

the previous order, following the remarks of Senator DURBIN.

Mr. REID. Senator DURBIN will speak for up to 15 minutes.

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

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PATRIOT ACT

Mr. DURBIN. Mr. President, I come to the floor this evening to address the pending issue of asbestos reform legislation. It is a very serious and complicated issue. I look forward to speaking for a few moments about what I consider to be the history of this issue and the way we should respond to it.

Before doing so, I am compelled to address the previous speaker, my colleague and friend from the State of Texas, Senator CORNYN, who, within the last hour or so, spoke on this floor about the PATRIOT Act. The reason why this is an issue of great importance to many of us is that it is a law which all but one Senator voted for, and it is a law which many of us, on both sides of the aisle, Democrat and Republican, believe has some serious weaknesses and flaws that need to be remedied.

In response, I have introduced a bill called the SAFE Act with Senator LARRY CRAIG of Idaho. Senator CRAIG and I are about as far apart on the political spectrum as humanly possible. Yet we have come together with the understanding that whether you are conservative or progressive liberal—whatever your label may be—we all value our constitutional rights in America.

Senator CRAIG and I looked closely at the PATRIOT Act and think that there are three or four specific areas that need to be addressed.

However, President Bush wants to keep the PATRIOT Act as it is, making it permanent law, and change some provisions to give the Government even more power and further reduce judicial oversight. He has chosen to make this one of the bedrocks of his campaign for reelection. My friend from Texas, Senator CORNYN, and the President have made an issue over differences that they have with Senator JOHN KERRY on this issue.

I call the attention of the President and his supporters to the fact that the SAFE Act, which we brought to the floor, enjoys bipartisan sponsorship. In fact, when we had the press conference announcing the changes we proposed for the PATRIOT Act, we were joined by some of the most liberal and the most conservative organizations in Washington.

Rarely do they come together. But on the issue of civil rights and constitutional rights, we finally find common ground. Yet the President sees it differently, and Senator CORNYN as well.

A little history is worth noting at this moment. We all remember September 11, 2001, and what happened, the fear we had that another attack might be imminent, and because of the belief that the Government needed additional tools and weapons to fight terrorism, there was a bipartisan effort between Congress and the White House to write a bill giving our Government more authority and more power to deal with terrorism, changes in the law which were long overdue to deal with modern technology and the scope of the terrorist threat.

The bill was debated on a bipartisan basis and passed the Senate and the House with overwhelming numbers of support. We understood as well that September 11, 2001, was a unique moment in American history and that our response was not only to the terrible tragedy of September 11 but also to many of the fears which were welling in the breasts of every American family. Because of our concern that this fear and emotion may have taken us too far in the PATRIOT Act, we put in an insurance policy. We said, after a period of time, after a few years, we are going to come back and look at many elements of this law. We are not going to make it permanent forever. We will come back after a few years and decide whether we went too far.

In the heat of the moment with the fear of September 11, did we give the Government more power than was necessary to protect us? Did we endanger or in any way lessen our constitutional protections more than necessary? So this review provision, this sunset clause, was just basically common sense.

The President has chosen this as one of his areas of attack, and his argument yesterday was, why do we need to review this law? Is the threat of terrorism gone now?

I think the President does not understand why this sunset provision was put in the law. I am certain we will decide that the majority of the elements of the PATRIOT Act are still necessary, but that does not mean that every word in that act should be treated like the Ten Commandments. We need to take that act and honestly ask whether it was done in the heat of the moment, whether too much authority was given to the Government, and whether we have infringed basic liberties and rights which we are here to protect.

The President and Senator CORNYN seem to argue that it is the burden of the citizens of America to come forward and explain why their rights should not be taken away by the Government. I think they are both totally wrong. It is the burden of the Government to announce and rationalize why

any individual rights of American citizens should ever be taken away. These God-given rights, as we refer to them in the Declaration of Independence and the Constitution, are basically ours by virtue of our human existence. For any government to take them away, there must be a compelling reason.

The PATRIOT Act gets to the issue of privacy and freedom versus security and government control. We recognized in the PATRIOT Act the need for the government to monitor the new powers carefully. The 4-year sunset provision will force Congress and the administration to honestly look at the PATRIOT Act and see if we have gone too far.

