Today is a new day, and we are just getting started. With that, I hope we will have the opportunity to start afresh. The two managers last night indicated they would be working together and would try to work out a list of amendments to be voted upon. I assume those would include the amendments that were offered last week. I would hope that they are. I encourage them to work out a process to give Senators on both sides of the aisle the chance to offer amendments and to have them voted upon so that we can complete that path to finishing a bill which is critically important to the safety and security of the American people.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SECURING AMERICA'S BORDERS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2454, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2454) to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

Pending:

Specter/Leahy amendment No. 3192, in the nature of a substitute.

Kyl/Cornyn amendment No. 3206 (to amendment No. 3192), to make certain aliens ineligible for conditional nonimmigrant work authorization and status.

Cornyn amendment No. 3207 (to amendment No. 3206), to establish an enactment date.

Isakson amendment No. 3215 (to amendment No. 3192), to demonstrate respect for legal immigration by prohibiting the implementation of a new alien guest worker program until the Secretary of Homeland Security certifies to the President and the Congress that the borders of the United States are reasonably sealed and secured.

Dorgan amendment No. 3223 (to amendment No. 3192), to allow United States citizens under 18 years of age to travel to Canada without a passport, to develop a system to enable United States citizens to take 24-hour excursions to Canada without a passport, and to limit the cost of passport cards or similar alternatives to passports to $20.

Mikulski/Warner amendment No. 3217 (to amendment No. 3192), to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we have worked on trying to break the impasse, and staff for Senator LEAHY and myself worked late last night and have a number of amendments where both sides think we can argue them, debate them, and vote on them. But we have still not resolved the issue as to what to do with certain pending amendments. It was my hope that the pending amendments would be included in the list, but that was not to be the case. We have debated the Kyl-Cornyn amendment. It is my thought that we ought to vote on that amendment. But that is objected to by the Democrats. In order to proceed to consideration and votes on other amendments, we have to set aside the Kyl-Cornyn amendment. Senator KYL is understandably concerned about setting aside his amendment, that he will not have an opportunity to vote on it. So we are still working to try to resolve the issue.

I have just had a short discussion with the distinguished Democratic leader. We are prepared to move ahead, not as usefully as we might but at least to use floor time on matters which we would have later. We have agreed that Senator SANTORUM would be recognized to lay down an amendment and speak about it and that Senator NELSON of Florida would lay down an amendment and speak about it. In the interim, we are continuing to talk to see if we can resolve our differences of opinion.

Mr. REID. Mr. President, it is my understanding that Senator SANTORUM would lay down his amendment, speak on it for whatever time he feels appropriate. Following the termination of his remarks, the Senator from Florida would be recognized, or someone on his behalf, to lay down amendment No. 3220 and speak for whatever time he thought appropriate.

Mr. SPECTER. That is my understanding as well. So we have agreed upon something.

Mr. REID. I ask unanimous consent on that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

AMENDMENT NO. 3214

Mr. SANTORUM. Mr. President, I call up amendment No. 3214 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself and Ms. MIKULSKI, proposes an amendment numbered 3214.

Mr. SANTORUM. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act)

At the appropriate place, insert the following:

SEC. ____. DESIGNATION OF POLAND AS A VISA WAIVER COUNTRY.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States, exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution.

(2) Polish history provides pioneering examples of constitutional democracy and religious tolerance.

(3) The United States is home to nearly 9,000,000 people of Polish ancestry.

(4) Polish immigrants have contributed greatly to the success of industry and agriculture in the United States.

(5) Since the demise of communism, Poland has become a stable, democratic nation.

(6) Poland has adopted economic policies that promote free markets and rapid economic growth.

(7) On March 12, 1999, Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization.

(8) On May 1, 2004, Poland became a member state of the European Union.

(9) Poland was a staunch ally to the United States during Operation Iraqi Freedom.

(10) Poland has committed 2,300 soldiers to help with ongoing peacekeeping efforts in Iraq.

(11) The Secretary of State and the Secretary administer the visa waiver program, which allows citizens from 27 countries, including France and Germany, to visit the United States as tourists without visas.

(12) On April 15, 1991, Poland unilaterally repealed the visa requirement for United States citizens traveling to Poland for 90 days or less.

(13) More than 100,000 Polish citizens visit the United States each year.

(b) VISA WAIVER PROGRAM.—Effective on the date of the enactment of this Act, and notwithstanding section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)), Poland shall be deemed a designated program country for purposes of the visa waiver program established under section 217 of such Act.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, this is an amendment offered along with Senator MIKULSKI on the Polish visa waiver program. This is an issue I have talked about on numerous occasions along with Senator MIKULSKI. We have concern that one of our best allies—in fact, one of our staunchest allies—has great concerns about the way they are being treated in the United States with respect to the visa waiver program.

The visa waiver program is available to 27 countries around the world. That allows citizens from those countries to travel in the United States for vacation and visiting families, et cetera, without requiring a visa. This is a program which is given to countries which we have a special relationship with and which are able to meet certain criteria laid out in the law and have been certified by the Department of State as having met that criteria.

Poland, so far, has not been able to meet the criteria that has been laid out in statute, although I will say that when Senator MIKULSKI and I introduced this in the last session and

pushed for its adoption, I think we energized the administration and State Department to get to work and try to find a way for us to meet the Poles halfway with respect to getting them into the visa waiver program.

I am very pleased to see that last year, they were again writing letters, putting on pressure, threatening to bring this bill up for purposes of passage. We brought it up in the 108th Congress and tried to pass it. Unfortunately, there was an objection on the other side of the aisle. We cleared it here, and I think there is broad support for taking a country—and it is now 25 years since the strike at the Gdansk Shipyard. There has been a tremendous change in this country which was brought about by real freedom fighters, led at the time by Lech Walesa and subsequent leaders to establish a stable democracy there—a democracy that is thriving and one that had an election recently and elected a new President. It is a President who I believe will continue to have very strong ties to the United States.

I know the Polish people. I have a lot of Poles in my State, and they tell me they travel over there, and the sentiment and feeling toward America is very strong. There is support for us in the war on terror, as strong as any country in the world. They have been a terrific ally during this period of time.

Obviously, the contribution the Polish Americans have made to this country, from Revolutionary War times all the way through today, is quite striking and important. So we have a country that has made fundamental changes toward democracy and toward a free market economy, which is doing relatively well, a country that we have so much in common with. Yet while almost all of the European Union countries participate in the visa waiver program, unfortunately, Poland has not been granted that waiver.

The President, last year, in response to the activity here in Congress, was able to put together what is called the roadmap. The roadmap was negotiated on February 9 of last year with then-President Kwasniewski. He laid out some very real steps to try to help give Poland another chance to show that they are prepared to meet the requirements of the law.

Unfortunately, we still have a situation where we have very high refusal rates. That is one of the criteria, but I am not too sure it is a good criterion. It basically trusts a bureaucrat in an embassy in Poland to determine whether someone should enter this country for the purpose of travel. When they are refused, for whatever reason, that adds to the refusal rate, and that rate is high. I don't know whether the embassy there is tougher or what. Also, the refusal rate sometimes is not reflective of the actual percentage of people who are trying to come here and are refused. If 1 person wants to come and asks 10 times, that is 10 refusals, not 1. To me, that also can skew the number of refusals.

I am just suggesting that I think we have a special case here. Congress has done this in the past with Ireland. Congress stepped forward, and we pushed the executive branch at that time to allow Ireland into the visa waiver program. I think it is time for us, given the tremendous support we have gotten from the Polish people, the tremendous relationship between our countries, the tremendous contribution the Poles continue to make to this country—and I can tell you, hearing from them on a regular basis as I do, since we have a large Polish population in our State, that this is something vitally important to Polish Americans—the ability of family members to come for weddings, funerals, birthdays, et cetera, and not have to wait for the bureaucracy at the American Embassy in Poland to approve these types of activities.

This is an important sign to a good friend that we stand with them and that we want to treat them as one of our best friends because, indeed, they are one of our best friends in the world. Senator MIKULSKI and I have drafted a piece of legislation that puts Poland into the visa waiver program. I reached out to the Judiciary Committee, which is responsible for this bill. I said: Look, if you have concerns and some tweaks we can make that gets them into the program but puts reasonable standards in place, we are happy to consider that. To date, on both sides of the aisle, we have not had very much cooperation in making what I consider to be some minor tweaks that would be necessary to pass this legislation.

I have come today to offer this amendment. Hopefully, we can get this accepted. If not, I would like to have a vote on this amendment. I believe it is important for all of us to stand up before our friends in Poland and affirm our support for them, as they have affirmed over the past many years their support for the United States and the initiatives we have taken around the world.

Mr. President, if you look at some of the countries that are in this program, we have countries such as Brunei in the visa waiver program, San Marino, and Liechtenstein. I suggest that if you are looking at countries that are supportive of the United States, I am not too sure you would name those above Poland. If you name a country whose culture, whose people have close ties to the United States, I am not too sure you would list those countries above Poland.

I hope we can consider this amendment and adopt this amendment, approve this amendment, and send a very strong signal to our friends in Poland that we stand in solidarity with them for their efforts to democratize, to open markets, and to create the freedom that our President and so many in the Chamber have advocated over the past several years.

With that, I yield the floor.

Ms. MIKULSKI. Mr. President, I rise today to continue the fight to right a wrong in America's visa program. I believe it's time for America to extend the visa waiver program to Poland. I am pleased to have formed a bipartisan partnership with Senator SANTORUM to introduce this amendment to get it done.

In September 2004, Senator SANTORUM and I met with a hero of the Cold War, Lech Walesa. When he jumped over the wall of the Gdansk Shipyard, he took Poland and the whole world with him. He told us that the visa issue is a question of honor for Poland. That day, we introduced a bill to once again stand in solidarity with the father of Solidarity by extending the visa waiver program to Poland.

Last month, I had the honor of meeting with Poland's new President, Lech Kaczynski, joined by my colleagues Senator LEVIN and Senator LUGAR. We reaffirmed and cemented the close ties between the Polish and American peoples. And we heard loud and clear that the visa waiver program remains a high priority for Poland.

