Federal service. That order also contained an exemption for agencies and offices doing national security work and allowed the head of the agency to invoke the exception. Not the President, but the head of an agency could do it.

The current statute then was signed by President Carter. He concurred with the language the House and Senate presented to him. But his own bill which he sent to Congress earlier in 1978 also contained an exemption for the work of national security.

This is a well-established need that all Presidents have seen fit to exercise; to the extent, evidently, that extended debate back then was hardly even necessary. I don't know that there has ever been extended debate on the authority the President should have with regard to setting aside collective bargaining agreements in situations pertaining to national security and these other categories until now.

Ironically, while the opponents of the Gramm-Miller substitute and the President's preferred course of action want the status quo with regard to all other aspects of this bill except the organizational part, but the status quo with regard to the managerial part, they do not want the status quo when it comes to giving the President the authorities that Presidents have traditionally received.

The President can't accept that. He has said so. I hope it is not presented to him like that because we know what the fate of this bill would be. That would not be good for the country. We all know that.

I am hopeful that in these waning days we will be able to, with regard to these two issues, which opponents of Gramm-Miller say are not very significant but which the President says are extremely significant, which you would think would cause a basis for some compromise right there, but I would hope we would be able to address this issue of some flexibility that we have given other departments that we must give the new Secretary on the one hand and, secondly, maintaining the President's traditional position with regard to his national security responsibilities having to do with collective bargaining agreements.

I yield the floor.

The PRESIDING OFFICER (Mr. WYDEN). The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period of up to 10 minutes each and that this time extend until 5:15 today.

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

HOMELAND SECURITY ACT OF 2002—Continued

Mr. REID. Mr. President, the Senator from Pennsylvania is here and he wishes to speak on the bill. I ask unanimous consent we return to the homeland security bill and that there would be a period for debate only, and the Senator be recognized for whatever period of time he wishes to speak, and that when the Senator from Pennsylvania finishes his statement, we go back into morning business under the previous request.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is my hope that the Senate will complete action on the pending homeland security legislation, that we will go to conference with the House of Representatives, and that this bill will be passed, signed into law by the President, before we adjourn because, in my judgment, the most important business the Congress has is to legislate is on homeland security and to do our utmost to prevent a recurrence of 9/11.

The intelligence communities have advised that there will be another terrorist attack. It is not a matter of whether or if, but it is a matter of when. I am not prepared to accept that. I believe another terrorist attack can be prevented. I believe had all of the so-called dots been put together before September 11, 2001, that there was a good chance that terrorist attack could have been prevented.

I say that because there were very important leads which were never coalesced, analyzed, or brought together. I refer to the FBI report out of Phoenix, in July of 2000, about a man taking flight training, had a big picture of Osama bin Laden, very suspicious. That report never got to the upper echelons of the FBI. We had the CIA tracking two members of al-Qaida in Kuala Lumpur. They turned out to be hijackers, two of the pilots involved in September 11. But the CIA never told the FBI or never told INS, and they gained admittance to the country and were part of the suicide bombers.

Then there is the famous, or perhaps infamous, national security agency report on September 10 that something dire was about to happen the very next day. It wasn't translated until September 12. Further, the very important effort by the Minneapolis branch of the FBI to get a warrant under the Foreign Intelligence Surveillance Act for Zacarias Moussaoui, who was supposed to have been the 20th member of the hijackers and suicide bombers, was never pursued properly because the FBI used the wrong standard.

We know from the 13-page single-spaced letter written by Special Agent Colleen Rowley that the U.S. Attorney's office in Minneapolis was applying the wrong standard—a 75 to 80 percent probability—and that Agent Colleen Rowley thought it was a standard of more probable than not, which would have been 51 percent. The appropriate legal standard, as defined by the Supreme Court of the United States in Gates v. Illinois, in an opinion by then Justice Rehnquist, was that probable cause is established on the totality of the circumstances based on suspicion. Had the Zacarias Moussaoui matter been integrated, there was a great deal of information available in Moussaoui's computer which was not acquired. The Intelligence Committee hearings have disclosed that in the past two weeks. All of these dots were on the screen, and even more. Had they been brought together, then there is a possibility that 9–11 may have been prevented. At least they would have been on inquiry.