Some provisions expire at the end of 2005. None of them expire at the end of this year. So there is no need to reconsider the PATRIOT Act this year. This has a lot more to do with an election in November than the act itself. If nothing is done by Congress, the Government will continue to have all of its authority under the PATRIOT Act through this year and into next year.

We wanted to keep the review of the PATRIOT Act out of election year politics, and that is why the sunset was 2005. Sadly, the Bush administration and their supporters in Congress want to put the PATRIOT Act on the 50-yard line, right in the middle of this titanic gridiron battle between the two political parties for the Presidency. That is unfortunate. The issues of security for America—stopping terrorism—should not be politicized this year. I hope they will not be, but sadly that is what is happening.

Think of this for a moment: The President and the White House threatened to veto the reform bill which Senator CRAIG and I have introduced, the bipartisan SAFE Act, even before it was heard in committee, even before there was an attempt to amend it, even before there was a vote in either the Senate or the House. It is rare, if not unprecedented, for the President and White House to threaten a veto on a bill so soon after it has been introduced. It shows me that the President is raising this bill to such a high profile in an effort to make it a central part of a political campaign, rather than focusing on protecting America.

During the course of his campaign, Senator KERRY said that in his first 100 days as President he wants to end the era of John Ashcroft. JOHN KERRY has promised to strengthen terrorism laws that work, strengthen money laundering laws to end funds for terrorists, improve information gathering and protect the basic rights and liberties of all of our citizens.

Senator KERRY and I support the SAFE Act, this bipartisan effort to reform the PATRIOT Act. Here are several of the most important provisions: It will protect innocent people from Government snooping by eliminating John Doe roving wiretaps, which do not identify the person or place being tapped. It requires warrants for roving wiretaps to identify either the target

of the wiretap or the places to be tapped. So we say to the Government, if they are going to intercept my conversations at unspecified locations, they must say to the court that they are going after this particular person. They cannot have a wiretap that might sweep up the conversations of my family, my business, my church, whatever it happens to be, without specifically saying to the court, this is the person that we want to wiretap, or this is the phone, this is the place that we want to wiretap. That specificity has always been part of the law. To get away from John Doe roving wiretaps, which allow the Government to just swoop in and collect information and then take a look at it to see if there is anything there of concern, goes way beyond the authority needed to protect America.

This SAFE Act will also impose limits on the Government's ability to carry out what are called sneak-and-peek searches by requiring that immediate notice of a search be given unless the notice would endanger a person's life or physical safety, or result in flight from prosecution or the destruction of evidence.

We have seen on television and in the movies and perhaps in real life the knock on the door and someone has a warrant in their hand, issued by a judge, which says, we have a warrant to search the premises and we are coming in. This is very common. But when it comes to these sneak-and-peek warrants, the search can be undertaken on anyone's premises without immediate notification if that notice would jeopardize an investigation or delay a trial. This could apply in almost every case. We say that immediate notification has to be given of a search unless there is a compelling reason not to—a person's life or physical safety is in danger or there is a risk of flight from prosecution or evidence being destroyed.

Third, it protects libraries and bookstores from Government fishing expeditions, but still allows the FBI to follow up on legitimate leads. This is an issue that really touched a lot of people. To think that because I use the Springfield public library or the library in the City of Chicago that somehow the books that I check out are going to be examined by the FBI to see if I am a suspicious person even though there is no specific reason to look at me goes way too far.

None of the changes we suggest will interfere with law enforcement and intelligence officials preventing terrorism. We retain all of the powers of the PATRIOT Act, but we restore safeguards that are indispensable to democracy and civil liberties. These safeguards are a continuing source of our country's strength. They are not luxuries or inconveniences to be dumped in time of crisis.

I am afraid the administration wants just the opposite. The President wants even broader powers than the PATRIOT Act now allows. Yesterday he called for a new law to let Federal

agents obtain private records and conduct secret interrogations without the approval of a judge or even a Federal prosecutor. This goes way beyond anything that we have ever seen in terms of trying to make America safe. It really infringes on our basic rights. We all agree that law enforcement needs the tools to protect us, but President Bush cannot point to a single terrorism investigation in which officials had any problem obtaining the court orders they needed. Yet he is asking for expanded authority that would undermine civil liberties and judicial review. Frankly, our current laws are adequate to the task. We need to bring terrorism under control but not at the expense of our basic rights as citizens.