My friends, Poland is not some Communist holdover or third-world country begging for a handout. The Cold War is over. Poland is a free and democratic nation. Poland is a NATO ally and a member of the European Union. But America's visa policy still treats Poland as a second-class citizen. That is just wrong.

Poland is a reliable ally, not just by treaty but in deeds. Warsaw hosted an international Conference on Combating Terrorism less than 2 months after the September 11 attacks. Poland continues to modernize its armed forces so they can operate with the Armed Forces of the U.S. and other NATO allies, buying American F–16s and Shadow UAVs and humvees.

More importantly, Polish troops have stood side by side with America's Armed Forces. Polish ships participated in Desert Shield and Desert Storm during the first gulf war. Poland sent troops to Bosnia as part of UNPROFOR and IFOR. Poland sent troops as part of the international coalition in Afghanistan.

Polish troops have been fighting alongside American troops from day 1 of the Iraq war. Seventeen Polish soldiers have been killed in Iraq, and more than 20 have been injured. They are in Iraq because they want to be reliable allies—because they are ready to stand with us even when the mission is risky and unpopular. Today, nearly 1,000 Polish troops are still on the ground in Iraq, sharing the burden and the risk and the casualties. Next year, Poland will send more than 1,000 troops to Afghanistan to lead NATO's International Security Assistance Force.

So why is France among the 27 countries in the visa waiver program but Poland is not?

This amendment will add Poland to the list of designated countries in the visa waiver program. That will allow Polish citizens to travel to the U.S. for tourism or business for up to 60 days

without needing to stand in line to get a visa. That means it will be easier for Poles to visit family and friends or do business in America. Shouldn't we make it easier for the Pulaskis and Kosciuszkos and Marie Curies of today to visit our country?

We know that our borders will be no less secure because of these Polish visitors to our country. But we know that our alliance will be more secure because of this legislation.

I urge our colleagues to join us in support of this important amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 3220

Mr. NELSON of Florida. Mr. President, I call up amendment No. 3220.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 3220.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To use surveillance technology to protect the borders of the United States)

After section 102, insert the following new section:

SEC. 103. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

Strike section 102(a).

Mr. NELSON of Florida. Mr. President, the sole intent of this amendment is to take what the committee bill provides in enhancing border security by utilizing technology and enhancing and integrating and coordinating that technology, the use of electronic surveillance on the border to augment our border patrol, and the use of unmanned aerial vehicles, which are a much cheaper version than the military version, but you can see at night and can also see during all weather—to take that technology and integrate it and coordinate it is the intent of the amendment.

The amendment was born out of an inspector general's report of the Department of Homeland Security, as well as the GAO report on how we can use additional coordination of our technology to enhance our border security. It is as simple as that.

I am assuming that the chairman of the committee will accept this amendment because it is just a commonsense amendment. We want to secure our borders. There are so many people we can hire; therefore, we ought to augment those Border Patrol personnel to secure the borders.

Here are a couple of examples. Right now, under electronic surveillance, the signal will go off that somebody has penetrated the barrier. That signal will go to a DHS employee, who then has to activate a camera and search as to where that particular electronic sensor has gone off. That is inefficient use of

personnel. We have the technology. We can integrate it so that when the electronic sensor goes off—someone has crossed the border—the cameras in that particular location can automatically go off and record the event, that event can be sent out to multiple DHS substations, and it can also be sent out into a permanent databank so that we have a permanent record of that event. That is one example.

Another example is that you have an unmanned aerial vehicle, a drone, that is flying overhead and—same thing—an event is spotted. It is a crossing of the border illegally. Right now, that event is sent back to personnel in DHS.

Both the GAO report and the inspector general's report say you ought to integrate all that. It ought to likewise—that event—be sent back to multiple DHS substations for their immediate response, and it ought to go to a permanent databank where it is recorded so that we have this vast amount of data. That is the sum and substance of the amendment.

I inquire of the Chair, is there a previous order that I was allowed to offer just this one amendment, which is No. 3220? I have a second amendment that is parallel, No. 3221. What did the previous order require?

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is entitled to offer only one amendment.

Mr. NELSON of Florida. I see. Well, then, at some point, I will then likewise be offering a second amendment, which is quite similar. I explained a bit about it yesterday.

I will simply take this opportunity, while I have the floor, to point out what that amendment does, and the committee bill has moved in the right direction. The committee bill is providing 20,000 detention beds for people who are picked up for having been illegally in the country. What happens now is that somebody comes across into America, they are here illegally, and what do you know—we don't have the detention space in which to process them. They are released. There is one part of the border where up to 90 percent of the captured illegal aliens are released after being caught by DHS. Guess what happens. They completely disappear. Only 10 percent, approximately, appear for their subsequent immigration court hearings. DHS says we don't have any space. Presently, DHS has in the range of about 10,000 detention bed facilities. So 90 percent of captured aliens are released. The committee bill clearly is a step in the right direction. What they have done is doubled that to 20,000 beds. What my amendment would do is say let's be realistic: 20,000 beds is not going to cut it, and you are going to continue on this practice of finding an illegal alien and DHS is going to be required then to release them into American society, and they are not going to turn up again. We simply have to stop this.

My amendment is going to provide an additional 20,000 beds a year for 5 years or, in other words, to get us to the point after 5 years that instead of having 20,000 detention beds, we will have 100,000 detention beds and be able to meet this problem and stop releasing illegal aliens right back into society.

At the appropriate point, I will be offering amendment No. 3221.

Mr. President, I thank you for the opportunity to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I believe under the previous order, Senators have been allowed to offer amendments as we proceed—not on the immigration bill but on an unrelated bill while the immigration bill is pending.

I ask unanimous consent to speak as in morning business for 10 minutes for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 10 minutes.

Mr. LEAHY. Mr. President, I also ask unanimous consent that at the conclusion of the senior Senator from Louisiana's time, the Senator from Vermont then be recognized to speak on the immigration bill.

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

INTERNATIONAL ADOPTIONS

Ms. LANDRIEU. Mr. President, I thought it had been cleared to present an amendment and discuss it briefly and, at a later time, have a vote on the amendment. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be submitted for the RECORD.

Ms. LANDRIEU. Mr. President, I offer this amendment on behalf of myself and Senator DEMINT. Senator CRAIG is also a cosponsor, and several other Senators who have been working actually for several years on this proposal. In fact, my great partner on this bill was the former Senator from Oklahoma, Mr. Nickles. Unfortunately, we couldn't get this bill through by the time he left. So I know he will be pleased we are continuing the good work he actually put into place.

This is an amendment that I think is going to get great support, broad-based support from both the Republican side and the Democratic side. While there are many issues in this bill that are extremely controversial and very difficult and complicated to work out, which is why it is taking us a good bit of time and our managers are struggling with it as I speak, this particular piece I think is going to be welcomed with open arms.

Actually, the subject of this amendment is for us to welcome children into this country with open arms. These are children who are being adopted in ever increasing numbers by American families. The number of orphans around the world is growing exponentially for many reasons—extreme poverty, war, violence, the growing AIDS epidemic—creating a tremendous increase in orphans around the world.

We are working in many different ways to address that situation, such as strengthening child welfare systems within countries of Africa, within countries such as China and India, as well as strengthening our own domestic child welfare system. Many things are underway in partnership with our Governors and our local officials to do that right here in America.

But the fact remains that despite our best efforts to strengthen families, to improve child welfare systems and procedures in our country and around the world, the number of orphans is growing. The good news, however, is Americans are stepping up in unprecedented numbers to adopt more children out of our foster care children who, through no fault of their own, have been separated from their birth families and some for very good reasons because they have been abused, neglected, and have been, unfortunately, in some instances, hideously tortured at the hands of people who are supposed to be caring for them.

We have increased the opportunities for adoption. This amendment I am offering, called the ICARE Act, as an amendment to this bill proposes to improve the international adoption process. We have increased international adoptions from 7,000 children abroad in 1990 to over 23,000 children by 2004.

You may know, Mr. President, of families from Georgia who have adopted children from other countries. In fact, Members of the Senate have themselves gone through international adoptions with great success and, of course, a great blessing to the receiving family and a great blessing to these children whose options were extremely limited to the countries from which they came.

This bill that has been thoroughly examined over the last several years by the authorizing committees would afford foreign adopted children the same automatic citizenship that is granted to a child born to an American family overseas. If you are overseas and you have a baby, that baby gets automatic citizenship. This would, at the act of adoption in a foreign country, provide that same coverage to children who are adopted.

Of course, those of us with adopted children try to explain to everyone that once you have adopted children, it is impossible to distinguish between children you have adopted and biological children. You love them the same and they are an immediate part of the family. Many of us have experienced that on our own.

The amendment would also eliminate much of the redtape and paperwork associated with foreign adoptions, centralize the current staff and resources working on international adoption into one office, the Office of International Adoption in the State Department, and it would enable our State Department

to provide greater diplomatic representation and proactive advocacy in the area of international adoption.

The fact is, in conclusion, since 1965, when these original laws were placed on the books, they have not kept up with either the pace or the change of international adoption, and that is what this amendment seeks to do.

So on behalf of Senator DEMINT, myself, Senator CRAIG, who serves with me as cochair of the adoption caucus, and others, I offer this amendment for the Senate to consider. When we get to the time when we can vote on some of these amendments, I hope to reserve some time to speak again about the importance of this amendment and, hopefully, it can be adopted by a voice vote. Hopefully we won't have to have a long debate about this, but if we do, I am prepared to debate this amendment for the thousands and thousands of families in America who, in their mind, are doing literally God's work by going to countries and adopting children who, without this intervention in their life, would literally, in many instances, die.

For Americans, the least we can do is reduce the redtape, honor their extraordinary commitment and their deep financial commitment, as well as to bring a child here at great expense and to raise them, and it is not cheap to do that in the United States. We want to honor that work Americans are doing and say we are reducing their paperwork, making things more automatic for them, all the while keeping our safeguards in place for a transparent, cost-effective system of intercountry and international adoption.

