curb these endless, frivolous appeals of death sentences.

I might add that this is one of the most important criminal law changes in this country's history, and it is about time we get it on track.

To be sure, there are many other important antiterrorism measures which will be included in the final terrorism bill including increased penalties, antiterrorism aid to foreign nations, plastic explosives tagging requirements, and important law enforcement enhancements. But let us make no mistake about it—habeas corpus reform is the most important provision in the terrorism bill. In fact, it is the heart and soul of this bill. It is the only thing in the Senate antiterrorism bill that directly affected the Oklahoma bombing. If the perpetrators of that heinous act are convicted, they will be unable to use frivolous habeas petitions to prevent the imposition of their justly deserved punishment. The survivors and the victims' families of the Oklahoma tragedy recognized the need for habeas reform and called for it to be put in the bill.

The Clinton Administration, which initially opposed meaningful habeas corpus reform, came to its senses and the President himself said he supported our habeas reform proposal. The antiterrorism bill, with the Hatch-Specter habeas proposal passed this body in an overwhelming vote.

Most of those familiar with capital litigation know that support for true habeas reform—support for an end to frivolous death penalty appeals—is the most authentic evidence of an elected official's support for the death penalty. It is against this backdrop that I was surprised to learn recently that on the eve of House debate on the antiterrorism bill—a bill that includes this important habeas reform proposal—the White House had sent emissaries to key Members of the House to lobby for weakening changes to the habeas reform package. Former White House Counsel Abner Mikva, accompanied by White House staff, met with key Members of the House and proposed that the bill be amended to essentially restore the de novo standard of review in habeas petitions. This would have gutted habeas corpus reform by allowing Federal judges to reopen issues that had been lawfully and correctly resolved years earlier. I had thought we had a President who was committed to meaningful habeas reform.

When I first learned of this effort, I was surprised. After all, President Clinton promised that justice in the Oklahoma bombing case would be swift. Indeed, he recognized that an end to frivolous death penalty appeals was critical when he said,

> [Habeas corpus reform] ought to be done in the context of this terrorism legislation so that it would apply to any prosecutions brought against anyone indicted in Oklahoma.

[Larry King Live, June 5, 1995].

But then I began to consider all of the steps this President has taken to undermine the death penalty. For example, President Clinton vetoed legislation late last year which contained language identical to the terrorism bill's habeas corpus proposal. Veto message to H.R. 2586, the temporary debt limit increase, Nov. 13, 1995. Prior to that, in 1994, the Clinton Justice Department lobbied the Democrat controlled House for passage of the so-called Racial Justice Act. This provision, in the guise of protecting against race-based discrimination, would have imposed a quota on the imposition of the death penalty. It would have effectively abolished the death penalty.

When the Senate refused to accept this death penalty abolition proposal, President Clinton decided to issue a directive implementing a so-called Racial Justice Act-type review of all Department of Justice decisions involving the Federal death penalty. [Wall Street Journal, July 21, 1994]. On March 29, 1995, Attorney General Reno issued the directive. Ironically, the Clinton Administration did not see fit to provide the victims' families in death penalty eligible cases with any right to petition the Department on the issue of whether the death penalty should be sought. [A.G. Reno directive on title 9 of the U.S. Attorneys' Manual, March 29, 1995].

To further gauge President Clinton's position on the death penalty and the streamlining of habeas corpus reform, one should consider whether his Department of Justice has supported State efforts to impose capital sentences. According to testimony provided to the Senate Judiciary Committee, the Clinton Justice Department considers the fact that a case involves the death penalty as a factor against filing amicus briefs in support of the State. [Testimony of Paul Cassell, Associate Professor of law, University of Utah, November 14, 1995]. The Bush Administration filed briefs in support of the State in 44.4 percent of the cases on appeal where a defendant's death sentence was being challenged. Briefs were filed in 42.9 percent of these cases and in 1991 and in 37.5 percent of the cases in 1992. In 1994, the Clinton Justice Department failed to file a single brief in support of States trying to carry out capital sentences. Many of these cases presented opportunities to protect the Federal death penalty but the Clinton administration sat on its hands.

On March 14, President Clinton said that, in his opinion, the terrorism bill's habeas corpus provision is not as good as it could be, and that there are some problems in the way that it's done but that he may go along with the version contained in the terrorism bill. [U.P.I. March 14, 1996].

Ironically, President Clinton's support for the terrorism bill seems to be dwindling as the likelihood for passage of habeas corpus reform seems to be increasing. Some Democrats appear to be preparing to scuttle the bill by arguing that it may not go far enough. Indeed, one of my colleagues on the other side of the aisle has gone so far as to call the House terrorism bill useless. We now hear that there is talk within the White House of a possible veto threat unless the terrorism bill is changed.

What I find interesting is that most of the provisions the President and his brethren are flexing their muscles over were not in the administration's original terrorism bill. For example, the President has been critical of the House's bipartisan votes to drop a ban on so-called cop killer bullets and a provision allowing law enforcement to conduct roving wiretaps. On February 10, 1995, Senator BIDEN introduced the administration's original terrorism bill, S. 390. Neither of these provisions were contained in S. 390. Indeed, the House-passed terrorism bill is more comprehensive than the President's original bill.

So I ask my colleagues: Why is a bill which is substantially similar to—in fact broader than—the original Clinton-Biden bill of 1995 useless in 1996? Could the fact that the final terrorism bill will contain tough, true habeas corpus reform be what's really at issue here?

President Clinton's newfound tough on crime rhetoric must be balanced against his administration's record of hostility toward true habeas corpus reform. In a few weeks, the Congress will deliver to President Clinton a tough terrorism bill which will contain our habeas corpus reform provision—a provision to end frivolous death penalty appeals. This reform measure has already been vetoed once and President Clinton has tried to weaken it. If he chooses to veto the terrorism bill, that will be a decision he and the families of murder victims across this country will have to live with. But let's not kid ourselves about why he may do so. To borrow a phrase—keep your eye on the ball. The ball here is habeas corpus reform.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying