

“COUNCIL ON COMBATTING PROLIFERATION

“SEC. 101B. (a) ESTABLISHMENT.—There is established an interagency group to be known as the ‘Council on Combating Proliferation’ (in this section referred to as the ‘Council’), which shall be headed by the National Director for Combating Proliferation.

“(b) COMPOSITION.—(1) In addition to the National Director, the Council shall consist of 8 officials, as follows:

“(A) Six officials described in paragraph (2), of which number one each shall be designated by the heads of the following Federal agencies from among its employees:

“(i) The Department of State.

“(ii) The Department of Defense.

“(iii) The Department of Energy.

“(iv) The Department of Justice.

“(v) The Department of Commerce.

“(vi) The Central Intelligence Agency.

“(B) One senior official of the Office of Management and Budget.

“(C) One senior employee of the Office of the Vice President.

“(2) Each individual designated under paragraph (1)(A) shall be a senior official of the respective Federal agency who has responsibility for proliferation-related matters and who occupies a position or holds a rank to which the individual was appointed by the President, by and with the advice and consent of the Senate.

“(3) In addition to the membership of the Council provided for in this subsection, the National Director may invite other officials in the executive branch to participate in a nonvoting capacity in meetings of the Council.

“(c) FUNCTIONS.—The functions of the Council are to—

“(1) improve coordination between Federal agencies having responsibility for proliferation-related matters;

“(2) ensure close coordination and consultation between the National Director and those agencies; and

“(3) support the National Director in the development of a government-wide plan for the development, acquisition, and deployment of technology for combating proliferation by coordinating technology requirements of individual agencies.

“(d) STAFF SUPPORT.—The Council may employ and fix the compensation of staff personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for staff personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title. In addition, upon request, the National Security Council shall detail to the Council such staff personnel as the Council may require.”.

(b) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 101 the following new items:

“Sec. 101A. National Director for Combating Proliferation.

“Sec. 101B. Council on Combating Proliferation.”.

SEC. 202. ANNUAL CONSOLIDATED REPORT ON COUNTER-PROLIFERATION ACTIVITIES OF THE UNITED STATES GOVERNMENT.

(a) ANNUAL REPORT.—Beginning not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress a consolidated report updating (since submission of the last report under this section or, in the case of the initial report, since the last relevant report to Congress) the nature of the threat of the proliferation of weapons of

mass destruction and evaluating the progress achieved by the United States in responding to that threat.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall include the following:

(1) An update on nuclear proliferation in South Asia, including United States efforts to conclude a regional agreement on nuclear nonproliferation.

(2) An assessment of what actions are necessary to respond to violations committed by countries found not to be in full compliance with their binding proliferation-related commitments to the United States.

(3) An update on the nuclear programs and related activities of any country for which a waiver of sections 669 and 670 of the Foreign Assistance Act of 1961 is in effect.

(4) An update on the efforts by countries and sub-national groups to acquire chemical and biological weapons, and a description of the use of such weapons, if applicable.

(5) A description of any transfer by a foreign country of weapons of mass destruction or weapons of mass destruction-related material and technology.

(6) An update on efforts by the United States to achieve several specific nuclear proliferation-related goals, including the entry by the United States into multilateral negotiations with other nuclear states to reduce the nuclear arsenals of all foreign countries.

(7) An update on the acquisition by foreign countries of dual-use and other technology useful for the production of weapons of mass destruction.

(8) A description of the threats posed to the United States and its allies by weapons of mass destruction, including ballistic and cruise missiles, and the proliferation of such weapons.

(9) A description of the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament.

(10) A review of all activities of United States departments and agencies relating to preventing nuclear proliferation.

(11) A requirement that the Department of Defense, the Department of State, the Department of Justice, the Department of Commerce, and the Department of Energy keep the congressional committees having oversight responsibilities for the respective department fully and currently informed about the nuclear proliferation-related activities of such department.

(12) A description of the efforts to support international nonproliferation activities.

(13) An update on counterproliferation activities and programs.

(14) A description of the activities carried out in support of counterproliferation programs.

(c) REPEALS.—The following provisions of law are hereby repealed:

(1) Section 620F(c) of the Foreign Assistance Act of 1961.

(2) Section 51(c) of the Arms Control and Disarmament Act.

(3) Section 735 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113).

(4) Section 308(a) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102-182).

(5) Section 1097(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190).

(6) Section 1321(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484).

(7) Section 721(a) of the Combating Proliferation of Weapons of Mass Destruction Act of 1996 (Public Law 104-293).

(8) Section 284 of the National Defense Authorization Act For Fiscal Year 1998; Public Law 105-85).

(9) Section 51(a) of the Arms Control and Disarmament Act.

(10) Section 601(a) of the Nuclear Non-Proliferation Act of 1978.

