

It is unfortunate, and frankly ironic, that S. 1 has become necessary. Our Founding Fathers are probably spinning around in their graves right now. They created a limited Federal Government that would respect the rights of the States and here we are on the floor of the Senate, trying to gain back what the Founding Fathers never wanted to lose in the first place. They made that protection very explicit in that 10th amendment. Frankly, not only the Congress, the Supreme Court as well—let us not let the Supreme Court off the hook here—all these brilliant judges, scholars, over the years who have allowed this to happen. They are responsible, too. They have not afforded sufficient respect to the 10th amendment.

There have been some brilliant people who have served in Government since the Constitution was written, many of them. I stand at the desk of one of them, Daniel Webster. Henry Clay, John C. Calhoun—great orators, great Senators down through the years as well as others in the House and the Senate. And, frankly, out of politics—on the courts: brilliant people. But I have not yet met the match for Thomas Jefferson and James Madison and John Jay and others during that time, our forefathers, who wrote this brilliant document.

They knew what they were doing. They knew what they were doing. I think we made some terrible mistakes. The Senator from Idaho with this legislation is giving us the opportunity to correct some.

The Senator from Tennessee, who is a surgeon, who was talking about health care a while ago on floor when I was in the Chair—we are going to have to perform corrective surgery. And it is about time. It is about time. That is why the American people changed course on November 8. I hope this Senate will get the message and pass this legislation next week, get it through the House, and get it to the President of the United States so it will become the law—which it already should be under the 10th amendment.

In conclusion, we must never forget—and I think we have—that it was the States, there were only 13 at the time, but it was the States that created this Government. I used to teach history, so forgive me for a moment. The States created this Government. Without the large State-small State compromise, the Senate would not be here. The House would not be here. The Federal Government would not be here. They decided to give certain powers to the Federal Government and created that Government as a result. They never wanted the Federal Government to go beyond the specific powers they were given.

Let us get back to the Constitution. If we do the debate, the integrity of the debate is on our side, and we will win. I think we will. It is just going to take a little time. It is a little frustrating that Senators exercise the right that they have to delay and debate. If you

are going to delay to debate to make your point that is fine. If you are going to delay simply to stop the legislation, from us getting a chance to vote on it, I think that is wrong. Especially when you are trying to repeal something that is unconstitutional, in my opinion, to begin with.

Mr. President, I yield.

The PRESIDING OFFICER. The Senator from Pennsylvania.

FEDERALISM

Mr. SPECTER. Mr. President, I support Senate bill 1 to eliminate unfunded mandates to States and local government. There is no doubt about the onerous imposition of very expensive projects on State and local government which have been decreed out of Washington, DC, and the Federal Government. I think as a matter of fundamental fairness, if we decide something ought to be done as a matter of national policy, then we ought to be paying for it.

Many have spoken about the principle of federalism, which is the concept that the United States was founded on. It is to leave to the States all that was not specifically delegated to the Federal Government in the Constitution on the very obvious point of having the governmental unit closest to the people making the decision. Also, as a matter of federalism and the concept of federalism, the idea is to leave to local government as much as possible so the people closest to the problem may decide what they want to spend their money on.

We have within the bill presently on the floor the principle of the States leaving to local government the maximum amount possible without telling local government what ought to be done. So I think this is a sound bill. I look forward to its early passage as a signal to the American people that the mandate from the last election is being complied with. We have already enacted important legislation which imposes on every Member of the U.S. Senate and the U.S. House of Representatives the same obligations that any other American citizen bears. That is sound as a matter of basic fairness but also sound as part of the regulatory system so we may not overly burden American business and the American people when we have to comply with the same rules.

Mr. President, I now ask unanimous consent that I may make two brief statements as in morning business. There is no one else on the floor to speak to the bill.

The PRESIDING OFFICER. Without objection the Senator from Pennsylvania is recognized as in morning business.

Mr. SPECTER. I thank the Chair and I ask unanimous consent my following remarks be captioned: "Silvi Morton Specter."

