The problem is, there is simply not sufficient money. As this chart shows, a Maine winter exacts a steep toll. Today, in Maine, a gallon of home heating oil, on average, costs $1.56. Last year at this time, home heating oil in Maine went for $1.03 a gallon—and we thought that was very high. That number is high because just two years ago the average price of home heating oil in Maine was just 78 cents a gallon. In short, home heating oil prices have increased by 100 percent in just two years. For the 75 percent of Mainers who rely on home heating oil to keep their homes warm, this is a steep price to pay indeed. Those heating their homes with natural gas also are facing difficulties. Consumer prices for natural gas have shot up over 50 percent compared to last year.

As the second column on this chart shows, last year Maine's CAP agencies distributed an average of $488 to each household. That was the average LIHEAP benefit. Despite the rising costs of fuel, this year the Maine CAP agencies are able to distribute an average benefit of only $350.

So you see the situation we have, Mr. President, and see why it is such a problem. We have the price of home heating oil far higher than last year, and more than double what it was two years ago. The high cost of fuel has put more strain on more families, and as a result many more households need assistance. That has caused the average LIHEAP benefit to be cut significantly.

What does this mean? When the price of oil is 50 percent higher than last year, and the LIHEAP benefit is $138 less than last year, it means that people are not able to buy very many gallons of oil to heat their homes. Last year's LIHEAP benefit purchased 474 gallons of home heating oil. This year's benefit will purchase less than half that amount—a mere 224 gallons of oil.

So we have the worst of all situations. We have the price of home heating oil at record highs; we have the benefit amount having to be cut to less than last year's; and the result is that low-income families are able to purchase far less home heating oil.

And this year's winter is already shaping up to be colder than last year's. Mainers will need more oil to keep warm this winter, not less. When the furnace remains silent no matter how far you turn the thermostat dial, we need to be there to put oil in the tank.

The bottom line is we need to provide more assistance to more families.

The legislation before us today will provide an extra $300 million in LIHEAP assistance to be used this winter. And that is very helpful. It is almost a 30-percent increase above last year's funding level. I know how hard Senator SPECTER and Senator STEVENS have fought for this significant increase. I thank them for their efforts on behalf of the thousands of Maine residents who will benefit greatly from these much needed funding increases. Yet it simply is not enough. With the price of fuel 50 percent higher this year than last, and with almost three times as many families in need of LIHEAP assistance this year compared to just 1 year ago, even a 30-percent increase will only go so far. It is certainly needed, and we are grateful for it, but we are still going to have a shortfall.

I am also concerned and disappointed that by placing the year 2002 funding for LIHEAP on the chopping block, the Clinton administration lacked the foresight to realize the obvious: This is not our Nation's last winter. There will be another winter next year; I can guarantee it. We must lay the groundwork now to allow the planning to occur that will ensure that people stay warm next year, too.

By eliminating the ''advance appropriation'' for LIHEAP for the next fiscal year, this appropriations bill has not laid any of the necessary groundwork for next year's winter. That will contribute to a supply crunch next fall, I fear.

I call on the President and the congressional leadership to make LIHEAP a top priority, not only this year but next year as well. I am pleased to see and applaud the language that was included in the managers' statement pledging to fund LIHEAP in the next fiscal year at this year's level or at a greater level. I would have preferred to see a commitment for advance funding, but I know the conferees will keep the commitment they have made.

Finally, I pledge my personal efforts to ensure that low-income families in Maine and throughout the Nation stay warm through our long winters.

I yield the floor.

Mr. President, seeing no one seeking recognition, I 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. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Vermont is informed we are in a period of morning business with speakers not to exceed 5 minutes.

Mr. LEAHY. Mr. President, I do not see others seeking the floor. I ask unanimous consent I be allowed to speak for not to exceed 10 minutes.

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

JOHNNY PAUL PENRY

Mr. LEAHY. Mr. President, during the past year there has been an extraordinary amount written and spoken in this country about the death penalty—actually more than I can recollect having seen before. We have learned that the system of administering capital punishment is gravely flawed, and that scores of people have ended up on death row, often for many years, even though they were completely innocent of the crime for which they were sentenced to death.