That is what my amendment does. Again, I offer it on behalf of myself and Senator DEMINT.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad the senior Senator from Louisiana is on the floor. I commend her for her statement. She has been a Senate leader on this very important humanitarian matter. We have discussed the question of international adoptions many times. I know how wonderful she has been in—I don't mean to embarrass her—not just her position as a Senator, but in her personal life. She has been wonderful. She has worked with Republicans, Democrats, and those who have no political affiliation on this issue.

I have to think that because of her work there are many children throughout this country who are going to have a life much better than they would have had otherwise. I commend my colleague. I am glad to serve with her and I know she wants to bring forward an amendment on this subject. I believe it is No. 3225, which I should also note is a bipartisan amendment.

I support this amendment, the ICARE Act. I hope we can agree to have it formally offered and successfully considered. International adoption cries out for this relief. I will work with my colleagues on the other side of the aisle to see if we can get this adopted. I would be surprised if there is any Senator—Republican or Democrat—who would object to it. I certainly will give it my strong support.

Again, I commend the Senator from Louisiana.

Ms. LANDRIEU. I thank the Senator.

Mr. LEAHY. Mr. President, we were making some progress yesterday. We had a number of amendments that were adopted—one by the distinguished Republican leader and others. But then some tried to turn this into a partisan fight, and I think that is unfortunate. I hope we are back on track. We heard from a number of Senators on both sides of the aisle who support the bipartisan comprehensive bill, some of whom came down to speak for the first time in this debate. Senator MENENDEZ spoke from his unique perspective as one who was a Member of the House during their debate on their bill. He was there when they debated their immigration bill. It turned out to be a very narrow and punitive bill, which he opposed. He is now a Member of the Senate and is supporting a far better bill here today.

Senator NELSON of Florida described amendments in which he is interested. Senator LIEBERMAN spoke about an amendment which he and Senator BROWNBACK wish to offer relating to asylum. Senator BROWNBACK and Senator LIEBERMAN have this totally bipartisan amendment to which, for some reason, my Republican colleagues on the other side of the aisle are objecting. Senator KERRY spoke forcefully and eloquently.

I wish to speak for a moment about the comments made by the distinguished Senator from Colorado, Mr. SALAZAR. I was struck by his description of the slurs to which he has been subjected for his support of the comprehensive bipartisan committee bill. I talked with Senator SALAZAR, I think it was probably about 9:30 last night. He called me at home and we talked about his experiences. I told him how proud I was of him for standing up. Some of the things that were said were things such as: ''Go back to where you came from.'' His family came to North America in the 16th century, a lot earlier than either side of my family. He is justly and rightly proud of his background, his ethnic background, and the great contributions he and his family have made to this country. I think about how horrible it is that he has to face these kinds of slurs. We are trying to do what is right for all Americans. This is not a situation where we have tried to craft a bill for one group of Americans over others, and Senator SALAZAR has worked to help us accomplish this.

So these slurs are wrong and it should be unacceptable to all of us. Senator SALAZAR is an outstanding Senator who has made great contributions. He served previously as the attorney general of his State. He is thoughtful and genuine, and he approaches issues in a serious manner. I am deeply offended that opponents of comprehensive immigration legislation have subjected him to these slurs. Let us debate the issues and stop the name-calling.

I think that those of us, many of us, who have been called anti-Catholic or anti-Christian or anti-Hispanic or anti-southern or anti-women or anti-American, have been subjected to these attacks because those who disagree with us find it easier to smear than honestly debate the issues. I find it most unfortunate that a Senator of the quality and integrity of KEN SALAZAR would be subjected to this form of an attack. This seems to have become a new and unfortunate way to debate. It is almost like an ethnic or religious McCarthyism we are facing. People don't want to debate the issue, so they slam somebody and suggest base motives.

I remember in another debate when some Republicans disagreed with me, they tagged me as being anti-Catholic and anti-Italian. I thought of the slurs my Italian grandparents faced when they immigrated to this country, and what my mother faced as a young girl because she spoke a language different than others were used to. But I also think of the pride my Italian relatives felt, here in the United States and in my grandparents' home in Italy, when I became a Member of the Senate. I don't feel I have to prove my bona fides for any of my heritage. My father was proud of his Irish background and my mother was proud of her Italian background. They were both proud of their heritage, but they went through a difficult time at a different time in this country.

I think of the stories of when my father was a teenager and had to support his mother and sister because my grandfather died as a stonecutter in Vermont. At that time Vermont was a much different State. It was not the wonderful, proud State it is today. My father faced signs that said: ''No Irish need apply'' or ''no Catholic need apply.'' In their time, my grandparents faced similar things. That has changed.

I worry about those who are unwilling to debate issues of importance to this country, people who won't debate the merits, but simply attack people, as they have Senator SALAZAR or me with baseless religious or ethnic claims. It is a form of McCarthyism; it is just intolerance of a different nature. This Senate should be above that.

Those who have seen this happen, whether they are Democrats or Republicans, should condemn it. They should stand up and condemn it, as one of the greatest Vermont Senators ever to serve, Ralph Flanders, did when he supported a resolution of censure of Joseph McCarthy for what he was doing. They were members of the same party, and he condemned what McCarthy did.

President Bush called for a civil debate and I wish his supporters would follow that suggestion. I agree with the

President on this. We should have a civil debate. But I wish somebody, even one Republican, would step up and condemn the unfounded attacks and disassociate themselves from such poisonous conduct. We have a major piece of legislation here that will affect all 295 million Americans, and it will affect 11 million people who are here in an undocumented status in our great country. Let's talk about that and how we can best solve this difficult situation for the good of our country. Let's not impugn the character or the motives of any Senator.

During yesterday's debate, we had a procedural discussion that became unnecessarily heated. I have been here 32 years. Let's go back to having a Senate that will debate issues and get away from the polemics and the name-calling. During the course of the day yesterday, both the Democratic leader and I suggested, along with members of the staff, amendments on which we could have votes. Republican and Democratic amendments alike. I think if we had votes on these amendments, or even now if we had votes on these amendments, which are offered by Republicans and Democrats, some by both, we would have the kind of movement that, in my experience after 32 years, gets legislation through.

We sent an initial list of amendments to the other side that we believe could be scheduled for debate and votes. There is one by Senator BROWNBACK and Senator LIEBERMAN that has been rejected. It could pass with probably 80 votes in this body if it came to a vote. I don't know why we can't vote on that.

Some on the other side tried to turn this into a partisan debate. The Democratic leader, Senator MCCAIN, Senator KENNEDY, and others have taken a bipartisan approach. Senator SPECTER and I have worked very closely, along with our staffs, under extraordinarily difficult scheduling to get this bill on the floor. What we brought to the floor is a bipartisan product, and everybody says, let's have a piece of bipartisan legislation. The President of the United States has said that. Most columnists have said that. We say that in our speeches. Well, let's do it with our votes. Let's not do it just for the rhetoric; let's do it in reality.

The Democratic leader has filed a petition for cloture that I hope will be successful on comprehensive, realistic, and fair immigration reform so we can take action this week. If we don't, let's stay through the weekend and let's get this done. Let's get it done. Stop the polemics.

Finally, as I have said before, don't let politics in this country degenerate into an ethnic and religious McCarthyism, which is what this debate has become. As a man of faith, I am proud to be a U.S. Senator, but I will make my decisions based on what the facts are before me. I am proud of my ethnic background. I am proud of the rich culture it has brought to our family, as I am proud of my wife's background as a first-generation American and the language skills and the background she brought with her. I am proud of the diversity of my grandchildren. But I make my decisions as a Senator based on one thing: the extraordinarily solemn oath I have been privileged to take in this Chamber six different times. I am mindful of the extraordinary privilege it is to walk on this floor and to have a chance to vote. I will vote my conscience. I will bring to bear my skills and my background as a prosecutor and a lawyer, as a Vermonter, aided by as fine a staff as anyone could have. I will bring that experience to these votes. But I will not be cowed by the obscene and irrational name-calling by the other side; nor, as I mentioned earlier, will Senator SALAZAR, who is a man with an extraordinary background, tremendous integrity, honor, and abilities.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SPECTER. Mr. President, we have not yet been able to reach agreement on voting on key amendments. We do have some peripheral amendments we will be offering and voting on. We have no agreement on laying down an amendment, but I believe there is no objection to having Senator KYL speak to an amendment he would like to lay down at a future time.

Mr. REID. Mr. President, we certainly have no objection to anyone speaking on this bill at any length they feel appropriate. But at this stage, we are not going to agree to set aside the pending amendment for laying down other amendments.

Mr. SPECTER. Mr. President, may I ask the distinguished Democratic leader if that applies to laying down an amendment?

Mr. REID. Yes.

Mr. SPECTER. I don't see the logic, but if we can move ahead for Senator KYL to discuss an amendment that perhaps one day he will be able to lay down and perhaps one day he will be able to vote upon it.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3246

Mr. KYL. Mr. President, yesterday I sought to introduce amendment No. 3246. I will not offer that again right now since the minority has indicated it would object to the offering of the amendment, but I will at least explain what it is. It is a very straightforward amendment that essentially addresses the future temporary worker program. I am not talking now about what is going to happen to the group of people who are here illegally today. We are talking about people who in the future might want to come legally from their country to work temporarily in the United States. For that group of people, there obviously needs to be a system for verifying their eligibility and for ensuring that program can work. It is estimated that it would take about 18 months maximum to make sure that all of the things would be in place for that program to work.

This amendment simply provides that things that the bill calls for to be in place within that roughly 18-month period of time would actually have to be in place before the temporary worker program commenced. In other words, it answers the question that many people ask: If you grant people a right to come to the United States and work here, how can we be sure that you have done all of the other things you have said you would do? In effect, this answers it by saying the temporary worker program doesn't start until we can certify that those other things were done.

All of us have talked about the need to ensure that we have enough detention spaces for people who came here illegally and need to be detained; that we have enough Border Patrol agents; that we have enough appropriation for some of the other things the bill calls for—and we are talking about the underlying bill. Given the fact that we all seem to agree that those things need to be done, what this amendment does is answer the question, How do we know they will be done? One way we know they will be done is the temporary worker program doesn't kick in until they are done.

