The legislative assistant called the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

HANDGUNS IN AMERICA

Mr. TORRICELLI. Mr. President, last week the sense of security that Americans had in their own communities, our sense of the strength of our culture, our ability to protect our families and our homes, was once again shattered.

The challenge did not come from Kosovo, and it was not from a computer problem with the new millennium. It was from the most basic form of human violence, striking us where we are most vulnerable, and taking the life of a child.

James Agee once wrote that in every child who is born, no matter what circumstances or without regard to their parents, the potentiality of the human race is born again. It may be because of the sense we possess that our own renewal is in the life of our children that the death of a child shakes us so dramatically. Rarely have we seen an America more traumatized by individual acts of violence than as a result of the murders in Littleton, CO.

All of us recognize that there is no one answer, no one explanation for this tragedy. The answer lies in the strengths of our families, the responsibility of parents, the roles of school administrators and parents and local police. Almost every critic has a point; virtually none has a complete answer.

The increasing level of violence in the entertainment industry, the new use of technologies which have sanitized the very concepts of death and murder, the failure of role models, the growing isolation of children from parents and siblings and extended families—all critics are right; no criticism is complete.

But in this constellation of problems there is the persistent issue of access to guns in American society. Only a few years ago, when a similar tragedy rocked the United Kingdom, the British Parliament responded in days. A gunman killed 16 students in Dunblane, Scotland. The Parliament was outraged. The British people responded. And the private ownership of high-caliber handguns was not regulated or controlled; it was banned.

This Congress can rightfully cite a variety of challenges to the American people to ensure that Littleton never occurs again, though, indeed, we failed to do so after Jonesboro, Paducah, Springfield, and a variety of other cities and schools that had similar tragedies.

Now the question is, Do we visit upon this tragedy the same silence as after those other school shootings, or do we have the same courage the British Parliament exhibited 3 years ago in dealing with this problem?

The amount of death that this Congress is prepared to witness before we deal realistically with the problems of guns in America defies comprehension. Last year, 34,000 Americans were victims of gun violence. But the year before and the year before that, for a whole generation, the carnage has been similar. Every year, 1,500 people die from accidental shootings. Every 6 hours, another child in America commits suicide with a gun. No gun control can eliminate all of this violence. I do not believe any gun control can eliminate a majority of this violence. But no one can credibly argue that some reasonable gun control cannot stop some of this violence.

I am heartened that the majority leader has promised the Senate that within a matter of weeks there will be a debate on this floor and an opportunity to present some reasonable forms of additional gun control. At a minimum, this should include the question of parental responsibility for children who get access to guns. Where parents have knowledge or facilitate that purchase, they must bear some responsibility for the likely, in some cases inevitable, consequences of minors having those weapons.

Second, there is the question of whether or not minors should be able to purchase certain weapons at all. It is arguable that a minor should not be able to purchase a handgun. It is irrefutable, in my judgment, that a minor should not be able to purchase a semiautomatic weapon.

Third, the question of whether, through the new technologies of the Internet, it is appropriate that guns be sold or purchased in any form; if it is not an invitation to violate and avoid existing State and Federal laws; if a person does not have to present themselves in a retail establishment with credentials to purchase a weapon. Remote sales, in my judgment, should not be allowed.

Then there is the larger question of the regulation of all weapons through the Federal Government—whether, when we live in a society where everything from an automobile to a child's teddy bear has regulations on their designs and materials to ensure safety, that same regulatory scheme should not be used for weapons; whether a weapon is designed properly to assure its safety; whether its materials are the best possible; whether technology is being used to ensure that the gun is used properly.

One can envision that the Treasury Department or another Federal agency would require gun manufacturers to have safety locks so that children could not misuse them. Future technology may allow a thumbprint to ensure that only the owner of the gun is using the gun. More basic technologies might require better materials or that a gun does not misfire when it is dropped. Proper regulations might ensure how these guns are sold, to ensure that they are sold properly, that State gun laws are not being evaded by oversupplying stores on State borders with permissive laws so that they are sold into States with restrictive laws. Inevitably this must be part of the debate: the proper Federal role in ensuring the proper design and distribution and sale of these weapons.

I am grateful, Mr. President, that the majority leader has invited the Senate to participate in this debate; proud, if the Senate responds to the challenge.

There were so many prayers throughout this country for the victims of the shooting in Littleton, sincere prayers on the floor of the Senate. The victims and their families and traumatized Americans need our prayers, but they need more than our prayers. They need the courage that comes from a people who recognize that change is both possible and required to avoid these tragedies from repeating themselves.

