

for us in the Pacific Northwest. China now agrees that we will be able to sell our Pacific Northwest wheat to China.

Mr. President, I firmly believe that opening markets is profoundly important for our national well-being. But it requires persistent, aggressive, high-level attention at all levels of our government. I will do everything in my power to ensure that this is done.

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

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

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 semi-automatic 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