

Like him, I have come to the Senate floor on several occasions advocating for passage of the FSC bill. Many of us believe it may be the only opportunity we have to address, meaningfully, jobs policy and the creation of new jobs in this country.

His characterization of our position is unfortunate and inaccurate. We have no desire to filibuster the bill. We simply believe Senators ought to have a right to offer amendments. That was really the discussion and the debate earlier as the legislation was offered. We had an amendment that simply provided for protection for 8 million workers who were not accorded overtime, who the administration now acknowledges were prepared to take overtime as a part of their compensation packages. We fought it. The administration has changed it, not to our satisfaction. But had it not been for our fight, I doubt very much that overtime could have been protected for the millions of workers who otherwise would see it as lost.

We also want to ensure that we have an opportunity to deal with the outsourcing problem. Outsourcing is a very serious issue today. The President has created a new program called Higher Hour Workers. The acronym is HOW. Well, that is our question. How? How are you going to do it? What we have seen so far from this administration falls far short of what we need to do if we are serious about meaningfully addressing the problem of jobs in this country.

This administration has lost 3 million jobs. We have not seen an administration like this in seven administrations. We want to address the terrible and unfortunate record we have seen with regard to the economy over the last 36 months.

So our hope is we can create a real opportunity to debate jobs, to debate the way with which we can compete in the international markets. That is our desire.

I went to Senator FRIST and offered him an agreement, after this cloture vote, and indicated that we would limit our ourselves to 18 amendments. I presented that to him. I was hoping we could get a unanimous consent agreement. That was not done and, as a result, time was lost. Now, as we understand it, they have over 50 amendments pending to this bill. We have something like 30. So there is no filibuster going on. They have some difficulty on their side in trying to address this issue, and in an expeditious way.

We will get through the amendments. It is unfortunate we could not have agreed to the 18. We would be done with it by now. But there has been a practice on the Senate floor, over the last several months—we get on a bill, an amendment is offered, the bill is pulled; we move to another bill, we get on that, an amendment is offered, the bill is pulled. We have to stay on a bill to finish the bill. I am hopeful we can stay on the Internet tax bill until it is

finished, that we can stay then on the FSC bill until it is finished, and welfare reform until it is finished.

We can accomplish a lot, but we have to have greater attention to the work at hand and a willingness to stay with it until it is done. That is the nature of the Senate. That is the way we function. That is our institutional history. We are prepared to work with our Republican colleagues on these and other bills in the months ahead to make that happen.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

FSC/ETI

Mr. FRIST. Mr. President, very briefly, I know we are in morning business and we are on other topics, but so our colleagues will know, we are coming back to the FSC/ETI bill. We have a general agreement and a framework. We are coming back to it. That was really the purpose of my comments today. We are coming back to it next week. I hope we can work together. The American people deserve it. I do not believe either side will have 30 or 40 or 50 amendments. I think we can do it if we start right now to put our heads together. The managers are working. They have, I believe, an excellent glidepath to finish it as we go forward. I appeal, in a strong, bipartisan way—we are going to have to have a bipartisan approach to finish that bill—that we do just that next week. The American people deserve it. Regardless of how we get there, next week we have this opportunity to address it. We absolutely must do that.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, may I inquire how much time we have remaining in morning business?

The PRESIDING OFFICER. Eleven minutes 18 seconds.

Mr. CORNYN. I thank the Chair.

THE 9/11 COMMISSION

Mr. CORNYN. Mr. President, I want to talk a few minutes about the work of the 9/11 Commission. I know it has become popular—perhaps it has always been that way—for those who sit on commissions, those who engage in political debate about the great causes of the day in Washington, DC, to try to find blame for various things that happen. That is no less true of the work of the 9/11 Commission in looking into both the causes of the terrible events of that day and also when it comes to coming up with recommendations about what we might be able to do to make sure that sort of tragedy never occurs on our own soil again.

But I think we ought to be clear about who is to blame for the terrible events of 9/11. It was not President Clinton or his administration. It was not President Bush or his administration. The individual and the organiza-

tion at fault for the events of 9/11 were Osama bin Laden and al-Qaida. Regardless of our differences, especially in this election year where we are going to select a President, I think we ought to make sure our enemies do not draw any comfort from the debates we have on the floor of the U.S. Senate or elsewhere that we somehow are redirecting the blame to others for political gain and to score political points. I think all Members of the U.S. Senate—indeed, all Members of the U.S. Congress—should be absolutely clear where the blame lies. As I said, that lies with al-Qaida and Osama bin Laden.

