

last 2 years. Fortunately, all of these inmates were recaptured, but not before one of them traveled to North Carolina and allegedly sexually molested two 3-year-old girls before he was found and returned to custody. Sadly, the hospital did not notify the Marshals Service, which is responsible for the security of these inmates, of a single escape.

St. Elizabeths Hospital apparently does not have the capability to provide adequately for the security or well-being of these 26 Federal defendants, even though the Federal Government pays \$450 per inmate per day, which works out to \$164,250 per inmate annually. It is time that the Federal Government take responsibility of these individuals for their own safety and the safety of the general public.

This bill transfers these 26 Federal defendants to the custody of the Attorney General. This will allow the defendants to be placed in appropriate Federal Bureau of Prisons medical facilities, for a fraction of the current cost, and to receive care appropriate to their conditions. The Justice Department has estimated that by transferring even half of the 26 patients to Federal medical facilities that the United States would save at least \$1.5 million annually.

The bill also requires that St. Elizabeth's Hospital provide to the Department of Justice the medical and treatment records for these inmates and bars the hospital from preventing doctors from discussing the inmates' treatment with Department of Justice officials. The hospital has been withholding the records, making it impossible for the Department—which is, after all responsible both for the inmates' well-being and for paying for their upkeep—to make effective decisions.

With respect to this records and access provision, I would like to briefly mention another related provision of this legislation. At the request of Senator LEAHY, we have included a provision clarifying the effect of the record and access provision on doctor-patient testimonial privileges.

This provision is intended to ensure that this legislation in no way alters the current state of the law regarding such testimonial privileges. Where these testimonial privileges currently exist, they will continue to have effect. Where they do not now apply, this legislation does not make them applicable.

I do not believe that any doctor-patient privilege is applicable to the treatment of the patients affected by this legislation. Indeed, it would be anomalous if, in a post-adjudication setting, such a privilege did exist. It would frustrate the ability of the government to provide appropriate care and treatment for these patients entrusted to the Government's care as a result of the adjudication.

Mr. President, this legislation provides for the safety and well-being of

the public and of affected patients in a fiscally responsible manner. I am pleased by its adoption by the Congress.

Mr. President, I ask unanimous consent that a letter from the Department of Justice endorsing this legislation be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, February 7, 1996.

Hon. ALBERT GORE,  
President of the Senate,  
U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed for your review and appropriate reference is a draft bill, entitled the "Act to Improve the Treatment of and Security for Certain Persons Found Not Guilty by Reason of Insanity in the District of Columbia" ("Act"). A section by section analysis of the bill is also enclosed.

This legislation is intended to improve the treatment and security of approximately twenty-six persons who were found not guilty by reason of insanity in the District of Columbia, prior to the enactment of the Insanity Defense Reform Act of 1984 (IDRA). At present, these persons are committed to the custody of the District of Columbia's St. Elizabeths Hospital, although the United States remains financially responsible for them.

The Act would amend 18 U.S.C. §4243 to establish constitutional procedures—in essence notice and an opportunity for a hearing for each individual person—under which the Attorney General could take custody of these persons. To foreclose constitutional concerns that might arise if the release conditions and procedures pertaining to such persons were changed, the Act makes a series of technical amendments to 18 U.S.C. §4243 to ensure that these matters would continue to be governed by standards identical to those under the District of Columbia rather than IDRA.

The enactment of the bill would give the Justice Department the option of leaving this fairly small class of persons in St. Elizabeths, contracting with a state or private facility for their treatment in a secure setting, or placing them in a Bureau of Prisons medical facility. The Department would not have to handle all the persons the same way, but could pick and choose the best course of treatment for them individually, keeping in mind required security and public safety concerns.

The benefits of this legislation are threefold. First, the transfer of custody may allow for an improvement of medical and mental health care and treatment over that which is presently available at St. Elizabeths Hospital. Second, some patients have escaped from St. Elizabeths and engaged in criminal activity. These patients should be placed in more secure facilities. Third, the United States is presently incurring medical bills of \$450.00 per day for each of these inmates. Transfer of custody to a Federal medical facility would result in savings per patient of nearly \$120,000.00 per year. Even if only half of these patients were transferred to such a facility, the United States would realize annual savings of at least \$1.5 million.