We have seen how the justice system has serious flaws at every stage, and especially if the accused is poor, as are most criminal defendants who are sentenced to death. Lawyers defending people whose lives are at stake are often inexperienced or incompetent, and poorly paid. Two thirds of death penalty trials nationwide are marred by serious constitutional errors, according to reviewing courts.

We have seen public support for the death penalty decrease significantly. It is still over 50 percent nationally, but it falls below 50 percent if the alternative is life in prison with no opportunity for parole.

We have seen Governor Ryan of Illinois appoint a commission of experts, both supporters and opponents of capital punishment, to determine whether the death penalty can, under any circumstances, be administered reliably so innocent people will never be executed. The findings and recommendations of that commission will be important for the entire country.

In Virginia, a State with many people on death row, the legislature recently took note of the growing concerns surrounding capital punishment, and decided to review the administration of the death penalty in Virginia where there have been serious mistakes.

In October, the Virginia Governor pardoned Earl Washington, a mentally retarded farmhand, after new DNA tests cleared him of the rape and murder that once brought him within 9 days of execution.

Just this morning, the Washington Post reported that DNA tests had cleared another death row inmate—unfortunately, too late to be of any help. Before dying of cancer earlier this year, Frank Lee Smith spent 14 years on Florida's death row for a rape and murder that it now appears he did not commit.

I have introduced legislation with Senators GORDON SMITH, SUSAN COLLINS, and 12 other Senators, to address some of these most egregious flaws. I have spoken many times about our bill, the Innocence Protection Act, which we plan to pursue in the 107th Congress.

Our legislation addresses the horrendous problem of innocent people being condemned to death. But today I want to mention briefly a related issue which is illustrated by a case in Texas, the State which this year has executed more people than any other State in the post-war era.

The Supreme Court stayed the execution of Johnny Paul Penry on November 16, 2000, less than four hours before he was scheduled to die by lethal injection in Texas. The Court has now scheduled the case for argument.

Johnny Penry, who in 1979 raped and murdered a 22 year old woman, has been on death row for twenty years. He committed a terrible crime; there has never been any doubt about that. But besides the crime itself, what makes Johnny Penry's case so disturbing is that he has an IQ of 56. What that means is that he has the intelligence of a 6-year old child.

Mr. President, 11 years ago the Supreme Court ruled that it is not cruel and unusual punishment to execute the mentally retarded. I disagree with that decision. But more importantly, despite the Supreme Court ruling, 13 States with capital punishment and the Federal Government have forbidden execution of the mentally retarded, and a clear majority of Americans oppose the practice.

The State Senator who in 1998 sponsored Nebraska's bill to prohibit execution of the mentally retarded later said that it should not have been necessary because ''no civilized, mature society would ever entertain the possibility of executing anybody who was mentally retarded.''

Executing the mentally retarded is wrong; it is immoral. People with mental retardation have a diminished capacity to understand right from wrong. As Justice Brennan wrote:

> The impairment of a mentally retarded offender's reasoning ability, control over impulsive behavior, and moral development . . . limits his or her culpability so that, whatever other punishment might be appropriate, the ultimate penalty of death is always and necessarily disproportionate to his or her blameworthiness.

Proponents of the death penalty argue that it ''saves lives,'' but executing the mentally retarded cannot be justified on the grounds of deterrence. Let me again quote Justice Brennan, writing in 1989:

> The very factors that make it disproportionate and unjust to execute the mentally retarded also make the death penalty of the most minimal deterrent effect so far as retarded potential offenders are concerned. Intellectual impairments in logical reasoning, strategic thinking, and foresight, the lack of the intellectual and developmental predicates of an ability to anticipate consequences, and impairment in the ability to control impulsivity, mean that the possibility of receiving the death penalty will not in the case of a mentally retarded person figure in some careful assessment of different courses of action. In these circumstances, the execution of mentally retarded individuals is nothing more than the purposeless and needless imposition of pain and suffering.

People with mental retardation are also more prone to make false confessions simply to please their interrogators, and they are often unable to assist their lawyer in preparing a defense.