The victims of Littleton will be grateful for our prayers, but they will curse our inaction if political intimidation, the fear of change, results in the Senate offering nothing but prayers. This Senate has a responsibility to respond. We know what needs to get done. The President of the United States has challenged us. Americans are waiting and watching.

Every Senator must use these next few weeks to think about how they will vote, searching their own consciences on how they will answer their constituents, their families, and themselves, if Littleton becomes one more town in a litany of forgotten schools, forgotten children, and a rising spiral of carnage.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. 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. GRAMS. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

The Senator from Minnesota is recognized.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 896 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent, notwithstanding the previous order, I be allowed to speak in morning business for up to 15 minutes.

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

Y2K

Mr. LEAHY. Mr. President, there has been some discussion about Y2K and the Y2K liability bill. It seems every

moment I settle down in my office to do other work, I get calls for another meeting on Y2K. I thought it might be good to let my colleagues and the public know what is in the Y2K bill we will be discussing this afternoon.

I have a chart; we like charts in this place. This chart shows how simple this bill is not. It illustrates the detours, roadblocks, and dead ends the bill would impose on innocent plaintiffs in our State-based legal system.

I have a real-life example so we can see what will happen. A small business owner from Warren, MI, Mark Yarsike, testified before the Commerce and Judiciary Committees about his Y2K problems. A few years ago, he bought a new computer cash register system for his small business, Produce Palace. However, they didn't tell him it wasn't Y2K compliant. This brand-new, high-tech cash register system, which the company was happy to sell him for almost $100,000, kept crashing.

The computer cash register system kept breaking down. After more than 200 service calls, it was finally discovered why; it couldn't read credit cards with an expiration date in the year 2000—like the credit card I have in my wallet right now. That is a Y2K computer defect that would be covered under this bill and the company would be protected, not Mark Yarsike. The company that sold him this defective piece of equipment for $100,000 would be protected.

At the top of this chart is how the State-based court system works today for Mark Yarsike, whose business buys a new computerized cash register system and, because of a Y2K defect, the system crashes.

I will in a moment speak to what happens if we pass this legislation before the Senate. Assume we show some sense and reject the legislation; if Mark Yarsike asks the company to fix the system, if the company knows they have to do something for the owner, they will either agree to fix the problem—which is really what he wants; he doesn't want to sue, he just wants his problem fixed—they agree to fix it and make a quick, fair settlement for his damages. That is it.

Or they could fail to fix it, he could go into court, and a trial would decide who is at fault.

Now, that is basically what happens today. In fact, that is what happened to Mark Yarsike. He was forced to buy a new computer cash register system from another company. He sued the first company which sold him the computer that wasn't Y2K compliant, that caused him to lose so much business. He recouped his losses through a fair settlement, and the court system worked for him.

Now, say ''Joe's'' business—not Mark Yarsike, who went through the normal court process—buys a computer cash register system under the bill before the Senate. Assume we pass this bill, assume the President signs it into law. All of a sudden, instead of this very simple straight line as indicated on the chart, the Congress of the United States is saying: We are from the Government and we are here to help you, we will make life simpler for you.

Instead of giving the nice straight line, which is what the law is today, this is what he is presented: first he has to wait 30 days, during which nothing happens; during that time, he still has to turn away business because every customer with a new credit card can't use it, and they will say, to heck with this place, I will go somewhere else. Even if after the 30 days, the company may send a written response and just say that we have another 60 days you will have to wait; if that doesn't put you out of business, then you can also file a lawsuit to recover damages if you are not already out of business anyway.

If he files a lawsuit, under the bill's contract preservation provision we get to our first dead end on the road to justice. The cash register company may be able to enforce unconscionable limits on any recovery if it is in a written contract. Under this bill before the Senate, the unconscionable limits in the written contract are strictly enforced unless the enforcement of that term would manifestly and directly contravene State law and statute in effect January 1999 specifically addressing that term.

In other words, if the State legislatures had not known by January 1 of this year what the U.S. Congress, in its infinite wisdom, was going to do in May of this year when enacting a statute that specifically anticipated what we might do, Joe is out of luck.

If the small business owners can't recover the losses from the Y2K defective cash register system because of this contract preservation provision, then he does have other alternatives: He can go bankrupt; he can fire his employees, lay them off; or if somehow he was able to get past these roadblocks, he could actually file a suit.