The Act would require the District of Columbia and St. Elizabeths Hospital to provide the Attorney General access, within prescribed time limits, to medical records pertaining to the persons whose custody could be transferred to the Attorney General. This portion of the bill would resolve a pending suit the Department of Justice has

brought against the District of Columbia over these records. The District has refused the Department access to these records, despite the fact that the United States is financially responsible for the care and treatment of the persons to whom the records pertain at an annual cost of more than \$4 million. Access to these records, interviews with mental health professionals who have examined the persons to whom they pertain, and access to the patients themselves, are all important in enabling the Department of Justice to properly evaluate the condition of these patients before any transfer would be effected. The Act would prohibit the District of Columbia from preventing persons in its employ from providing such information to the Department of Justice or a contractor hired for this purpose, and would permit an interview with any patient who voluntarily consented to be interviewed.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this proposal to Congress.

I hope the bill will be promptly introduced, referred to the appropriate committee for consideration and enacted.

Sincerely,

ANDREW FOIS,  
Assistant Attorney General.

#### INTERIOR APPROPRIATIONS

Mr. DOMENICI. Mr. President, I rise to engage the distinguished chairman of the Interior Appropriations Committee in a brief colloquy on the recently passed Omnibus Appropriations bill.

Mr. GORTON. I would be happy to engage my colleague in a colloquy.

Mr. DOMENICI. Mr. President, the recently passed months appropriations bill contains funding for many programs within the Department of Interior. It also includes funding for several programs administered by the Department of Energy [DOE]. I rise today to offer my support for continued funding for the DOE Office of Oil and Gas Technologies.

This program plays an important role in the technological aspects of oil and gas development. Moreover, this office plays a critical role in the international arena at a time when the world energy market is undergoing a substantial transformation. The move away from central planning and increased competition in many nations has presented unprecedented opportunities for U.S. companies with the expertise and experience in developing oil and gas production.

The fall of the Soviet Union and the gradual opening of markets in Latin America and Asia have unleashed significant potential for United States companies. For several decades, and some cases longer, oil and gas reserves have been almost entirely under State control. Only recently have these markets been open to outside investment.

Mr. GORTON. Would the Senator yield for a question?

Mr. DOMENICI. I would be happy to respond to the chairman of the subcommittee.

Mr. GORTON. If the opportunities exist for U.S. companies, what role does the Government play?

Mr. DOMENICI. The Office of Oil and Gas Technologies plays a vital role in two major areas. First, DOE will help ensure that the regulatory structures that emerge in these developing countries are favorable to U.S. businesses. This is a particularly important mission for the DOE to undertake because the Office of Oil and Gas Technologies has the technical experience and day-to-day interactions with businesses involved in this area. Moreover, because the energy business in many countries is still wholly or partially controlled by the Government, the prestige of the U.S. Government play a key role in gaining access to the markets for U.S. companies.

Second, the U.S. government needs to be vigilant in helping ensure that the technical and business implications of new trading agreements in the energy sector do not discriminate against U.S. businesses—especially service companies and smaller independent producers who often lack the resources to track these international developments. Since we are making the investment in the technology, we should also make the relatively much smaller investment in helping to ensure that this business and technology do not face unfair competition overseas.

Mr. GORTON. I thank the Senator for yielding.

Mr. DOMENICI. As we have seen in the past few years, tremendous opportunities have arisen for U.S. companies abroad. I hope that the Chairman will join me in supporting continued funding for the Office of Oil and Gas Technologies and their international competitiveness work. I yield the floor.

COMMENDING MICHAEL J.  
MATTHES FOR HIS SERVICE TO  
THE U.S. SENATE

Mr. WARNER. Mr. President, I would like to commend Michael J. Matthes for his exemplary service to the U.S. Senate, and to me, for these past two legislative sessions of the 104th Congress.

Mike is a graduate of the U.S. Naval Academy and has served with distinction for fifteen years in the U.S. Navy.

He has earned the rank of commander and has had extensive experience as a nuclear submarine officer.

He has served as a legislative military advisor in my office with great skill and professionalism.

The Senate will greatly miss his sound judgment, good counsel, and witty sense of humor. Soon he will assume his new duties as a commander of a nuclear submarine.

As Mike quickly became a member of my office family, I witnessed in his daily demeanor his devotion and love for his wife, Mara, and his four lovely daughters, Kelly, Cailin, Colleen, and Sarah.

Mr. President, the Senate has benefited greatly from Mike's service. I wish he and his family every success in the future and hope that his Navy ca-

reer will soon bring him back to the Senate.