We are not talking about in toto, we are only talking about 18 months' worth of the program. For example, we know that the number of people within the Department of Homeland Security who will be required to investigate compliance with immigration laws related to the hiring of aliens needs to be increased by 2,000, and those people would need to have been employed. We know the number of Border Patrol agents within the Department would be increased by not less than 2,500 more than on the date of enactment. That is approximately 1 year's worth of increase in Border Patrol agents. In addition, detention spaces I mentioned would have to be increased to a level of not less than 2,000 more than the number of beds available on the date of enactment. That is about the number that would be created in 1 year's worth of activity under the bill.

The point is, we say there are certain things we have promised would be done. In order to make sure that promise is kept and to answer that question of the American people who say: How do we know, since the law hasn't been enforced in the past, that you are going to enforce the new one, one way we can demonstrate that is to say that the temporary worker program under the new law doesn't kick in until these certain objectives have been satisfied.

They are not unreasonable. They are what is already called for in the bill. If we mean what we say in the legislation, then this amendment should not be a difficult amendment to adopt.

I reiterate that this applies to what some on the staff have called future flow workers. It does not apply to the people who are here illegally today. There is a separate temporary worker program for those people. But for future flow, in order to make sure that program will work, we have to have certain things in place. This bill would require that some of the things that we have promised would occur within that year's period of time would, in fact, have to be in place before this new temporary worker program would kick in. As I say, when we get an opportunity to offer that amendment—it is amendment No. 3240—I hope it will be adopted.

AMENDMENT NO. 3206

Let me also speak to an amendment that is pending. It is the pending business, but we haven't been able to get a vote on it. The number on that amendment is No. 3206.

What this amendment implies is that people in certain categories would not be able to participate in the program, and those categories are primarily people who are criminals or people who are absconders. By ''criminals,'' we mean people who have been convicted of a felony or three misdemeanors.

The current law provides that if you have been convicted of a crime of moral turpitude or a drug-related crime or five multiple offenses that amount to 5 years in prison, you cannot participate in the program. That is fine, but it leaves out a lot of other crimes. I read the list of crimes yesterday that would not be covered under the existing bill.

What this amendment says is, if you have ever committed one of these other crimes or if, instead, you have committed one of these other crimes, then the program would not be available to you, either. Let me note what a couple of those other crimes would be. Crimes which are not covered under the current bill but which would be included in this amendment include burglary, involuntary manslaughter, loansharking, assault and battery, possession of an unregistered sawed-off shotgun, riot, kidnapping, making a false statement to a U.S. agency——

Mr. DURBIN. Will the Senator yield for a question?

Mr. KYL. Yes, I would be happy to yield.

Mr. DURBIN. Will the Senator help me understand his amendment? As I understand it, he has spent a great deal of time explaining crimes that would be included which would disqualify a person from the possibility of legalization, but he has not spent time discussing what I think is the more troublesome aspect of his amendment, which would say that if a person overstays a visa, he or she would be ineligible for legalization.

If I could concede to the Senator from Arizona that, if he is going to add the crimes he has mentioned—I happen to think they are currently covered by the bill before us, but if there is need for some clarification in that regard, I think we could work on it—but would the Senator be kind enough to address that basic issue? Are you saying if a person, currently on a student visa, is failing a class, drops the class, no longer is a full-time student and is therefore out of compliance with the student visa, that person by virtue of dropping that class has now disqualified himself from legalization under the bill that is before us?

Mr. KYL. Mr. President, I am glad the Senator from Illinois asked the question. That was the second point I was going to get to. The first had to do with crimes, but I will be happy to leave that conversation and move to the absconders, as I said. ''Absconders'' is the word that is used to describe those people who have been ordered by a judge to leave the country because of something they have done—more than simply overstaying a visa—and have refused to do that. In other words, they have already demonstrated an unwillingness to comply with an order to leave the country.

Obviously, part of the enforcement of all of this legislation depends upon our ability to enforce the law for people who are unwilling to comply with the law's terms. If someone has already demonstrated an unwillingness do that, it seems to me they should not be eligible. And let me go on to say that the suggestion that a simple visa overstayer is caught up in this is not true—not true.

Mr. DURBIN. Will the Senator yield?

Mr. KYL. Why don't I explain it, and then the Senator from Illinois won't have to keep asking questions about what it actually does.

There are four different sections. One of them has to do with the removal of people where there has been a formal proceeding and the alien has been detained. That is section 238. There are probably about 20,000—well, probably more than that, but there is at least a minimum of 20,000 because many of those are other than Mexicans. We do not have the number for people, for example, who would be Mexican citizens.

There are also formal proceedings before an immigration judge. This number of absconders is far greater. That is section 240. There are a lot more in that category, perhaps 200,000 to 300,000 people.

Mr. DURBIN. May I ask a question?

Mr. KYL. Let me finish the discussion so the Senator will not have to interrupt and ask questions, please.

Third, there are the situations where you have visa waiver countries where, because of the terms of the visa waiver, there has been a prewaiver of a right to contest removal, so there is no formal proceeding. There are about 900 removed under that provision per year. So this is not just visa overstayers. There are millions of visa overstayers, obviously. And finally the category of expedited removal, which is section 235, where an alien is detained until deportation. We don't have data on how many were deported but are still in the United States.

These are categories of people where it is not simply violating it—it is not coming into the United States illegally that triggers a visa overstayer. In fact, I am not sure we wrote this broadly enough because a visa overstayer such as Mohamed Atta—somebody from a country that does not have a visa waiver, from a country such as Saudi Arabia—would not be caught. So here is Mohamed Atta who overstays his visa, flies an airplane into the World Trade Center, and he would not, even under the amendment we have provided here, be precluded from participating in the program.

What I am saying is I don't think we drafted this quite broadly enough, but it makes the point that merely overstaying the visa does not catch you up in this particular bill. So it is wrong to say all we have to do is overstay a visa and this amendment would catch you up. That is simply not the case. The number probably caught up in this would be in the neighborhood of 300,000.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. KYL. I would be happy to.

Mr. DURBIN. Mr. President, here is what I understand the law to be and what your amendment says. The law, as I understand it, is if you are in the United States on a student visa from a foreign country, you are required to be a full-time student and to stay. If you are failing a course, you drop out of the course, you are no longer a full-time student and, therefore, you are ineligible to stay on a student visa. At that point, you are subject to a final order of removal which means you can be deported from this country, having a presence in this country that is not recognized by your student visa because you dropped the course.

Now let me read what your amendment says. It says:

> An alien is ineligible for conditional nonimmigrant work authorization and status under this section if the alien is subject to a final order of removal.

Mr. KYL. Keep reading.

Mr. DURBIN. ''Under sections 217, 235, 238, and 240.''

My question to you is this——

Mr. KYL. Mr. President, let me reclaim my time. The reason I said ''keep reading'' is because I just read to you under each of those sections, 217, 235, 238, and 240, the specific circumstances under which someone would be precluded from participating in the benefits of the bill. It is not, with due respect, as the Senator from Illinois said, overstaying a visa. You have to have been subject to one of these four specific sections.

As I said, the first one is a visa waiver. There were 900 people last year who were removed under that. It wouldn't

even include a person such as Mohamed Atta, as I said.

I need to go back and try to fix the amendment with regard to that. Sections 235 and 238 are the expedited removal of aggravated felons and I am sure the Senator doesn't want to allow those people to remain. Section 240 is where there has been a formal appearance before an immigration judge and a person has specifically been ordered to depart and has not done so.

It is simply wrong to say if you come across the border and stay here, or if you overstay your visa, you are caught up in my amendment. My amendment is much more specific than that and specifically only deals with those people you would not want the benefits to apply to.

Mr. DURBIN. Mr. President, if I might further ask a question without asking the Senator to surrender the floor, of course, let me ask this question: What you said and the last thing you mentioned was if you were in the United States and had an order issued that you will leave, depart, but the language of your amendment doesn't say that. The language says you are subject to a final order, which means you could be—you could be—subject to a final order. You are not saying a final order has been issued for deportation, and, therefore, you are ineligible. You are saying you are sure. If I have overstayed my visa, sadly, I am subject to an order of deportation, even if it has not been entered.

Mr. KYL. Mr. President, let me answer the question again by saying I know my colleague is a good lawyer, but you have to read the whole sentence. You can't read half of a sentence and drop off the last part of the sentence. It specifically says under section 217, 235, 238, or 240. It is not simply subject to a final order of removal. It is subject to a final order of removal under one of those four sections.

The last section the Senator referred to is section 240. That is where there has already been a formal proceeding before an immigration judge, an order of removal has been issued, and it has been violated. Yes, the person is subject to a final order of removal because that person has already violated the judge's order.

As to each of these sections, as I said, there is a specific reason why it is included and why it isn't merely subject to a final order of removal.

Mr. DURBIN. Mr. President, if I might further ask a question, if the Senator from Arizona wants to make it clear that overstays on visas do not disqualify you from the pathway to legalization unless a final order has been entered saying you must be deported, I wish the Senator would clarify that language. As it stands, you have said if you are subject to—meaning you could be charged with—having overstayed your visa, you could be deported then you are disqualified. I think if you would clarify and tighten the language, it would overcome some of the serious concerns we have. The example the Senator used in other cases of terrorists and people we clearly don't want in the United States, I don't think you will have much, if any, argument. But when it comes to this particular circumstance, I think the language is subject to an interpretation you may not want.

Mr. KYL. I appreciate the suggestion of the Senator from Illinois. It is a usual legislative drafting tradition to say what you mean by referring to other sections of law and only those sections of law that you intend to cover. That is what we have done here. We have not referred to sections of law that would refer broadly to anyone who has overstayed a visa.

Let me reiterate. The Senator asked about the court proceeding. That was the section 240 I referred to. That is specifically where there has been a proceeding. The others I mentioned I will reiterate again.

