January 25, 1988

CONGRESSIONAL RECORD — SENATE S 23

"Whereas, the rise in avoidable industrial accidents has been generally attributed to budgetary cutbacks to the Occupational Safety and Health Administration resulting in serious reductions in the agency's staff of investigators and inspectors which severely hampers their ability to provide for all Americans a safe working environment; and

"Whereas, all citizens of this Nation ought to be able to engage in their daily labors secure in the knowledge that all precautions have been taken to guarantee their physical and mental integrity within the workplace; now therefore be it

"Resolved, That the Massachusetts Senate hereby respectfully urges the Congress of the United States to enact legislation enabling the Occupational Safety and Health Administration to increase its staff of inspectors and investigators in order to reduce the incidence of tragic and senseless industrial accidents in this Nation; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate of the Commonwealth of Pennsylvania to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES SUBMITTED DURING SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of December 22, 1987, the following reports of committees were submitted on January 22, 1988, during the sine die adjournment of the Senate:

By Mr. PELL, from the Committee on Foreign Relations, without amendment; S. Res. 96. An original concurrent resolution to express the sense of the Congress on the proposed revision of the United States agreement for nuclear cooperation with Japan (with additional views).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself and Mr. D'AMATO):
A. 1989. A bill to extend until January 1, 1988, the waiver granted by the Federal Communications Commission to the New York Post in connection with the Federal Communications Commission's rule relating to the common ownership of a daily newspaper and certain television stations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself, Mr. Kasav, Mr. Simon, and Mr. Inouye):
S. 2003. A bill to amend the Internal Revenue Code of 1986 to exempt from tax diesel fuel used for farming purposes; to the Committee on Finance.

By Mr. HELMS:
S. 2001. A bill to restore the right of voluntary prayer in public schools and to promote the separation of powers; read the first time.

By Mr. CRANSTON:
S. 2002. A bill to extend the period during which a special agricultural worker may apply for adjustment of status of that of an alien lawfully admitted for temporary residence, and for other purposes; to the Committee on the Judiciary.
reach consensus on this issue in the Senate.

Mr. President, the seriousness of the problem of crimes based on prejudice against individuals because of their race, ethnicity, religion, or sexual orientation, is well-documented. A recent completed report commissioned by the National Institute of Justice (NIJ) entitled "The Response of the Criminal Justice System to Bias Crime: An Exploratory Review," October 7, 1987, reviewed evidence regarding the incidence of "bias" or "hate" crimes, defined as "words or actions designed to intimidate an individual because of his or her race, religion, national origin, or sexual preference." The report notes that the evidence suggests that bias crimes are widespread and increasing. The report further explains that "bias crimes may be turning more violent: compared with the past, a larger proportion of incidents are alleged to involve personal injury as opposed to vandalism." Additionally, the report indicates that "the most frequent victims of hate violence today are blacks, Hispanics, Southeast Asians, Jews, and gays and lesbians." Of these groups, the report found that homosexuals are probably the most frequent victims.

The NIJ’s finding that homosexuals are frequently the victims of hate crimes is corroborated by the data collection efforts which have been undertaken by organizations and law enforcement agencies. For example, the National Council of Churches recently released a report on hate crimes which documents the growing incidence of hate violence. The report, entitled "They Don’t All Wear Black," focuses on the reality of racial and religious sentiments. Additionally, the Los Angeles Times reported on June 30, 1984, that the number of severe assaults against gay and lesbian individuals which have required hospitalization or surgery, as compared to a similar time period in 1986.

Because of the incidence of hate crimes in California, the State attorney general established the Commission on Racial, Ethnic, Religious, and Lesbian/Gay Rights Violence. The Commission has undertaken a pilot project to identify the preliminary steps that are needed to establish a statewide system of collecting data on hate crimes. Legislation is currently pending in the California legislature to implement the findings and recommendations of the pilot project throughout the State.