EXPATRIATION PROVISION OF THE  
IMMIGRATION BILL

Mr. MOYNIHAN. Mr. President, the immigration bill signed into law on September 30 includes the following provision:

SEC. 352. EXCLUSION OF FORMER CITIZENS WHO  
RENOUNCED CITIZENSHIP TO AVOID  
UNITED STATES TAXATION

(E) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is excludable.

The wording of the statute is embarrassing. How can an alien renounce U.S. citizenship? In what capacity would said alien do so officially? One assumes that a court of law would find the language incoherent and unenforceable. Still, the intention is clear and needs to be addressed.

This is the way we legislate at 5 o'clock in the morning 4 days before adjournment. One wonders how many other similar items ended up in the continuing resolution passed by the Senate less than 6 hours before the end of the fiscal year.

The provision imposes an extraordinary penalty on certain persons who exercise the legal prerogative of expatriation: permanent exile from the United States. Wealthy individuals who renounce their American citizenship to avoid U.S. taxation—expatriates, as they are called—have now been added to the list of terrorists, convicted criminals, persons with communicable diseases, and others who are by statute deemed unworthy of admission to the United States.

It occurs infrequently, but expatriation to avoid taxes is even so a genuine abuse. By renouncing their U.S. citizenship, individuals may avoid taxes on gains that accrued during the period in which they acquired their wealth—and while they were afforded the benefits and protections of U.S. citizenship.

This issue was considered by the Finance Committee early in the 104th Congress. In March 1995, a measure to address the problem was included in Senate legislation to restore the health insurance deduction for the self-employed. Prior to the House-Senate conference, however, concerns were raised about whether the expatriation provision comported with article 12 of the International Covenant on Civil and Political Rights, which states: "Everyone shall be free to leave any country, including his own." The United States is a party to this treaty, and it is accordingly law. We consulted a number of scholars, but there was no immediate consensus on the matter.

Because of the urgency of the underlying legislation, which had to be enacted before the April 17th tax return filing deadline, the conferees chose to

drop the expatriation provision so that the questions of international law could be studied. That decision by the conferees was met with criticism in the Senate. This was surprising, since I believed—and I said on the Senate floor more than once—that it was our duty to act with special care when dealing with the rights of persons who are despised.

The issues of international law were later resolved, and on April 6, 1995, I introduced S. 700, the first Senate bill to tax expatriates on gains accrued prior to expatriation. Subsequently, Chairman ARCHER introduced a bill that did not follow the accrued gains approach, but instead built on current law. In my view and that of the Treasury Department and most other tax experts, the House bill will not effectively deter tax-motivated expatriation. However, the Joint Committee on Taxation estimated that the House bill raised more revenue, and it was included as an offset in the recently enacted Health Insurance Portability and Accountability Act of 1996.

Now, having failed to adopt the preferable—in my view—Senate expatriation measure, we have compounded our error by enacting an ill-advised provision to punish tax-motivated expatriates by banishing them from the land.

The appropriate response to exploitation of a loophole in the Tax Code is to close the loophole. Just 6 months ago, the Deputy Attorney General of the United States agreed. On March 13, 1996, Deputy Attorney General Jamie S. Gorelick wrote to House Speaker GINGRICH in opposition to the provision. She wrote:

The Administration believes that tax issues should be addressed within the context of the Internal Revenue Code, and that it would be inappropriate to use the [Immigration and Naturalization Act] to attempt to deter tax-motivated expatriation.

A short while later, however, the administration reversed its position. On May 31, 1996, Ms. Gorelick wrote another letter in support of the provision. I ask unanimous consent that excerpts of both letters be printed in the RECORD.

Mr. President, we were unable in this Congress to secure needed changes in the tax laws to resolve, again in my view, the expatriation problem. We ought to have enacted S. 700. Instead, we have enacted a measure that does not reflect well on a free society. I do hope we will reconsider this matter early in the 105th Congress.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

OFFICE OF THE  
DEPUTY ATTORNEY GENERAL,  
Washington, DC, March 13, 1996.

Hon. NEWT GINGRICH,  
Speaker, House of Representatives,  
Washington, DC.

DEAR SPEAKER GINGRICH: This letter presents the views of the Administration concerning H.R. 2202, the "Immigration in the National Interest Act of 1995," as reported by the Committee on the Judiciary on October 24, 1995.