The visa waiver: As the Senator knows, there are 27 countries where we have a relationship with a visa waiver. What that means is the individual, upon entering the United States, waives rights somebody under section 240 would not have waived because they do not even have to present a visa to the United States. They, in effect, agree as they come in, as a condition to the use of that provision, to be removable for violation of their visa.

As I said, last year, according to our information, a grand total of 900 people were removed under that particular provision.

This is not something on which we round people up and send them home. The expedited removal, sections 235 and 238—as I said, 238 is the removal of aggravated felons—and expedited removal under the provision the Department of Homeland Security has now established for other than Mexicans who come to the United States, for whom there is no detention space and who are being removed from the United States, are subject to this as well.

To talk about what this problem is and why we are trying to solve it, you have 39,000 Chinese citizens in the United States illegally whom the Chinese Government won't take back. There are similar numbers of people from other countries, although I do not know of any quite that large.

It is not a simple matter with people from countries such as this to take them to the Mexican border and turn them over to Mexico which obviously won't take them. They are not Mexican citizens. We don't have the detention space right now to accommodate about 165,000 other-than-Mexican illegal immigrants. The Department of Homeland Security has announced their streamlined procedure of expedited removal where it tries to get the country to take the individual back within a period of less than 4 weeks. They are trying to get it down to a couple of weeks.

But as I said, many countries won't take them back. What happens is you end up with people we don't have a place to put. There is no detention space available. They are given an order to appear before the court in 90 days. Basically, they are released on their own recognizance and asked to come back in 90 days to the Department of Homeland Security and show up for their removal. They do not do so. There is no place to put them. They do not show up for removal, and they meld into our society.

I doubt the Senator from Illinois is saying these—I believe it was about 165,000 such people last year—are people we should put on a path to citizenship.

Those are the four categories of people we are talking about: aggravated felons, people who have already violated a court order, expedited removal, and a small number of visa waiver people.

It does not apply to you simply if you overstayed your visa or if you came into the country illegally and, therefore, violated our law that says you are to present yourself at a port of entry. They violated that law. But merely coming into the country illegally is not covered by this amendment.

So the roughly 12 million people, or however many we are talking about here, would not be covered by this; at most, perhaps, in the neighborhood of 300,000.

Mr. DURBIN. Mr. President, if the Senator will yield for a question, I understand the Senator's explanation, and I have to go back to a point that I think if he would clarify his language in his amendment, it would allay some of the fears we have.

Let me give an example of why we are concerned. In the original Cornyn-Kyl bill that was introduced, it was a question about the ineligibility of aliens, or deferred mandatory departure, or a similar circumstance where they would not be recognized and given this opportunity. Your language in that instance said it would be an alien who would be ''ordered, excluded, deported, removed or to depart voluntarily from the United States.''

There was specificity there. The decision had been made. I think that is a lot clearer and more consistent with the explanation you have given us than the words ''subject to a final order'' which I think is much more general in scope and perhaps too broad, maybe leading to my conclusion that may not be consistent with your intent.

I ask you if you would consider tightening your language here as you did in the original bill with Senator CORNYN so we know exactly what we are dealing with.

Mr. KYL. Mr. President, I appreciate the suggestion. I would be happy to visit with the Senator from Illinois who, as I said before, is a good lawyer and who understands the details of this to make sure we are denying the privileges of the underlying legislation only to those people whom we intend to deny those privileges to. I think we

have a rough meeting of the mind as to who those people are.

I will say, however, it does get difficult because when the Senator from Illinois says, for example, we don't just want visa overstayers to be caught up in this, as a general proposition, I agree with that.

What that means is, of course, Mohamed Atta and many of his cohorts would not have been denied the benefits of this legislation because they simply overstayed a visa.

The point here is it is hard to draw these distinctions and deny the privileges to people you don't want to get them and yet not sweep too broad a broom and preclude people you have no intention of denying the benefits to from participating in those benefits.

Mr. DURBIN. Mr. President, will the Senator yield again for a question?

Mr. KYL. I would be happy to yield again.

Mr. DURBIN. Mr. President, please let us not wave the bloody shirt of Mohamed Atta. He would be disqualified from this program under existing law. Terrorists are not going to be given a legal pathway to citizenship in America. No one wants that to happen, none of us. So I don't think that was a good example of why we need the Kyl amendment.

Wouldn't you agree that in language already in the bill before the Senate, Mohamed Atta wouldn't have a prayer if he said, I want to stick around; I know I have been convicted as a terrorist, but I want to be an American citizen?

Mr. KYL. Mr. President, with all due respect, I think that question was pretty far off the mark. Mohamed Atta committed his crime before he could have been convicted of being a terrorist, and he obviously killed himself in the process. The time to apply this legislation to him is not after the fact but hopefully before the fact.

The problem is that at the time he overstayed his visa, to our knowledge, he had not committed any other crime except perhaps forging some documents or making false statements to an immigration official—something such as that.

What I am saying is we have drafted this in a way that it would not have caught people such as Mohamed Atta because to do that would be to exclude others from the benefits of the legislation both the Senator and I agree should not be excluded.

I am simply trying to say we have to be careful with the language because if we simply say—and I know the Senator from Illinois would agree with this proposition when he says we don't want to exclude just people who have overstayed their visas, and he gave the example of the student who overstayed a visa—I know he doesn't mean to include within that somebody such as Mohamed Atta because the reality is that is exactly what we have done here. If we could find some other way to add a provision that says if we have evidence to believe somebody is a terrorist, they would also be included, that probably would be a good idea, and we would both agree to do that.

Mr. DURBIN. The bill explicitly says if you want to move toward legalization, you have to submit yourself to a criminal background check; no criminal record. Frankly, I can't imagine there would be a terrorist who would say, I will wait patiently for 11 years, and I will submit to a criminal background check so that in the 12th year I will commit an act of terrorism.

Mr. KYL. Mr. President, it may well be that Mohammed Atta may not want to take advantage of the provisions of the act. That is speculation. Although these terrorists did take advantage of our immigration laws in many respects, we did not expect them to do that. We thought they would sneak into the country. Instead they filled out the forms and came in, many of them, with legal visas. I am not sure we can assume what he will do or what he will not do.

Here is the point: Under the bill as drafted, only crimes relating to drug offenses, moral turpitude, and the conviction of five offenses totaling 5 years in prison would exclude someone from the benefits. That is why we have added the other elements which, by the way, I inform my colleague from Illinois, the conviction of a felony and three misdemeanors, are precisely the language from the 1986 bill.

Those who think the 1996 act was unworkable and amnesty and not a good idea should be aware that all we are doing with respect to the criminal violations is taking that same language and putting it into this bill.

We have had a good discussion of this amendment. I am happy to see if there is any way to further clarify the language that might get the Senator from Illinois to support the amendment. I want to get a vote on it.

As I said before, I want also to be able to lay down the previous amendment which simply provides a trigger that before the temporary worker program kicks in, certain things we promised to do under the bill would have been done.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, there has been an agreement to take up a number of noncontroversial amendments. We are still trying to get a vote on the Kyl-Cornyn amendment, still trying to work out a procedure so Members on both sides of the aisle may offer controversial amendments, but we have not gotten there yet. However, there has been agreement on four noncontroversial amendments. I give notice that we will take them up as soon as the authors can come over.

Mr. KYL. Will the chairman of the Judiciary Committee tell us what those four amendments are?

Mr. SPECTER. I would. And before we can do it, we have to have consent to set aside pending amendments.

Mr. KYL. Because I advise you in advance I will object to setting aside pending amendments for consideration of further amendments.

Mr. SPECTER. The ones agreed to are these, and we cannot proceed until the pending amendment is set aside: Mikulski-Warner, 3217; Collins, 3211; Dorgan-Burns, 3223; and Isakson, 3203. But we cannot take them up, as noted, unless we have consent to set aside a pending amendment.

Mr. KYL. Mr. President, I note that under the regular order, my amendment is the first in line, having been offered on Thursday. These are subsequent amendments. It seems to me our colleagues would be willing to take up these amendments in the order they were offered.

What is curious to me is why some amendments are more worthy than others to be voted on. Maybe it is that people don't want to vote on certain amendments because they are troublesome. But if the object here is to try to get this bill completed, then we have to agree on some fundamentals, and that is that all the amendments that have been offered ought to be voted on. It is logical they would be voted on in the order they were laid down. There is no reason anyone can give me why there shouldn't be a vote on the amendment I laid down and that that should not precede the other amendments. I consider mine at least as worthy as the other amendments, particularly because it goes directly to a point in the underlying bill, and to my knowledge, the other amendments, by and large, do not do that.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let us understand where we are at this moment. In the colloquy with Senator KYL, I raised an element of his amendment which we, I think, generally agreed needs to be clarified. I hope we can work toward clarification.

The Senator from Pennsylvania, the chairman of the Senate Judiciary Committee, has asked whether we can now take up amendments which both sides agree would be constructive, moving us toward our goal of final passage, on a bipartisan basis, asking the Senator from Arizona, would you please set your amendment aside, perhaps to work on the subject of your colloquy a few moments ago, and then you will be back in the queue.

We are not only prepared, incidentally, on the Democratic side to entertain the four amendments which have been spelled out by the Senator from Pennsylvania, we are also prepared to debate and vote on at least three other amendments, the Lieberman-Brownback asylum, an Allard amendment 3213, and a Nelson amendment 3220.

So the argument among some that we are stopping the amendment process is not true. At this point, the Senator from Arizona is stopping the amendment process because his amendment, which is not quite in the shape it

might be in, or wants to be in, is going to be first or nothing else. I hope that is not where we are going to end this.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. With all due respect, I think that is a bit of spin to say I am stopping the amendment process. On Thursday, Friday, Monday, and Tuesday, I asked unanimous consent to proceed to amendments. Democrats objected. The amendment following mine is the amendment of the Senator from Georgia. That is not on the list, either.

What is happening is that the Democratic side wants to vote on certain amendments—most of which do not go to the heart of the bill—and does not want to vote on other amendments.

What we are saying is, we have a right to lay down amendments and vote on those amendments. I am happy to vote on every single amendment that has been laid down. But Members on the other side will not give me an opportunity to lay down another amendment. I have asked for that repeatedly. Unanimous consent has been denied. I asked the distinguished minority leader this morning. He said no, there would not be consent for me to even lay down the amendment I just got through talking about.

