''(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the minor or other compelling facts, that before the minor obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides.

''(d) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action, unless the parent has committed an act of incest with the minor subject to subsection (a).

''(e) DEFINITIONS.—For the purposes of this section—

''(1) a 'law requiring parental involvement in a minor's abortion decision' means a law—

''(A) requiring, before an abortion is performed on a minor, either—

''(i) the notification to, or consent of, a parent of that minor; or

''(ii) proceedings in a State court; and

''(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

''(2) the term 'parent' means—

''(A) a parent or guardian;

''(B) a legal custodian; or

''(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

''(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

''(4) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States.

''§ 2432. Transportation of minors in circumvention of certain laws relating to abortion

''Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

''117A. Transportation of minors in circumvention of certain laws relating to abortion ..... 2431''.

Mr. FRIST. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I congratulate Chairman ENSIGN for managing this bill, an important bill that we have passed and that the House has passed, and now it is time for us to go to conference. I thank leadership and the managers on both sides because we were able to address a very important issue and had appropriate amendments under an agreement that was reached, and conclusion was passage as we just heard by 65 to 34 on this bill.

With regard to that, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 748, the House companion measure; provided that all after the enacting clause be stricken and the text of S. 403, as amended, if amended, be inserted in lieu thereof; the bill then be read a third time and passed, and the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees with a ratio of 7 to 5.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, on behalf of myself and other Senators, I will object to the appointment of conferees at this point. This is an issue which has been debated for a short time here on the floor and never went through the Senate Judiciary Committee for consideration. It is our belief that at this point in the session asking for a conference committee is premature.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, the objection is heard. And I will say that I am disappointed. This bill passed the House of Representatives on April 17, 2005, and just passed this body 65 to 34 expressing the will of the Senate. Routinely, we would go to conference with the House and the Senate bill and move forward. I understand that objection is made. I am very disappointed that is the case. I hope we can get to conference just as soon as possible. I do hope that the objection we heard tonight does not represent obstruction in taking this bill to conference, because that would be the normal course. But we will address this in the future.

Again, I am disappointed that we are being stopped from going to conference tonight.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

PRIME MINISTER MALIKI'S VISIT

Mr. KENNEDY. Mr. President, Iraq Prime Minister Maliki's visit to the United States comes at an important time. All Americans want Iraq's new government to succeed. The principal measure of success will be whether the tide of violence recedes and full-scale civil war is avoided. But for that to happen, the new government must deal quickly, decisively, and effectively with the principal threat to stability—the deadly influence of the militias—especially in Baghdad.

It is time for the new government to move beyond vagaries and develop a viable strategy to deal with the militias and prevent Iraq from descending into full-scale civil war. He needs to begin implementing a credible plan to disarm, demobilize, and reintegrate the militias into the security forces. He must obtain a real commitment from the political parties to assist in disbanding and disarming the militias.

As the new violence in Lebanon demonstrates, political parties cannot govern with one hand and terrorize civilians with militias with the other hand. It did not work with Hezbollah in Lebanon, it cannot work with Hamas, and it will not work in Iraq.

Militias are the engines of civil war, and there is no role for them in a legitimately functioning government of Iraq. Iraq's future and the lives of our troops are close to the precipice of a new disaster. The timebomb of full-scale civil war is ticking, and our most urgent priority is to defuse it.

America, too, must be honest about the situation in Iraq. President Bush, the Vice President, and Secretary Rumsfeld continue to deny that Iraq is in a civil war. But the increasing sectarian violence, the ruthless death squads, and the increasingly powerful role of the privately armed militias tell a very different story.

We cannot ignore this major danger. President Bush needs to consider the cold, hard facts and prepare a strategy to protect our troops who are at risk of getting caught in the middle of an unwinnable sectarian civil war. Such planning is not an admission of defeat; it is responsible and necessary to protect the lives of our men and women in Iraq who are serving with great courage under enormously difficult circumstances.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 14, 1995, in Atlanta, GA, Quincy Taylor, a high school student, was found dead behind a convenience store from gunshot wounds to the chest. Taylor frequented and sometimes worked at a popular gay bar known for featuring cross-dressing entertainment. According to police, the killer knew the victim and was motivated solely by his sexual orientation.

I believe that the 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.

PRESIDENTIAL SIGNING STATEMENTS

Mr. LEAHY. Mr. President, yesterday we were reminded, again, of the lawlessness of the Bush-Cheney administration as it continues its abuse of ''signing statements'' as part of a systematic pursuit of power without the checks and balances inherent in our constitutional democracy. A most distinguished task force of the American Bar Association has now released a unanimous report highly critical of this President's practice as ''contrary to the rule of law and our constitutional system of separation of powers.'' I thank the distinguish panel of conservatives and moderates, or Republicans and Democrats for their thoughtful report.

