

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

U.S. SENATE,

Washington, DC, January 16, 2003.

Hon. COLIN L. POWELL, Secretary of State, 2201 C Street, NW, Washington, DC.

DEAR SECRETARY POWELL: We were greatly troubled to learn that Libya has been nominated by the African delegation to lead the U.N. Human Rights Commission and stands to potentially assume that key leadership role in a vote at the UN on Monday, January 20. We share the opinion of our respected colleague from the House International Relations Committee that Libya's ascendancy to that position would deal a significant blow to the cause of human rights.

Libya, under Muammar al-Qadhafi, has an abysmal human rights record and has been a leading state sponsor of terrorism. The most widely publicized incident was the 1988 bombing of Pan American Airways flight 103 that resulted in 270 deaths. As you are well aware, the Iran Libya Sanctions Act (ILSA) was extended until August 2006 due to such support for terrorism, attempts to acquire weapons of mass destruction, and belligerency over territorial claims.

We hope that the Libyan government will improve its standing in the international community by ceasing support to terrorists and moving towards a more democratic system. Under current circumstances, however, Libya's taking the helm of the UN Human Rights Commission would make a mockery of that institution and deprive the UN and the world at large of credible leadership on human rights at a critical time.

We believe that your personal leadership may be required to secure an acceptable outcome in the vote next Monday. Toward that end, we urge you to speak out on the human rights situation in Libya and to consider interceding with relevant delegations so that wisdom might prevail.

Thank you for your attention to this matter. We look forward to continuing to work with you, and appreciate your consistent efforts to promote respect for human rights.

Sincerely,

GORDON H. SMITH.
CHARLES E. SCHUMER.

STOLEN FIREARMS, ARMING THE ENEMY

Mr. LEVIN. Mr. President, last month Americans for Gun Safety, an organization which seeks to educate Americans on existing gun laws and new policy options for reducing access to guns by criminals and children, released a report entitled *Stolen Firearms, Arming the Enemy*. This report examines the effect of stolen guns on communities. According to the report, nearly 1.7 million firearms have been reported stolen since 1993. These stolen guns are frequently used later in committing crimes and fuel the black market for guns. Most of the estimated 170,000 guns stolen each year are never recovered.

The accessibility of stolen firearms was earlier highlighted by a 1997 Department of Justice survey of 33,731 state prison inmates. The survey found that nearly 10 percent of the inmates used a stolen firearm to commit the crime that put them in prison.

The Americans for Gun Safety report points to several factors that con-

tribute to a state's firearm theft rate, such as gun ownership rates, overall crime rates, and safe storage laws. The report notes that the eighteen states with safe storage laws had firearm theft rates nearly 30 percent below that of States without safe storage gun laws. Additionally, over the last 10-year period, theft rates declined by at least 47 percent in States with safe storage laws compared to 30 percent in States without such laws.

As the Americans for Gun Safety report illustrates, safe storage laws can help prevent criminals from gaining access to firearms. Federal safe storage laws aimed at protecting children may have the added benefit of preventing gun theft. Last Congress, I cosponsored Senator DURBIN's Children's Firearm Access Prevention Act. Under this bill, adults who fail to lock up loaded firearms or unloaded firearms with ammunition can be held liable if a weapon is taken by a child and used to kill or injure him or herself or another person. The bill also increases the penalties for selling a gun to a juvenile and creates a gun safety education program that includes parent-teacher organizations, local law enforcement and community organizations. This bill is similar to legislation President Bush signed into law as Governor of Texas. I believe this is a simple common sense step we can take to reduce gun violence and gun-related crime. I support this bill and I hope the Senate will act on it during this Congress.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 7, 2001 in Mira Mesa, CA. A man of Indian descent was knocked out with a baseball bat in what was described as a hate crime linked to the September 11 backlash. The victim told police he was walking beside the road when he heard someone yell an ethnic slur. He was then hit on the head and knocked unconscious. A woman came to his aid and told him he had been hit by two white males with an aluminum baseball bat. The victim was treated at a local hospital.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

AFFIRMATIVE ACTION IN HIGHER EDUCATION

Mr. FEINGOLD. Mr. President, I wish to address the importance of maintaining a commitment to affirmative action in college admissions programs.

