

Minister of China, not long after the Americans, under the command of GEN Wesley Clark, had bombed the Chinese Embassy in Serbia. The Chinese were understandably very concerned about that.

We said: It was a mistake. It was an error. And the Chinese Ambassador, with whom we were talking at the time, said: You have the best intelligence in the world. You must have known that was the Chinese Embassy. That was not a hidden fact. That was not a secret. You have the most accurate military in the world. You did that deliberately.

Then he pointed out to us that was not just the Chinese Embassy; that was, in fact, the headquarters of the Chinese intelligence operation throughout Central Europe. So we bombed an embassy and we took out their intelligence capability. They said: You did that deliberately. We said: No; it was a mistake.

I remember Senator SHELBY saying: The proof of the fact that it is a mistake is that nobody would have been stupid enough to do that deliberately. Then the Chinese Ambassador said: If it was a mistake, why hasn't somebody been fired? And for that, we had no particular answer.

Checking into it, we found the reason that happened is because GEN Wesley Clark, the commander of NATO, was demanding targets: I need more targets. I'm running out of targets. And under the pressure of those demands from that commanding general, the CIA came up with targets, and they came up with an old target with bad information, under the pressure from a commander who was anxious to keep bombing even though he had run out of legitimate targets. In that pressure, a tragic mistake was made, and America's relationship with China was seriously damaged in that situation.

So intelligence is not always perfect. But in the postmortem of 9/11, we have seen how people want to have it both ways. They look at the intelligence that was available pre-9/11, and they say: How can you have missed this clue? You should have taken action, Bush administration, on the basis of this clue.

Then, when we have information with respect to Iraq that turns out not to be exactly accurate, we are told: How could you have been so misled? How could you have interpreted this way?

One CIA official said: If we had not acted on the basis of the information that we had prior to the war in Iraq, if we had not warned the President in the way we did, we would have been held in violation of our duty, particularly if something had happened.

Then the naysayers, who are saying, "How could you be misled by this intelligence," would be saying, "How could you have missed this clue?" They attempt to put the President and this administration in a no-win situation. No matter what the President does, he is

attacked by the people on the other side of the aisle.

Now, finally, this issue of preemptive war. I will not take the time to go into a full discussion, but I say, particularly to those Senators who pride themselves on their sense of history, let us look back in history and ask ourselves, what would have happened if Neville Chamberlain, Prime Minister of Great Britain, had adopted the attitude of preemptive war when he went to Munich? What would have happened if he had sat down with Adolph Hitler and done what Winston Churchill was urging him to do, which is the same doctrine that George W. Bush had put forward, and said to Hitler: If you attack Czechoslovakia, there will be war. If you move ahead, there will be war?

Neville Chamberlain and some of the people around him said: Hitler does not represent an imminent threat. Hitler is not talking about bombing London now. If we give him Czechoslovakia, he will feel nice towards us. We need to worry about international opinion. We need to see to it that everybody gets together in the international community. And Czechoslovakia does not affect us.

Chamberlain said: Those are people far away from us with whom we have nothing to do, a speech that could have been made on the floor of this Senate as people talk about Iraq: They are far away from us, people with whom we have nothing to do. And the threat is not imminent.

Churchill was long-headed enough to know that if Hitler got control of Czechoslovakia, he would get control of the finest machine shops in Europe, he would add to his military machine, and he would be prepared to wage world war. If Hitler were denied Czechoslovakia, we now know in history, his own generals would have deposed him for being too risky.

But Neville Chamberlain said: No. We can't wage any kind of preemptive war. We have to wait until he attacks us before we can justify it. And 6 million Jews went to the concentration camps and into the ovens, and countless millions were killed in the Second World War because we did not take preemptive action when we could have. I say "we"—the Western World did not.

Chamberlain was hailed as a hero when he came home, and the motion to support the action that he had taken went through the House of Commons by huge margins. When Winston Churchill stood up and said: We have suffered defeat of the first magnitude, he got only a handful of votes. But history has not been kind to Mr. Chamberlain. History has validated the position that Winston Churchill took, a position which George W. Bush is applying to modern conditions.

Those who value history should read all of history before they stand on the Senate floor and attack the President of the United States for a doctrine that they say is repugnant.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Alaska is recognized under a previous order of the body. There was a previous agreement that was entered into that grants her this slot of time.

The Senator from Alaska.

#### ENERGY FROM ALASKA: JOBS FOR AMERICA

Ms. MURKOWSKI. Mr. President, I rise this morning to speak about a topic of great importance to our Nation; that is, the subject of jobs.

I know this subject is on the minds of my colleagues, and certainly on the minds of my constituents back home in Alaska, but really Americans throughout the country.

Since 2000, the American economy has been in a slump. In 2000, we were headed toward a recession. The stock market declined and the technology bubble burst. Then came September 11.

