

The PRESIDING OFFICER. The Senator from Wisconsin.

A FEDERAL MORATORIUM ON EXECUTIONS

Mr. FEINGOLD. Mr. President, the last time the Federal Government executed someone was in 1963. That year, the Federal Government executed Victor Feguer, who had kidnapped and killed a young doctor. At 5:30 in the morning of February 15, 1963, at Fort Madison, IA, a Federal hangman tied a noose around Feguer's neck and put him to death.

Feguer's execution was the first and last Federal execution of the 1960s. In fact, the Federal Government has carried out executions fairly infrequently during the entire twentieth century. Only 24 Federal executions took place between 1927 and 1963. One-third of those were for wartime espionage or sabotage.

But, Mr. President, all of that is about to change. In the next 2 months, two inmates on Federal death row could become the first to be executed by the Federal Government in nearly forty years. Their names are David Hammer and Juan Garza.

As many of my colleagues recall, Congress modernized the federal death penalty in 1988 and then significantly expanded it in 1994. Those votes are about to have very real consequences. Like it or not, the national debate over the death penalty is actually intensifying and will build further next month, the months after that, and in the year to come.

And we should have this debate. We should have this debate, because the Federal Government is heading in a different direction from the rest of the country. The States have learned some serious lessons about the administration of capital punishment, and the Federal Government, above all, should learn from them.

After the Supreme Court's 1976 decision reinstating the death penalty, most States swept the cobwebs off their electric chairs and resumed executions. And most of these states have not looked back since. Just last year, the United States set the record for the number of executions in one year in this modern death penalty period: 98 executions. And already this year, there have been 70 executions in the United States.

But recently, in States all across America, awareness has been growing that the death penalty system has serious flaws and that its administration has sometimes been far from fair. From Illinois to Texas to North Carolina to Pennsylvania, I believe that a consensus is building that there is a problem. Since the 1970s, 89 people—Mr. President, 89 people—who had been sent to death row were later proven innocent. Nine of these 89 were exoner-

ated on the basis of modern DNA testing of biological evidence. Defendants have sometimes been represented by lawyers who slept during trial, were drunk during trial, or who were so incompetent that they were later suspended or disbarred. Prosecutorial and police misconduct sometimes have led to faulty convictions. The death penalty has been applied disproportionately to African Americans and the poor. The revelations of problems with the system mount. These are very real, serious problems that fail to live up to the fundamental principles of fairness and justice on which our criminal justice system is based.

Just last month, the Justice Department released data on Federal death penalty prosecutions. That Justice study showed racial and geographic disparities in the administration of the Federal death penalty. The study found that whether the Federal Government seeks the death penalty appears to relate to the color of the defendant's skin or the Federal district in which the defendant is prosecuted. Both the President and the Attorney General have acknowledged—they have acknowledged—that this data paints a disturbing picture of the Federal death penalty system. The Attorney General admits that she does not have answers to the questions raised by the DOJ report.

My colleagues may believe that the system is flawed, but some of them seem to fear that the people will object to efforts simply to address these inequities. The American people, however, are in fact ahead of the politicians on this, as they are on so many issues. A majority of the American people are troubled. They are troubled by these flaws in the death penalty system that they support a moratorium on executions. An NBC/Wall Street Journal poll taken this past July found that 63 percent of Americans supported a suspension of executions while questions of fairness are reviewed. And in a bipartisan poll released just this last month, 64 percent of Americans supported a suspension of executions while questions of fairness are reviewed.

Mr. President, as you have said and others have said, the Federal Government can often learn from the States. Let's apply that to the administration of the death penalty.

With so many nagging questions raised and still unanswered, how can the Federal Government go forward—how can the Federal Government go forward with its first execution in almost 40 years?

I believe it is unconscionable for the Federal Government to resume executions under these circumstances.

Earlier this year, I introduced two bills that would suspend executions while an independent, blue ribbon commission simply reviews the death penalty system. The National Death Pen-

alty Moratorium Act would suspend executions at the state and federal levels. The Federal Death Penalty Moratorium Act would suspend executions at the Federal level. And I am pleased that Senators LEVIN, WELLSTONE, DURBIN and BOXER have joined me on one or both of these bills. The five of us may not—in fact, do not—agree on whether the death penalty is a proper punishment, but we are united in our belief that our nation should pause and thoroughly review the system that has sent many who were later proven innocent to death row.

Addressing flaws in the death penalty system is, Mr. President, unfortunately, yet another chapter of the unfinished business of this Congress. With two executions scheduled for after adjournment, I must urge President Clinton to suspend Federal executions and order a comprehensive review of the Federal death penalty system.

Next Congress, when we return, I intend to reintroduce my legislation. I shall keep pushing forward on this issue. We have made progress this year, but we still have a long way to go toward restoring the integrity of our criminal justice system. I look forward to working with my colleagues toward that goal in the year to come.

THE OMNIBUS TAX BILL

Mr. FEINGOLD. Mr. President, I rise now to oppose yet another monstrous product that this majority has loosed on the Senate, this one an omnibus tax bill. In a number of speeches this year, as early as this May, I have tried to raise objections to the procedures that the majority is employing in this session of the Senate. It is proverbial that "a bad tree cannot bear good fruit." If any more proof were needed that these procedures are bad, the fruit of this tax bill provides it.

Let me begin by recounting how bad the tree is that bore this bill. The procedures that the majority has employed to bring this bill to the floor are egregious. And when the majority employs the procedures that it has on this bill, it is not surprising that they yield such an unattractive outcome. What has happened? A small number of Senators and Congressmen, all from one party, have cooked up this bill behind closed doors. Of the bill's major provisions, none has enjoyed consideration on the Senate floor. The majority leadership has then shoveled the contents of this back-room agreement into a conference on a comparatively minor Small Business Administration loan measure. When the fruit of such a process has, as this bill has, experienced no discussion, no vetting, and no amendment, it cannot help but have some rotten parts to it.

And there is much that is rotten about this bill. It would spend, Mr. President, a significant amount of the