victims' Rights Constitutional Amendment received strong, bipartisan support upon its passage by the Senate Judiciary Committee earlier this month.

I would not support a proposal to change the fundamental character of the Constitution or eliminate the basic freedoms that it provides to Americans. However, I also believe that the rights of crime victims are not trivial to the needs of our nation and are worthy of protection under the Constitution. Passing additional laws or state constitutional amendments that may be ignored by federal and state court comes at the expense of those who have fallen victim to violent crime and who expect equal justice from the criminal justice system.

In addition, we must not forget that many crime victims are afraid of being victimized again and face retaliation by criminal offenders. We must ensure that victims feel respected throughout the criminal justice process. I believe establishing certain constitutional rights for crime victims will help to encourage greater reporting of crimes and cooperation with law enforcement. The Crime Victims' Constitutional Amendment would allow for greater participation in the criminal justice system in a manner completely consistent with constitutional amendments that have established a citizen's right to participate in other government processes.

I respectfully disagree with those who suggest that the Crime Victims' Constitutional Amendment conflicts with the principle of federalism. As someone who has worked to maintain the distinction between federal and state responsibility, I am pleased that this amendment provides an appropriate level of flexibility to the States. Specifically, this amendment would allow the States to pass legislation to define ''victims of crime'' and ''crimes of violence.'' It would also allow States to determine the degree of ''reasonable'' notice to public proceedings or the release or escape of a criminal offender that will be provided to crime victims.

Ultimately, it will be three-quarters of the States that must decide whether to consider and ratify this amendment. Passage of this amendment will not impose any rights upon the States without careful and lengthy consideration by the State legislatures. In fact, this amendment has been endorsed by 49 of our nation's Governors, the elected officials who are most concerned about unnecessary federal mandates being imposed upon the States. Additionally, the Congressional Budget Office (CBO) has indicated that this amendment will not impose additional costs upon the States.

I also understand the concerns of those who suggest that the Crime Victims' Rights Amendment will disadvantage defendants during court proceedings. However, the amendment does not deprive the accused of any of their constitutional rights. It would ensure respect and basic fairness for crime victims through a constitutional right to be notified of court proceedings; to attend all public proceedings; to be heard at crucial stages in the process; to be notified of the offender's release or escape; to consideration for a trial free from unreasonable delay; to an order of restitution; to have the safety of the victim considered in determining a release from custody; and to be notified of these basic rights.

In proclaiming the first ''Victims Rights Week'' in 1981, President Reagan stated, ''For too long, the victims of crime have been the forgotten persons of our criminal justice system. Rarely do we give victims the help they need or the attention they deserve. Yet the protection of our citizens—to guard them from becoming victims—is the primary purpose of our penal laws. Thus, each new victim personally represents an instance in which our system has failed to prevent crime. Lack of concern for victims compounds that failure.''

Mr. President, I firmly believe that the Crime Victims' Rights Amendment will help to restore public confidence in the criminal justice system and give crime victims the protection they deserve. The high number of crime victims in our society underscores the need to pass this amendment and send it to the States for their careful consideration. I urge my colleagues to support passage of this important public safety initiative.

Mr. MOYNIHAN. Mr. President, as the Senate once again considers an amendment to the United States Constitution, this time to protect the

rights of crime victims, I ask that George Will's column from Sunday's Washington Post be printed in the RECORD in its entirety. He offers a well-reasoned analysis of the concerns the proposed amendment raises.

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

[From the Washington Post, April 23, 2000]

(By George F. Will)

TINKERING AGAIN

Congress's constitutional fidgets continue. For the fourth time in 29 days there will be a vote on a constitutional amendment. The House failed to constitutionalize fiscal policy with an amendment to require a balanced budget. The Senate failed to eviscerate the First Amendment by empowering Congress to set ''reasonable limits'' on the funding of political speech. The Senate failed to stop the epidemic of flag burning by an amendment empowering Congress to ban flag desecration. And this week the Senate will vote on an amendment to protect the rights of crime victims.

Because many conservatives consider the amendment a corrective for a justice system too tilted toward the rights of the accused, because liberals relish minting new rights and federalizing things, and because no one enjoys voting against victims, the vote is expected to be close. But the amendment is imprudent.

The amendment would give victims of violent crimes rights to ''reasonable'' notice of and access to public proceedings pertaining to the crime; to be heard at, or to submit a statement to, proceedings to determine conditional release from custody, plea bargaining, sentencing or hearings pertaining to parole, pardon or commutation of sentence; reasonable notice of, and consideration of victim safety regarding, a release or escape from custody relating to the crime; a trial free from unreasonable delay; restitution from convicted offenders.

Were this amendment added to the Constitution, America would need more—a lot more—appellate judges to handle avalanches of litigation, starting with the definition of ''victim.'' For example, how many relatives or loved ones of a murder victim will have victims' rights? Then there are all the requirements of ''reasonableness.'' The Supreme Court—never mind lower courts—has heard more than 100 cases since 1961 just about the meaning of the Fourth Amendment's prohibition of ''unreasonable'' searches.