(11) Section 602(c) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242).

(12) Section 1505(e)(1) of the Weapons of Mass Destruction Act of 1992 (Public Law 102-484).

(13) Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337).

(14) Section 1603(d) of the National Defense Authorization Act For Fiscal Year 1994 (Public Law 103-160).

TITLE III—OTHER MATTERS

SEC. 301. GRADUATE PROGRAM IN LANGUAGES AND CULTURES OF NATIONS PROVIDING HOME OR SUPPORT FOR TERRORISM OR ORGANIZED CRIME.

(a) IN GENERAL.—The Secretary of Homeland Security and the Director of the Federal Bureau of Investigation shall jointly enter into an agreement with one or more appropriate institutions of higher education to provide for one or more programs of education leading to the award to individuals referred to in subsection (b) of masters degrees or doctoral degrees in the languages, culture, or both of foreign countries that provide the home for or otherwise support terrorism or organized crime.

(b) INDIVIDUALS ELIGIBLE FOR PARTICIPATION IN PROGRAMS.—Individuals eligible to participate in a program of education under subsection (a) are as follows:

(1) Personnel of the Department of Homeland Security designated by the Secretary.

(2) Personnel of the Federal Bureau of Investigation designated by the Director.

(3) Such other personnel of the Federal Government as the Secretary and Director shall jointly designate.

(c) FOREIGN COUNTRIES.—The Secretary and Director shall jointly specify the foreign countries to be covered by the program or programs of education under this section.

(d) ADDITIONAL REQUIREMENTS.—The Secretary and Director may, in consultation with the institution of higher education concerned, establish such additional requirements for the award of a degree for a program of education under this section as the Secretary and the Director jointly consider appropriate.

EXPANSION OF LAW ENFORCEMENT ACTIVITY

Mr. SPECTER. Mr. President, I will further discuss briefly the terrorism legislation which we expect to come to the floor later today. I have a reservation of some 30 minutes on the unanimous consent agreement which will be propounded later by the majority leader, but I think a few comments are in order at this time.

I have no doubt that there is a need for expanded law enforcement authority. That has been demonstrated by the fact that offenses of terrorism do not have the availability of electronics surveillance which other offenses can employ. This is demonstrated by the fact that there have been significant failures under the Foreign Intelligence Surveillance Act and that the Attorney General has represented a need to have additional detention for aliens who are subject to deportation.

When the Senate Judiciary Committee held a hearing two weeks ago yesterday, I questioned Attorney General John Ashcroft on the record about the scope of the Anti-Terrorism bill. The bill did not delineate the Attorney General's needs for law enforcement. Attorney General Ashcroft commented that what the Department of Justice had in mind was the detention of aliens who were subject to deportation. It may well be that there is existing authority for the Attorney General to accomplish that, but if additional authority is necessary, then I think the Congress is prepared to give that additional authority. However, the bill as drafted, did not so delineate the detention to those subject to deportation.

Attorney General Ashcroft further made representations about the need to change the Foreign Intelligence Surveillance Act. He said before looking to use content there would be a statement of probable cause. Again, in reviewing the specific legislation, that was not present in the bill, so there had to be a revision of the text of the bill.

The Senate Judiciary Committee had only an hour and 20 minutes of hearings, two weeks ago yesterday. The Constitutional Law Subcommittee had hearings last Thursday morning. I have grave concerns that there has not been sufficient deliberation that would establish a record and withstand a constitutional challenge in the Supreme Court of the United States. I will expand upon this point during the course of the consideration of the bill later today or tomorrow morning and will cite the Supreme Court decisions which have struck down acts of Congress where a sufficient showing of the deliberative process has been lacking.

In my judgment, that has been an overextension, a usurpation, by the Supreme Court of the United States of the separation of the powers. For the Supreme Court of the United States, in effect, to tell Congress that Congress has not "thought through" legislation that is part of the congressional function, that legislation violates a specific term or provision of the Constitution, that it is vague and ambiguous in violation of the due process clause of the 14th Amendment, or that Congress has run afoul of some other constitutional provision, then so be it. However, it seems to me an extraordinary stretch of judicial authority for the Supreme Court to say that the Congress has not been sufficiently deliberative, and that only the Supreme Court of the United States can gauge what is sufficiency on the deliberative process. That is the case law.

In the absence of hearings and in the absence of a record, there is a concern on my part that the legislation will withstand constitutional muster. There is no doubt there is a need to act with dispatch.

In my judgment, and I have communicated this to the Chairman and Ranking Member of the Senate Judiciary Committee, we could have held a

hearing three weeks ago. We could have worked on a Friday or Saturday. That is not beyond the workload of the Senate. Perhaps, we could have held closed sessions on confidential material. Also, we could have marked up the bill, undergoing the usual deliberative process—the Senate Judiciary Committee works on bills of much lesser importance—and then have had it reported to the floor. Instead, the bill lay unproduced and held at the desk for action under Rule 14 without that customary committee hearing process, committee deliberation, and committee markup in executive session.