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

SILVI MORTON SPECTER

Mr. SPECTER. Mr. President, last night I spoke briefly on the one-year anniversary of the birth of the next generation of the Specter family, on the birth date of my granddaughter, the first grandchild in our family, the daughter of my son Shanin Specter, and his wife, Tracey Pearl Specter. But I could not speak at any length because we were in the midst of working out the unanimous-consent agreement on the disposition of this bill. And as the hour grew late, when we had consecutive back-to-back votes as part of the efforts to reach an accommodation on the bill, I did secure the floor for a few minutes, at 11:25, but spoke only briefly because the managers of the bill were about to present the unanimous-consent agreement and there were many Senators on the floor at the time.

I now speak to an empty Chamber with the exception of the Presiding Officer. But this is a matter, I think, of importance beyond the birth date of one young woman in America because I speak about all of the children of America and Silvi Specter's generation.

We have a heavy burden, the Congress of the United States, and in the U.S. Senate, to see to it that adequate care and protection will be given to her generation. I focus on the balanced budget amendment which has now been reported out of the Judiciary Committee, which will seek to eliminate the deficit Federal spending which now approximates \$200 billion a year and a national debt which is climbing toward \$5 trillion.

We had debated the deficit and the national debt more in the 14 years-plus that I have been in the U.S. Senate than any other subject.

So frequently there has been agreement that the Federal Government ought to live within its means just as every other unit of government has to. The State governments, the city governments, the county governments, and for that matter any individual has to live within his or her means or they face bankruptcy. But at the same time we have continued to spend. The promise of the balanced budget amendment is to put the same discipline on Congress which every other governmental unit in the past has had and every private citizen has. I think that is very important for Silvi Specter's generation. Certainly, I would not think of borrowing on her account or using her credit card. But that is exactly what we are doing when we run up these deficits.

I think, too, about the primary duty of Government to protect its citizens and the strides which are yet to be made on crime control domestically and national defense on the international scene.

We have a great deal to do, Mr. President, on the basic issue of crime control. It is something that we have to address for the present generation and succeeding generations.

I had the opportunity to serve as district attorney of Philadelphia for some 8 years after having been an assistant district attorney for 4 years where I tried many robbery cases, many rape cases, many burglary cases, and then as the district attorney ran an office which prosecuted 30,000 criminal cases a year including 500 homicide cases.

I believe that we have to tackle the problem of violent crime on many levels. I think to start with, this is a major problem in our criminal justice system in our failure to utilize capital punishment as an effective deterrent against violent crime. It is obvious that the critical aspect of a deterrent is its certainty and its swiftness. But that is not the case with the death penalty. At the present time there are more than 2,800 inmates on death row and in the last year only 38 cases where the judgment of sentence was carried out. The reason for that is the Federal appeals processes which allow the cases to go on virtually interminably forever; some as long as 20 years, on the average 8 years. We have the power to correct that.

My legislation was passed by the Senate in 1990 and has a good chance to be passed this year by the House and the Senate and signed into law if we would make a few basic changes. First, provide that the requirement "upon exhaustion of State remedies" is eliminated because that means the case has to be litigated in the State courts until every possible issue has been resolved before going to the Federal courts. And then there is a ping-pong effect where it goes back and forth.

My legislation provides that there would be Federal jurisdiction attaching as soon as the State supreme court had upheld the judgment of sentence of the death penalty. Then there would be one hearing in the Federal courts taking up all the issues without getting involved in what is a full and fair hearing in the State courts, which leads to interminable litigation, again with the State court taking it up and then coming to the Federal court as to whether there had been a full and fair hearing, which is an aspect of exhaustion of State remedies.

The Federal court ought to hear it once and once alone. If something then arises at a later time which warrants exceptional circumstances and unique Federal review again, that should happen only if the court of appeals approves it; that is, submission to Federal judges.

There also ought to be a time limit of 120 days in the Federal district court, unless the judge is able to put on the record factors which require a longer period of time, and that should be within the discretion of the trial judge. But I have handled these cases in the Federal court on habeas corpus, and 120 days is long enough, providing the

judge puts it at the top of the list. That would not be an undue burden where only one of these cases would come before a judge every 18 months. There should be time limits in the court of appeals so that this appellate proceeding could be concluded within 2 years instead of 20 years.