Indeed, after that terrible day there was an upswelling of bipartisan support in this country to try to make sure we did whatever we needed to do in order to make sure that the events of that day would never occur again. Indeed, the Senate unanimously approved a resolution authorizing the use of all necessary and appropriate force against the persons and organizations responsible for September 11.

Indeed, in an unprecedented fashion, also, we saw that our allies in NATO, under article V of that treaty, declared that an attack against the United States was, in effect, an attack against all NATO nations.

Of course, this issue is as current as today's news because we know there are two cases that are going to be argued before the U.S. Supreme Court, the Hamdi and Padilla cases, which are going to look at the limits of Presidential power under a declaration of war, such as was authorized by the Congress, by the Senate unanimously. Of course, they are going to decide, and it seems obvious to me, but perhaps it is not as obvious to others, that the approval of all necessary and appropriate force must necessarily include the capture and detention of enemy combatants. But that is perhaps an issue for another time.

Also, in the spirit of bipartisan support for using all necessary and appropriate means to defend our country, the Senate passed the USA PATRIOT Act 98 to 1. Of course, this important legislation provides law enforcement with sorely needed tools to combat terrorism. Unfortunately, we also recall that spirit of bipartisan unanimity did not last very long.

Once the Democratic Party began to choose its Democratic nominee, we heard a lot of disparaging remarks made about the USA PATRIOT Act. Indeed, in a misguided and perhaps ill-informed way, there are 287 different municipalities around the country that have passed resolutions disparaging the USA PATRIOT Act.

It is amazing, in Washington, how events can turn on a dime. After we heard testimony before the 9/11 Commission from Janet Reno, former FBI Director Louis Freeh, Attorney General John Ashcroft, FBI Director Robert Mueller, and others, a bipartisan chorus said it was the USA PATRIOT Act which tore down the wall which

previously precluded information sharing between law enforcement and intelligence-gathering officials. We haven't heard very much more about the previous calls to either repeal or change the PATRIOT Act because, indeed, it was the PATRIOT Act that tore down that wall and which has made America safer. Perhaps the best evidence of that is not just my statement or anyone else's. It is the fact we have, thank God, avoided another 9/11 in the days since that terrible day.

The spirit of bipartisanship that resulted in a resolution authorizing the use of necessary force against our enemies who brought the war to us on 9/11 and the spirit of bipartisanship that saw a 98-to-1 vote in favor of the USA PATRIOT Act and tearing down that wall needs to continue to prevail on the National Commission on Terrorist Attacks on the United States that was created by Congress and appointed by both the Congress and the President. Of course, it is the job of that Commission to find facts, to create a historical record of the events that led up to that date, and then come up with recommendations. It is absolutely critical that the work of the National Commission on Terrorist Attacks, the 9/11 Commission, not be undermined and that the public confidence be preserved in that Commission.

That brings me to the testimony which I believe must be provided in an open forum by Commissioner Jamie Gorelick. As Attorney General Ashcroft revealed during his testimony, when he declassified a key 1995 memorandum, dated actually March 4, 1995, authored by Ms. Gorelick when she was Deputy Attorney General, it was the policy of the Justice Department, under Ms. Reno and under Ms. Gorelick, during the Clinton administration, that went further than the law required in establishing this wall which prohibited information sharing between law enforcement officials and counterintelligence officials. Indeed, in the days since Attorney General Ashcroft revealed the existence of this memo, we have seen Ms. Gorelick respond in a Washington Post op-ed piece explaining her role.

My point is, Ms. Gorelick, serving in a high-level position in the Justice Department as Deputy Attorney General, in effect the chief operating officer in the Department of Justice under Attorney General Janet Reno, has special knowledge of the facts and circumstances leading up to that memo and the erection and buttressing of that wall barring the sharing of communications.

I believe her testimony under ordinary circumstances would be sort of a no-brainer. The 9/11 Commission would say: This is a person with knowledge of relevant facts. Let's bring her before the Commission and ask her to tell us what she knows.

That has been requested now, public testimony by Ms. Gorelick, in letters signed by a number of Senators, and

now been refused by the cochairs, Chairman Kean and Chairman Hamilton.

Simply put, this is a self-inflicted wound on the credibility of the 9/11 Commission. We have learned that she has provided testimony in camera or, in English, in secret. In other words, she has been interviewed by the 9/11 Commission and told apparently what she knows out of the public eye. Obviously, she has written an op-ed piece explaining, without the benefit of further questions or followup, what it is she intended to do and the circumstances leading up to that 1995 memo.

If public testimony by persons with knowledge of relevant facts ranging from Janet Reno to Louis Freeh to John Ashcroft to Bob Mueller and others, if that testimony was important—and indeed, I believe it was—then public testimony by Ms. Gorelick is important to preserving the public credibility of the work product of the 9/11 Commission.

Secret testimony will not cut it. In fact, we need to know what it was that led up to this policy and the reasons for it in order to understand why it is important never to go there again. As I said, this policy is stated in that very same memo, which went well beyond legal requirements. In other words, the PATRIOT Act, once it was passed virtually unanimously in this body, dismantled that wall in a way that made America safer.

May I ask how much time I have remaining?

The PRESIDING OFFICER. Ten seconds.

Mr. CORNYN. I ask unanimous consent for 2 additional minutes and also to extend the Democratic time by the same amount.

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

Mr. CORNYN. First, Ms. Gorelick claims in this Washington Post op-ed piece that she had no choice when she penned the 1995 memo. It would be worth knowing why it is she thought she had no choice.

Second, she claims this memo did nothing more than continue pre-existing Justice Department policy first established in the 1980s. By the very terms of the memo, she states it is prudent to establish a set of instructions that will clearly separate counterintelligence investigations from criminal investigations. It is appropriate to ask her if she thought she was establishing a policy or continuing a policy, as she stated in another place.

Finally, Ms. Gorelick appears to be shifting the blame for the policy—and we are not talking about blame for the policy—to then-Deputy Attorney General Larry Thompson. At a minimum, it is not appropriate for one Justice Department official to attack her successor for failing to adequately correct their own mistakes, as we now know that wall was a mistake.

So, Mr. President, in conclusion, let me say because I know time is running

out, I believe it is absolutely imperative that Ms. Gorelick offer to come forward and give public testimony about what she knows about the erection of the "wall" barring the critical sharing of information that has subsequently now made America much safer.

I believe the credibility of the Commission's report depends on that public testimony, and I urge the chairman of the 9/11 Commission to reconsider, and indeed Ms. Gorelick to consider her refusal to testify in public and avoid what has, by all appearances, the status of a self-inflicted wound on the credibility of the Commission.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I think that in addition to having Ms. Gorelick reassess her position, it would be good for the President and administration to reassess their positions and testify publicly, or at least separately, instead of this appearance that they have in secret.

THE HIGHWAY BILL

Mr. REID. Mr. President, tomorrow, in the White House, it is my understanding from press accounts—and I have talked to various Senators and one House Member who will attend the meeting—there is going to be a meeting with the President to talk about the highway bill. I think it is important, therefore, that I, who have worked on this most important bill—and I have worked on several others in years past—make some observations about what I think should take place at that meeting.

Of course, it is a typical meeting that takes place in this administration. It is done in secret, with no Democrats present, which is unusual; but that is in keeping with what this administration has done now for 3½ years. Let me say, though, that I believe Senator JIM INHOFE, the chairman of the Environment and Public Works Committee, has been an exemplary legislator on the highway bill. He has been someone that has been very fixed in his ideas. He is someone, however, who is willing to work and, as legislators have to do, compromise. I have had to do the same thing. Senator JEFFORDS had to do the same thing. Senator BOND has had to do the same thing. The four of us have put this bill together. I think it is a good bill.

I appreciate the tireless efforts of Jim Inhofe on this most important legislation. He has always understood the importance of a highway bill. No one in this country can question the conservative credentials of JIM INHOFE. No one could ever accuse him of trying to give things away. That is why it is a mystery to most of us what the administration is doing on this bill.

Mr. President, first of all, understand that the chairman of the Transportation Committee in the House, Congressman YOUNG from Alaska, believed