What is the meaning of the right to ''consideration'' regarding release of a prisoner? And if victims acquire this amendment's panoply of participatory rights, what becomes of, for example, a victim who is also a witness testifying in the trial, and therefore, not entitled to unlimited attendance? What is the right of the victim to object to a plea bargain that a prosecutor might strike with a criminal in order to reach other criminals who are more dangerous to society but are of no interest to the victim?

Federalism considerations also argue against this amendment, and not only because it is an unfunded mandate of unknowable cost. States have general police powers. As the Supreme Court has recently reaffirmed, the federal government—never mind its promiscuous federalizing of crimes in recent decades—does not. Thus Roger Pilon, director of the Center for Constitutional Studies at the Cato Institute, says the Victims' Rights Amendment is discordant with ''the very structure and purpose of the Constitution.''

Pilon says the Framers' ''guarded'' approach to constitutionalism was to limit government to certain ends and certain ways of pursuing them. Government, they thought, existed to secure natural rights—rights that do not derive from government. Thus the Bill of Rights consists of grand negatives, saying what government may not do. But the Victims' Rights Amendment has, Pilon says, the flavor of certain European constitutions that treat rights not as liberties government must respect but as entitlements government must provide.

There should be a powerful predisposition against unnecessary tinkering with the nation's constituting document, reverence for which is diminished by treating it as malleable. And all of the Victims' Rights Amendment's aims can be, and in many cases are being, more appropriately and expeditiously addressed by states, which can fine-tune their experiments with victims' rights more easily than can the federal government after it constitutionalizes those rights.

The fact that all 50 states have addressed victims' rights with constitutional amendments or statutes, or both, strengthens the suspicion that the proposed amendment is (as the Equal Rights Amendment would have been) an exercise in using—misusing, actually—the Constitution for the expressive purpose of affirming a sentiment or aspiration. The Constitution would be diminished by treating it as a bulletin board for admirable sentiments and a place to give special dignity to certain social policies. (Remember the jest that libraries used to file the French constitution under periodicals.)

The Constitution has been amended just 18 times (counting ratification of the first 10 amendments as a single act) in 211 years. The 19th time should not be for the Victims' Rights Amendment. It would be constitutional clutter, unnecessary and, because it would require constant judicial exegesis, a source of vast uncertainty in the administration of justice.

MORNING BUSINESS

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

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

85TH ANNIVERSARY OF THE 1915 GENOCIDE OF THE ARMENIAN PEOPLE BY THE TURKISH GOVERNMENT

Mr. ABRAHAM. Mr. President, I rise today to commemorate the 85th anniversary of the 1915 Genocide of the Armenians by the Turkish Government. As so many of you are aware, between 1915 and 1923 more than one and a half million Armenians perished from atrocities committed against them. Yet the brave Armenian people persevered.

As the grandson of Lebanese immigrants, I am, of course, very familiar with the historic ties that have bound Armenians to the Lebanese. We have sheltered and strengthened one another in time of need. As peoples we have become close because the experience of being forced from one's home and homeland is not new to either of us.

Through mass deportations, starvation, disease, and outright massacres, Armenians have carried their heads high, as they carried on their way of life or carried their culture to new lands. The strength and pride in Armenian heritage have kept alive the memory of those who perished in the genocide. I rise today to pay tribute to that strong, proud heritage.

As a constant symbol of the strength and perseverance through which oppressed peoples survive, the Armenian genocide must serve as a reminder that we must never forget the atrocities of the past, lest they be repeated.

The Senate Immigration Subcommittee, which I chair, recently held hearings on the status of Albanian refugees in Kosovo. I must say that I was impressed with the strength and faith of these people in the face of the great hardships visited on their people. And I was reminded of another people ''cleansed'' from its homeland by brutal invaders.

But too few Americans are in a position to make that comparison. In the 85 years since the massacre of Armenians began, another great crime has been committed—the crime of keeping the truth from the world.

This was a crime against all people, because it denied them the lessons to be learned from that tragic tale. But most of all it was a crime against all Armenians, alive and dead. For even the dead have at least one right—that of having their story told.

The 1.5 million Armenians who died deserve to have the truth of their suffering known. Only when we know the horror that they went through can we comprehend the gravity of the crime. Only then will the rights of the dead be fulfilled. This is why we must make sure younger generations understand what happened and ensure that it never happens again.

Eighty-four years ago the world had the opportunity to prevent the Armenian holocaust. But the world did not act. While there was much talk, there was no real help for the Armenians. If only we had known then that tyranny must be opposed early and steadfastly, perhaps this and future acts of genocide could have been prevented.

But the world does not learn easily. Even today, massacres take place around the world, with people murdered not for what they have done but for whom they are.

And we must wonder about the final goals of those who continue the blockade of Armenia and Nagorno Karabagh. We must make known to the world our opposition to such policies. We must fight to defend Section 907, cutting off American aid to those enforcing the embargo. And we must not allow the lure of cheap oil from the Caspian, an illusion, really, lead us away from the path of truth and justice.

To do justice to the memory of those who died we must see to it that justice is done to the living, to those who survived them. That means doing justice to Armenia, as well as to Armenians and other refugees.