We have another detour. The company gets another 30-day extension to respond to the complaint. Their business isn't hurting, but Joe is barely able to hang on. When the small business owner files that lawsuit, he has to meet special pleading requirements under this bill. He has to file with complaints specific statements on the defendant's state of mind, the nature of the amount of damage, and the material Y2K defect. So he has three more roadblocks—all of which can lead to this dead end.

If he misses any one of those hurdles we have put in his way, he is right back to a dead end. The cash register company can say, bye bye, see you; tough, Joe; we will send you a postcard when you are at the bankruptcy court.

Now, suppose the cash register company had sold others of these $100,000 system with a Y2K defect. Should we all join together and bring a class action? No, we come into a new roadblock, back to a dead end, back to bankruptcy again. So let's move on to the next roadblock that is put in the bill—the roadblock we are putting in the way of small businesses. That is something the business lobbyists are not telling the small businesses about, all the roadblocks that are in this special interest legislation.

This bill has a ''duty to mitigate'' section that turns traditional tort law on its head. It requires the plaintiff to anticipate and avoid any Y2K damage before it occurs, not after. Almost all the States have adopted the traditional duty to mitigate tort law, which requires the injured party to mitigate his damages once the harm occurs. That makes some sense. But this requires mitigation before the harm occurs. If the owners bought this $100,000 cash register and didn't anticipate that a lot of its customers are going to leave because the cash register does not work as he was told it was going to, how does he mitigate? He wants to run his business. He doesn't make cash registers. He expects them, for $100,000, to do it right. But if he didn't try to mitigate before the system crashed, then he could be caught in another dead end, end of the road here, and right back down to bankruptcy, and employees are out.

I do not understand how he could have known his cash register system was not going to be able to read credit cards with the year 2000 expiration date after he paid $100,000 for it, but that doesn't matter. This case would be dismissed because of the bill's duty to mitigate provision.

So, roadblock after roadblock—in fact, there is another one. Let's assume somehow Joe is driving a humvee of some sort through the legal system and he is getting it past these roadblocks. He has another one. Because what he does not know is that the Senate has overridden the 50 State legislatures. We have said to the legislators: Boy, you guys are dumb. The men and women in these State legislatures are not as smart as we are. So we are just going to throw your laws out and we will just pass our laws and override you. Because the bill would override State contract law and could even preempt existing implied warranties under State law.

For the small business owner, the bill's Federal preemption contract clauses may override the State common law claims of breach of implied warranties. Again, here he is at another roadblock, another dead end leading back to bankruptcy.

Then, say he somehow got through all of these roadblocks and dead ends that we put in, basically to make it impossible for a small business owner; everything that we have done to put roadblocks and dead ends in. Let's say he gets through all of them. He still has more limits on his legal rights at the jury verdict point. There are severe limits on recovery. In fact, if it is a small business, then $250,000 is the ceiling for any punitive damages award. If

he can prove they intentionally defrauded him, then there is an exemption from these punitive damage caps. This bill is saying: If you can prove intention to defraud, we might give you a chance.

This is a meaningless exception in the real world. Nobody is going to be able to meet this exception, proving the injury was specifically intended. How in the world is our small business owner, who is just trying to keep the place alive at this point, going to prove the cash register company intentionally tried to injure him by selling him a Y2K defective cash register system? Let's get real here. It is not going to happen. Again, the best thing for him is bankruptcy. The big company can breathe a sigh of relief and they are out.

And on and on. Severe joint liability limits; for directors and officers, partial immunity; severe caps on recovery—all of these things end up protecting the companies, overriding State laws, and saying to the small business owner we are not going to do anything for you.

You know, directors and officers are already protected by the business judgment rule adopted by each of the 50 States. But we put a special legal protection for them in this bill. I think that sends the wrong message to the business community. We want to encourage decision makers to be overseeing aggressive year 2000 compliance measures. Instead, we say: Don't worry, be happy.

I want those corporate officers motivated to fix their company's Y2K problems now. After their corporation is Y2K compliant and they have worked with their suppliers and customers and business partners and we have avoided Y2K problems is the time to be happy.

A few of these detours, roadblocks and dead ends may be justified to prevent frivolous Y2K litigation. But certainly not all of them.

This bill makes seeking justice for the harm caused by a Y2K computer problem into a game of chutes and ladders—but there are only chutes for plaintiffs and no ladders. The defendant wins every time under the rigged rules of this game.

Unfortunately, this bill overreaches again and again. It is not close to being balanced.

In addition, this bill preempts all 50 state consumer protection laws and makes ordinary consumers face the bill's legal detours, road blocks and dead ends on the road to justice. That is not fair.