So let's understand that the objections to moving forward are not on this side. They are on the other side. I simply ask for the regular order.

Mr. DURBIN. If there is no objection on the other side, I renew that unanimous consent that we move immediately to consideration of Mikulski-Warner, 3217; Collins, 3211; Dorgan, 3223; Isakson, 3203, with 2 minutes of debate evenly divided before each vote, and that we start taking those up immediately. I ask unanimous consent to move forward.

Mr. KYL. Reserving the right to object, I offer an amendment to that unanimous consent request which is that those amendments occur as identified but to be preceded by a vote on amendments that are in the regular order.

Mr. DURBIN. Reserving the right to object, we are back where we started. Senator KYL will not let a single amendment be considered unless he is first. We have a bipartisan agreement to move to four and perhaps three other worthy amendments while he works on the language of his, which is not acceptable. We have reached an impasse, and I object to his modification of my unanimous consent request.

The PRESIDING OFFICER. The objection is heard.

Mr. SPECTER. Mr. President, without being repetitious, although repetition is only a minor vice here since nothing of consequence is likely to be said in any event. Moving this bill along, Senator KYL has accurately articulated the situation. We are being prevented from voting on amendments which have priority in sequence, where we ought to be voting, and it is just make-work to take up other amendments. It would occupy some time and we would have fewer quorum calls, but it does not move toward the heart of the issue. Senator KYL ought to be accorded the opportunity to vote on his amendment. The rules have brought us to an absolute impasse again. So then we have another day wasted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I will take a minute. On Thursday of last week, I offered in this Senate amendment 3215 which is pending after the amendment by the distinguished Senator from Arizona, the Senator from Texas. On Friday, when the majority of the Senate went home and there were no votes, I stayed in this Senate for 3 hours and presided in order for Senator BINGAMAN and Senator ALEXANDER to offer their amendments. We had last week a spirit of cooperation in this Senate to ensure that suggestions and amendments of the Members would be dealt with as expeditiously as possible. The Senate stayed in session on Friday to accommodate Democrats and Republicans alike with the understanding we would proceed in regular order this week.

To blame the Senator from Arizona for being obstructionist is totally incorrect. The fact is, there are other amendments following his that would equally be objected to by the distinguished minority whip. So we are frozen at this time because there is a lack of spirit of cooperation in order to consider issues that are important to the people of the United States of America on what I consider to be the most important domestic issue in the United States of America.

So singular blame on any one individual such as Mr. KYL is not only inappropriate, it is not right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I become very frustrated when it is evident that nobody wants to do what is the will of the Senate. It is a historic responsibility when you bring a piece of legislation to the Senate, which is to allow Senators, Democrat and Republican, to work their will with offering amendments that are, hopefully, germane and responsible to be debated and voted on.

Why would I want any amendments? I have all I want in the bill. The Judiciary Committee included agricultural jobs, a guest worker revised program, and a program that will deal with illegal undocumented workers already in country that relate to agriculture in the bill.

Would I want anymore amendments? In fact, the Senator from Georgia has already offered an amendment against me. One of my colleagues on this side of the aisle has openly said he wants to kill the AgJOBS provision in this bill, and he has a multiple of amendments he wants to offer. I am willing to let him offer them. I am willing to debate him. I think I can defeat him. I hope I have the prevailing argument.

But what is at hand here is a very important piece of work done by the Judiciary Committee, S. 2454. I am not going to suggest it is perfect in every way. The amendment process does refine and direct the will of the total Senate instead of the will of a single committee.

I suspect the chairman of the Judiciary Committee would be hard pressed to say this bill is flawless, it is perfect, it is without reproach. That is not what my phone calls are saying. That is not what the public is saying. In fact, the public in many instances disagrees with the provisions I have put in the bill.

What is important is exactly what the other Senator, Senator ISAKSON, said. This is one of our major domestic issues. It is an issue of national security. It is an issue of border control. It is an issue of recognizing the diverse economies of our country and the need for an employment base that is legal, documented, and controlled. It is a matter of immigration.

To suggest we are going to play games with who is on first and who is on second about who makes an amendment, who offers an amendment—why is the other side so nervous and frightened that somehow this bill might be changed a little bit? Better or worse, I don't know.

I think all who have spent time on this issue and know the issue are certainly willing to debate it or we wouldn't be with the issue. We would simply be running politically away from it as this Congress has done for a good number of years.

But the American people, in frustration, in anger, in fear, are now saying deal with it, control your border, our border, our Nation's border. Define and prescribe, background check, inspect those who cross it, at the same time, recognize that a certain type of employee is critically necessary in American agriculture to do the tough, hard, backbreaking work in the fields of America or to change the beds in our resorts or to work in certain forms of manufacturing or in oil patch.

Now, that is at that level of work, and that is an entry-level job, and it is critical to our economy that we have them. Americans, on the large part, have chosen not to do that kind of work anymore. But I recognize the need to recognize American citizens who do, and in my AgJOBS reform of the H–2A program, we create a national labor pool and recognize, first, if someone who is an American citizen is seeking that kind of employment, we make sure they are eligible and eligible first. It is Americans first in this instance, as it should be.

At the same time, there must be a clear recognition that there are now millions in this country, yes, here illegally, but all of them working, and working hard, and paying taxes, and not getting the benefit of those. Why?

Naturally, they are not citizens. We understand that. They probably ought to go home when they are through working, and 90 percent of them want to go home. But the irony is, as we continue to control our border, we create an impenetrable line, as we should, and those who have moved back and forth across that border historically no longer can do that.

Well, it is an interesting thing. It is an interesting issue. The House tried to deal with it in one way—I do not think appropriately, I do not think responsibly. I am not suggesting it is not responsible to control the border. We are doing that in this bill. But I believe we are doing it in a much more sensitive and humane way.

The border has to be secured or what we do here will not work. You cannot try to control and identify and direct employment traffic, if you will, in this country if you cannot control the flow of the traffic. That is part of what we are all about in trying to deal with this issue.

There are those who would say: Round them up and throw them out—round up 8 million, round up five times the size of the population of the State of Idaho and somehow identify them and treat them as legally as you have to under the law and get them out? We cannot do that, will not do that. It is impractical to do that. That is what this bill has struggled to accomplish.

But let's stop and suggest that if this is the issue we all believe it is, why are we fearful of amendments? Why has the other side sleepwalked us for the last 2 days? We ought to have voted on 3, 5, 8, 10 amendments by now. What are we fearful of?

I have my provision in the bill, but let Senator CHAMBLISS amend it. Let him try. Let us debate it. Let us see the differences between what he believes and what I believe. We both agree on so many things as it relates to the agricultural employment base, but we disagree on some things. There is nothing wrong with that kind of healthy debate. I do not fear it. I will not fear it.

And I must say to my colleague from Illinois, when you tried to make the straw person the Senator from Arizona, there is an expression south of the Mason-Dixon line that is simply said: That dog don't hunt. Find a new straw person. This one does not work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, and so the Senator from Idaho says we ought to have considered three, five, eight amendments by now. Well, he suggests we are sleepwalking. Perhaps he was sleepwalking when we considered three amendments, the first by Senator FRIST, the Republican majority leader, the second by Senator BINGAMAN, the third by Senator ALEXANDER. And the fourth was a motion by the Senator from Pennsylvania to table the Kyl amendment. It is not as if we have not been considering amendments. If I am not mistaken, moments ago I suggested, let's move to four right now, and maybe seven. So let's move forward on these amendments.

So to suggest we are not moving through the amendment process is not accurate. To suggest we are sleepwalking—if you were wide awake, you would be aware of the fact that we voted on three amendments already on this bill and others were just denied an opportunity to be called just moments ago on the floor by the Senator from Arizona.

It appears now that those who oppose this bill or those who want to slow it down are intent on making the Kyl amendment the way to do it. I would say that Senator KYL and I had a colloquy just a few moments ago on the floor, and it was very clear to me that his language in the amendment needs to be changed so that it is clear to everyone what he intends to achieve.

I thought that is where he was going. I thought that is what he acknowledged. But having even acknowledged that, he will not allow another amendment to come forward while his is still pending on the floor. That is unfortunate.

It was said earlier that——

Mr. CRAIG. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. CRAIG. You are really going to suggest that the last 2 days of effort are called heavy lifting? Shouldn't we redefine what work in this body is all about?

Mr. DURBIN. I would say in response, I do not believe I used that term.

Mr. CRAIG. You did not use that term; I just did. But you have suggested we have been at great industry here over the last 2 days?

Mr. DURBIN. No. I can tell you—reclaiming my time, I would say to the Senator from Idaho, most of the work that has been going on has been off the floor in the Republican caucus because the Republican majority has to decide whether we are going to have a comprehensive immigration bill. There are 55 votes on their side of the aisle, 45 votes on our side of the aisle.

We are standing firm in the belief that the bipartisan bill which emerged from the Senate Judiciary Committee, with the support of the Republican chairman, Senator SPECTER, is the good starting point for us to really address comprehensive immigration reform, for the first time in decades.

The heavy lifting has been off the floor while the party of the Senator from Idaho has been trying to decide their place in history. Will they be part of a comprehensive bipartisan immigration reform or stand in its path? They have to make that decision. We cannot make it on the floor for them. The sooner they make it, the better.

Last night, the Democratic leader, Senator REID, filed a cloture motion to make it clear there will be a moment of reckoning. Here on the Senate floor, in very short order, the Republicans and Democrats will face a basic choice: Do we stop, do we kill this bill, this bipartisan comprehensive immigration bill or do we move forward? I hope we move forward because I think this is a good bill.

When I listened to the Senator from Idaho talk about enforcement, well, let me say, the enforcement provisions of the bill before us are amazing. And I use that term advisedly. But they are amazing.

We increase the number of Border Patrol agents over the next 5 years by 12,000—12,000. Currently, there are about 2,000. Think about that. What a dramatic increase in making our borders safer.

