

article that "by the time of the American Revolution, each colony had established some form of public prosecution. . . ."

Again, however, we have seen that the mere existence of "some form of public prosecution" at the time of the American Revolution does not mean that public prosecution was "standard." And it certainly does not mean that public prosecutors handled the bulk of prosecutions or had much a prosecutorial role. They did not. Rather, the weight of historical evidence on this subject—a subject which has been extensively researched and reviewed by some of our country's most distinguished legal historians and other scholars—suggests that private prosecutions were dominant.

Mr. President, I am glad to have the chance to correct the historical record on this point. I have the utmost respect for my distinguished colleague from Vermont and I thank him for his thoughtful remarks on the history of prosecution in this country. However, I believe that my main point stands: we need to restore rights that crime victims enjoyed at the time the Framers drafted the Constitution and Bill of Rights.

IN RECOGNITION OF NATIONAL NEUROFIBROMATOSIS MONTH

Mr. ASHCROFT. Mr. President, I rise today to recognize May as the National Neurofibromatosis month. Neurofibromatosis (NF) is a genetic disorder that causes tumors to grow along nerves throughout the body. These tumors can lead to a number of physical challenges including blindness, hearing impairment, or skeletal problems such as scoliosis or bone deformities. In addition to these physical challenges, over 60 percent of those diagnosed with neurofibromatosis are also faced with learning disabilities ranging from mild dyslexia and ADD to severe retardation.

Anyone's child or grandchild can have NF. This disease affects one in 4,000 children, making it more prevalent than cystic fibrosis and hereditary muscular dystrophy combined. NF equally affects both sexes and all racial and ethnic backgrounds. Although 50 percent of the cases are inherited, half are spontaneous with no family history.

It is an honor to stand before this body and recognize May as National Neurofibromatosis month. I would also like to take this opportunity to recognize the Missouri Chapter of The National Neurofibromatosis Foundation, Inc. and their efforts to provide support to those who suffer from NF as they strive towards a cure.

VICTIMS' RIGHTS AMENDMENT OPPOSITION

Mr. LEAHY. Mr. President, during the debate last week on the proposed constitutional amendment on victims'

rights, a number of editorials and thoughtful essays were printed in the RECORD. Because of the way in which the Senate ended its consideration of S.J. Res. 3, I did not have an opportunity to include in the RECORD all such materials. Accordingly, I included additional materials yesterday and do so again today, in order to help complete the historical record of the debate. I ask unanimous consent to have printed in the RECORD editorials from a number of sources around the country in opposition to the proposed amendment.

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

[From the Philadelphia Inquirer, Apr. 22, 2000]

MISGUIDED BILL

Crime victims need justice and compassion, not the ability to usurp the rights of others.

If ever there was a likely booster for the cause of empowering crime victims, it's Bud Welch of Oklahoma City.

After his 23-year-old daughter, Julie, perished in the 1995 federal building bombing there, Mr. Welch recalls wanting to see the co-conspirators "fried" rather than tried in court.

But the latest push in Congress to enshrine a victims' bill of rights in the U.S. Constitution does not enjoy Bud Welch's support. Nor does it have the backing of numerous groups equally as concerned as Mr. Welch with seeking justice for victims.

The amendment's opponents include advocates for battered women, the families of murder victims—plus the nation's top state judges, civil-rights groups and veteran prosecutors.

All of them, whether knowingly or not, are heeding James Madison's wise directive that the Constitution be amended only on "great and extraordinary occasions."

This isn't one of those occasions.

These groups understand that the proposals before Congress would completely restructure federal and state criminal justice systems. As such, the victims' rights measure is dangerous to fundamental rights that protect all Americans. In the Oklahoma case that Mr. Welch knows so well, he cites the plea bargain that led to key testimony by an accomplice of Timothy McVeigh and Terry Nichols.

Had victims been able to contest that plea—as provided by the rights proposals in Congress—the case might have been more difficult to prosecute or might even have unraveled.

That's just a hint of the practical problems in according crime victims such rights as court-appointed counsel, a say in prosecution decisions, and the like. How could anyone think things are working so well in the nation's clogged criminal courts that they could handle this wrench tossed into the works?

There's a more fundamental problem, through, with giving crime victims a virtual place at the prosecutors' table.

It presumes the guilt of a person charged with a crime before the courts have spoken. With that, out the courtroom window goes a fair trail—and in comes a threat to all Americans' rights.

What crime victims are owed is compassion, the chance to seek compensation, consideration of the demands a trial places on their time and psyche, and a full measure of justice. That's the intent of victims' rights provisions already enshrined in law or state constitutions by all 50 states.

For instance, the Pennsylvania statute provides for notifying victims of court proceedings, allowing them to comment on—but not to veto—plea bargains, the right to seek restitution, and notification of post-conviction appeals and even convicts' escapes. These are good ideas that don't deprive rights.

Shame on Congress if it seriously considers a measure that could jeopardize the right to a fair trial. Ditto if the victims' rights cause is turned into just another cynical vehicle to make political hay—like the flag-burning nonsense.

The region's senators should not be party to that—no matter what their party.

[From the Providence Journal, Apr. 27, 2000]

THE QUALITY OF JUSTICE

Bud Welch, whose daughter Julie was one of the 168 victims of the bombing of the Murrah Federal Building in Oklahoma City five years ago, testified before the U.S. Senate Judiciary Committee against the proposed Victims' Rights Amendment to the Constitution. "I was angry after she was killed that I wanted McVeigh and Nichols killed without a trial. I probably would have done it myself if I could have. I consider that I was in a state of temporary insanity immediately after her death. It is because I was so crazy with grief that I oppose the Victims' Rights Amendment."

Mr. Welch is right. Giving the victims of crime the constitutional right to influence bail decisions and plea agreements would turn the principle of innocent until proven guilty, the foundation of the American system of justice embodied in our Bill of Rights, on its head. Other countries, notably France, are still striving to incorporate this principle into their legal codes. It would come as a shock to see the United States move away from it, a move that would be rightly perceived as a step backward into law's dark, despotic past—the days of an eye for an eye and a tooth for a tooth.

If that seems a hard indictment of an amendment that sounds so eminently reasonable and fair, consider the provision granting victims the right to a trial "free of unreasonable delay." The very phrase should send chills down the spine. One person's "expedited" trial is another's "legal lynching," to borrow Supreme Court Justice Clarence Thomas' phrase. And, like most amendments to the Constitution, there is no telling where this amendment would lead. Would an assault against a Ku Klux Klan member marching with thousands of co-bigots mean that the state has to notify and consult with every racist marcher "victim" in prosecuting the criminal?

The United States is a country that abhors the miscarriage of justice. It is, or should be, the key element of our national character. No one would contend that it is good that victims sometimes suffer further in the administration of justice, and proponents of this amendment, such as Mothers Against Drunk Driving, fight a noble cause in trying to protect the rights of victims in the justice system. But amendment the Constitution is not the way to do it. Victims' rights laws are on the books in 35 states, including Rhode Island. Strengthen and enforce these laws. That is the way to ensure all Americans, victims and accused, have a fair trial.

[From the Richmond Times-Dispatch, Apr. 16, 2000]

DIFFERENTLY SITUATED

Complaints about partisan rancor in Congress are commonplace. But sometimes it's even worse when Republicans and Democrats agree.

Take the resolution sponsored by Republican Senator John Kyl and Democrat