Let me be clear, this is not some academic debate without consequences. I have been seeking to draw attention to this surreptitious power-grab for at least 4 years, since this President's unusual signing statement following enactment of the Sarbanes-Oxley bill in 2002 to reign in corporate abuses that cost so many Americans their livelihoods and their retirement savings through Enron and other scandals. The President signed the bill but had secret ''reservations.'' That is when I first realized the President's unorthodox, unwise and unsound practice of signing a bill while crossing his fingers behind his back. We have seen it over and over again as this President insists on the equivalent of an unwritten line-item veto that would undermine the checks and balances of our constitutional separation of powers and that the Supreme Court correctly determined was unconstitutional.

Later this week, the President will be signing the reauthorization and revitalization of the Voting Rights Act, passed by the House with 390 votes and unanimously last week by the Senate. In the past I could have gone to the White House to witness the bill signing knowing that our three branches of government were all operating within their proper authority. That is the way we have operated for more than 200 years. But this year, with this President, that is not the way any longer. After the bill signing, after the celebration, after the bipartisan plaudits and after the President takes credit for the civil rights advances that our bill is intended to represent—after all this—we will have to wait to see whether there is a belated presidential document, a so-called ''signing statement.'' Only then will we see if the President will seek to create a gloss that Congress did not intend, or modify a provision of law more to his liking, or declare some provision of law something he and his administration will not enforce. That is wrong. That is the opposite of the rule of law. And no one—not even the President—is above the law.

The Constitution places the lawmaking power, ''All legislative Powers'' in the Congress. That is an article I power. A check on the congressional power is the requirement that ''before [a bill] becomes a Law'' it must be presented to the President. Section 7 of article I of the Constitution provides: ''If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated.'' Of course the Constitution then contemplates congressional power to override a presidential objection or veto. That is our system, that is our law. The President has the option to veto—in fact after 5 years in office, he finally exercised that power last week when he vetoed the stem cell research legislation. I disagreed with his decision to veto that bill, but it was within his constitutional power to do it. He does not have the power to issue a decree that he will pick and choose which provisions of laws to follow in statements issued after Congress passes a law. What this President is doing is wrong.

Last month, the Senate Judiciary Committee held a hearing on the use of these signing statements by the Bush-Cheney administration. I noted that we are at a pivotal moment in our Nation's history, where Americans are faced with a President who makes sweeping claims for almost unchecked Executive power. This President's use of signing statements is unprecedented, although presaged by the work of Samuel Alito at the Meese Justice Department during the Reagan Presidency—now Justice Alito on the Supreme Court. This administration is now routinely using signing statements to proclaim which parts of the law the President will follow, which parts he will ignore, and which he will reinterpret. This is what I have called ''cherry-picking'' and it is wrong.

This President's broad use of signing statements to try to rewrite the laws passed by the Congress poses a grave threat to our constitutional system of checks and balances. During his 5 years in office, President Bush has abused his bill signing statements to assign his own interpretations to laws passed by Congress.

According to a review of these statements conducted by The Boston Globe, President Bush has employed signing statements to ignore or disobey more than 750 provisions enacted by the Congress since 2001, more than all previous Presidents in the history of our Nation combined. According to scholarly research that number now tops 800 provisions of law.

I have alluded to the President's signing statement in 2002 in connection with the Sarbanes-Oxley law designed to combat corporate fraud. The President used his signing statement to attempt to narrow a provision protecting corporate whistleblowers in a way that would have afforded them very little protection. Senator GRASSLEY and I wrote a letter to the President stating that his narrow interpretation was at odds with the plain language of the statute, and the administration reluctantly relented on this view but only after much protest.

We also witnessed the President's fondness for signing statements earlier this year, when after months of debate and negotiations in Congress, the President issued a signing statement for the USA PATRIOT ACT reauthorization language in which he stated his intentions not to follow the reporting and oversight provisions contained in that bill. I noted this abuse at the time. When I voted against that reauthorization, I explained it was because I did not have confidence that the oversight provisions we succeeded in incorporating into the law would be respected. What little doubt was left by the self-serving signing statement was erased last week when the Attorney General of the United States refused to commit to following the law.

This President has also used signing statements to challenge laws banning torture, on affirmative action and prohibiting the censorship of scientific data. In fact, time and again, this President has stood before the American people, signed laws enacted by their representatives in Congress, while all along crossing his fingers behind his back. And, while this President used to boast—until his veto of stem cell research legislation—that he was the first modern President to have never vetoed a bill, he has cleverly used his signing statements as a de facto line-item veto to cherry-pick which laws he will enforce in a manner not consistent with our Constitution.

Under our constitutional system of government, when Congress passes a bill and the President signs it into law, that should be the end of the story. At that moment the President's constitutional duty is to ''take Care that the Laws be faithfully executed.'' That is the article II power, the executive power, to ''execute'' the laws, it is not a legislative power. So when the President, including this President, takes the oath of office and swears on the Bible, he does so, in the words of the Constitution, ''Before he enter on the Execution of his Office,'' and swears that he will ''faithfully execute'' the office of President and ''preserve, protect and defend the Constitution of the United States.'' I remind this President and this administration that the Constitution has more than one article and that ''All legislative Power'' is vested in Congress, not some ''unitary executive.''

When the President uses signing statements to unilaterally rewrite the laws enacted by the people's representatives in Congress, he undermines the rule of law and our constitutional