Today, I filed a consumer protection amendment to exclude ordinary consumers from the legal restrictions in the bill. I hope the majority will permit amendments to be brought up on this legislation soon.

I remain open to continuing to work with interested members of the Senate on bipartisan, consensus legislation that would deter frivolous Y2K lawsuits and encourage responsible Y2K compliance. Those of us in Congress who have been active on technology-related issues have struggled mightily, and successfully, to act in a bipartisan way. It would be unfortunate, and it would be harmful to the technology industry, technology users and to all consumers, if that pattern is broken over this bill.

I hope Members will look at what we are doing here. Here is the system we have today for Y2K. Here is the system we are suggesting with all these dead ends, all these roadblocks: Roadblock, roadblock, roadblock, roadblock, all leading to small businesses going bankrupt and all because we stand up here and say to 50 State legislatures: You are not smart enough. You are not as smart as we are. We are going to override you.

I think that is wrong. I think we ought to go back to the drawing boards. I think we ought to do what we did last year when we passed good Y2K legislation because we did it in a bipartisan fashion where we had businesses, Members of Congress, lawyers, those in the high-tech field—we came together and passed legislation that worked and the President signed it into law.

This maze, this unnecessary trampling of State legislatures, will not be signed into law by the President of the United States.

The PRESIDING OFFICER. The Senator from Alabama.

VIOLENCE IN COLORADO

Mr. SESSIONS. Mr. President, I know you, the Senator from Arkansas, are familiar with tragedies in high schools involving our young people who create havoc and take the lives of fellow students and others. The event in Colorado is the most glaring and stunning example of the kind of violence that we are apparently capable of as a nation today. As chairman the Senate Judiciary Committee Subcommittee on Youth Violence, I have given an awful lot of thought to it. But I am perplexed. A few things occur to me. There is what appears to me a pattern here that would suggest how we have gotten to this point.

It strikes me that an extremely small number of young people today have gotten on a very destructive path. They have headed down the road of anger and violence. They have not been acculturated with the kind of gentlemanliness and gentlewomanliness, not inculcated with religious faith and discipline, maybe a lack of values or whatever—somehow it did not take. Maybe their parents tried. Maybe they did not.

But, in addition to that, they are alienated and angry. They are able to hook into the Internet and play video games that are extraordinarily violent, that cause the blood pressure to rise and the adrenalin level to go up, games that cause people to be killed and the players to die themselves. It is a very intense experience. They are able to get into Internet chatrooms and, if there are no nuts or people of the same mentality in their hometown, hook up with people around the country. They are able to rent from the video store—not just go down and see ''Natural Born Killers'' or ''The Basketball Diaries''—but they are able to bring it home and watch it repeatedly. In this case even maybe make their own violent film. Many have said this murder was very much akin to ''The Basketball Diaries,'' in which a student goes in and shoots others in the classroom. I have seen a video of that, and many others may have.

In music, there is Marilyn Manson, an individual who chooses the name of a mass murderer as part of his name. The lyrics of his music are consistent with his choice of name. They are violent and nihilistic and there are groups all over the world who do this, some German groups and others.

I guess what I am saying is, a person already troubled in this modern high-tech world can be in their car and hear the music, they can be in their room and see the video, they can go into the chatrooms and act out these video games and even take it to real life. Something there is very much of a problem.

All of us have to look for the signs of children who may be moving deeper and deeper into death, violence, nihilism, and other bad trends. We ought to say and we ought to encourage our teachers and our school administrators and our parents to intervene and to assert that life is better than death, that peace is better than violence, and honesty is better than falsehood; that respect for your brothers and tolerance and patience, even in the face of adverse actions by somebody toward you, is essential in a civilized society. I am concerned about that.

What I really want to mention today, because I have been through this for a number of years, is the question of what we do about firearms in America. I was at a church event, not too many months ago, and the preacher prayed against guns. I thought that was odd for him to pray against an inanimate object that does what the holder tells it to do. But I think we would do well to focus on what it is that is eating at the soul of too many people in America today, No. 1.

What about this problem with guns? I was a Federal prosecutor for 15 years, 12 as U.S. attorney under Presidents Reagan and Bush. They created a program called Project Triggerlock. In that program, this Congress passed legislation that said if you are convicted of carrying a firearm during a crime, a felony, it is 5 years without parole consecutive for the underlying offense. If you are a felon and you possess a firearm and you are guilty of a felony, you can get 2 or 3 more years in jail.

Those are bread-and-butter gun laws focusing on people who commit crimes with firearms. There are a lot of others: having a firearm without a serial