

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has 30 seconds remaining.

Mr. KENNEDY. I withhold that.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 15 seconds.

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

Mr. REID. Madam President, I ask unanimous consent that 15 seconds also be added for the Senator from Massachusetts.

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

Mr. GRASSLEY. Madam President, just to remind the Senator from Massachusetts, I was chairman of the committee during this period of time for 4 months—from January until May of 2001. The Democratic Party chaired this committee from June of 2001 through all of the debate on the Medicare issue. I was not in charge of that committee at that time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield back my time.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### INTELLIGENCE COMMITTEE REORGANIZATION

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. Res. 445, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 445) to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Pending:

McConnell/Reid/Frist/Daschle Amendment No. 3981, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, the reorganization resolution is now the pending business before the Senate. I want to report to our colleagues an agreement that Senator REID and I have reached—he is on the floor as well to discuss the matter—as to how we are going to proceed.

Point No. 1: any amendments will need to be offered. The issue we are dealing with, of course, is sensitive to a number of different committees in the Senate. It is the intention of Senator REID and myself not to have a managers' package. If Members of the Senate feel strongly about a particular amendment, what we recommend to them is they come over to the Senate floor and offer the amendment so that everyone can understand fully what change in the underlying resolution is being proposed.

Senator REID and I have said repeatedly that the underlying resolution is certainly not like the Ten Command-

ments; it should not be adjusted. We cobbled it together as best we could through a series of bipartisan discussions and compromises. Now it is the pending business before the Senate. We expect amendments. We would like amendments. We received notice last night by hotlining that there could be as many as 50 amendments Members may wish to offer. We are open for business, and we would like for Senators to come over and offer those amendments so we can move forward.

I also remind our colleagues that Senator FRIST and Senator DASCHLE and Senator REID and myself did file a cloture motion last night, not to shut anyone out but because we are about to leave on Friday and so many amendments were indicated as possibilities that we felt we needed to nudge the process forward by creating the possibility of an end time tomorrow.

Let me repeat before turning to my friend and colleague, Senator REID, that if Senators have an amendment, please come and offer it, explain it to the rest of the Senate, lay it before the Senate, explain what it is about, and let's have votes and move the process forward as rapidly as we can.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, as difficult as this was for us to get to the point where we are now, it is not as if the Senator from Kentucky and the task force just made all this stuff up. Because of 9/11, we created a Department of Homeland Security. We now have a Cabinet-level Secretary of Homeland Security—a former Congressman and Governor—Tom Ridge. There is a Department of Homeland Security, I repeat, of Cabinet status, and because of legislation we passed previously, it has certain obligations within the executive branch of Government. So we had a guideline to follow because that is what Secretary Ridge has been doing in that Department of Homeland Security.

One of the guidelines we had was to try to track that with what will be the organizational prerogatives of the Senate. I believe we have done a pretty good job doing that. As the Senator from Kentucky mentioned, if people think they want to improve upon what we have done, what they need to do is offer an amendment and the body will decide whether that is the right way to do it.

Also, the two leaders have said we are going to finish our work before we leave for the recess prior to the election. That means we are not going to wait around here all day for someone who has a lunch or meeting in their office or a committee hearing. If we go for a period of a half hour, 45 minutes here—and that is an arbitrary number I throw out—and nobody shows up, we are going to move to third reading. We are not going to wait around with the recess, prior to the lameduck session, taking place tomorrow, supposedly. We are not going to wait around here all

night for people to work out their schedules to come here. This is their schedule, the floor of the Senate. This is the primary obligation Senators have. Everyone should know—staffs listening, some Senators listening—if we are waiting around here with nothing to do in a quorum call, Senator McCONNELL and I are going to move to third reading, and we are going to wrap up this resolution.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, let me also take this opportunity to remind our colleagues what this is all about. The Secretary of Homeland Security and his principal assistants are being dragged around the Capitol continuously. Just this year, there have been 164 hearings, up from 148 last year. There are currently 88 committees or subcommittees in the House and Senate that have at least some part of the Homeland Security Department. Here in the Senate, which we are addressing in this underlying resolution, there are 25 Senate committees or subcommittees that have jurisdiction over the Department of Homeland Security. Secretary Tom Ridge called me on Monday pleading for relief. His job, as important as oversight is, is not to spend all of his time up here.

What we are trying to do in the underlying resolution is to consolidate in one place the jurisdiction over the Department of Homeland Security to simplify oversight for us and to simplify the very necessary process of oversight for the Secretary and his principal assistants.

The resolution is pending. As I said, we are open for business, and we hope to have amendments in the very near future.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### AGRICULTURAL DISASTER ASSISTANCE

Mr. BAUCUS. Madam President, at this moment there are several matters pending before the Congress before we recess and/or adjourn. One of them is something that is extremely critical to a lot of people in our country and that is disaster assistance. It is not only the hurricanes in Florida, but it is the droughts farmers and ranchers have faced throughout our country, obviously especially in rural parts of America, and in my State, Montana, quite severely.

Montana has faced a drought, mostly around the southwestern part of our State. There are parts of Montana that are not droughted out. It is precarious. Because of the almost arbitrary patterns of nature, it is hard to know where it is going to rain or where it is

not going to rain, but the fact is, a lot of people are in very tough shape. They need disaster assistance just like the folks in Florida. Maybe Louisiana and Alabama need disaster assistance as well.

It is important for us to remember that we are here, frankly, to help Americans. We are not 50 different nations. We are one country. We are one Congress with one Senate and one House. We have one President. It is true that we have 50 States, but we are one country and we have one Congress. The Constitution provides Congress will enact legislation and the executive branch will administer the legislation, but it is up to us to do what is right for our country, for America.

Sometimes an argument is made, and I even heard this argument made on the floor, that hurricanes are sudden and when there is damage those folks deserve assistance, but droughts are over time; therefore, they don't deserve disaster assistance because it is not really a disaster. It is something that is an adverse consequence that happens over time.

Responsible Senators are making that argument to me. Actually, I question whether they are responsible if they are making that argument. It is a totally fallacious argument. It is wrong for a Senator to say, even if it is in private: You folks don't need agricultural disaster assistance because that's over time; that's not a sudden, immediate occurrence.

The problem, obviously, is that whenever there is a hurricane—and it is too bad, the damage it causes—our national networks focus on it because it is a sudden, at that time, at that one moment disaster, so the TV cameras are there, the correspondents are there. How many times did we see the shots of disaster in Florida? And well we should, because it is terrible what those people are going through. There were parts of Florida hit several times and we should help those people who need help. There is no doubt about that.

But, as I said, we should help those people who need help, and there are some other people who need help on account of nature's disastrous occurrences and they are farmers and ranchers. It is true that droughts have occurred every 4 or 5 or 6 years. But that does not diminish the argument that they need help, too. It is nature that caused the problem. They didn't cause the problem. They deserve help just as everybody else deserves help. We are one country, one Congress, one Senate, and one House, and we should very quickly give that aid, not only to the folks in Florida but also to the folks across our country who suffered disaster because of drought.

Many times on the floor Senators have shown photographs of drought in the country. It is real. I ask all Members—of course they don't have the time—to get out of Washington, DC. Get out of the cities. Go across Amer-

ica and see where the drought is. They are droughted out.

There are also floods which have totally destroyed crops. There are floods in eastern North Dakota, for example, near the Mississippi River. Take North Dakota, it is flood at one end of the State and it is drought at the other end of the State—they are both disasters. That is, both phenomena have destroyed the crops.

This is pretty simple stuff. It is very simple. It is basic. I don't know why we can't get together and help folks who suffered losses around the country, natural losses—we are talking about natural losses here—just as folks in the South, particularly Florida, suffered natural losses.

Then there is the other argument: There is a farm bill. The farm bill takes care of farmers. There is a farm bill and it is a pretty big farm bill.

