uses in this process of analysis is the subject of our request. Based on our review of the history of the ''is apparent'' standard, we believe it to result in a narrower reporting scope than ''probably cause,'' which at best calls for an uncertain ''more likely than not'' judgment.

A more workable approach is to trigger the duty when the ISP receives knowledge of ''facts or circumstances from which a violation of [applicable law] is apparent****'' While the ISP has no duty to monitor its users, in essence this language creates a ''red flag:'' if the ISP in the operation of its service obtains knowledge of material which is clearly child pornography, a red flag should be raised. Such material must be reported to the authorities. It is not, the ISP may be heavily fined—it ignores the red flag at its peril.

As you are aware, this standard originated in Title II of the Digital Millennium Copyright Act, developed in the Judiciary Committee and passed 99–0 by the Senate earlier this summer. For material present on ISPs' servers or material to which ISP's link on the Internet, committee desired to create a standard of liability triggered by disregard of any ''red flags''. It sought a test falling between the familiar ''should have known, could have known'' standard, which was deemed too broad in its coverage, and absolute certainty of infringement, which was deemed too narrow. ''Apparent'' has more the meaning of ''clear on its face,'' and is a higher standard of evidence of illegality than ''probable cause'', which implies ''more likely than not, based on all the circumstances.''. As the bill's extensively-negotiated ''Section by Section'' written analysis states: ''Under this standard, a service provider would have no obligation to seek out copyright infringement, but it would not qualify for the safe habor if it had turned a blind eye to 'red flags' of obvious infringement.''

Again, given this history and understanding of the ''is apparent'' standard, we believe it will be a significant improvement over ''probable cause'' in H.R. 3494's duty-to-report provisions.

In conclusion, thank you for your willingness to continue working with us on this point. Your sensitivity, and that of the Chairman, have once again been crucial in laying down a workable legislative road map for the Internet/online medium.

Very truly yours,

JILL A. LESSER,
Director, Law & Public Policy,
Assistant General Counsel.

Mr. LAUTENBERG. Mr. President, we live in a world where it is increasingly difficult to protect our children. The advent of sophisticated computer technology has made it too easy for depraved criminals to gather information about children and prey upon them. And nothing is more heinous and reprehensible than the brutalization of a child. We cannot be too vigilant in the battle against child predators.

I am pleased that today, with the passage of the Child Protection and Sexual Predator Punishment Act, the Senate is marching forward in this fight. This legislation will provide tough punishment for those who would sexually abuse the youth of our Nation.

This measure contains an important provision, the Joan's Law Act, that Senator TORRICELLI and I originally introduced as a separate bill. This measure is based on a New Jersey law, which was named after a 7-year-old-girl, Joan D'Alessandro. Tragically, Joan was raped and killed in 1973. Although her murderer was convicted of the crime and sentenced to 20 years in State prison, he has become eligible for parole and continues to seek his release.

Joan's family has repeatedly had to fight against parole for this vicious killer. They have been forced to relive this tragedy again and again, as they try to ensure that others are protected from the terrible horror they have suffered.

Joan's law will spare other families from these battles. It provides that, unless the death sentenced is imposed, any criminal convicted of a sexual offense that results in the death of a minor under the age of 14 will be sentenced to life imprisonment. With this effort, we will ensure that cold-blooded murderers who abuse our children will be kept behind bars for the rest of their lives.

Mr. President, I wish that we could do more to alleviate the pain and trauma suffered by the D'Alessandro family. With profound courage and dignity, they have endured so much for so long. Their relentless battle for justice, and their tireless efforts to protect others is an inspiration to us all. I am deeply heartened that Congress has passed this legislative memorial to Joan.

Mr. CONRAD. Mr. President, I would like to say a few words about my strong support of the Mississippi Sioux Tribes Judgment Fund Distribution Act.

In 1967, the Indian Claims Commission rendered a judgment in favor of the Sisseton-Wahpeton Sioux Tribe, the Devils Lake Sioux Tribe (now the Spirit Lake Nation), and the Assiniboine and Sioux Tribe of Fort Peck, to satisfy land compensation claims. In 1968, Congress appropriated $5.9 million for this settlement.

In 1972, Congress passed legislation to provide for the distribution of this award to the three Tribes. Twenty-five percent ($1.5 million) was set aside for lineal descendants who are not tribal members. Funds were distributed to the Devils Lake Sioux and the Sisseton-Wahpeton Sioux in 1974, and a partial distribution was made to the Assiniboine and Sioux Tribe in 1979. However, because the original judgment did not include shares for the lineal descendants, the issue has been tied up in litigation and the lineal descendants' share of the funds has remained undistributed since the passage of distribution legislation in 1972. Since that time, the interest on the fund has grown to nearly $15 million. The bill we have approved today will distribute 71.6005 percent of these funds to the lineal descendants, and 28.3995 percent to the Tribes.

I say again, as I have said on numerous occasions, this situation has gone on long enough. Neither the Tribes nor the lineal descendants benefit from these funds being tied up in court. The Indian Affairs Committee has worked with the Tribes, the Department of the Interior, and representatives of the lineal descendants to craft the compromise embodied in this legislation.

Mr. President, I am pleased by the passage of this legislation, which helps finalize a judgment made three decades ago. This legislation is a fair compromise, one that will help break the stalemate that has prevented the distribution of these judgment funds. I thank my colleagues for their support and assistance.

AMENDING THE ARMORED CAR INDUSTRY RECIPROCITY ACT OF 1993

Mr. COATS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 538, H.R. 624.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 624) to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COATS. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 624) was considered read the third time, and passed.

ANTI-MICROBIAL REGULATION TECHNICAL CORRECTIONS ACT OF 1998

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4679, which was received from the House.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4679) to amend the Federal Food, Drug and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COATS. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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