I thought, in the absence of any other Senator in the Chamber, that it would be appropriate to make a few comments in that regard at this time.

But there is no doubt that there is a very heavy overhang on Washington, DC, at the present time as a result of the September 11 terrorist attacks. That very heavy overhang really exists, as I see it, across the country. I felt this when Senator SANTORUM and I went to Somerset County, Pennsylvania on September 14, 3 days after the September 11 attack. Although there had been no casualties on the ground, 40 Americans had lost their lives in that ill-fated plane, and there was a great urgency in hearing from Washington, D.C. alongside a great sense of concern.

Earlier today I went to Pennsylvania to meet with the Pennsylvania Business Roundtable. Again, there is a sense in the air of a heavy cloud over America, which we have to work through. I am confident that we will. I believe the Bush administration has done an excellent job in organizing an international coalition and not acting precipitously, but rather, acting very carefully. I believe Osama bin Laden will be brought to justice.

In the interim, as we look through the kinds of problems which law enforcement faces, I think it is important for Congress to have acted with dispatch—really even earlier than that. However, that could be done only with appropriate regard for constitutional rights. We can have deliberation, with hearings and analysis, get the job done for law enforcement, and protect constitutional rights at the same time. As we work through the very important issue of homeland security and the issue of reorganization of the intelligence community, I welcome comments from my colleagues on the draft legislation which I am submitting into the RECORD. It is going to require collaboration from many Members.

As I have said, Congressman THORNBERRY has already introduced legislation in the House; Senator LIEBERMAN and Senator ROBERT GRAHAM of Florida are working on it, as am I. I think from this we can structure some legislative changes which can better protect America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I was not able to be here prior to the statement of the distinguished Senator from Pennsylvania. I would note both on the Intelligence Committee and on the Judiciary Committee his has been one of the most consistent and most clear voices on these issues. In fact, one of the things that disappointed me when we brought up the terrorism bill is the Attorney General was able to stay there only for part of the hearing. I was glad he was able to stay long enough for what was intended to be the first round of questioning, questioning from the senior Senator from Pennsylvania. He has a way of getting to the crux of the matter. I would have liked to have gone further on that.

These are serious matters. I get concerned when we have to rush things through without the kind of deliberation and scrutiny they deserve. The Senator from Pennsylvania has raised the obvious fact of making, for constitutional purposes, a record demonstrating legislative intent. Among all the suggestions he made, this is one to which we should pay the most attention. Sometimes as we rush—I say that as one who wants to get a terrorism bill up here and voted on, and hoping the House can do the same and we can get on to conference. But, frankly, we can spend a lot of time on this floor sometimes debating matters that are of minuscule moment and we would be better off if we did the kind of long-range thinking that he and others have discussed.

I think in the report, our former colleagues, Senator Rudman of New Hampshire and Senator Hart of Colorado, after September 11, after the fact, made everybody come and dust them off and say a lot of what happened was predicted here, and how we respond to it.

I worry sometimes also we think by passing a new law we will protect ourselves. We will go back, the Senate will go back—and I am sure the House will, too—and review the files of the Department of Justice, the FBI, and others for information that was there and perhaps not looked at nor acted upon prior to September 11. That is not to find scapegoats but to say: Was this a mistake? Had it been done differently would we have stopped this terrorist attack?

Sometimes we close the barn door after the horse has been stolen. We spend billions of dollars around this country so you cannot drive a car bomb into the lobby of buildings. In this case, the bomb came through the 80th floor of the building.

We should look at this matter very carefully, find out where mistakes were made prior to the 11th—and there were—find out what is needed, and I suspect it will not be just new laws but new ways of doing things to take care of it.

On the question of better use of computers, certainly the better use of translators, if you have after the fact

the Attorney General and the FBI Director having to go on public television saying, please, we need some people and we will pay \$35 or \$40 an hour to translate Arabic material or whatever other languages, somebody has to ask the question: Why weren't you doing that before?

There are so many things we have to do. But I hope people listen to the Senator from Pennsylvania. I intend to. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

AVIATION SECURITY ACT

Mr. MCCAIN. Mr. President, I hope that in about an hour we will be moving to the Airport Security Act since those 30 hours will then be close to expiration.

I want to clarify a statement that I made on the floor earlier. I do oppose nongermane, nonrelevant amendments. I announced that when this bill was first—we thought it was going to be considered. But I want to point out that I have been in negotiations and discussions with various Members who are concerned about those individuals who have been directly impacted by Federal action, closing down the airways and the airports, including Reagan National Airport which just recently reopened.