Let's look at the facts. How much of that farm bill actually went to farmers? A very low percentage. Most of the farm bill, I might say, went to other programs—the Food Stamp Program. In fact, only about 18 percent of the total farm bill is dollars allocated to farmers and ranchers, essentially support payments. Why? To fight other countries that have bigger support payments for their farmers which make our crops even less competitive, so we have to have a farm bill to make sure our farmers are competitive, too. Clearly, that is one reason for the next round of the WTO talks, the Doha Round; namely, for producing nations to begin working together to lower some of their price supports, particularly export subsidies. That is the most heinous form of subsidy. Get rid of those export subsidies, as the Europeans have agreed they will begin to do, and then we can address the problems of the farmers.

But the main point is only 18 percent goes to farmers; the rest goes to other programs, mainly food stamp programs.

Add to that, that 18 percent is irrelevant to the phenomenon we are talking about. It is irrelevant. Why is it irrelevant? It is irrelevant because that is a farm program which pays farmers essentially only when they produce crops. It is a support payment program. It depends upon the price of crops. But when farmers do not produce any crops because of a natural disaster, the farm program does not help them. It doesn't help them and that is why we have agricultural disaster assistance programs. We have had several—many in the past. That is the same kind of program we should have right here today.

So I say to my colleagues who are now negotiating agricultural disaster assistance, the real question is, What do we do now? The House passed a \$3 billion agricultural disaster assistance bill. It is folded into the hurricane assistance dollars. It is now over here in the Senate. The conferees are trying to decide whether that should be put in

the Homeland Security appropriations, which is in conference.

I don't care about the process. That is irrelevant to me. I only care about the result. The result should be that, while we give aid to folks who suffer damage on account of the hurricanes, we should also give aid to our farmers and ranchers across our country who have suffered an equally devastating natural disaster. Let's just do it and do it now.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Madam President, what is the pending business?

The PRESIDING OFFICER. We are on S. Res. 445.

AMENDMENT NO. 3989 TO AMENDMENT NO. 3981

Mr. BAUCUS. Mr. President, I have an amendment to the underlying bill which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, and Mr. GRASSLEY, proposes an amendment numbered 3989 to amendment No. 3981.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the provisions relating to the jurisdiction of the Department of Homeland Security)

Strike section 101(b)(1) of the resolution and insert the following:

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security, except matters relating to—

(A) the Coast Guard, the Transportation Security Administration, or the Federal Law Enforcement Training Center; and

(B) the following functions performed by any employee of the Department of Homeland Security—

(i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107-296);

(ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or

(iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107-296).

Mr. BAUCUS. Madam President, I offer this technical clarifying amendment to the underlying resolution. It

delineates committee jurisdiction. Part of it is with respect to the Customs Service, which the Finance Committee has had jurisdiction over for 188 years. Now the Homeland Security agency appropriately should handle all national security matters in protecting American security. It is appropriate that those functions be transferred to that department which has that jurisdiction.

It is also important that the Finance Committee maintain jurisdiction over not the national security aspects of Customs but the commerce aspects of Customs. This amendment clarifies that distinction. It is in no way intended to have jurisdiction over the security aspects of homeland security—only the commercial side, for which customarily the Finance Committee has the appropriate role.

Mr. REID. Madam President, will the Senator yield for a question?

Mr. BAUCUS. Yes.

Mr. REID. Madam President, it is my understanding that both Senator GRASSLEY and the ranking member are supportive of the amendment.

Mr. BAUCUS. That is correct.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3989 to Amendment No. 3981) was agreed to.

Mr. BAUCUS. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

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

#### TOTALLY FALSE

Mr. HARKIN. Mr. President, just when you think things have gotten about as bad as they can get with the situation in Iraq and what got us into Iraq, another shoe drops. This morning we open up our newspapers and we read that the Duelfer report came out yesterday. This is the person whom the Bush administration picked to investigate Iraq's weapons programs. And here is what the headline reads:

U.S. "Almost All Wrong" on Weapons.

It is not that we were just slightly wrong, 50 percent or 60 percent or 40 percent—99.9 percent of everything that President Bush, Vice President CHENEY, Condoleezza Rice, Donald

Rumsfeld, and Colin Powell said prior to the war in Iraq and right after it was wrong. Where did they come up with this stuff? Where did they come up with the sayings they had on Iraq?

Here is Colin Powell:

There can be no doubt that Saddam Hussein has biological weapons and the capability to rapidly produce more, many more. And he has the ability to dispense these lethal poisons and diseases in ways that can cause massive death and destruction.

That was in a February 5, 2003 address to the U.N. Security Council. Where did he get that nonsense? Did he just pluck it out of thin air?

Here is Condoleezza Rice:

We have found, in Iraq, biological weapons laboratories that look precisely like what Secretary Powell described in his February 5th report to the United Nations.

That was from May 28, 2003. She says: We found them.

Where are they? Don't these people have any shame at all?

Here is President Bush:

Iraq has stockpiled biological and chemical weapons and is rebuilding facilities used to make more of those weapons.

Absolutely false.

Donald Rumsfeld, March 11, 2003:

... we know that he continues to hide biological or chemical weapons, moving them to different locations as often as every 12 to 24 hours, and placing them in residential neighborhoods.

Totally false.

Here is President Bush before the United Nations, September 16:

Iraq also possesses a force of Scud-type missiles with ranges beyond the 150 kilometers permitted by the U.N. Work at testing and production facilities shows that Iraq is building more long-range missiles that can inflict mass death throughout the region.

President Bush, United Nations, September 16, 2002. Totally false. Totally false.

Here is Vice President CHENEY:

Let's talk about the nuclear proposition for a minute ... We know he's been absolutely devoted to trying to acquire nuclear weapons. And we believe he has, in fact, reconstituted nuclear weapons.

Vice President CHENEY, March 16, 2003—every single one of them telling mistruths to the American people to get us sucked into the Iraq war. Now we have—I don't know what happened yesterday—1,061 dead, 8,000 of our young people casualties, injured for life. How many countless innocent Iraqis, women, children? They didn't like Saddam Hussein either, but they are now injured, many of them killed. The country is in chaos. Iraq is a quagmire.

The rest of the world is looking at this, and we are the laughingstock of the world. They are saying, what happened to you, America? What happened to you?

Mr. REID. Will the Senator yield for a question?

Mr. HARKIN. I am delighted to yield.

Mr. REID. I don't know if the Senator from Iowa heard today, but there was an announcement that 13,000 civilian Iraqis have been killed.

Mr. HARKIN. I didn't hear that.

Mr. REID. That is what I heard on public radio this morning.

Mr. HARKIN. Thirteen thousand Iraqis have been killed?

Mr. REID. Civilian Iraqis.

Mr. HARKIN. Well, I don't know if that is right. We would have to look at that to see if that is right. Thirteen thousand Iraqi civilians killed? How many women, how many children? The rest of the world is asking, what has happened to you, America? America used to be the moral leader in the world. You were the ones we looked to for guidance and direction, to be honest and open, not secretive, not lying to the rest of the world. When we confronted Nikita Khrushchev in 1962 when they put missiles in Cuba, we had the photographs. We had the positive proof. The world has looked upon us like that.

And now? Now the rest of the world is looking at the United States and saying: You are just lying. You lied about this. You covered it up. And look at the mess you have created now.

And still President Bush and Vice President CHENEY, Colin Powell, Donald Rumsfeld, Condoleezza Rice, the whole crowd of them still continues to insist that everything they did was right. They still continue to insist that they would do the whole thing just as they did it.

In any other country in this world, if the leadership of that country had done this, they would have to resign in disgrace.

They certainly would not be seeking reelection. I am surprised this President and Vice President and their team are asking the American people to put them there again after this—1,061 Americans dead; several thousand, 8,000, severely injured for the rest of their lives. Now we have this report about 13,000 Iraqi civilians dead. It is a country in chaos.

America is isolated in the world community when, after September 11, 2001, the world was on our side. They were with us. They wanted to help us go after al-Qaida and Osama bin Laden and the terrorists because the rest of the world knew then, as they know now, they have a stake in going after terrorists. But they had no stake in going into a misguided war, a war that we were taken into with falsehoods—absolute, total falsehoods.