President Bush, unfortunately, took our nation a step backward when he announced last week that his administration would file an amicus curiae brief with the Supreme Court opposing the admissions policies of the University of Michigan. The President apparently believes that college admissions decisions should never consider the race of applicants, even though he also says that he supports the pursuit of campus diversity.

In 1978, in *University of California v. Bakke*, the Supreme Court ruled that campus diversity can be a "compelling governmental interest" that justifies reasonable, narrowly tailored affirmative action programs at universities. The Supreme Court said that colleges and universities cannot use quotas to achieve campus diversity, but affirmed that campus diversity can be a worthy goal of college admissions policies. In December 2002, the Supreme Court, for the first time since its *Bakke* decision, agreed to review two cases that challenge a university's affirmative action programs—*Grutter v. Bollinger*, which involves the admissions program at the University of Michigan Law School, and *Gratz v. Bollinger*, which involves the undergraduate admissions program at the University of Michigan.

Some, including President Bush, have criticized affirmative action programs in higher education, like those in place at the University of Michigan, as "quota" programs. They are simply wrong. These affirmative action programs do not set quotas or numerical targets for admitting a certain number of students of a particular race or ethnicity. In fact, the *Bakke* decision long ago prohibited colleges from employing a quota system. So, for President Bush to suggest that this is a question of whether to support a quota system is a mischaracterization of the issue before the Court.

Some critics have also wrongly stated that affirmative action programs admit students primarily on the basis of race. According to the *Washington Post*, the President stated that the University of Michigan's admissions system selected students "primarily on the basis of the color of their skin." But again, this is simply not an accurate description of the current law or of how students are admitted to the University of Michigan.

Rather, in most affirmative action programs for college or graduate school admissions, race is simply one of numerous factors that can be considered by admissions officers to create a diverse student body. For example, under the University of Michigan's undergraduate admissions policy, the University considers the entire background of the applicant. Students are evaluated on a 150 point scale to determine their fitness for admission. The

vast majority of these points—110 of 150 points—are awarded based on academic achievement. That means grades, test scores, and curriculum. The University also considers other factors like leadership, service, and life experiences. Only 20 points can possibly be awarded on the basis of race. A student who is socioeconomically disadvantaged can also earn 20 points but students cannot earn 20 points for both race and being socioeconomically disadvantaged. Thus, the University does not have a quota or numerical target for minority students, nor does the University admit students primarily on the basis of race.

Like the University of Michigan, most colleges and universities generally give academic records—such as college grades and standardized test scores, the caliber of high school attended, and the rigor of the student's chosen curriculum—the greatest weight in determining whether a student gains admission. But other factors—such as extracurricular activities, race, athletic talent, geographic diversity, or whether students are related to alumni—are also frequently given consideration in the college admissions process. Many colleges give preferences to the children of alumni, and these preferences will often work to the disadvantage of people of color. So, race can be a factor but is not the sole factor in determining admission to college.

I am especially disappointed in the Bush Administration's decision to oppose affirmative action programs because the President has said that he is committed to equal educational opportunities for all America's children. The President has said that education is one of his top priorities. Yet, he has now turned his back on many of the students he promised to help. By submitting an *amicus curiae* brief to the Supreme Court favoring the abolition of affirmative action programs, the President sends the message that he opposes creating higher education opportunities for minority students, who do not always have the same educational opportunities at the secondary school levels as white students.

I might add, that I believe Congress also has an important responsibility to ensure equal access to higher education. I strongly believe that Congress can do more to ensure that students meet the costs of today's college education. That is why Senator COLLINS and I have recently called for a doubling of Pell Grant funding by 2010. Pell grants are an important support for all low income students, regardless of race. In fact, if it were not for the Pell grant program, many low income students would not have the chance to attend college at all.

The Pell grant, however, does not cover what it once did. The price of a college education at both public and private institutions has increased dramatically. Congress needs to increase the funding of the Pell grant program

to keep up with the increasing costs of higher education.