When terrorists struck the World Trade Center and the Pentagon, our economy suffered. And as we, as a country, mourned the loss of 3,000 innocent Americans, we again watched that stock market tumble and, really, the economy grind to a halt.

This administration has been working very hard not only to protect American people from terrorism but to revive, to reinvigorate our economy.

The approach that has been taken to cut Federal taxes, as we have done in Congress, the move the Federal Reserve Board has taken in cutting interest rates, those were the right things to do. But we can do so much more. We can and we must take positive steps to create good paying jobs for Americans.

On the floor recently many of my colleagues have been talking about the loss of jobs we have sustained over the last few years. The truth is, we have lost a lot of jobs. But I do not want to talk this morning about those jobs that we have lost. I want to look forward. I want to talk about the many jobs we can and should create for Americans who are out of work.

Currently, we have a House-Senate conference committee crafting a comprehensive Energy bill. In late July, in a show of great bipartisanship, the Senate passed an Energy bill to conference. There were 83 of my colleagues who supported me in this measure. Fourteen Senators voted against the bill.

Attempts have been made by both Republicans and Democrats to enact a national energy policy to reduce our country's dependence on fossil fuels, much of which comes from foreign countries, and to improve the existing energy infrastructure in the U.S.

Most people would agree we need a national energy policy to address our concerns, but there is widespread division as to how we go about it. These divisions can be partisan, they can be ideological, or they can be regional. I encourage the conferees working on

the Energy bill to put these differences aside and reach an agreement that meets the energy needs of Americans. Of course, as we know, that is easier said than done. Developing a national energy policy is, to say the very least, difficult. It means many things to different people. Therein lies the problem with passage of a national energy policy.

My colleagues in the House represent diverse opposing interests. We all have diverse interests. We come to it from a different perspective, as we approach a national energy policy. So while it may be easy to get Members interested in talking about a national energy policy, when it actually comes to putting the pen to paper, it is much more difficult to garner support.

As part of a national energy policy, I have been advocating opening the Arctic National Wildlife Refuge to oil and gas exploration, as well as enacting a fiscal package to build a natural gas pipeline from Alaska to the lower 48. My constituents are eager to offer our State's natural resources to the Nation to meet our shared energy needs.

I will continue to fight, as I have been, to get these provisions in an Energy bill. I do not apologize or make any excuses for what I have to do for my State. It is my job. But developing Alaska's energy resources not only benefits Alaskans but it benefits Americans.

I will explain how developing Alaska's resources will benefit all Americans. Before I do so, I will discuss what a comprehensive energy policy must contain, in my opinion. Some of my colleagues think the only thing I want in an Energy bill is ANWR and a natural gas pipeline. From my perspective, an energy policy that does not utilize the vast domestic energy reserves in Alaska is not comprehensive. We must provide for increased oil and gas production in order to meet the country's demand for energy. In my mind that is very clear. But there is more to an energy policy than that. The policy must address our renewable energy reserves.

At the same time we encourage domestic production of energy, we must promote energy efficiency and energy conservation. We cannot have a comprehensive policy by doing just one or the other. We have to have both.

I am not going to talk this morning about energy dependence, technically recoverable barrels of oil, known cubic feet of gas, or the minimal impact that energy development in Alaska would have on the environment. My colleagues have heard those arguments time and time again. This morning I want to talk about jobs. I want to talk about how we can create good paying jobs for all Americans. I don't want a single man or woman in America who is willing to work and looking for work to be locked out of finding a job. Americans can't enjoy the American dream without a job. It is as simple as that.

We have passed legislation to stimulate the economy. We have passed leg-

islation to cut taxes. But our work is not done until Americans have work.

In my State, traditionally we have had the highest unemployment among the States. According to the September 2003 seasonally adjusted unemployment rates, Alaska's unemployment rate overall is 7.8 percent. In many parts of my State, it is in the double digits, something that is hard for many of my colleagues to imagine. In our neighboring State of Washington, the unemployment rate is 7.6 percent. When Americans can't find work, our job in Congress is not done. We have to get to work to get people to work.

I don't know how much more clear I can be on this point. I want the men and women of this country who are searching for a job to be able to find them—good paying jobs, jobs with benefits such as retirement and health care, and jobs that can sustain a family.

How do we create these jobs? It is through the Energy bill. We ought to call this legislation the national jobs bill because that is what the Energy bill can be. If we do it right, this Energy bill can be the jobs bill.

I have said before that developing the energy resources in Alaska will create jobs. No one can deny that. If we open ANWR, if we build a natural gas pipeline, we create jobs. They are good paying jobs for Alaskans.