THE ASBESTOS BILL

Mr. DURBIN. The bill pending before us is known as the Hatch-Frist asbestos bill. Asbestos is a common material that those of us my age remember throughout our lives. It has been used in building materials, tiles, insulation, coverings for pipes, and so many different uses. We used to view it as that fireproof material that was safe and, frankly, protected us. Over the years, we came to learn that it was much different. It turns out that asbestos is an insidious threat to public health. It is insidious, in that there is virtually no safe level of exposure. It is insidious in that it is a random killer. We know of workers who have been in the asbestos industry their entire lives and never once showed any problem—no illness, no symptom, nothing. We know in the same circumstances that many of these workers find that their wives have come down with serious asbestos-related diseases, even though their wives never set foot in their workplace. Puzzled by this, we started looking into it and found that even though the worker might not have been susceptible to asbestos-related diseases, his wife, who merely laundered his clothes, picked up enough dust in that process to end up infected, diseased, and destined to die. That is how it is such a random killer.

We also know, despite all of the compelling evidence about the danger of asbestos, that we continue to import massive amounts of asbestos each year in the United States. While we sit here and argue about how the companies responsible for asbestos-related disease and death should be held liable, when we talk about how victims should recover, the simple reality is that asbestos is alive and well and still to be found across America. New victims of asbestos are being created every single day by companies that know the risk and are willing to endanger their customers and employees for profit.

I don't have a lot of sympathy for those companies. They know the danger and they continue to use asbestos in some forms in a dangerous manner.

It is regrettable that the bill before us today did not go through com-

mittee. It is regrettable this bill was not debated. This is an extremely important issue. Twenty years ago, I was a brand new Congressman and I was invited to fly to Colorado right outside Denver to visit the national headquarters of Johns Manville Corporation. I didn't know why they wanted me out there 20 years ago, but they asked me to come out so I did fly out. I went to this beautiful headquarters, located outside of Denver in a magnificent building, and they told me they were having a problem with asbestos-related lawsuits.

At that time, in August of 1982, Johns Manville was preparing to file for bankruptcy protection because of the lawsuits being filed against it. At that time, if anyone suggested that 20 years later, in 2004, there would be over 70 companies facing bankruptcy, such as Johns Manville, including some of the Nation's largest manufacturers, people would have said that would be impossible. Certainly these companies still would not be sued like Johns Manville and they still wouldn't be selling asbestos products in America in 2004, would they?

The simple answer is yes. Those products continue to be sold. The people who were victims of those diseases continue to be discovered.

If anyone during the 1970s and 1980s had suggested that by the 21st century, the number of legal claims being filed for asbestos injury would have been rising instead of falling, those predictions would have been ignored. Yet, those predictions have all come true. Let me show you a chart to give you an idea of the incidence of asbestos-related disease in America. This is for 2002.

If you look at asbestos-related deaths here, you will find some 10,000 deaths. As I said, the number of deaths related to asbestos is on the rise in America. So there are only three other areas of death here that are larger in numbers: AIDS, of course, some 20,000 victims, almost twice as many; alcoholic liver disease, some 12,000 victims; firearm deaths, right around 12,000; and then asbestos. Then look at all of the other causes of death that claim fewer victims than asbestos: skin cancer, hepatitis, asthma, drowning, fires, Hodgkin's disease, and tuberculosis.

This is a serious public health problem in America. Asbestos is an ongoing environmental and health issue.

To better understand the true cost of asbestos, we need to recognize both sides of the litigation, not only companies facing bankruptcy but victims facing disease, debilitation, and death. From my experience talking with people, it seems most Americans were under the impression that asbestos has been banned.

I will tell you a story about that and let you know that didn't happen, at least it didn't happen on a permanent basis. Asbestos is still in buildings, schools, homes, offices, and workplaces—in automobiles. It is in and around 200,000 miles of drinking water