One of the greatest strengths of our nation is its pursuit of equal educational opportunities for all students. Our nation's colleges and universities are the envy of the world for their rigorous curricula and high-caliber professors, but also for their enriching experience of learning in an environment with students who represent a range of racial, ethnic, and social and economic backgrounds representing every part of America, if not the world. I am deeply disappointed that the President decided to put the government of the United States of America on the wrong side of the case where the Supreme Court will address this crucial issue. I hope that the Court will affirm the importance of campus diversity and uphold affirmative action admissions policies that allow colleges and universities to achieve this important diversity.

THE NOMINATION OF GOVERNOR TOM RIDGE AS SECRETARY OF THE HOMELAND SECURITY DEPARTMENT

Mr. JEFFORDS. Mr. President, I rise to speak on the nomination of Governor Tom Ridge to head the newly created Department of Homeland Security. Although I support his confirmation, I would like to elaborate on my expectation that Governor Ridge will be responsive to Congressional committees as he carries out his duties.

As the ranking member on the Senate Environment and Public Works committee, I have been deeply concerned about the creation of this new department. I voted against the legislation creating the Homeland Security Department in part because of concerns about the Federal Emergency Management Agency, FEMA, role in the new organization and its ability to carry out its mission once moved into the Department. The Environment and Public Works Committee, EPW, will continue to have oversight of FEMA within the new department. I fully expect Governor Ridge to answer any and all questions we may have about FEMA's new role in a responsive and timely fashion.

I also expect the Department to act to protect our chemical and nuclear plants from attack and to support legislation such as S. 157, the Chemical Security Act sponsored by Senator CORZINE and myself in the 108th Congress, and favorably reported by the EPW Committee in the 107th Congress as S. 1602, and S. 1746, the Nuclear Security Act sponsored by Senator REID and reported favorably by the EPW Committee in the 107th Congress.

Governor Ridge expressed his concern about these important security issues in testimony before the EPW Committee on July 10, 2002, stating, "The fact is, we have a very diversified economy and our enemies look at some of our economic assets as targets. And

clearly, the chemical facilities are one of them." The Washington Post published a letter on Sunday, October 6, 2002 from Governor Ridge and Administrator Whitman expressing the commitment of the Bush Administration to reduce the vulnerability of America's chemical facilities to terrorist attack. In this letter the Governor stated that voluntary efforts alone are not sufficient to provide the level of assurance Americans deserve. I agree with the Governor and expect his engagement in the development of legislation to address this issue.

As Senator LEVIN pointed out in Governor Ridge's confirmation hearing before the Government Affairs committee last week, language contained in section 214 of the implementing legislation for the Homeland Security Department could be interpreted to exempt from disclosure any information included in a voluntary submission, including evidence of illegal activity such as hazardous waste dumping. Further information, even if discovered independently of the submission, could not be used in any action against that company. Even a Member of Congress would be prevented from taking any action with that information.

In other words, this language could give substantial legal shelter to companies acting illegally. The potential environmental consequences of this are enormous.

While I note the potential for this interpretation, I do not believe it is the correct interpretation, and I was heartened to hear that Secretary Ridge shares my views on this. In last week's confirmation hearing, he said, "That certainly wasn't the intent, I'm sure, of those who advocated the Freedom of Information Act exemption—to give wrongdoers protection, or to protect illegal activity. And I'll certainly work with you to clarify that language."

I agree with the Secretary that ambiguities in this language must be clarified to make clear that it is only the physical document being submitted to the Department of Homeland Security that is intended to be protected by this provision. Records generated elsewhere or by other means, even if they contain similar or identical information to that which was submitted to Homeland Security, would not be affected by this provision but would continue to be treated under existing Freedom of Information Act provisions or other applicable law. This allows confidentiality of the information voluntarily submitted to Homeland Security, while still allowing other Government agencies to proceed with their duties under existing law. It also allows the public continued access to information to which it has traditionally been entitled under our public information laws.

I look forward to working with Governor Ridge as he assumes his new post.