Mr. President, other States have also undertaken efforts to develop effective and workable systems of collecting data on the incidence of hate crimes. Yet, currently there is no ongoing, in-depth effort to collect relevant data on hate crimes. As the NIJ report mentioned earlier, was merely an "exploratory" review— as indicated in its title—and it points out that a more comprehensive effort is needed to understand the severity, pattern, and location of bias crimes. With improved data collection, law enforcement officials and prosecutors will be better able to make appropriate resource allocations and to target specific neighborhoods or organizations for special attention.

While it is clear that a Federal mandate to collect national hate crime data is needed so that we can make better decisions for legislative solutions and the needed allocation of our limited resources at the Federal level, the bill I am introducing today is not intended to subvert those efforts at the State level, such as that undertaken by California, to establish systems of documenting hate crimes.

In conclusion, Mr. President, I would like to stress to my colleagues that this bill I am introducing today represents an important first step in addressing the very serious problem of the incidence of hate crimes in the United States. To be effective, it is absolutely imperative that every form of prejudice which motivates hate crimes be addressed, whether that prejudice is directed at individuals because of their race, ethnicity, religion, or their sexual orientation. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the legislation be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the "Hate Crime Statistics Act."

SEC. 2. ACQUISITION AND PUBLICATION OF DATA. (a) In General.—Under the authority of section 1891 of title 28, United States Code, the Attorney General shall acquire, for calendar year 1988 through calendar year 1993, data on the incidence of criminal acts that manifest prejudice based on race, religion, national origin, ethnicity, sexual orientation, or other characteristics.

(b) Limitation on Use and Content of Data.—Data acquired under this Act shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(c) Annual Summary.—The Attorney General shall publish an annual summary of the data acquired under this Act.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS. Appropriations authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 1988 and fiscal year 1989.

[From the Los Angeles Times, Apr. 10, 1986] "GAY BASHING"—AIDS FEAR CITED AS ATTACKS ON MALE HOMOSEXUALS GROW (By Ruth Snyder)

SAN FRANCISCO.—A group of teen-agers, shouting "Gay bashing," "We don't like faggots," and "You're killing us all," dragged David Johnson from his car in a supermarket parking lot last De-
January 25, 1988

CONGRESSIONAL RECORD — SENATE

S 35

Mr. KERRY. Mr. President, I am introducing and sponsoring the Hate Crimes Statistics Act. This is an important piece of legislation which would provide for the acquisition and publication by the Attorney General of data about crimes that manifest prejudice based on race, religion, ethnicity, national origin, gender, sexual orientation, or affectional or sexual orientation.

One year ago, Senator CRAMSTON and I introduced the Civil Rights Amendments Act of 1987, to protect the civil rights of gay Americans. The legislation which we introduced today continues and extends that effort. This legislation is a companion bill to H.R. 1813, which has had 83 cosponsors in the House and which has been endorsed favorably by the House Judiciary Committee.

Hearings which have been held in the House on this legislation indicate that there is a serious problem in America with hate crimes of all types.
including violence against blacks, Hispanics, Asian-Americans, Jews, Arab-Americans, and gays. While there are other bills in the Senate which would address some of these issues, none of them until now has addressed all of them together, including especially the serious problem of antigay violence.

This year, in 1988, it is even more important that we address the problem of violence against gay Americans. The epidemic of AIDS has spread throughout our society, and it continues unabated. Unfortunately, along with AIDS has come an increase in prejudice and violence against gay Americans in certain parts of our society. This problem can only be addressed by confronting it directly. The collection of statistics on hate crimes, and the publication of an annual report by the Attorney General on the subject, is a first and important step in that process.

As we look around us, we see too many examples of hate crimes and crimes against prejudice and our society. From Howard Beach to Fresh Meadows County, from New York and Boston to Los Angeles and San Francisco, such crimes are an ugly fact of life. As legislators, we must be sensitive to this problem and strive to find a solution. For, as Martin Luther King once wrote, "Injustice anywhere is a threat to justice everywhere."

By Mr. HELMS:
S. 2001. A bill to restore the right of voluntary school prayer in public schools and to promote the separation of church and state.

(The remarks of Mr. HELMS and the text of the legislation appear earlier in today's Record.)

By Mr. CRANSTON:
S. 2002. A bill to extend the period during which a special agricultural worker may apply for adjustment of status to that of an alien lawfully admitted for temporary residence, and for other purposes; to the Committee on the Judiciary.