I would be the first to say I don't have all the answers on how we get out of Iraq. It is just like dropping a ceramic bowl and it breaks and you have to put it together again. It is very tough. But I do know this: We will never solve our situation in Iraq, we will never get our troops out of Iraq with the leadership we have in the White House right now. This President has burned his bridges; he has poisoned the well with every country in the world. People know they misled us and continued to mislead us in Iraq. I mentioned the lives. How about the money—\$200 billion and counting. Well,

they say \$130 billion or \$140 billion. Come on, it is going to be well over \$200 billion, and we know that. Yet we cannot provide health care to our people. We cannot fund No Child Left Behind. We cannot pass a highway bill to rebuild our highways because we don't have enough money.

No, I don't have all the answers in Iraq. I am the first to state that. I know one thing: We will never be able to get out of Iraq and solve that mess with the leadership that has so misled us and the world in the past. We need new leadership with fresh credibility to give them a chance to go to the rest of the world and say there is someone new here, and we are going to rebuild those coalitions and alliances. We are not going to continue to go down that road. There is one thing about being consistent; there is another thing about being stubborn and reckless.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Without objection—

Mr. GREGG. Mr. President, I object. I ask unanimous consent that the Senator be yielded 5 minutes and that I be given 15 minutes after the Senator.

Mr. REID. Mr. President, parliamentary inquiry: I ask unanimous consent that the Senator from New Hampshire be recognized for 15 minutes in morning business after Senator HARKIN gets his 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I wanted to close up anyway. We hear a lot about consistency. I tell people this: Imagine you are a passenger in a car. You are on a steep mountain road, and you want to get to the bottom of the mountain. You look over, and your driver is President Bush. He has his hands gripped tightly on that wheel, and he is looking straight down that road. You see a bend in the road up ahead and you say: Mr. President, there is a bend in that road. But the President is hunched over that wheel, he is gripping it tightly, and he is looking straight ahead and squinting those eyes, and he says: I don't care. I started out straight, and that is the way I am going.

Then he drives you over the cliff. You get to the bottom, but your car is wrecked and you are either dead or severely injured.

Imagine yourself a passenger in a car on that same steep mountain road. You look over and your driver is JOHN KERRY. You say: Look, Mr. KERRY, there is a bend in the road.

He says: I see that bend, and I know how to take it. So he takes that bend and another couple bends, and he gets you safely to the bottom of the mountain. The car is secure and you are safe. That car represents our country, and you are the "passenger"—the people of this country.

I am sorry, Mr. President, it is not enough to be stubborn and reckless. That hurts our country. That hurts our people. It is better to be tough and smart. It is better to know that sometimes our enemies are going to shift their tactics. The terrorists are not always going to do one thing. We better be able to respond.

Yet we are bogged down in one quagmire in Iraq, and that is where we are headed. That is dragging our country down. It is hurting our people. That is stubborn. That is reckless. That is not consistent. That is ignoring the fact that any military leader will tell you that when you go into battle, you have a plan.

But if the enemy does something different, you have to be able to maneuver. George Bush cannot maneuver. He is stuck in the quicksands of Iraq, while al-Qaida and Osama bin Laden go about their business. Better to be tough and smart than to be reckless and stubborn.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized.

#### WAR IN IRAQ

Mr. GREGG. Mr. President, I think it is worth a minute or two to respond to some of the comments by the Senator from Iowa. I find them to be so inconsistent with the facts as they exist on the ground that it is difficult not to respond to them.

The Senator from Iowa is doing an excellent job of Monday morning quarterbacking. However, the information that the President made his decisions on, the information that our military made decisions on was the same information available to us in the Senate at the time. It was the exact same information that led the Senator from Massachusetts, the nominee of the Democratic Party, to conclude—I will paraphrase him, and I think it is fairly close—that Saddam Hussein must be removed from office, and anybody who doesn't understand that, he should be removed from office, is not qualified to be President of the United States. He said that in a debate in New Hampshire, or in one of the debates running up to the primary, during the primary process. He went on after that to say that he had seen the information and he presumed that the information was reasonably accurate as to the threat Saddam Hussein presented.

Not only did the Senator from Massachusetts say that, but, of course, President Clinton's administration said exactly that relative to the weapons of mass destruction and relative to the threat of Saddam Hussein. In fact, not only did the Senator from Massachusetts say that, not only did the prior President, President Clinton, say that, but the United Nations, in 17 different resolutions, said exactly that to the people of Iraq. As part of the world community, they told Saddam Hussein to disarm, open up his nation, stop killing his people. But he, of course, did not.

I now find it extraordinarily ironic, extremely inconsistent, and reflective, in my opinion, of poor judgment that we have a nominee for the national party whose positions are being parroted by the Senator from Iowa, who is essentially saying that a policy of appeasement and defeat toward Iraq is the appropriate policy for us to pursue.

They have a nominee for their national party who has said he would rather have Saddam Hussein than the chaos that is there. That is in direct contradiction to what he said before, which was that Saddam Hussein represented a threat that should be removed, and anybody who didn't understand that should not be elected President.

Of course, he has said such things as the war in Iraq is "the wrong war, at the wrong place, at the wrong time." And we have "taken our eye off of the ball." The problem with that philosophy, which he essentially says as a Monday morning quarterback that he is going to change positions from the original position relative to the war in Iraq, is that it not only undermines his credibility as a potential leader of this Nation, it undermines his ability to be able to communicate effectively with the other world leaders who are relying on our leadership.

One thing we have found over time is that both troops in the field and world leaders like to know that the United States stands for something and that we do not change with the political winds or whoever our opponent happens to be as of that day.

When you have a Presidential nominee of a national party, in the sense of the Senator from Massachusetts, who is essentially adjusting his message as the polling data comes in and adjusting his message as he confronts different opponents, whether it is Howard Dean in the primary when he becomes much more passive or, as he moves through the primary process, he becomes much more aggressive and then becomes much more passive again as the numbers come in, it is very hard to look to that person for the leadership you need if you are going to lead the world community. This President has done an aggressive job leading the world community.

I think it is ironic that so many Members on the other side of the aisle so easily disregard the commitment and basically disrespect the commitment some of our allies have made, especially Britain which has committed thousands of troops and lost many people in this war on terrorism, both in Iraq and around the world, or Australia or Poland or Italy. These are countries which have stood by us.

Granted, France is not there. France is not in Iraq. France is, however, in Afghanistan. France is working with us relative to Iran. France has chosen not to pursue the course we have pursued in Iraq, but I do not think we can let our national policy, our national defense, or our national security be determined by where France is and how

France stands on issues. We, obviously, encouraged them to join us, but they decided not to. When it comes to our national security, I do not think we can have our policy decided by the French.

The reason why Iraq is so critical has to be restated. We have a tactical war we have been pursuing which is essentially this: The President, with an incredible amount of energy and expertise of the military and the intelligence community, has chased the terrorists around the globe, has kicked over the rocks under which they live and has tried to bring them to justice. That is called a tactical strategy, and that, unfortunately, is going to go on for a lot of years. We are going to have to continue to hunt these people down.

On the fact which reflects the inconsistency of the position of the Senator from Iowa—and there has been considerable success in this area even though the Senator from Iowa may not be willing to acknowledge it—over 75 percent of the leadership of al-Qaida has been captured or killed, Afghanistan is free, there is no longer a Taliban government there, and they will hold elections this weekend with 10 million registered to vote, 40 percent of whom are women. Those women were not even allowed out of their house prior to action there. That is significant progress. But that is a tactical effort, chasing the terrorists around the globe.

We are not going to succeed in this war unless we convince the Islamic world that Western values are not a threat to the Islamic values, unless we can prove to the Islamic community at large, especially in the Middle East, that being free, that having liberty, that having the right to vote, that having a market economy, that giving the women a right to participate in society is not a negative but is rather a positive. If we are successful in setting up a nation in Iraq which has liberty, which has individual rights, which has the rule of law, which has a form of democracy, which gives women the right to participate in society at a fairly high level of equality with men, we will have fundamentally undermined the capacity of Islamic fundamentalism to recruit throughout the world because we will prove to the mainstream Islamic community in this world that Western values, rather than being a threat, is a plus.

