

Schools, Safe Streets and Secure Borders Act of 1998. On the first day of this Congress, I again included these provisions in S. 9, the Safe Schools, Safe Streets and Secure Borders Act of 1999. Last year, I was pleased to join Senators SESSIONS and DEWINE in supporting the Sessions-Leahy-DeWine substitute amendment to S. 768, which was reported favorably by the Senate Judiciary Committee and then passed unanimously by the Senate on July 1, 1999, over a year ago. The bill then sat in a House subcommittee for almost one year until the House of Representatives finally took action in late July, 2000 to consider and pass an amended version of S. 768.

S. 768 closes a gap in federal law that has existed for many years and permitted individuals who accompanied military personnel overseas to "get away with murder." Foreign nations often have no interest in vindicating crimes against American servicemen stationed overseas, particularly when committed by Americans. The lack of Federal jurisdiction over such crimes has allowed the perpetrators to go unpunished. This bill establishes authority for, and sets up procedures to implement the exercise of, Federal jurisdiction over felony crimes committed by certain people overseas.

I had some concerns with certain aspects of S. 768, as originally introduced, and worked to address those concerns and improve the bill in the Sessions-Leahy-DeWine substitute amendment. For example, the original bill would have extended court-martial jurisdiction over DOD employees and contractors whenever they accompanied our Armed Forces overseas. I was concerned that this extension of court-martial jurisdiction ran afoul of the Supreme Court's decisions in *Reid v. Covert*, 354 U.S. 1 (1957), *Kinsella v. Singleton*, 361 U.S. 234 (1960) and *Toth v. Quarles*, 350 U.S. 11 (1955). Those rulings made clear that court-martial jurisdiction may not be constitutionally applied to crimes committed in peacetime by persons accompanying the armed forces overseas, or to crimes committed by a former member of the armed services.

We made progress in the Sessions-Leahy-DeWine substitute amendment passed by the Senate to limit the proposed extension of court-martial jurisdiction to DOD employees and contractors, and ensure its application only in times when the armed forces are engaged in "contingency operation" involving a war or national emergency declared by the Congress or the President. While his correction would, in my view, have comported with the Supreme Court rulings on this issue and cured any constitutional infirmity with the original language, I appreciate the action of the House to remove altogether this section of the bill, which had originally given me concern.

In addition, the original bill contained a provision that would have

deemed any delay in bringing a person before a magistrate due to transporting the person back to the U.S. from overseas as "justifiable." I was concerned that this provision could end up excusing lengthy and unreasonable delays in getting a civilian, who was arrested overseas, before a U.S. Magistrate, and thereby raise due process and other constitutional concerns.

The Sessions-Leahy-DeWine substitute cured that potential problem by eliminating the "justifiable" delay provision in the original bill. Thus, the general standard from Federal Rule of Criminal Procedure 5 about avoiding unnecessary delays in bringing an arrested person before a magistrate would apply to the removal of a civilian from overseas to answer charges in the United States.

The House has made further improvements to the removal and detention procedures in the bill, and I support them. In particular, the House has clarified the procedures necessary to protect the rights of the accused in both removal and detention hearings, and to facilitate and expedite the conduct of initial appearances by the accused before federal magistrate judges.

Finally, S. 768 as introduced authorized the Department of Defense to determine which foreign officials constitute the appropriate authorities to whom an arrested civilian should be delivered. I urged that DOD make this determination in consultation with the Department of State, and the Sessions-Leahy-DeWine substitute amendment adopted such a consultation requirement. I am pleased that the House maintained this part of the substitute amendment in House-passed version of the legislation and requires consultation with the Department of State.

The inaction of the Congress on closing the jurisdictional gap that has existed over the criminal actions of civilian on military installations overseas has been the source of terrible injustice. For example, most recently the Second Circuit Court of Appeals was compelled to reverse a conviction and dismiss an indictment of sexual abuse of a minor committed by a civilian at a military base in Germany. The Court took the "unusual step of directing the Clerk of the court to forward a copy this opinion" to the relevant Committees of the Congress. We have gotten our wake-up call and should waste no more time to send this legislation to the President.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate agree to the amendments of the House.

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

AMENDING TITLE 44, U.S. CODE, TO ENSURE PRESERVATION OF THE RECORDS OF THE FREEDMEN'S BUREAU

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5157, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5157) to amend title 44, United States Code, to ensure preservation of the records of the Freedmen's Bureau.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The bill (H.R. 5157) was read the third time and passed.

PAUL COVERDELL NATIONAL FORENSIC SCIENCES IMPROVEMENT ACT OF 2000

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 3045, and the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3045) to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, on June 9, 1999, our departed friend and colleague, the former senior Senator from Georgia, introduced the National Forensic Sciences Improvement Act of 1999. This important legislative initiative called for an infusion of Federal funds to improve the quality of State and local forensic science services. I am pleased that Senator SESSIONS has revived the bill, and that we are passing it today as the Paul Coverdell National Forensic Sciences Improvement Act of 2000, S. 3045.

The use of quality forensic science services is widely accepted as a key to effective crime-fighting, especially with advanced technologies such as DNA testing. Over the past decade, DNA testing has emerged as the most reliable forensic technique for identifying criminals when biological material is left at a crime scene. Because of its scientific precision, DNA testing can, in some cases, conclusively establish a suspect's guilt or innocence. In other cases, DNA testing may not conclusively establish guilt or innocence, but may have significant probative value for investigators.