I have heard the reasons from Democrats and Republicans in both the House and the Senate of why we should not open ANWR or why we cannot produce a fiscal package that would ensure construction of a natural gas pipeline. But I have to ask: Are they saying we can't create jobs or we should not create jobs? Are they saying we should not create good paying jobs for Americans? I don't think there is a Member of this body or the other body who would state that they oppose job creation.

So I say to my colleagues: Let's do the right thing. Let's protect our energy security, our economic security.

Let's create good paying jobs for Americans.

I direct my colleagues' attention to a report recently completed by the National Defense Council Foundation. This report is current. It is scheduled to go to print on October 30. The NDCF is a nonprofit think tank that studies defense and foreign affairs issues facing the United States. The experts at NDCF specialize in the study of low-intensity conflict, the drug war, and energy concerns. It is not affiliated with DOD or any part of the Federal Government. This report is entitled "Eliminating America's Achilles Heel, Our Addiction to Foreign Oil and How To Overcome It."

This report estimates the direct and indirect jobs that would be created by the development of the oil in ANWR and Alaska's natural gas reserves.

The NDCF estimates that opening ANWR would create 1,074,640 jobs throughout America. It is important to

repeat that number: 1,074,640 jobs throughout America. That is opening ANWR. The NDCF also looked at how many jobs would be created by the construction of an Alaska natural gas pipeline.

They estimate that it would create 1,135,778 direct and indirect jobs throughout the Nation. Again, 1,135,778 direct and indirect jobs would be created through the construction of an Alaskan natural gas pipeline.

So if we do both, that is 2.2 million jobs—good paying jobs—throughout the country. The estimate, according to the NDCF, is 2,210,418. If you were to ask anybody, certainly in this body, if you could pass a bill to create 2.2 million jobs, would you do it? Of course you would.

The Energy bill is not just an answer to our energy problem; it is an answer to our economic problems. It is a jobs bill.

I need to talk numbers a little bit more because I am sure you are thinking, well, of course, Senator MURKOWSKI is advocating this because it means good jobs for her constituents in the State of Alaska. That is absolutely true; there are going to be good jobs in my State of Alaska. In Alaska, according to the NDCF, Alaska resource development would generate 202,464 direct jobs and 131,917 indirect jobs. That is about 330,000 out of 2.2 million jobs.

So where are the rest of these jobs? They are spread literally throughout the country, all throughout the lower 48 States, and Hawaii and the District of Columbia. So Alaska is not the only State that benefits. There will be 315,435 direct and indirect jobs generated in California.

Let's look at what we might have in South Carolina for the Presiding Officer's edification. If both ANWR and the gas line were opened, there would be 12,115 direct and indirect jobs in the State of South Carolina. New York would see 93,356 jobs. Washington State would see 139,089 jobs.

Now, I am sure somebody is going to ask me—or perhaps target this study in an attempt to poke holes in the methodology—but the interesting news here is that many of the people who approve of the methodology for this study represent some of the largest environmental groups in the country. So this means that the environmental groups have signed off on the methodology used for this study that shows that more than 2.2 million new jobs would be created from ANWR and the natural gas pipeline.

I conclude that by adding that through the opening of Alaska's natural resources, we not only provide the energy that this country needs but again we provide jobs throughout the country—good paying jobs. I ask my colleagues, as we move forward with the Energy bill, to keep this in mind for the good of the country.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I yield myself as much of our time as I require.

The PRESIDING OFFICER. The Senator may proceed.

#### THE USA PATRIOT ACT

Mr. FEINGOLD. October 26 will mark the second anniversary of the USA PATRIOT Act. I wish to speak today about the continuing and growing controversy surrounding that law, which was passed just 6 weeks after the September 11 terrorist attack.

I was the only Senator to vote against the PATRIOT Act. As I said during the debate in the fall of 2001, the act contained many provisions that were necessary and appropriate to help protect our Nation against terrorism. I still believe that. But I also argue that the PATRIOT Act went too far; that it threatened our citizens' constitutional rights and liberties. That is why I could not support it and why I insisted on offering amendments to the bill on the floor.

Today, 2 years later, I still believe that as well. An increasing number of Americans have agreed and have expressed their concerns that certain provisions of the PATRIOT Act threaten the rights and liberties guaranteed by our Constitution for over 200 years. The chorus of voices of doubt has grown so loud that the Bush administration has responded but not, I am sorry to say, by addressing these concerns in a constructive and open way. Rather, the administration has initiated what seems to be a public relations campaign in recent weeks to simply defend the PATRIOT Act in its entirety.

The Attorney General has gone on the road and on the Internet to extol the virtues of the law. Speaking before hand-picked audiences of law enforcement personnel, he has ridiculed and dismissed those who have raised concerns about the law. A few weeks ago he denounced "the charges of the hysterics" as "castles in the air, built on misrepresentation, supported by unfounded fear, held aloft by hysteria."