I hope that rather than being sunshine supporters of our efforts in that part of the world, we would recognize that we are involved in what is a major strategic effort to try to win the war on terrorism. We are not in Iraq to benefit the Iraqis. We are in Iraq to keep America safer, and the way we keep America safer is by having Iraq turned into a successful free nation where people have liberty, people have freedom, women have rights, and there is a democracy where people can vote.

They are going to hold elections in January. As Prime Minister Allawi said when he was here, Iraq has become

the cutting edge in the area of the fight on terrorism. It is hope which is confronting the fear of the terrorists. We should be supporting people such as Prime Minister Allawi trying to protect their nation.

It is noted that 13,000 Iraqis have died in Iraq. That is a huge number of people, and it is a sad commentary, but those individuals have died in a process to try to obtain freedom for their nation, in many instances. Certainly, that number compares rather dramatically with the hundreds of thousands of Iraqis who were murdered under the Saddam Hussein regime.

Our goal, of course, is to create an Iraq where death is the exception rather than the rule, where the rule of law is the rule, and where liberty exists and where, as a result, the freedoms that encourage people to flourish are allowed to flourish themselves. We will have, in that way, undermined the role of the terrorists, and the hope that Mr. Allawi is seeking will be realized. The accomplishment will significantly improve our safety and lead directly to America being safer.

That is a quick response to the very long statement of the Senator from Iowa. I thought some comment should be made.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

#### FSC/ETI CONFERENCE REPORT

Mr. GREGG. Mr. President, I wish to speak to the recent conference which was completed on the FSC bill, which is the foreign tax bill, which is a fairly complicated piece of legislation, a major piece of legislation. Certainly, I congratulate the adeptness of the people who led that bill through both the House and the Senate, because passing a bill through the House and Senate of that size is a challenge, to say the least, and the success of their getting it through is very impressive, especially in light of the fact that so much of the bill that passed the Senate did not appear in the final product as it came out of the House, and vice versa.

The bill was modified significantly. The reason I did not sign the conference report—and I thought I should come to the floor to explain this—is that I do not find the bill compelling on balance. Yes, the bill does something that has to be done, which is to correct the problems the WTO has assessed against us relative to the duty that the European Union assessed against us relative to the duties and our tax law and the fact that many of our manufacturers are now being assessed a fairly significant duty as a result of penalties assessed under that finding. That needed to be corrected.

That, however, was a \$50 billion exercise. It could have been done in a revenue-neutral way, and it should have been done. But the bill ended up being about a \$140 billion bill, of which the majority, the balance of the tax reductions in this bill are targeted toward

interest groups and initiatives which are at the margin, to say the least, relative to need and are significantly, in my opinion, questionable. I will just point to one, and that is the manner in which the ethanol subsidy is proposed in this bill.

Remember, ethanol is alleged to be a renewable fuel which will give us some sort of energy independence, but most of the studies have concluded—at least a major study in this area has concluded—that you actually use as much energy to produce ethanol as you use ethanol and, therefore, it really is a wash relative to whether it is a true renewable that gives us some sort of energy independence. Maybe down the road it can be produced more efficiently, but certainly right now it cannot be produced that way.

It also has huge environmental impacts. In fact, ironically, the recent study by the Oceans Commission, set up by this Congress, concluded that the most significant pollutant in the oceans today is the nitrates runoff from the Midwest which is creating a huge dead zone in the Gulf of Mexico, and that is having a major impact on pollution in the oceans. That is a function of agricultural practices which are basically encouraged, in many ways, by this ethanol subsidy.

The way this ethanol subsidy is handled in this bill is a masterful piece of legislative activity. I do admit to that. It is masterful in that basically they take the ethanol subsidy, and today we pay 13 cents tax on ethanol, 18 cents on a gallon of gas, and they raise the tax to 18 cents for everything.

All ethanol products now are paying the full gasoline tax, so there is a 5 cent per gallon revenue increase to the Federal Government, theoretically—theoretically because it is purely theoretical but beautifully done.

They take that 5 cents which was going into the general fund and they move it over to the highway fund where it is absolutely required to be spent because the highway fund spends under a formula. That 5 cents is actually spent on roads, and I guess one can argue that that is good policy.

Then in a movement of undeniable brilliance when it comes to raiding the American coffers of the taxpayers, they take the 5 cents and they refund it to the ethanol producers through a tax credit. So having raised the tax, they guarantee it will be spent and then they guarantee that on top of spending it they will actually refund it to the producers.

Who are the producers? Well, in this instance one company produces one-third of the ethanol in this country and so they are going to get about a \$2 billion windfall out of this proposal.

That may be good policy if one is from the Midwest, but it is not good policy from the standpoint of producing a renewable because as a practical matter ethanol is not defensible as a renewable right now because it costs as much in energy costs to

produce it as it does to use it. Its production costs equal its value. It is creating significant pollution concerns. As a result of this bill, we have created a huge new subsidy for the producers which was not there before.

I have more to say on this topic. I appreciate the courtesy of the Senate in allowing me this time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the McConnell substitute No. 3981.

AMENDMENT NO. 3994

Mr. CHAMBLISS. Mr. President, I send an amendment to the substitute to the desk for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS], for himself and Mr. KENNEDY, proposes an amendment numbered 3994.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the jurisdiction of the Committee on Homeland Security and Governmental Affairs)

At the end of section 101(b)(1) insert the following:

"except matters relating to the U.S. Citizenship and Immigration Service and the immigration functions of the U.S. Customs and Border Protection and the U.S. Immigration and Customs Enforcement, and the Directorate of Border and Transportation Security."

Mr. CHAMBLISS. Mr. President, under the current resolution that is being considered, the Commerce Committee retains Coast Guard jurisdiction and Transportation Security Administration jurisdiction and the Finance Committee retains the revenue side of the Customs Department jurisdiction. This amendment simply allows the Judiciary Committee to receive parity with the other committees that are giving up part of their jurisdiction to the new Homeland Security committee.

I will tell my colleagues specifically what this amendment does. It retains the Immigration and Naturalization functions at the Judiciary Committee, which are in line with Senate rule No. XXV. Specifically, it includes three agencies: Citizenship and Immigration Services, Immigration and Customs Enforcement, as well as Customs and Border Protection. In addition, Judiciary would retain the immigration functions at the border and transportation security directorate.

These functions include the U.S. visit entry/exit program and the Visa Waiver Program. The amendment preserves the language that currently rests in S.

Res. 445 that maintains certain customs in the Finance Committee.

What does the new Governmental Affairs and Homeland Security Committee get as a transferee from the Judiciary Committee under this amendment?

First, it receives the information, analysis, and infrastructure protection directorate. It receives the emergency preparedness and response directorate, including FEMA; third, the science and technology directorate; fourth, State and local coordination function; and five, jurisdiction over Secret Service.

In addition, the following agencies would go to the new committee: The Office of Domestic Preparedness under BTS from Judiciary and also would receive domestic emergency support teams under EPR from Judiciary.

This is a balanced approach. This amendment maintains parity with the Commerce Committee, the Finance Committee, and the Judiciary Committee relative to the particular jurisdiction we will maintain.

As the chairman of the Immigration Subcommittee on the Judiciary Committee, daily we deal with various matters involving immigration. Some of that has had to do with terrorist issues. Those issues should rightly go to the new Department of Homeland Security, but the bulk of issues we deal with relative to immigration are dealt with at the State Department, not currently with the Department of Homeland Security.

There will be overlap on every issue that every Federal agency deals with relative to terrorism and homeland security. We cannot cover every single issue and move it to this one particular committee to have sole jurisdiction over it just because it may deal with homeland security; we can not move every single subcommittee and all jurisdiction over every issue to the newly created committee.

What this amendment does is retain in the Judiciary Committee the basic core immigration issues that are judiciary related, not terrorism related.

The Judiciary Committee is made up of individuals who have a legal background, and for the most part there are legal issues involved in the immigration issues we are proposing be retained within the Judiciary Committee.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I stepped off the floor briefly. Through the Chair to the distinguished Senator from Georgia, I ask: Is this amendment offered on behalf of the Senator from Georgia and Senator KENNEDY?