I think if we can reach an agreement, scale back dramatically the original proposals, that we could come to some agreement and attach that to this bill. But it would have to be acceptable to a large majority of the Members of the Senate.

Although I oppose nongermane amendments, I also think we need to act on the issue of those who are directly affected by Federal action as a result of the shutdown of the airlines across this country.

I wanted to make that clear.

I continue to hold discussions on both sides of the aisle to see if there is a way we can come to agreement and thereby have it as a part of this legislation, particularly since the administration has not made a commitment at this time to have it on any pending vehicle.

I wanted to clarify my position on the issue.

I yield the floor.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, what is the parliamentary situation? Are we in morning business?

The PRESIDING OFFICER. The Senate is considering under cloture the motion to proceed on S. 1447.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to proceed for 5 minutes as if in morning business but with the time applying against the clock on cloture.

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

SENATOR MIKE MANSFIELD

Mr. LEAHY. Mr. President, today is one of the days I have had kind of a bittersweet experience. For me, the bittersweet experience was going to the funeral of the former distinguished majority leader of the Senate for 16 years, Mike Mansfield; bitter because you never want to see such a person and such a giant's life come to an end; sweet though because he had 98 very fulfilling years.

At the end of those 98 years, we listened to the tales from his family, associates, and others who reminded all of us what a great man he was. The irony is that Senator Mansfield would not have let any one of us talk on at such length and be so praiseworthy about him here on the floor. He was very modest. But I thought of the wonderful moments that could remind each other—those of us who had the privilege of serving with Senator Mansfield and those of us who came later—of what a great man he was.

I first met Mike Mansfield when I was Senator-elect. I came in here as a 34-year-old prosecutor. The terms actually overlapped. I came into this building I used to visit as a law student. But now I carried this mantle of U.S. Senator, and I was probably far more nervous than I once was as a law student.

Senator Mansfield was one of the first people I got to see. I remember him inviting me into his office. He asked if I wanted some coffee. My nerves were shaky enough at that point, I didn't need it, but I said: Of course. He poured it out and handed it to me. He asked me about my life, and all that. I was trying to ask questions.

I always called him Mr. Leader. But I remember one thing he said was: You are going to be here at least 6 years. You may be here a lot longer. But remember, in the Senate we keep our word. And if you commit to something, if you tell another Senator you are going to do something, then always keep your word, even if it turns out that politically it is not going to be helpful for you because it is the only way we can operate in this body. We do it on trust.

He also said: The other thing is, if you vote on something, and afterward you think you cast the wrong vote, don't worry about it. I guarantee you, the issue will come up again, and you will get to vote the right way.

He was right on both occasions. I have cast votes that afterward I thought: That was kind of a dumb thing to do. I will wait for another time to bring it up. It will come back up, and I can vote the right way.

But I do remember what Senator Mansfield said: Keep your word. You always keep your word.

We had some real giants serving in the Senate at that time. I remember Senator Mansfield, when things would get bogged down in this Chamber, would come through and sort of tap a few people on the shoulder and suggest they come in the back room; and then we would pass a great deal of legislation in that back room, as Senator Mansfield would puff on his pipe, and with very few words he would get warring parties to seek peace and move on with the Nation's business.

He was very nice to my family. He used to give a speech every year to the caucus, saying: There is no seniority. There is no juniority. We are all equal. He gave that speech one day, and Senator Abourezk of South Dakota, who, like me, was one of the most junior Members here, stood up and said: Mr. Leader, I was so impressed with that speech, especially as one of the most junior Members, that there is no seniority, no juniority. Senator Mansfield thanked him for his statement, and Senator Abourezk said: Because of that, could I borrow your limousine and driver tonight? Senator Mansfield took the pipe out of his mouth and, with a quiet smile, said: No.

There were certain limits, but then, when I was a young Senator, he loaned that limousine to my wife Marcelle and me and our three children to go to a movie premier and then to drive elsewhere to meet the cast afterward.

I recall so many times, when I was stuck here late in this Chamber and I could not get home to my family, that my children would remind me, when I came home and apologized: Remember that wonderful evening Senator Mansfield let us take his car and even use the telephone in it.

He would do things like that. He cared very much about those of us who had young children. One, he remembered the names of the children who would come in here with us. Even a few months ago, when I ran into him at an event, we started talking, and he immediately asked: How is Marcelle? He started naming the children. What a remarkable person.

He taught Senators that you have certain responsibilities. There are only 100 of us at any given time to represent the country, but within responsibilities you can have personal relationships across the aisle.

I remember Hugh Scott, traveling with both of them on the plane and them puffing on their pipes. But those personal relationships made the Senate work so well.

I remember the great speech he gave in the Leader's Lecture Series in the Old Senate Chamber. It was the speech