

Testimony of
The Honorable Patrick Leahy

July 17, 2002

I want to welcome our witnesses today and thank them for coming. Proposals for amending the United States Constitution are serious matters. I appreciate the time that you all have taken to share your experiences and expertise on this important matter.

I also want to welcome Susan Russell from my home state of Vermont, who has worked on behalf of crime victims for the past several years. In the best tradition of Vermonters taking part in the democratic process, Ms. Russell traveled to Washington this week specifically to participate in our discussion about the proposed constitutional amendment.

The treatment of crime victims is of central importance in a civilized society. The question is not whether we should help victims, but how.

I have long supported the rights of victims. In fact, my efforts have included trying to pass into law many of the rights included in the proposed constitutional amendment, such as increased rights of participation for victims at trial and sentencing, and increased notice to victims of proceedings.

For many years, Senator Kennedy and I and other members of this subcommittee have proposed a statutory route to our common goal of establishing stronger rights and protections for victims of crime.

Our bill, the Crime Victims Assistance Act (S.783), would enhance the rights and protections afforded to victims of Federal crime and establish innovative new programs to help promote compliance with state victim's rights laws. I am pleased that I was able to get portions of this bill included in last year's antiterrorism legislation, the USA PATRIOT Act. But the bill's important provisions respecting victims' rights have yet to be considered.

We also have unfinished business with respect to the annual cap on spending from the Crime Victims Fund, which has prevented millions of dollars in Fund deposits from reaching victims and supporting essential services. The USA PATRIOT Act included a proposal from the Crime Victims Assistance Act that would have allowed more money to be distributed to the states for victim compensation and assistance. Unfortunately, this provision was struck weeks later by the Commerce-Justice-State Appropriations Act. We should revisit this issue, so that we do not continue to impose artificial caps on spending while substantial needs are unmet.

In this regard, I should note that not even a constitutional amendment could prevent the undoing of legislation intended to help victims: That needs constant vigilance and hard work. A constitutional amendment would be a false promise if victims thought their work would be done if only an amendment were passed.

I urge my Republican colleagues to take a careful look at the Crime Victims Assistance Act before jumping on the constitutional amendment bandwagon. I hope our witnesses today will also take a look at this bill, and get back to me after the hearing with any thoughts they might have as to how it might be improved. We can accomplish our goals far more quickly with legislation than with an amendment to the Constitution.

Amending the Constitution should be an extraordinary action of last resort. The normal way that laws are made in this country is by legislation, and those who insist on amending the Constitution bear a heavy burden of justification. I do not believe that the proponents of this constitutional amendment have met their burden of justifying why we should amend our Constitution for just the 18th time in over 200 years.

In this Senate, we have previously rejected proposed amendments, such as the balanced budget amendment, that, whatever their merit, at least attempted to do things that could not be done by statute. The same cannot be said of this proposed amendment.

So I have the same question today for all of our witnesses: Why is this amendment necessary? Why are federal and state laws inadequate to protect the rights of crime victims?

One of the leading academic proponents of the proposed constitutional amendment - Harvard law professor Lawrence Tribe -- has acknowledged that "the States and Congress, within their respective jurisdictions, already have ample authority to enact rules protecting [victims'] rights." So, then, why do we need to amend our Federal Constitution?

I also hope that our witnesses will share their views about the text of the proposed constitutional amendment.

This proposal has been through more than 60 drafts to date, and though we have had hearings on it in the past, this is the first hearing on the new version that was unveiled just three months ago. I would be interested to know what changes have been made, and what those changes mean. We must not forget that this is a constitutional amendment we are considering, and every single word counts.

I look forward to hearing from each of our witnesses and to continuing to work with my colleagues on the Committee on how we can most effectively and appropriately enhance the rights of victims of crime.

#####