Mr. CHAMBLISS. I should have mentioned that. Senator KENNEDY and I offered this amendment together.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, we are hoping to get a vote on this amendment in the near future. Is Senator BAYH going to offer an amendment as well?

Mr. REID. Yes.

Mr. McCONNELL. Is there anyone else in the Chamber to speak on the Chambliss-Kennedy amendment? If not, it might be a good idea to lay that aside and let Senator BAYH offer his amendment.

Mr. REID. I say through the Chair to the manager of the bill, I think that is totally appropriate. He has something to do in a half hour or so, so it would be good to have his amendment taken care of at this time.

Mr. McCONNELL. I ask unanimous consent that we temporarily lay aside the Chambliss amendment to give Senator BAYH an opportunity to send his amendment forward.

I repeat that we are looking for a time agreement to vote on the Chambliss-Kennedy amendment, we hope in the next 30 to 45 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is set aside.

The Senator from Indiana.

AMENDMENT NO. 3995

Mr. BAYH. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. BAYH], for himself, Mr. ROBERTS, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, and Ms. SNOWE proposes an amendment numbered 3995.

Mr. BAYH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To eliminate sequential referral)

Section 201 is amended by adding at the end the following:

(1) REFERRAL.—Section 3 of S. Res. 400 is amended by—

(1) striking subsection (b); and

(2) redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

Mr. BAYH. Mr. President, I begin my remarks by praising both Senators REID and McCONNELL for the important work they have done on this underlying amendment. They have accomplished some very good things that will strengthen the intelligence system in this country and, in so doing, strengthen our Nation's security.

I have had the honor of serving on the Intelligence Committee for the last 3 or 4 years. During that time, I have developed some grave concerns about the strength of that committee and our ability to exert the kind of oversight and leadership in the area of strengthening the Nation's intelligence that these difficult times demand.

Senators REID and McCONNELL have addressed some of those concerns very directly. Tenure on the panel is made permanent, which will allow those of us who serve there to develop the kind of expertise needed for the very intricate, sophisticated decisions that need to be made.

It will also enable us to exert the kind of oversight necessary to make



sure the executive branch carries out its functions in the way they need to be carried out.

They also provide resources to the committee to discharge our duties. Currently, the resources are not available and I am afraid that too often the Intelligence Committee gives the appearance of exerting oversight without effective oversight in fact. These things, and many others, are significant steps forward in addressing the concerns about what changes we need to make to have meaningful intelligence oversight and leadership in the intelligence area by the Congress.

I would also like to praise my colleague from Virginia, Senator WARNER. There is not a Member for whom I have more esteem and regard than the Senator from Virginia. It has been my privilege over the last year and a half to serve with him on the Armed Services Committee. In that capacity I have learned firsthand that there is no Member of this body who has a greater devotion to the national well-being and our Nation's security than the distinguished senior Senator from Virginia.

With that by way of background, I would like to extend my remarks in the following way. I know the Senators who worked on this issue have worked hard. In some respects, Senators REID and MCCONNELL have been given by our leaders almost an impossible task. They are asking them to reorganize this Congress in ways that touch upon the prerogatives and institutional interests of the Members. This is a very sensitive topic which often has failed to achieve results in the past. I salute them for their efforts.

It is said by some that this is the best we can do, and perhaps that is so. But I believe there are some ways in which we can do better, and we will not know if we can do better until we try. If we are unable to do better, it is not the fault of Senators REID and MCCONNELL but instead resides with the rest of us who have the privilege of serving in this institution.

It is also occasionally said that we should not make the perfect the enemy of the good, and that is absolutely true. That is an aphorism I have subscribed to on many occasions. This needs to be a practical process, focused upon results. It is what distinguishes us from political scientists, editorial writers, and pundits. We have to get things done.

But during these critical times, it is my heartfelt belief that we should push the envelope on what is possible and insist that we do everything we possibly can to strengthen this country and, along with it, Congress, and our ability to exert oversight and leadership in the area of intelligence. We should not settle for 75 percent or even 90 percent without an effort to do everything humanly possible to safeguard this country. Lives hang in the balance. That is why I am offering the amendment I offer today.

My amendment reflects the recommendations of the 9/11 Commission.

Today, former Governor Kean and Congressman Hamilton issued a statement supporting our efforts. I spoke with Congressman Hamilton yesterday, and he characterized our amendment as "much better, much better, a definite step in the right direction."

Our amendment represents the sensible center. I know there may be other amendments that touch upon the topic of consolidating appropriations and authorizations in a single committee. Our amendment does not touch upon that sensitive topic. Instead, it gives full meaning to what Senators REID and MCCONNELL are attempting to do in their amendment, and that is to elevate the Intelligence Committee and the function it discharges to the priority it deserves and to create a process and structure to match that priority.

Their proposal makes the Intelligence Committee what is called an A committee. It is important that we give that full meaning and no longer require that committee to defer to others through what is called "on-demand sequential referral." To the viewers at home, on C-SPAN, this sounds like Washington-speak, and essentially it is. What it essentially means is the Intelligence Committee must seek the approval of other committees for its other recommendations, unlike the other A committees that exist in this body. If we stick with this proposal, it will mean that the Intelligence Committee and the function it discharges will have less authority than the Agriculture Committee, less authority than the Banking Committee, less authority than the Commerce Committee, the Energy Committee, the Environmental Committee, the Governmental Affairs Committee, the Health, Education, Labor, and Pensions Committee, and the Judiciary Committee. Certainly these critical times require that the Intelligence Committee and the important national security function that it discharges be placed on a par with these other committees and that it be given a structure and authority to match.

As a practical matter, the current structure means that the appropriations process takes precedence over the authorization of intelligence. As a practical matter, too often it means that the intelligence authorization function itself is subservient to other authorizing committees. This is not the structure these times demand. This is what my amendment addresses.

Finally, this is an important moment for this institution and for each of us as individuals. This is a great institution, and I, among all our Members, have special reason to cherish its prerogatives and its rich tradition, having grown up in the shadow of the Senate.

Everyone who serves in this body is a patriot. Everyone is devoted to the national security interests of this country. All of us seek to do not what is easy but what is right. Yet it is too often the case that we are afflicted by

tunnel vision. Too often we get caught up in institutional concerns and prerogatives without stepping back to take the broader view of what is important for the country as a whole. That is what we are attempting to address in this debate today. It requires a sacrifice from us all. That is what this amendment would accomplish—giving up a small amount of our individual power and prerogatives in the greater national interest. It is what the times demand. It is what this amendment would accomplish. It is why I speak strongly in favor of its consideration.

Mr. President, I will yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I wish all of my colleagues could have been on the floor to hear the remarks from the distinguished Senator from Indiana, who is a very valued member of the Intelligence Committee. We have some very good members on both sides of the aisle.

Senator BAYH always asks incisive questions. He gets to the bottom of the very comprehensive and complex issues we discuss. I thank him for being a valued member of the Intelligence Committee. I want to thank him for offering this amendment, which, outside the beltway and I suppose on the floor of the Senate and for anybody listening or watching, is pretty mundane, or arcane: What on Earth is he talking about, "on-demand sequential referral of legislation, reporting from the Senate Select Committee on Intelligence"? Were it not for the fact that Senator BAYH is an excellent speaker and a highly appreciated Member of this body, probably nobody would be even understanding this, or paying any attention.

I know this Senate wants to get this bill done. I know we want to go to conference on intelligence reform. I know we have the tax bill. I know we have the omnibus bill. I know people want to leave for the weekend. People are tired, and Lord knows we have been wrestling with this issue on how we reorganize the Intelligence Committee to make it more effective, in line with what the 9/11 Commission has recommended, what every commission has recommended down the years—the Bremer Commission, the Gilmore Commission, the Hart-Rudman Commission, the CIS Study, all these commissions, not to mention the 24 times we have tried reform of the Intelligence Committee since Dwight David Eisenhower and failed in each and every case. I know the fatigue factor, the high-glaze factor has set in in this body, as evidenced by the membership, as evidenced by my dear colleagues and friends across the aisle now talking about something else, even though I could probably talk as loud as the Senator from Massachusetts. But, having said that, let me try to tell Members what this is about.