Then, Mr. President, I think it is necessary to look at realistic rehabilitation. It is no surprise when someone leaves jail without a trade or a skill, as a functional illiterate, to go out into society, they are back to a life of crime and a revolving door. What I think we need to do is to have early intervention, especially with juveniles, for literacy and job training to give them a chance. But if they become career criminals—that is, three major offenses—then I think it is fair for society to impose a life sentence and to carry it out with adequate prison space.

Just the day before yesterday in the city of Philadelphia there was an atrocious murder a block and a half from the Philadelphia police station where a car was stopped. Apparently the individual was being followed on a robbery attempt, and a cold-blooded murder at 5:23 in the afternoon a block and a half from the police station at 7th and Vine in Philadelphia. A man was shot down in cold blood.

This happens again and again with drive-by shootings, with people being at risk. Violent crime could be curtailed if we really took the steps necessary to do that. That is something we ought to be looking at for this generation, the next generation, and those which follow.

There is also a major problem in international issues with national security. From the position that I have just taken on as chairman of the Intelligence Committee, there is a real need to do more in the area of nuclear non-proliferation. There is grave concern about the agreement which the administration has just made with North Korea where we will not be inspecting the spent fuel rods for some 5 years; whether this is the best way to protect against whether North Korea is in fact proceeding to build nuclear weapons. It has been disclosed recently that North Korea and Iran are working jointly on ballistic missiles and that North Korea currently has the capacity to send a missile as far as Alaska. When we asked the director of the Central Intelligence Agency in hearings a week ago Tuesday what the prognosis was for reaching the continental United States, there can be no assurance. A great deal more has to be done in that respect.

The issue of nutrition is of enormous importance. I was shocked more than a decade ago on my first occasion to see a 1-pound baby, a human being about as big as the size of my hand weighing 1 pound. That is a human tragedy because those children carry scars for a lifetime, and frequently the lifetime is not too long because of the intensity of the injuries carried. And it is a finan-

cial disaster with more than \$150,000 in cost for each child and multibillion dollars in costs.

It is a matter which can be corrected with prenatal visits as outlined by Dr. Everett Koop, former Surgeon General, in part of a health care package which I have proposed in Senate bill 18.

As I think about the tragedy of low-birthweight babies or the tragedy of teenage pregnancies, as I think of my granddaughter, Silvi Morton Specter, who lives surrounded by love with her mother, Tracey Pearl Specter—a professional woman in her own right, but her daughter comes first—as I see them playing together—in effect, I say that Tracey is Silvi's best playmate—it is a sight to behold and really a tragedy that all children do not have the affection that Silvi has from her doting mother and doting father, my son Shanin Specter, and her grandparents, Carol and Alvin Pearl and Joan and myself.

So I take a few moments on this Friday afternoon to talk about Silvi Morton Specter's generation and the obligations we have here on personal safety from violent crime at home, the problem of nuclear attack abroad, and the issue of not spending to burden Silvi's generation on the problems which children face everywhere. It is a real burden that we face and a real obligation that we have to do a better job as Senators and Members of Congress as we look forward to the 21st century. It is my own personal view that America has not seen its best and brightest days.

I think of my father, who came to this country as an immigrant from Russia at the age of 18 in 1911 without any formal education, and my mother, who came with her parents from Poland in 1905 at the age of 5, and how much better it has been for my brother, my two sisters and me, and how much better it has been for my two sons, Shanin and Steve, and how much better it can be for Tracey and for Silvi Specter's generation if we do our jobs in the U.S. Congress.

I thank the Chair. I yield the floor.

RULES OF THE COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedures of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On January 11, 1995, the Committee on Indian Affairs held a business meeting during which the members of the committee unanimously adopted rules to govern the procedures of the committee. Consistent with Standing Rule XXVI, today I am submitting for printing in the CONGRESSIONAL RECORD a copy of the rules of the Senate Committee on Indian Affairs.