SPECIAL AGRICULTURAL WORKER'S PROGRAM
Mr. CRANSTON. Mr. President, I rise today to express my serious concern regarding the progress of the Immigration Reform and Control Act's Special Agricultural Workers (SAW) Program, and to introduce legislation which I believe is necessary to assure the success of the SAW Program.

My colleagues may recall that the SAW Program was incorporated into the new immigration law to assure that the reforms provided for under the new law would not have an unfair negative impact on the agricultural industry. Thus, the new law has relied heavily on undocumented workers. Because we realized that it was in our country's interest to assure that farmers have assurance they will be able to harvest their crops, the SAW Program was designed to provide legal status for workers, without regard to whether they were currently residing in the United States, who could demonstrate that they previously worked for a period of time in American agriculture.

While the idea we had when we passed this law was a good one, Mr. President, we must now ask whether it is working. For my home State of California, the answer to this question is extremely important. Agriculture is California's leading industry, and it is estimated that one-half of all undocumented workers in the United States reside in California. Also, California is the principal destination for undocumented farm workers from outside the United States.

To answer the question as to whether the SAW Program is working, I recently conducted three forums in the agricultural regions of California. The response was unanimous: The SAW Program is not working as we intended it to.

VIEWS OF CALIFORNIA FARMERS AND FARMWORKERS

While there are many reasons to be concerned about the possible failure of the SAW Program, one of them, I am pleased to report, that both farmers and farm workers expressed to me that the new program has provided them with an opportunity, for the first time, to attempt cooperatively to comply with the new law. I heard from farmers who are actively supporting legalization efforts through such organizations as the Alien Legalization for Agriculture (ALFA), as well as from farm workers who, on an individual basis, have tried to assist workers in gathering the necessary documentation to establish the required work history. This, I believe, is a significant positive development.

Perhaps it is because of this development that the information I received from all SAW applicants, farmers, and farm workers, was consistent. That is, that many farm workers who might qualify for SAW status are not coming forward to apply, or are unfairly excluded from the program.

FACTORS DETERMINING SAW APPLICANTS

Witnesses explained that it is proving difficult and time-consuming for many farm workers to gather the necessary documentation to establish prior work history because, in many cases, a worker must contact a number of employers throughout the State in order to substantiate that she or he worked 90 days between May 1988 and May 1986. It was reported that sometimes farmers or labor contractors have not kept adequate records, refuse to provide the records for personal reasons or because required deductions were not correctly recorded—that is, social security, unemployment, etcetera—or demand that the worker pay exorbitant fees for documents which will verify previous employment. Also, some farm workers have been consolidated, or farm labor contractors have lost their license, so that workers have no way of obtaining necessary records.

Furthermore, both farmers and farm workers have been appalled at the failure of INS to establish a uniform national policy that ineligible family members will not be deported if one member of the family qualifies for legalization, is keeping many eligible SAW applicants from applying.

Witnesses also complained that the fees INS charges for legalization, and the cost of an appeal if the initial application is denied, is prohibitive. Moreover, some for farm workers who generally are among this country's poorest workers.

PROBLEMS WITH INS' ADMINISTRATION OF THE SAW PROGRAM

Both farmers and farm workers agreed that the policies and inconsistent procedures of INS regarding the SAW Program are imposing unfair burdens on those seeking to legalize their status. For example, witnesses reported that different INS offices have different documentation requirements; some offices will accept signed affidavits as sufficient proof of work experience; others will accept only the INS charge fees for legalization, is keeping many workers who have applied, or are in the process of applying, for SAW status.

There was also general agreement that INS has not conducted an adequate and timely public education campaign regarding the SAW Program. Some witnesses reported that, because of the general lack of information regarding what the law requires and when the law requires it, some workers were fired during the last harvest season because farmers mistakenly believed they might be vulnerable to sanctions unless the workers had current work authorizations.

CONCERNS REGARDING STATUTORY REQUIREMENTS

Concern was also expressed, Mr. President, regarding the statutory requirements for the SAW Program. Both farmers and farm workers explained that the statutory requirement that a worker prove employment...