His amendment would eliminate the current practice, again, of on-demand

sequential referral of legislation reported from the Senate Select Committee on Intelligence. This very common sense measure—Mr. President, may I have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERTS. I know in normal times this amount of noise is about the best you can get, but I hope people will pay attention to what Senator BAYH is trying to accomplish and, as chairman of the Intelligence Committee, which I support very strongly. It is a common-sense measure.

Speaking of the Intelligence Committee, the very committee that the 9/11 Commission said should be enabled to do a better job instead of the way it is now when we are so fractionalized, it says we should be on the same level playing field as other standing committees in the Senate—just fair play, same level playing field in terms of sequential referral. A committee brings up a subject, they pass a bill, they make an inquiry, they publish it, and another committee says: You know, we are interested in that as well. We would like to have sequential referral.

How do you do that? You do it by unanimous consent or you go to the leaders and you say: You know, we have a dog in this fight. We are interested in it. We have expertise, we have background, and we would like to take a look at it as well.

Not on the Intelligence Committee. Virtually every other committee in the Congress now has on-demand—that means you finish a product, you finish your authorizing bill, and we will grab it by the throat and we will do whatever we want to with it.

That is not right. That is not right with regard to what we are trying to do to empower—and by empower I don't mean to empower over and above other important committees—or enable us to do our job.

Let me give you the classic example. We don't have, despite all of the rhetoric, all of the activity, all of the effort by Senator COLLINS and by Senator LIEBERMAN and the intelligence reform bill, all of the effort by the Joint Inquiry Task Force on 9/11, all of the effort by the Intelligence Committee in regard to the WMD report—now the report by Mr. Duelfer and the Iraq Survey Group, and the group of intelligence not only of the United States globally and the importance that that has for the daily lives and pocketbooks not only of people in America but around the world, and all of this discussion about 9/11, we do not have the intelligence authorization bill passed.

We had a vote yesterday 90 to 7 on my amendment—probably the first time I will ever do that—saying regardless of what happens in intelligence we ought to authorize first and then appropriate. There is a novel thought. But even at this late date, we don't have the intelligence authorization act passed. Why? It is because of this on-demand referral that no other com-

mittee has as a millstone around its neck.

Senator BAYH is one of the committee's most serious, capable members, and he and I agree. We worried about this, along with other members on the Intelligence Committee, mostly made up of senior Members who know their job and who have attended. Their attendance record is outstanding. I can't get into that because it takes a decision by the chairman and vice chairman, and also perhaps a vote in committee to get into attendance records. I am not going to do that, simply to say these people have many other duties. They come there and work hard. We have had over 125 hearings in the Intelligence Committee, 60 percent more than at any other time in history, with regard to the WMD report, 521 pages long, which I think is the most thorough study any committee has ever done on the intelligence community.

Senator BAYH's presence on this floor on the issue underlines its importance. It is bipartisan in nature and impacts on the committee's ability to do its work.

What will the amendment of Senator BAYH do if it passes? It will mean that for the first time in history the legislative priorities of the Senate Intelligence Committee will reach the Senate floor without being automatically filtered through the lens of other Senate committees. I must admit that under resolution 400 we have the ability in the Intelligence Committee—if anybody mentions intelligence, there might be another committee which can ask for referral. We don't normally do that. I don't think we have to do that. As a matter of fact, I am trying to think of when we did that in the history of the committee. But certainly that is a lot different than on-demand sequential referral by every other committee.

Interested committees under the Bayh amendment will still be able to request sequential referral to the Intelligence Committee legislation. But just as other authorizing legislation, those committees would have to do so through a unanimous consent agreement instead of a demand letter.

All we want is to be treated as any other committee. My goodness. If we are the ones who are supposed to be empowered and stand up according to the 9/11 Commission and do a better job—and I think we have in the last few years—why on Earth would you force the Intelligence Committee to go through this on-demand sequential referral?

An example of the problems associated with on-demand sequential referral of intelligence—I don't know what to call this. On-demand special referral sounds like a lot of gobbledygook outside the beltway, an arcane thing. It is sort of like cattle rustling; you sort of take that bill and rustle it away from that pasture on demand and the poor owner of that cowherd can't do a dog-

gone thing about it. It is time to end it.

At any rate, an example of problems associated with on-demand sequential referral, or the cattle rustling of Intelligence Committee legislation to the Armed Services Committee, is the fate of intelligence reforms proposed by former Intelligence Committee Chairman Senator SPECTER, who was on the floor a while back, and Vice Chairman Bob Kerrey, who did a splendid job as vice chairman—that was back in 1997 during the Intelligence authorization bill, the Intelligence Committee proposal, what we have debated here for the last 2 weeks—this was back in 1997—direct appropriations of intelligence community funding by the Director of Central Intelligence is something which George Tenet and every other DCI has wanted for a long time. That appropriations would have funded the Central Intelligence Agency, the National Security Agency, the National Reconnaissance Office—what was then called the National Imagery and Mapping Agency. The Armed Services Committee obtained sequential referral of the 1997 intelligence authorization bill. After 30 days of the Armed Services Committee being innovative and forward looking, the Specter-Kerrey reform measure became a computer system to track intelligence expenditures. It didn't have any authority. It became a computer center to track intelligence expenditures.

On-demand sequential referral has had a chilling effect on the introduction of legislative initiatives by the Intelligence Committee.

I see the distinguished former chairman, the distinguished Senator from Pennsylvania, who had a reform measure back in 1997 which would have gone a long way toward intelligence reform that we have been considering on this floor for the last 3 days. I thank him for that effort. But he got sidetracked. His cattle got—well, they were sort of branded, sort of got into another pasture. I think that is unfortunate.

A degree of self-policing occurs about what legislative provisions realistically can survive automatic referral through other committees. As a result, many provisions are dropped or diluted to make the bill as unobjectionable as possible.

Senator COLLINS of Maine said we had a delicate balance. We had a discussion yesterday of the national intelligence director. The thought was that director should be able to move positions, but then we had a compromise. We could move positions and we couldn't move people. What the heck is that? I know that in compromise when you refer to other committees, you make it less objectionable, but sometimes you leave the cutting edge of reform with a very dull knife. This deterrent effect, I will tell you as chairman of the committee, begins prior to the committee markup. I know whatever we do in terms of authorization must go over to the distinguished chairman



of the Armed Services Committee. I serve on that committee. I have the utmost respect for the chairman of that committee. It is a privilege to serve on that committee. I am chairman of something called Emerging Threat and Capabilities. I have enjoyed my service on the Armed Services Committee.

But we know even before markup that we are going to have to go to the Armed Services Committee, and we could on demand referral have the same thing happen on Foreign Relations, on Appropriations, on Armed Services, and Judiciary because those are the members who now serve on the committee to make sure there are two people on that committee so it is widely represented.

But I know, and everybody on the committee knows, that before we even do the authorization, we have to go through this Byzantine kind of machination before we get our product on the floor even to pass it.

Again, where is the intelligence authorization bill for this year? I don't know. We have tried to hotline it. We have had objections.

After all this year of reform we cannot even pass an intelligence authorization bill? Do we want to continue that? This deterrent effect, as I said, begins right at the start. We have 22 professional staffers who have backgrounds, analysts with the DIA, CIA throughout the intelligence community. They are the people who put together the 521-page report on the WMD. We let the chips fall where they may.

Senator ROCKEFELLER and I worked together, both sides, and we had a bipartisan vote, 17 to 0. It was tough. Can we do the job? You darn bet you, and we have 22 staffers who can do that job.

I daresay none of the other committees that have on-demand sequential referral have this kind of staff. Yet we end up on the cutting-room floor. Sometimes we do not even get in the room where we end up on the cutting-room floor. I don't think that is right.

Mr. MCCONNELL. Could the Senator suspend for one moment?

Mr. ROBERTS. I would be delighted. Maybe my blood pressure would come down. I would be delighted to suspend on behalf of the distinguished Senator from Kentucky, as a fan of the Louisville Cardinals.