I think these words are unfortunate, and in its zeal to defend the act the administration appears unwilling to even acknowledge the legitimate concerns of many Americans; and it objects to commonsense proposals to protect privacy and civil liberties that would not in any way undermine the fight against terrorism—proposals such as my bill, the Library, Bookseller, and Personal Records Privacy Act, and Senator CRAIG's bill, the SAFE Act, which I also strongly support, which would protect the constitutional rights of innocent citizens, while still allowing the FBI to do its job to protect our Nation from another terrorist attack.

As Members of Congress, we have taken a solemn oath to uphold the Constitution of the United States. The President and the executive branch officials, of course, take this same oath. The burden is on the administration, which sought the powers included in

the PATRIOT Act and which now seeks even more powers, to show that the current law and proposed new laws are consistent with the Constitution.

Let me take a moment to remind my colleagues how a commitment to individual rights became part of the founding principles of our Nation and enshrined as the Bill of Rights.

In 1787, in the halls of the State House of Pennsylvania in Philadelphia, GEN George Washington, who led our Nation to victory during the Revolution, convened the Constitutional Convention. A number of great political figures were delegates to that convention. Joining Washington were other distinguished Americans such as James Madison, Benjamin Franklin, Alexander Hamilton, and George Mason. Mason participated in the Convention, but he was concerned that the deliberations would result in a Constitution creating a central government with too much power over the States and individuals.

Mason, a patriotic American, who loved his newly found freedom from British rule, had reservations when he made the trip to Philadelphia. Prior to the Convention, he had written a bill of rights for the State Constitution of Virginia. He urged delegates to the Convention to include a bill of rights also in the national Constitution.

But a majority of delegates initially disagreed with Mason. When the draft of the Constitution was released, it failed to contain a bill of rights or any other explicit protection for the rights of individuals. Mason was bitterly disappointed.

Mason was concerned that, without any explicit protection for individual liberties, the Constitution would open the doors to tyranny by a central government. Why? Because our experience with British rule, in which the colonial power was able to infringe on individual rights, was still very much on his mind. So after the Constitutional Convention adjourned, Mason continued to push for a bill of rights.

During the next 2 years, as the Constitution made its way to the States for consideration and ratification, the American people came to agree with Mason, and he prevailed.

Thomas Jefferson wrote to Madison that a bill of rights was "what the people are entitled to against every government on earth."

Another statesman, Richard Henry Lee, who was one of the signers of the Declaration of Independence, said provisions were needed to protect "those essential rights of mankind without which liberty cannot exist."

Madison, who was initially opposed to including a bill of rights, was persuaded. An explicit protection for the rights of people or a bill of rights was needed in our Nation's governing document.

So, Mr. President, on September 25, 1789—almost exactly 214 years ago—the First Congress of the United States proposed 12 amendments to the Con-

stitution. Ten of these amendments were ratified 2 years later by the legislatures of at least three-fourths of the States. The remaining two amendments relating to compensation for Members of Congress and the number of constituents per Representative were not ratified at that time.

The first 10 amendments to the Constitution, of course, are what Americans now know as the Bill of Rights. The first amendment guarantees freedom of speech, freedom of religion, and freedom of association.

The second amendment guarantees the right to bear arms.

The fourth amendment protects against unreasonable search and seizures.

The fifth amendment ensures that no person shall be deprived of life, liberty, or property without due process of law.

The sixth amendment guarantees a right to counsel and a right to trial by jury to those charged with crimes.

During the debate on our Constitution, our Nation was at a critical juncture: Do we follow a path toward a highly centralized government with the potential for tyranny or do we follow a path toward a government with checks and balances, respect for States in a Federal system, and protections of individual rights and liberties?

The decisions made in the first days of the Republic have stood the test of time. They, of course, created the greatest democracy on Earth and a governmental structure that is most protective of individual freedom and liberty in history.

Today we stand at another critical crossroads. As our Nation faces new terrorist threats, we must respond to those threats without compromising the civil liberties that are the bedrock of our country. We must balance the legitimate needs of law enforcement against the privacy and freedom of all Americans, and that is not an easy task.

One thing I know, the solution is not simply to grant the Federal Government more and more power to conduct surveillance, eavesdrop, and collect information on law-abiding Americans.

The debate about the PATRIOT Act echoes the debate over two centuries ago in the halls of the statehouse in Philadelphia. Today, as then, we must take from our experience as a nation. We must remember the critical role the Constitution and, in particular, the Bill of Rights, has had in guiding our country through national crises, war, and armed conflicts at home and abroad, including the War of 1812, the Civil War, the two World Wars, and the cold war.

The Constitution has survived and flourished throughout our history, and respect for individual freedom and privacy has steadily advanced.

In the immediate aftermath of the September 11, 2001, terrorist attacks, there was, understandably, a great desire to give the administration the tools it said it needed to fight terrorism and prevent another terrorist