exist today if not for the hard work and determination of Ted Kennedy.

One of my most vivid memories working with Senator Kennedy was during the now well known confirmation hearings of Robert Bork for the Supreme Court. Ted spoke eloquently and with conviction against Judge Bork's nomination, fearing the erosion of civil rights that would occur were he confirmed. Ted refused to let this erosion of rights take place, and I am proud to have joined him in his fight against the nomination of Robert Bork.

Ted proved through his actions, both on and off the Senate floor, that he was, above all, a man of compassion. The single unifying theme of Ted's distinguished body of work was his clear commitment to the people of this great country. His love for the American people was clear through the legislation he so strongly supported. Ted's greatest concern was for the well-being of every American, and he made it his mission to ensure the underprivileged received the fair treatment they deserved.

In his lifetime, Ted Kennedy was able to accomplish more than most men could ever dream of accomplishing. I have no doubt that if we were lucky enough to have him with us today, he would continue to add even greater accomplishments to his already impressive resume. Ted will be deeply missed.

ENUMERATED POWERS ACT

Mr. HATCH. Mr. President, I rise on this Constitution Day to urge support for S. 1319, the Enumerated Powers Act. My friend and Judiciary Committee colleague from Oklahoma, Senator COBURN, introduced the bill in June, and I am proud to be a cosponsor. It would create a mechanism by which we can highlight and, if necessary, debate whether we actually have the power to do what we do.

Today, the prevailing view seems to be that Congress can do anything we want to do, any time, and in any way. There are always problems to solve, good ideas to implement, money to spend, activities to regulate, agendas to pursue, or constituencies to please. But those are merely the ends and, in our system of government at least, the ends cannot not justify the means. Not if we truly value our liberty. Our liberty requires that government be limited, that government's actions have legal authority, ultimately rooted in the Constitution itself.

The Constitution, for example, does not grant Congress all legislative authority. Article I gives Congress only ''legislative powers herein granted.'' Those powers are listed, or enumerated, in article I, section 8. The 10th amendment affirms that the Federal Government has only powers that are affirmatively delegated to it. James Madison explained in The Federalist No. 45 that these powers delegated to the Federal Government are ''few and defined.'' Why all this emphasis on definition and limitation, especially of the Federal Government? Because individual liberty requires limited government.

In The Federalist No. 51, Madison wrote that ''if men were angels, no government would be necessary.'' In other words, some government is necessary to have any liberty at all. But Madison went right on to write that ''if angels were to govern men, neither external nor internal controls on government would be necessary.'' In other words, unlimited government makes liberty impossible. The truth is that men are not angels and angels do not govern men. Acknowledging that truth, America's Founders in their genius created a system of limited government to maximize ordered liberty.

I realize that such notions as definition and limitation are not in fashion today. Many today think these ideas passe, antiquated, or—and this is my personal favorite—archaic. Limited government is fine when we have no major problems to solve, when there are no big crises looming large. But today we face the worst economic crisis since the Great Depression and many Americans want government to be robust and full-throttled. We want government to come to the rescue, to set things right, to make everything OK. I realize that today saying no is not popular, whether for individuals or for the government.

So we have to make the same basic, fundamental choice that America's Founders did. How much do we prize liberty? The laws of human nature and, therefore, of government have not changed. Men have not become angels and angels do not govern men. That condition will never exist. Ordered liberty will always require limited government, and so we must repeatedly ask whether, and how much, we prize liberty.

This bill embodies these principles by requiring that each of Congress state its constitutional authority. In other words, each act of Congress must state the very condition that indicates it is consistent with limited government. Congress has no authority to act, Congress has no authority to exist at all, unless that authority is derived from the Constitution. It is no less important than that. So this bill would require that each act of Congress state the one condition that is necessary for that act of Congress to be legitimate—authority derived from the Constitution.

That statement alone would be important but purely symbolic. Virtually everyone could ignore it. So this bill would create a mechanism for challenging and even debating whether an act of Congress is indeed authorized by the Constitution. It does not require such a debate for every act of Congress but provides for a point of order that can result in such a debate. That debate would focus everyone's attention on the absolutely necessary connection between Congress' actions and the Constitution and, ultimately, on the Constitution itself.

In the landmark case of Marbury v. Madison, Chief Justice John Marshall wrote that ''[t]he powers of the legislature are defined, and limited; and that those limits may not be mistaken, or forgotten, the constitution is written.'' A written Constitution that delegates enumerated powers to Congress is central to limited government and, therefore, central to our liberty. If we prize liberty, we must prize limitations on government. Chief Justice Marshall later wrote in McCulloch v. Maryland that ''this government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it . . . is now universally admitted.''

That was then. How about today? Do we still believe that ordered liberty requires limited government? Do we still believe that Congress may only do what the Constitution authorizes us to do? Or do we believe that Congress needs no more than a good idea powered by a good intention? Are the principles embraced by Madison, by Marshall, still universally admitted today? If so, then this bill is an important way to prove it. On this Constitution Day, I urge my colleagues once again to embrace those principles of limited government and to demonstrate it by supporting this bill. Policy ideas and political positions shape our legislative activity, the Constitution should do so as well. I applaud my colleague from Oklahoma, Senator COBURN, for introducing this bill and offering this opportunity to raise these principles closer to the position of importance they deserve.

CONSTITUTION DAY 2009

Mr. LEAHY. Mr. President, today marks the 222nd anniversary of the signing of the Constitution by the States that assembled in Philadelphia. The constitutional design of our three branches of Government has provided for collaboration in protecting this fundamental balance. Earlier this week, when I addressed the Chief Justice and the Judicial Conference of the United States, I noted the anniversary of the signing of our Constitution. This anniversary deserves more attention than it has received, and I was heartened to see that one of Vermont's great newspapers, The Caledonian-Record, also saw fit to note this anniversary in a recent editorial. The Caledonian-Record noted, ''Our Constitution is timeless and the most relevant guide to continuing our freedoms. Millions of Americans have died in its defense. Celebrate it!''

As chairman of the Senate Judiciary Committee I am constantly reminded of the Constitution's continued importance and relevance to our daily lives. From the first amendment, which protects newspapers like The Caledonian-Record, to the rights of Americans to vote, the Constitution is the cornerstone of our democracy. We all must