Mr. MCCONNELL. We have a number of speakers in the Chamber now, and I want to try to get consent to establish some order.

How much more time does the Senator from Kansas wish?

Mr. ROBERTS. I haven't quite figured it out yet. I got wound up pretty good.

I have one more page, and the Senator from Pennsylvania asked how long will that take? How about 2 minutes, 3 minutes.

Mr. MCCONNELL. I ask unanimous consent the Senator from Kansas be permitted an additional 3 minutes, to be followed by the Senator from Virginia for 12 minutes.

Mr. ROBERTS. May I inquire of the distinguished Senator, are we getting time limits now? I wanted to have a good colloquy with my dear friend and esteemed chairman of the Armed Services Committee who has a willing offer to make because I am not quite sure in regard to this issue what it will be, and if we put in an artificial time limit—I don't know.

Mr. MCCONNELL. There is no time limit on any agreement, but we are seeking a time agreement on the Chambliss amendment. And Senator CORNYN would like to speak on that amendment, as well as Senator SPECTER and Senator KENNEDY.

Mr. WARNER. Mr. President, I see my colleague from Michigan.

Mr. MCCONNELL. Senator LEVIN also wishes to speak on the amendment?

Mr. LEVIN. Yes.

Mr. WARNER. May I make a suggestion to the distinguished leader? Quietly, in the rooms off the Chamber, I think a resolution of this matter is about to be achieved. So, therefore, the purpose of my amendment would be to frame for colleagues the issue as I see it, which I think can be explained very simply and calmly.

Then perhaps a few comments, and this amendment, I understand, will be laid aside, and we can proceed to the Chambliss amendment.

Mr. MCCONNELL. I am trying to accommodate the Senator on the other amendment, the Chambliss amendment. He must leave town around 1 o'clock. We were hoping to get a vote on that amendment.

Mr. KENNEDY. Will the Senator yield?

Mr. MCCONNELL. Yes.

Mr. KENNEDY. I am a cosponsor of the Chambliss amendment, so I would appreciate it if I could have maybe 6 or 7 minutes prior to the time we vote. I, too, want to cooperate with the managers, and particularly the chairman, to make sure he is able to work his program.

If the leader could ensure that.

Mr. MCCONNELL. I make this suggestion: I ask unanimous consent Senator ROBERTS complete his remarks. He has asked for an additional 3 minutes. I ask unanimous consent we then return to the Chambliss amendment, and in order, have Senator KENNEDY for 6 minutes, Senator CORNYN for 6 minutes, Senator SPECTER for?

Mr. SPECTER. If I may, I follow Senator ROBERTS for just 3 minutes.

Mr. WARNER. No objection.

Mr. MCCONNELL. I am asking consent to accommodate a Member of the Senate who must leave in the not too distant future, to return to the Chambliss-Kennedy amendment, have the discussion on that because that is the amendment we are hoping to get a vote on in the not too distant future.

Since discussions are underway on the Bayh amendment, it would be my hope those involved in that will continue their discussions off the floor,

and we will resume that discussion on the floor after that.

Let me ask unanimous consent that at the end of Senator ROBERTS's remarks, we take up the Chambliss, resume consideration of the Chambliss-Kennedy amendment, and Senator KENNEDY be recognized for 6 minutes, Senator CORNYN be recognized for 6 minutes, and Senator SPECTER?

Mr. SPECTER. I won't be here.

Mr. MCCONNELL. Anyone else on the Chambliss?

Mr. LEAHY. Mr. President, I want to speak on the Chambliss-Kennedy amendment. So far as we were eviccerating the Judiciary Committee, I thought possibly I might say a word or two.

Mr. MCCONNELL. How much time? There is no time agreement.

Mr. LEAHY. I would like to have 10 minutes.

Mr. MCCONNELL. And 10 minutes for the chairman.

Mr. SPECTER. Mr. President, at the conclusion I would like 3 minutes.

Mr. MCCONNELL. And 3 minutes for Senator SPECTER.

Mr. REID. If I could, reserving the right to object, is everyone speaking on the Chambliss-Kennedy amendment?

Mr. MCCONNELL. No.

Mr. ROBERTS. No.

Mr. REID. It has nothing to do with the Judiciary Committee.

Mr. MCCONNELL. My consent agreement was related to the Chambliss-Kennedy amendment, and the time for the Senators was related to discussion of that amendment.

Mr. ROBERTS. Will the Senator yield?

Mr. MCCONNELL. To which we would return when Senator ROBERTS completes its discussion on the Bayh amendment.

Mr. LEAHY. I assure the Senator from Kentucky I wish to speak on the Chambliss-Kennedy amendment.

Mr. ROBERTS. Mr. President, could I ask the distinguished chairman of the Armed Services Committee whether his 12 minutes will defer to the Bayh amendment or the Chambliss-Kennedy amendment?

Mr. WARNER. I was here early this morning with Senator BAYH, so that is the purpose of my presence, solely for that amendment.

Mr. ROBERTS. It is probable that the chairman of the Select Committee on Intelligence, from time to time recognized by the Armed Services Committee, would like to at least have something to say about what the distinguished chairman will say about the Bayh amendment.

I am not trying to set the record straight because that is not in the realm of possibility of the distinguished chairman, but I don't know how to accomplish that now if we go to the other—I guess we will have time.

Mr. MCCONNELL. I might suggest to the Senator from Kansas, there is no time agreement on the Bayh amendment, and the unanimous consent

agreement I just propounded was entirely related to the Chambliss-Kennedy amendment which we would like to resume consideration of. I am sure the Senator from Kansas will have more to say about the Bayh amendment later. There are no restrictions.

Mr. REID. Reserving the right to object, this has set the tone in the future. We will not be setting amendments aside. We will dispose of amendments and move to something else. It is too confusing doing it this way.

I have no objection.

THE PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

The Senator from Kansas has the floor for 3 minutes.

Mr. ROBERTS. Mr. President, I guess we started up a fuss by talking about this, which I can understand.

Let me go back to sort of remind anyone that is listening that on-demand sequential referral, as referred to in the Bayh amendment, has had a chilling effect on the introduction of legislative initiatives by the Intelligence Committee.

Why is that important? It is because the joint inquiry task force investigating September 11, it is because the 511-page report on WMD, intelligence on whether there were WMD in Iraq, and the 9/11 Commission's report had this unique idea, and the unique idea was that the Select Committee on Intelligence should be granted at least enabling power, be empowered to be the oversight committee that has independence and leadership and clout and that we do not today.

One of the obstacles is this on-demand sequential referral. Every other committee in the Congress can ask for sequential referral, but they do it by unanimous consent or they ask the leadership. There is nothing wrong with that. But on-demand sequential referral from the very committees that we have two members on the Intelligence Committee representing—Judiciary, Appropriations, Armed Services, and Foreign Relations? They are represented. And as I have indicated, legislative initiatives that we have end up on the cutting-room floor. It is a very fractionalized process, both from the Armed Services Committee and the Appropriations Committee.

I have nothing but admiration for the distinguished Senator from Virginia and the distinguished Senator from Michigan and the work they do on behalf of our military, and for the appropriators and the work they do on behalf of our military. It is just that it is a fractionalized process. Sometimes we are in the room, sometimes we are not. Sometimes we don't know what ends up on the cutting-room floor, sometimes we do. That does not speak well for the recommendations of the 9/11 Commission and the Intelligence Committee.

This process, which the members of the Intelligence Committee believe is unique to the Intelligence Committee,

does not permit the committee priorities to reach the Senate floor for full debate. We cannot fully debate it because it is classified. Everybody else who wants sequential referral changes a bill. They come to the floor, argue the points, and then win or lose. We cannot because it is classified.

This provision is a significant obstacle to the full realization of the Intelligence Committee oversight and should be repealed. I support the amendment. I encourage my colleagues to do likewise. I hope we are able to reach some accommodation.

I thank the Presiding Officer and my colleagues and yield the floor.

AMENDMENT NO. 3994

THE PRESIDING OFFICER. The Senator from Massachusetts is recognized for 6 minutes.