I believe this was a veritable blueprint. I believe we have a very heavy duty to see that this legislation is enacted and all of the intelligence agencies are brought under one umbrella. I tried to do that in 1996 when I chaired the Senate Intelligence Committee. I wanted to bring them all under the CIA. I think it is not really critical under which umbrella, but under one umbrella. Now we have the chance to accomplish that with homeland security.

We have two provisions under the Labor-Management Act that are, so far, providing a controversy that has held the measure from going further. It is my suggestion these two provisions are not too far apart. The law, as set forth in 5 United States Code 7103 says:

> The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter [which is collective bargaining] if the President determines that (a) the agency or subdivision has a primary function, intelligence, counterintelligence, investigative, or national security work, and the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

That is the existing law which the President does not want changed, and there has been an effort by labor to what is called ''shore up'' those provisions of collective bargaining by this language in the Nelson-Chafee-Breaux amendment:

> The President could not use his authority without showing that (1) the mission and responsibilities of the agency or subdivision materially change, and (2) a majority of such employees within such agency or subdivision have as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

Now, there was a question on my mind as to whether the language of the Nelson amendment was in addition to or in substitution for the existing language on collective bargaining. We had an extensive discussion among Senator LIEBERMAN, Senator THOMPSON, Senator BREAUX, myself, and Senator NELSON was on the floor. At that time, the drafters of the amendment said it was not in substitution for, but in addition to.

Well, the main concern the President has expressed is he is concerned his authority under the provisions relating

to national security would be taken away. But the drafters of the amendment tell us that is not what is intended because the language is ''in addition to'' and not ''in place of.''

If you look at the specifics of the existing language about intelligence, counterintelligence, investigation, and the language of the amendment, the duties, primary duty, intelligence, counterintelligence, or investigative work, they are not too far apart. I think we can reach an accommodation there.

The other provision that has provided the controversy is the issue of the President wanting flexibility, and the provisions of the Gramm-Miller amendment have picked up the language of the House bill, which would give the President flexibility on these six categories: Performance appraisal, classification, pay rates and systems, labor-management relations, adverse actions, and appeals. The amendment provided by Senator NELSON and Senator BREAUX would give the President four of those six. It would give the President, No. 1, performance appraisal; No. 2, classification; 3, pay rates and systems; 4, adverse actions. But that would be subject to review by the Federal Services Impasses Panel, a seven-appointee panel, all of whose appointees are the President's.

It seems to me we are very close here. I voted against cloture on the Lieberman bill because we do not have in the bill, as it is presently drafted, an adequate provision as to the directorate to have all of the intelligence agencies under one umbrella, and an adequate provision giving the Secretary of Homeland Defense direction to coordinate all of those agencies, to put all those dots on one screen, to have the best likelihood of preventing another 9–11.

I ask unanimous consent that the full text of the amendment I have already filed and have ready to propose be printed at the conclusion of my statement today.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, I am opposed to cloture of the Lieberman bill until I have a chance to offer that amendment. I have also voted against cloture on the Gramm-Miller bill because, again, although I have had discussions with Senator GRAMM, as I have had discussions with Senator LIEBERMAN, we have not reached fruition. I want an opportunity to include this language about the intelligence directorate on the Gramm-Miller amendment.