We saw this with Earl Washington, who had an IQ of 69. Arrested for breaking into a neighbor's home during a drinking spree and hitting her with a chair, Washington readily confessed to a series of unsolved murders that he could not have committed.

Beyond all of this, executing the mentally retarded severely damages the standing of the United States in the international community. The United Nations has long condemned this practice. Just last year, the U.N. Commission on Human Rights called on nations ''not to impose the death penalty on a person suffering from any form of mental disorder.'' We should join the overwhelming majority of nations who do not execute the mentally retarded.

Johnny Penry suffered relentless and severe physical and psychological abuse as a child, spends his time in prison coloring with crayons and looking at comic books he cannot read, and still believes in Santa Claus. I remember reading that when they stayed his execution he said, ''Does this mean I'm not allowed to have the special meal I was supposed to have?''—The last meal of the condemned man. He could not possibly have assisted meaningfully in his own defense.

No one can excuse Johnny Penry's crime, and no one suggests that he should be set free. But the question is what is the appropriate punishment for a defendant who is mentally retarded.

Neither our Constitution nor our national conscience permits the execution of a 6-year-old child for committing a heinous crime, and neither should we execute a person with the mental capacity of a 6-year-old. It offends the very idea of justice.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, first I inquire, is there any limitation on the length of time to speak?

The PRESIDING OFFICER. The Chair informs the Senator from Virginia that we are in a period for morning business with Senators to speak not to exceed 5 minutes.

Mr. ROBB. I do not believe I will exceed 5 minutes, but I ask unanimous consent to proceed for such time as I may use, consistent with the order for morning business.

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

Mr. ROBB. I thank the Chair.

THE SENATE EXPERIENCE

Mr. ROBB. Mr. President, I thought I would take this opportunity for just a very few minutes to say thank you. I will be leaving the Senate at the end of this Congress. I had assumed, as many of our colleagues had, that this would be the last day of the session. That assumption is very much in question at this point. I just left a conference with members of my caucus, and there are clearly some deeply held convictions and passions that are still unresolved. It may be that we will be here for hours or days. I hope that is not the case, but there frequently are at this particular time in the session those who hold convictions and beliefs so deeply that they do not believe under any circumstance they should leave any stone unturned or any avenue unexplored to advance those convictions and beliefs.

While some of those issue are being resolved, I want to take a minute to say thank you, first of all, to the people of Virginia who were kind enough to honor me with 12 years of their representation in the Senate of the United States.

I thank my colleagues on both sides of the aisle who have given to me and my wife Lynda and members of our family an experience we will treasure for the rest of our lives. The personal interaction with colleagues has been a part of the Senate experience that I will always enjoy, remember, and revere. I express to colleagues again on both sides of the aisle how much I appreciate the many considerations they have shown me.

I understand my senior colleague from Virginia took the floor while we were in the caucus. I did not hear his words, but I appreciate his cooperation on many issues, and I appreciate his friendship. We have had some differences; certainly, we have had some political differences; but the degree of cooperation between our offices has always been good and strong when it came to working on behalf of our Commonwealth.

The Senate is, for many of us, like a family. That sentiment has been expressed before. It is an extended family, and I say to all of those members of that extended family a very sincere thank you. I thank the floor staff and the officers of the Senate for the cooperation that has been extended to me over the past 12 years.

I thank the Cloakroom staff from both sides, particularly my own Cloakroom, who work so closely with us on a regular basis to make sure the institution functions, and that we are here when necessary in order to conduct the nation's business.

I express my appreciation to all of those who make this institution work. Some of them are visible, such as our friends of the Capitol Police who are here around the clock in a position, as we learned to our regret and sorrow, to put their lives on the line to provide safety and security.

There are many other officers of the Senate and employees of the Senate who are not as visible to the public, but are just as crucial to the operation of the Senate. The employees who work for the Architect of the Capitol who take care of many of the duties that are required to make the institution run. We see and work with them on a daily basis. Many of them have extended courtesies and kindnesses to me over a long period of time that I will long remember.

There are the many often unheralded folks who help with the phones, who operate the Capitol switchboard, who handle the maintenance, and who work in the food service we do not see but