Mr. KENNEDY. Will the Chair be kind enough to notify me when 5½ minutes is up?

THE PRESIDING OFFICER. Yes.

Mr. KENNEDY. Mr. President, first of all, I thank the Senators from Kentucky and Nevada for their help in bringing us to where we are today in terms of meeting our responsibilities under the 9/11 Commission. I again congratulate the Senators from Maine and Connecticut for their outstanding leadership on the floor of the Senate. America must be heartened by the results of their effort. I join in commending all of them for the job they have done.

This amendment, which my friend, the chairman of the Immigration Subcommittee, and I offer is virtually identical in effect to the Grassley-Baucus amendment that was just accepted. That amendment keeps many of the Customs-related functions in the Finance Committee.

The amendment that Senator CHAMBLISS and I offer keeps the immigration-related functions in the Judiciary Committee. What we are seeking is much more modest than the major exemptions written into the base bill for the Coast Guard and the Transportation Security Administration.

Our amendment does not preclude the new Homeland Security Committee from exercising jurisdiction over security issues, such as developing biometric identifiers to enhance national security, upgrading technology, including electronic interoperable data systems, compiling watch list information to screen out terrorists, and enhancing intelligence and law enforcement capabilities. That is appropriately reserved.

But surely we can meet the serious terrorism dangers we are facing from terrorists without obstructing the entry of more than 500 million individuals who go across our borders every year and who legally enter the United States each year as visitors, as students, as temporary workers, crossing legally from Canada and Mexico, on a daily basis, to conduct business or to visit their families.

These immigration issues are about reunifying families, protecting refu-

gees and asylum seekers, welcoming foreign workers when we cannot find American workers to fill our jobs, opening our doors to immigrants who will be future U.S. citizens. These issues are about welcoming international students and visitors, scholars and researchers to our country, so that we can benefit from a climate of open exchange.

Immigration law involves so much more than weeding out the few terrorists. The problem is, the terrorists are the danger, not just the issues of immigration. Transferring total jurisdiction to a new Homeland Security Committee would ignore all the other primary functions of our immigration laws and effectively send a message to the world that terrorists are winning and that our pride in our immigrant heritage and history has turned to fear.

Immigration is a central part of our heritage and history. It is essential to who we are as Americans. Maintaining it is part of our national well-being, our identity as a nation, and our strength in today's world. In defending the Nation, we are also defending the fundamental constitutional principles that have made America strong in the past and will make us even stronger in the future.

Mr. President, for all of these reasons, I believe the Judiciary Committee should retain jurisdiction over the immigration issues unrelated to terrorism. That is what the Chambliss amendment does. I hope it will be accepted by the membership.

Mr. President, I withhold the remainder of the time.

THE PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for 6 minutes.

Mr. CORNYN. Mr. President, I congratulate Senator CHAMBLISS and Senator KENNEDY on this amendment which I think injects some needed rationality in this process. I certainly support the goal of improving the oversight of our intelligence community and homeland security efforts. But I think what has happened in our haste is that there has been some unintended consequences, and one is attempted to be remedied by this amendment.

Simply stated, this amendment, as Senator KENNEDY and Senator CHAMBLISS have already addressed, would retain the immigration functions at the Border and Transportation Security Directorate in the Judiciary Committee.

Mr. President, I, as does the Presiding Officer, serve on the Judiciary Committee in large part because of my concern about immigration and border security issues as a Senator from Texas, with a 1,200-mile border with Mexico, one of the more problematic borders of this country. I serve with Senators from California and Arizona. The only State not represented on the Southern border is the State of New Mexico.

But as the Presiding Officer knows, immigration issues are exceedingly

contentious and complex. Frankly, there are a number of Senators on the Judiciary Committee who have invested an awful lot of time and effort to try to get up to speed. And indeed, there are others, like me, who have introduced immigration reform bills, which I am hopeful will be brought up when we return in January or shortly thereafter.

What I am concerned about is if we make this change now, it will delay long-overdue immigration reform in this country as the new committee to which it is assigned is getting up to speed. It is no slight meant to them. They are very distinguished and competent Senators. But the truth is, the staff and Senators who have been involved in immigration issues on the Judiciary for a long time have learned a lot, developed a lot of the relationships and contacts with the various parties who are interested in this issue, the stakeholders.

Just in terms of injecting some modest bit of rationality in this process, I am pleased to join Senator CHAMBLISS, Senator KENNEDY, and Senator LEAHY, who I know will also speak to this matter, and others on the Senate Judiciary Committee in saying that if common sense and rationality prevail in this process, then this amendment will be accepted, either by agreement, by unanimous consent, or by a vote. And I certainly would urge all of my colleagues to support the amendment in the event a vote is required.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is reserved for the Senator from Vermont?

The PRESIDING OFFICER. There is 10 minutes.

Mr. LEAHY. I thank the Chair.

Mr. President, I wish to associate myself with the expressions of the Senator from Texas, the Senator from Georgia, and the Senator from Massachusetts. I am a strong supporter of the Chambliss-Kennedy amendment. It would retain the majority of immigration jurisdiction for the Judiciary Committee, not just because we like that but because that is where the experience is and that is where it ties in the best.

As Senator CHAMBLISS pointed out this morning, just as the Commerce

Committee retained the Coast Guard because of the long tradition of the Coast Guard being there and the expertise for it, and EPW is retaining the Transportation Security Administration, by the same token, the Judiciary Committee should retain core immigration issues.

We should not burden the Homeland Security Committee with immigration and citizen refugee matters. That is not the purpose of the new committee. There are some aspects of immigration law and policy that will raise homeland security issues—some—but we have to note that immigration is an extraordinarily broad area. It is an important economic issue and, as President after President has said, in one way or the other, it is often a moral issue. This is the country that has the Statue of Liberty beckoning us all. This is the country that brought my grandparents here not speaking any English but making a new life.

The Judiciary Committee has decades of experience in business immigration issues, refugee policy, and naturalization. As written, the resolution before us would take those issues, which are not homeland security issues, and give them to the Governmental Affairs Committee.

I ask: Does it make sense for the Governmental Affairs Committee to oversee and legislate on the H-1B visa program which employers use to bring in highly skilled foreign workers? That is not a homeland security issue. Does it make sense for that committee to be responsible for the refugee program? That is something Judiciary and Foreign Relations oversee and do a very good job of. I don't think it is in the interest of the Senate or, for that matter, of immigrants for sole jurisdiction over immigration matters to be transferred to a committee with a homeland security mandate.

We should be conscious of the security aspects of immigration policy, of course, but we also need to retain our national commitment to legal immigration—the thing that brought my grandparents to this country. Immigrants like my grandfather and grandmother enrich our economy and our culture. It is important for us not to see immigration solely through the prism of national security.

How much time do I have remaining?

The PRESIDING OFFICER. There is 6½ minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent that my remaining time be allocated equally to the Senator from Georgia, Mr. CHAMBLISS, and the Senator from Massachusetts, Mr. KENNEDY.

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

Mr. LEAHY. I yield the floor.

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I have sought recognition to speak briefly on the pending amendment offered by the Senator from Georgia. I initially ask unanimous consent that I be listed as a cosponsor.

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

Mr. SPECTER. When I said 3 minutes would be sufficient, I said that in the context of a collective noun, but I shall not take much more than that.

I believe the jurisdiction of the immigration function as embodied in the Chambliss amendment ought to be maintained in the Judiciary Committee. There is very considerable expertise built up in the Judiciary Committee over the years on the very important subjects related to immigration. The President has stated a policy of dealing with the problem of 11 million people in the United States who do not have legalized status. The Subcommittee on Immigration of the Judiciary Committee has done extensive work on this matter. It is a pressing matter and I think will be one of the priority items to be considered by the Congress next year.

The most important issues can best be handled by the current Subcommittee on Immigration of the Judiciary Committee.

Briefly stated, those are the reasons why I support the pending amendment and ask that the traditional jurisdiction in the Judiciary Committee over immigration be maintained.

I yield the floor.

## NOTICE

*Incomplete record of Senate proceedings.*

*Today's Senate proceedings will be continued in Book II.*