While I have not taken a position, as I said on Thursday, on whether I will ultimately support the Nelson-Chafee-Breaux amendment, which is backed by labor, or whether I will support the Gramm-Miller amendment, which is the President's preference, it is my hope we can yet work out an accommodation. But I think it is much more important the Senate pass a bill and we go to conference with the House, whichever provisions are included. I grant the provisions labor wants included are important to labor, and I grant the provisions the President wants included are important to the President. But as important as all of those provisions are, they are not as important as getting a bill that can be conferenced with the House, which can be signed by the President, so we can set up this Department of Homeland Security and we can have, under one umbrella, all of the intelligence agencies. It is not that the Secretary is going to tell the CIA agents around the globe where to go, or the FBI agents where to go, or the National Security Agency what to do, or the Defense Intelligence Agency, but as to the analysis, they should all come under one umbrella. That really is the critical factor. That is why I believe the conclusion of this bill on that issue is of greater importance than any other matter in the bill and of greater importance than any other matter which the Congress will consider during this session. So I am prepared to vote for cloture on the Gramm-Miller amendment should I get the chance to offer my amendment.

I do not think, as the Senator from Texas said, that he is absolutely entitled to a vote on his proposal without amendment. The rules of the Senate provide that there can be amendments to the Gramm-Miller proposal, just as there can be amendments to the Lieberman bill, just as there can be amendments to any bill. To repeat, I have not yet taken a position as to whether I will favor what labor seeks through the Nelson-Chafee-Breaux proposal or what the President seeks through the Gramm-Miller proposal, but it is of greatest importance that this provision on the Directorate of Intelligence Analysis be adopted and everything be placed under one roof.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

(Purpose: To give the Directorate of Intelligence the authority, subject to disapproval by the President, to direct the intelligence community to provide necessary intelligence-related information)

In section 132(b), add at the end the following:

(14) On behalf of the Secretary, subject to disapproval by the President, directing the agencies described under subsection (a)(1)(B) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Under Secretary for Intelligence determines necessary.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

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

REPORT ON TRIP TO AFRICA

Mr. SPECTER. Mr. President, during the month of August, Senator SHELBY and I made an extensive trip to Africa. In Africa, we visited many countries and noted some very material changes. For example, the Government of the Sudan finally wants to have good relations with the United States and is willing to make significant concessions to the rebels in the south Sudan. Through the good offices of the President's emissary, former Senator Danforth, a treaty has been worked out which has great promise if implemented and if enforced.

The Muslim-Islamic military has come down from the northern part of Sudan, invaded Christian cities, killed all the men and taken the women and children and sold them into slavery, a practice which is really hard to believe in the 21st century. The peace treaty brokered by Senator Danforth has the promise of ending that. But as we talked to clerics in both Khartoum, Sudan, and in Eritrea, it will have to be enforced by the United States.

We saw in South Africa great advances since my last trip there in 1993 when there was so much contention between the blacks and the whites on apartheid. A government was formed in the 1994 elections. President Mandela has become the national hero and a great many of those problems are on their way to resolution. Great progress has been made.

We saw in Mauritius, an island off the east coast of Africa, tremendous progress being made on trade with a sweater factory yielding compensation up to $300 a week, whereas in some countries in Africa they do not earn more than $250 a year.

To reiterate, in accordance with my custom of reporting on my foreign travel, this is a brief summary of a trip with Senator RICHARD SHELBY, R-Alabama, from August 6–22 to Rio de Janeiro, Brazil, South Africa, Mauritius, Tanzania, Kenya, Sudan, Ethiopia, Eritrea and Sicily, Italy. We explored the emerging trade relationship with Africa during implementation of the 2000 African Growth and Opportunity Act, AGOA, and the 2002 Trade Promotion Authority, TPA, legislation. We also looked at health issues—primarily the African HIV/AIDS crisis and poverty and famine that impact upon the U.S. foreign aid posture and the issue of ''trade versus aid.''

The delegation travel began on Tuesday, August 6, 2002, stopping overnightin Rio de Janeiro, Brazil, en route to South Africa. Brazil's economy outweighs that of all other South American countries and will be aided in this respect by the new TPA and a $30 billion loan guarantee by the World Bank. I spoke about this with U.S. Consul General Mark Boulware. He is optimistic that the TPA will help further expand the economy of Brazil now that the Brazilian currency, the real, is no longer pegged to the U.S. dollar. Despite open anti-American protests following comments by U.S. Treasury Secretary Paul H. O'Neill suggesting widescale corruption in the Brazilian