We increase the number of interior agents going after those who should not be in this country by 5,000 over the next 5 years.

Agents dedicated to combating alien smuggling, up 1,000 over the next 5 years.

We also require the Department of Homeland Security to construct at least 200 miles of vehicle barriers at all-weather roads in areas known as transit points for illegal crossings. This is in the bill before us.

We understand, as most would concede, that America's borders are out of control. They are broken down. Part of any comprehensive immigration package must have strong enforcement. The bipartisan bill before us does exactly that.

It goes on to require primary fencing in areas where we think it is necessary to stop illegal crossings. There are technology enhancements, replacing existing fencing, constructing vehicle barriers in certain Arizona population centers. The list goes on and on. Criminalization—greater penalties for those crossing the border illegally.

All of these things indicate this is not just a bill dealing with legalization, it is a bill dealing with enforcement. We took the provisions which Senator FRIST, the Republican leader, offered and we duplicated them. So to argue the bill before us is weak on enforcement does not stand up. It is strong on enforcement.

But let me be clear. Our lesson is this: Simply increasing enforcement will not solve the immigration problems of America. We have 2,000 border agents now. We have increased them over the years. We have done a lot over the last 4 or 5 years, and illegal immigration has continued. You need to do more.

In addition to border enforcement, you have to do two things. You have to deal with the employment. What is the magnet that draws people across that border into the United States? It is the prospect of a job, a job that will pay much more than they can make in their villages in Mexico, in Central America, or in Poland or Ireland, for that matter.

What we do is say that the employers who illegally hire people and exploit

them are going to be held accountable. There are tough penalties under the law. So border enforcement is tough. Employer enforcement is tough, as it should be.

But there is a third element. The third element gets to the heart of the issue. What are we going to do about 11 or 12 million people currently in the United States who are not documented? If you listen to some of the cable show hosts, they say: Send them home. Deport 12 million people. That is totally unrealistic. Physically, it could not be achieved. If it could be, it would be an expense far greater than anyone could imagine for this country.

What we have to do is have realistic, tough, fair answers. Here is what we have come up with. If you are here, having overstayed a visa, or without documentation, in the United States, we will give you a chance, a chance to become legal. But it is a long, hard road. It will take you 11 years—11 years—of your life. You better be committed to being part of America's future—11 years.

In the course of that 11 years, it is not going to be easy. If you break the law, you are out. If you are not working, demonstrating employment, caring for your family, you cannot qualify. If you do not pass a criminal background check, you are out. If you do not pay a fine of several thousand dollars, you are out. If you have not learned English, you are out. If you have not paid your back taxes, you are out. If you do not understand this government, its history, and what our country is all about, you cannot qualify.

Do you call that amnesty? Does that sound like something that is automatic, moving to the head of the line, a free ride? It is not. It is a hard, tough process.

I come to the floor—and I have said it before; I want to repeat it, as many have in their own personal circumstances—as the son of an immigrant. My mother was brought to America at the age of 2 in 1911. My grandmother brought her, her brother, and sister over on a boat from Lithuania. They landed not at Ellis Island but in Baltimore. They caught the train to St. Louis and went across Eades Bridge over to the east side of the river in East St. Louis, IL, to meet up with my grandfather, who was working in common immigrant labor—steel mills and stockyards and things we did in that part of the world.

I do not know if my mother, who became a naturalized citizen in her twenties, could have met the qualifications of this bill—all of them. They are tough. They are demanding. I hope she could have, but she may not have. Fortunately for me, she became a naturalized citizen. I am very proud of that. She raised a family with my dad—three boys, and one of them turned out to be the 47th Senator from the State of Illinois.

That is an American story, a story repeated over and over and over again. We want this bill to reflect American values. We want this bill to basically say: We are going to fix a broken immigration system. We are going to repair our borders with real enforcement. We are going to make certain that the employers who are making this situation even worse are going to be penalized. We are going to do that and give those who are here a chance to become legalized.

The Presiding Officer up here from the State of South Carolina has been very articulate about this issue. He has spoken out in many places, and I admire the statements he has made. He has noted the fact that there are many people currently serving in the U.S. Armed Forces who are not citizens. That is a fact. You do not have to be a citizen to serve as a soldier. And many of them are risking their lives today, in uniform, for the United States of America. Over 50 have been killed in Iraq. They are not legally citizens but serving their country they love, willing to risk their lives for this country.

It has been raised by the Senator from South Carolina, and others: What are we saying to them? What are we saying to those who have served, those who have risked their lives and may come home having lost a limb or suffering some serious injury? Are we saying to them that their parents, their family, must still live in the shadows of America? Or are we going to give them a chance? That is what this bill is all about.

So we have a strong bipartisan bill, supported by the Senator from Pennsylvania, supported by three other members of the majority party in the Senate Judiciary Committee.

It is true. We have been rather steadfast in our belief that this process has to move forward. And we only have a few days to try to capture the moment and to bring together the political forces to do something historic.

Last Saturday, I went to a high school in Chicago. Cristo Rey is a Jesuit high school in an area of Chicago that has a largely Mexican population. It is an incredible school with dedicated teachers, administrators who are trying to give kids a fighting chance. They know what the statistics tell us. Fifty percent of Hispanic Americans drop out of school. So they are fighting against the odds to keep these kids in school. I stood there on a stage with about 20 students from that high school and surrounding high schools, some who had graduated a few years ago and some who were currently about to graduate. I listened to their stories.

Oscar Ramirez was there. I had met him before. He said: Senator, the last time you met me, I was pursuing my degree in biology from the University of Illinois in Chicago. I got it. I got my bachelor of science degree in biology. Right now, I have applied for a master's for research in neurobiology. But once I get my master's degree—and I am going to get it—I am still undocumented. In the eyes of the Government, I am supposed to leave.

I ask my colleagues, is America a better place if Oscar leaves? Is this country better that a person of that talent would leave us at this point? He came here as a child. His parents brought him here. They didn't ask for him to vote on where to live; they brought him. This is the only land he has ever known. He defied the odds—not only graduated from high school, but he has a bachelor's degree and is going for an advanced degree. Wouldn't we be a better country with Oscar Ramirez as a citizen doing neurobiological research on Parkinson's disease and Alzheimer's? Wouldn't we be a better place?

Standing next to him was a young woman about to get her bachelor's degree in the city of Chicago in computer science and math who said: All I want to do is teach. I want to teach in high school. I hope that some kids will be as excited about math as I am.

Can we give up on a person like that? Are we ready to say we don't need them in America—thank you for dropping by, but you can go back to wherever you came from? I don't think so. I think what they bring to America is exactly what we need—values that we cherish, values that distinguish us from many other countries. Why is this such a great nation? Because it is a nation of immigrants and a nation of immigrant spirit, the spirit of those who were willing to get up and take a risk where others were not.

When my mother's family left the tiny village of Jurbarkas in Lithuania, I am sure there were villagers around them shaking their heads, saying: What are they thinking? They are leaving their home, the little plot of land they are tending to grow vegetables. They are leaving the church where they were baptized, their language, their culture, to go to a place where they can't even speak the language. That Kutkin family must be crazy.

It was a crazy family like my grandparents and many like them who have made this great Nation. They brought here risk taking. They brought here family values. They were going to stick together through thick or thin, and they did it. Because of them, because of their courage and the courage of millions like them, we are a different nation. Where other nations are torn apart by divisions, our diversity gives us strength.

That is what this bill tries to capitalize on. That is what this bill tries to build on. It says: Let us take the strength of that immigrant spirit and build a stronger America for tomorrow. Create obstacles in the path, create requirements, give people a chance to earn their way to citizenship. It is a hard, long path, but an important one.

The Senate bill we passed takes this comprehensive approach. It is tough. It is fair. We improve border security, deploy new technology, increase our manpower, crack down on employers that are hiring millions of undocumented workers. We do need tougher

enforcement. We believe that. But in the Judiciary Committee bill, we acknowledge something that Senator FRIST, the Republican majority leader of the Senate, and Chairman JAMES SENSENBRENNER of Wisconsin did not acknowledge—a strategy that focuses only on enforcement is doomed to fail. In the last decade, we tripled the Border Patrol agents in America. We have spent eight times as many hours patrolling the border. During that same time, the number of undocumented immigrants has doubled. Enforcement alone is not enough. We need a realistic and comprehensive approach.

As the Department of Homeland Security acknowledges, mass deportation, which we might hear on some of the cable talk shows, isn't going to work and will cost us billions of dollars if we try. Amnesty is not an option, simply waving our hand and saying to everyone who is here: You are now legal citizens, enjoy America. That isn't the right thing to do, either.

What we try to do is find a reasonable middle ground. If we are serious about reform, we need to offer the chance for immigrants who work hard, play by the rules, pay their taxes, learn English, a chance to become legal in America.

Incidentally, what Senator KYL said earlier about those who should be disqualified, I can't argue with him. When it comes to criminal records, let's be honest, if you want to be a citizen and you want to commit crimes here, we don't want you. Can I be any clearer? If you want to commit a violent crime, if you want to endanger the life of another person with a sawed-off shotgun or commit crime of moral turpitude, you can leave right now. We don't need you, and we don't want you. We make that clear in the bill. It is already there. If you want to make it all the way to citizenship, you can't have a criminal record, period.

You have to have been employed since January 2004. Aliens who enter after that date or who have not worked continuously since then would not qualify. You have to remain continuously employed going forward. You have to pay about $2,000 in fines and fees, pass a security background check, a medical exam, learn English, learn about our history and government, and pay all back taxes. And then, if you meet all of those requirements, you go to the back of the line so that people who are trying to move forward in this convoluted, bureaucratic legal process will still be in the front of the line before you.

It is clear that is not amnesty. That is a process, a long, arduous process. It is an 11-year pathway to citizenship.

We have an important bill before us, a bipartisan bill. We have a singular opportunity to make history this week in the Senate. If we press forward with a bipartisan spirit, the same spirit that guided the Senate Judiciary Committee, we can achieve this. Having achieved it, we will be able to say that we tackled one of the biggest problems facing America today and dealt with it in a responsible fashion.

I will not renew my unanimous consent request because I know the Senator from Pennsylvania would object. There is no point wasting our time in that regard. I thank him for his leadership. I know he is trying to find some balance to build a bridge over the troubled waters of the Senate. But at this moment in time, we are prepared to move on the four amendments we have agreed to and three others. We would like to do that, I say to the Senator from Georgia. The amendment which we are prepared to accept may not be the one you want today, but perhaps we could get to your amendment at a later time. I hope we can.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are at an impasse. The rules of the Senate have been used to block meaningful consideration of the pending legislation. What we have before us is the committee bill which was voted out 12 to 6. I believe it is a good bill. It is a very good bill. But under our rules, it is subject to being amended. The Senators who wish to offer amendments are being stymied by the Democrats who are imposing technical rules—led by Senator REID, the minority leader. That is the brutal fact of life.

We worked hard to try to find some amendments where we could go forward and have votes. We came up with a list, but none were meaningful. None would advance the core considerations of this legislation.

The rules of the Senate are very complex. If an amendment is not offered prior to cloture—and cloture is the expression to cut off debate—the amendment may not be voted upon, cannot be offered after cloture if it hadn't been offered before cloture. If anybody is watching on C–SPAN 2, which I doubt—it is just too dull; perhaps not by comparison with what else is available on cable or over the air—the reason is that Senators do not want to make tough votes. Today, it is the Democrats who don't want to make tough votes. But another——

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. I will as soon as I finish.

Today, it is the Democrats who don't want to make tough votes, but there have been days when it was the Republicans who didn't want to make tough votes.

Senator REID said that they were experts on being cut off from offering amendments because they have tried to offer amendments and couldn't. And he mentioned the minimum wage and stem cells, among other items. But there is a significant difference on what is happening today and yesterday during the pendency of this bill, and that is that the amendments to be offered relate to the bill, are germane to the bill. Senator KYL wants to offer amendments that deal with the text of the bill. When Senator REID was talking about stem cells, he was talking about hypothetically, or maybe he did try to offer a stem cell amendment—I don't know—or tried to offer a minimum wage amendment, but he tried to offer it on a bill which was not germane.

It makes sense to say we are not going to vote on stem cells on the highway bill, illustratively. And although Senator REID wants to vote on stem cells, he hasn't pushed that issue as hard as I have. I have been working on the stem cell issue since it burst upon the scene in November of 1998. The subcommittee which I chair on Labor, Health and Human Services, and Education has had 16 hearings on it. I am the coauthor of the Specter-Harkin bill which has passed the House as the Castle bill. I really want to bring that up, but I can see not bringing it up on an unrelated bill. We are working now on a schedule. The majority leader has committed to finding a time to vote on stem cells in the immediate future.

The point is that when the Democrats tried to offer amendments, they were to bills where they were not germane. I think that is the situation. I do not have all of the amendments in my hand, but be that as it may, there is no doubt that the amendments which Senator KYL and others want to offer relate directly to this bill. Although I would like to pass this committee bill, we are not going to get a fair shot at it because we are not going to get cloture. After cloture is voted down tomorrow, there is going to be a mass exodus for the airports and the trains. People will be going on the Easter recess, and this very important piece of legislation is going to die.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. OK.

Mr. DURBIN. I would like to ask the chairman of the Senate Judiciary Committee if he recalls a few weeks ago on the reauthorization of the PATRIOT Act when Senator FEINGOLD of Wisconsin offered amendments which were germane postcloture but was not given an opportunity to call those amendments because the Republican majority leader, Senator FRIST, filled the tree? There was no question that they were germane amendments. Senator FEINGOLD rightfully took to the floor and held us in session for days because the Republican majority would not allow votes on germane amendments on the bill that came out of our committee.

Mr. SPECTER. Mr. President, the thought that comes to my mind is, were they subject to being offered postcloture, had they been offered precloture? Don't they have to be offered precloture? The Parliamentarian is shaking her head in the negative. Repeat the question, and I will try to answer that.

Mr. DURBIN. It is my understanding that you can offer germane amendments postcloture, but the question is

whether you can get into a queue where the amendment will be called. If there is a pending germane amendment filed precloture, it may take precedence in terms of being called, and you may not have an opportunity. I think you have a right under our rules to offer germane amendments postcloture. Whether you will have a chance to call those for a vote depends on the process on the floor.

Mr. SPECTER. Well, as we have seen in so many situations, and where I have been willing to concede error on both sides of the aisle, I am not going to seek to defend preventing votes on relevant, germane amendments, whether they are offered by Senator FEINGOLD or Senator KYL, or anybody else. That is just not the way the Senate ought to be run. I am glad to note that the Senator from Illinois didn't hear my answer. He was talking, which he has a right to do.

Mr. DURBIN. I apologize to the Senator, who is very patient. I will listen to his remarks.

Mr. SPECTER. It is not worth repeating. It is my hope that sanity may yet return to this Chamber. If it existed, it has certainly departed. We have, in all seriousness, a bill before us that is enormously important.

Senator DURBIN spoke at some length a few moments ago, and I agree with most of what he said. We have a tremendous problem in this country with undocumented aliens. We need to get a handle on what is going on. We need to not have a fugitive class in America that is being exploited by employers. We need to control our borders. We have a serious problem with terrorism. We have a serious question whether the people coming into this country are taking American jobs or depressing American wages. We are simply not dealing with it.

To have the Senate floor empty, and we are going to have a quorum call most of the time unless people come over and talk about ideas, which are fine but are not advancing the progress of this bill. I think it is important that our constituents know we are at an impasse because of technical reasons advanced by the Democrats. I do not say that in a partisan sense. I have voted for many Democratic proposals and for many of President Clinton's judges and across the line on many occasions when I thought the ideas merited it, not as a matter of party loyalty.

The Democrats are stonewalling this bill and no one is even on the floor to defend them, so I will not attack them anymore.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I want to pose a question to the distinguished minority whip. Last Thursday, I offered amendment No. 3215, which is second in line after the Kyl amendment. I have listened intently to the distinguished Senators from Illinois with regard to the objections they have expressed to the Kyl amendment. I have not heard them say what their objection is to amendment No. 3215.

I ask the Senator from Illinois this question: Amendment No. 3215 is a simple amendment, which says that any provisions of this act which grant legal status to someone who is here illegally do not take effect until such time as the Secretary of Homeland Security has certified to the President and the Congress that our borders are reasonably secure.

Now, I would like to hear what objection someone would have to the United States of America living up to its responsibility of securing our borders?

Mr. DURBIN. Mr. President, I say to the Senator from Georgia, I think it would be an interesting debate. We may reach that debate as to what is reasonably secure. There are some, as I understand it, 300 million people who cross our border with Mexico every year in legal status, for commercial purposes and otherwise, and whether we are secure under the Senator's amendment, I would have to listen to his arguments on who makes the certification and what are the standards for that.

If we had a situation where the fate of millions of people hinged on a subjective decision about reasonable security, I think that would raise some questions about whether we are moving forward and whether people would say: I can step out of the shadows now and I think at this point I am prepared to tell you who I am, where I live, where I work, and here are my records. If there is this uncertainty, at any given time you could stop the process.

I say to the Senator from Georgia, it would be an interesting debate and I am anxious to hear his side of the argument.

His is 1 of 100 amendments that have been filed. One of his other amendments we are prepared to take up immediately. I don't think that is the same one. We are prepared to take that up because we think it would move the bill forward in a constructive, bipartisan way.

I would like to hear the Senator's argument before making a final decision.

Mr. ISAKSON. Reclaiming my time, my response to the Senator would be that I am not an attorney, but I spent 33 years in the real estate business. I saw the term ''reasonable attorney's fees'' on more documents than the law would allow. I never met an attorney who could not describe what reasonable attorney's fees meant. I think we can find a lot of people in the Senate who understand that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I ask unanimous consent to speak as in morning business for a few moments.

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

NEGRO LEAGUES BASEBALL MUSEUM

Mr. TALENT. Mr. President, I would like to take a few minutes to talk about last night's passage of S. Con. Res. 60, a resolution that designates the Negro Leagues Baseball Museum in Kansas City, MO, as America's National Negro Leagues Baseball Museum. I can't think of a more appropriate time of the year to have passed this landmark legislation than this week—opening week of the 2006 baseball season. The passage of this historic resolution will allow an already fantastic museum to grow and become even better.

That would be reason enough to pass a resolution here were the museum on any other subject. But on this subject, which is so significant to the history of America, it made the resolution, I think, even more important. I am grateful to the Senate for passing it last night.

Many of baseball's most noted stars of the past century got their beginnings in the Negro Leagues. Greats such as Hank Aaron, Ernie Banks, Roy Campanella, Larry Doby, Willie Mays, Satchel Paige, and of course, Jackie Robinson eventually brought their fast-paced and highly competitive brand of Negro Leagues baseball to the Major Leagues. In fact, much of the fast-paced style of baseball today is owing to the influence of the Negro League's brand of ball.

Unfortunately, before the color bar was broken, many skilled African-American ballplayers were never allowed to share the same field as their White counterparts. Instead, such players played from the 1920s to the 1960s in over 30 communities located throughout the United States on teams in one of six Negro Baseball Leagues, including teams in Kansas City and St. Louis in my home State of Missouri.

The history of these leagues is an interesting one. In the late 1800s and early 1900s, African Americans began to play baseball on military teams, college teams, and company teams. The teams in those days were integrated. Many African Americans eventually found their way onto minor league teams with White players during this time. However, racism and Jim Crow laws drove African-American players from their integrated teams in the early 1900s, forcing them to form their own ''barnstorming'' teams which traveled around the country playing anyone willing to challenge them.

In 1920, the Negro National League, which was the first of the Negro Baseball Leagues, was formed under the guidance of Andrew ''Rube'' Foster—a former player, manager, and owner of the Chicago American Giants—at a meeting held at the Paseo YMCA in Kansas City, MO. Soon after the Negro National League was formed, rival leagues formed in Eastern and Southern States and brought the thrills and the innovative play of the Negro Leagues to major urban centers and