

The training of Iraqi security forces is continuing at a brisk pace. Over 200,000 soldiers and policemen have been trained so far. As the soldiers from the 2nd Brigade Combat Team at Fort Carson will tell you, some Iraqi units are highly competent and very capable. Other Iraqi units have a long way to go. Yet progress is being made.

Just in the last 2 weeks, Iraqi security forces conducted nearly 100 company-level combat operations on their own without U.S. assistance.

On the political front, the progress in Iraq has been nothing short of amazing.

As President Bush pointed out in his speech 2 days ago, Iraq was in the iron grip of a cruel dictator who murdered his own people, attacked his neighbors, and continued his decade-long defiance of the United Nations just 2½ years ago.

Since then, the Iraqi people have assumed sovereignty of their own country, held free elections, put together a new constitution, and approved that constitution in a nation-wide referendum.

Tomorrow, Iraqis will again return to the voters booth for the third time in the last year. They will be choosing a new government under a new constitution, and they will be choosing democracy over tyranny.

Hundreds of political parties representing every element of Iraqi society, including Sunni, Shittes, and Kurds, are participating in this highly competitive, completely unprecedented electoral race.

Despite the constant danger of terror attacks, Iraq is buzzing in a campaign-like atmosphere. Baghdad, Najaf, and Mosul are full of signs and posters. Television and radio are filled with political ads and commentary.

Political rallies for candidates are being held around the country. Nothing the terrorists can do or say has stopped this march toward freedom and democracy.

Like Shittes and Kurds, Sunni politicians are now coming under attack by the Iraqi terrorists. But the Sunnis now know that terror will never overcome the political momentum that has been gaining speed in Iraq. They know that an agenda of fear and tyranny will only lead to more death and destruction.

They see that the future of Iraq lies not in the hateful ideology of extremism but in freedom, prosperity, and hope.

As the Denver Post in their editorial today, tomorrow marks an important milestone towards self-government for the Iraqi people.

The elections in Iraq are a sign of tremendous political progress, but they are not the only sign. The development of the rule of law and building of new political institutions is just as important—if not more so.

The United States is helping build an independent, impartial judiciary system capable of protecting all Iraqis and

is helping Iraqi lawmakers develop a body of law that will sustain Iraq through the challenges of the future.

In particular, the trial of Saddam Hussein has shown all Iraqis that even the most despicable criminals deserve due process and an opportunity to prove their innocence under the law.

Some have questioned whether the war in Iraq is really a part of the war against terror. The terrorists have made it abundantly clear that Iraq is central in their war against the civilized world.

They have also made it clear that they will not stop with Iraq; they will strike Iraq's neighbors as they did last month in Jordan; they will strike Europe as they did in the Madrid bombings; and they will not hesitate to strike America again as they did on September 11.

The soldiers of the 2nd Brigade Combat Team of the 2nd Infantry at Fort Carson understand the stakes of the war in Iraq. They know that if we run away, all of their work will go for naught. They know that if we give up, the lives of millions of Iraqis will be put at risk. And they know that if we surrender, the fight the terrorists will be emboldened to hit us where it hurts the most—here in the United States.

I applaud the soldiers of the 2nd Brigade Combat Team for their service to our Nation and to the people of Iraq. They have every right to be proud of their achievements, as does every U.S. soldier, sailor, airman, and marine who has helped bring freedom to Iraq. We owe the men and women in our Armed Forces a debt of gratitude—their courage and bravery has inspired me and should inspire every American.

Mr. President, I appreciate the opportunity to discuss this important issue.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The 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 (Mr. VITTER). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized to speak in morning business.

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

#### PATRIOT ACT

Mr. DURBIN. Mr. President, shortly after 9/11 we came together on a bipartisan basis in Congress to try to make certain that terrible tragedy was never repeated. We worked on a bipartisan basis to give tools to our Government to fight terrorism, to upgrade the laws of the United States so our Government could stay ahead of the curve when it came to that threat. We understood then, as we do now, that those tools were necessary for our Govern-

ment, and we understood as well that preventing terrorism is the most important and the most valid exercise of governmental responsibility.

But we were concerned, concerned that at that moment in our history we were responding quickly, perhaps emotionally, to the threat and to the tragedy of September 11. So in the wisdom of both Republican and Democratic legislators, we included in the PATRIOT Act this new set of tools to fight terrorism, sunset provisions. We said: Four years from now we will take another look at it. We are going to try to decide at that point in time if we went too far because at issue here was not just fighting terrorism but our basic rights and liberties.

Giving the Government more power over the people in this country may be necessary in some regards to deal with terrorism, but we should always do it carefully because our basic rights and liberties, as guaranteed by our Constitution and the tradition of our laws, are things we are all sworn to uphold and protect. So the PATRIOT Act was passed on a bipartisan basis with only one dissenting vote in the Senate and included these sunset provisions.

Well, the calendar has run, it is 4 years later, and now again we are looking at this PATRIOT Act. I found it interesting that there were certain provisions of this act which were obviously accepted by the American people, provisions which gave the Government more authority. But there were several that became controversial. And over the years, since the act was first passed, a number of Members of the Senate started asking questions about whether perhaps we did go too far in passing the PATRIOT Act. It led to the introduction of legislation which I cosponsored with Senator LARRY CRAIG of Idaho entitled "the SAFE Act," an attempt not to repeal the PATRIOT Act but to change some provisions which may have gone too far.

It was an interesting bill by political standards because the cosponsors could not be more different. Senator CRAIG is a very conservative Republican from Idaho. I, of course, am a Democrat from a blue State in Illinois. Yet we came together and believed we had a common goal of giving the Government enough power to deal with terrorism and protect us but not too much power to take away our basic rights and liberties. We attracted cosponsors from both sides of the aisle—Senator JOHN SUNUNU of New Hampshire; Senator LISA MURKOWSKI of Alaska; Senator RUSS FEINGOLD, who has been a very able leader on this whole issue, as well as Senator KEN SALAZAR, former attorney general of the State of Colorado. We have all come together to try to make certain that rewriting the PATRIOT Act on this 4-year anniversary is done in a responsible fashion.

We could not have had a better outcome in the Senate. I cannot think of one. We passed our revision of the PATRIOT Act out of the Judiciary Committee unanimously. I want to tell

you, I have served on the Judiciary Committee for about 8 years now. It is rough to get a unanimous vote for a resolution praising motherhood. But we had a unanimous vote—Democrats and Republicans—on the new PATRIOT Act, brought it to the floor, and it really struck the right chord with all Members of the Senate to the point where we did not have a record vote to pass it. We passed it by unanimous consent, and that says we were on to something, the right balance.

Then, of course, the legislative process takes that bill of the Senate and matches it with the bill in the House, and compromises are made. That is the reason we are here today.

Because, sadly, some of the compromises that were made between the Senate bill and the ultimate bill we are being presented with were significant, historic, and some, I am afraid, were just plain wrong.

In about 2 weeks, several provisions of the PATRIOT Act will expire. There are only a couple days left in this session of Congress. The Senate majority leader, Senator FRIST, said this morning this is one of his high priorities. And it should be.

Later this week, at the last possible moment, the Senate is going to consider the bill to reauthorize the expiring provisions of the PATRIOT Act. I wish we were not doing this at the last minute because this is an important debate. This debate is especially important because the current version of the bill does not include the safeguards which we need to protect the basic freedoms of Americans.

I come to this debate with the belief we have inherent in our democracy, based on our Constitution, certain rights and freedoms and liberties. If this Government, or any government, wants to take that freedom away from me or from any American, they have to make a compelling argument. The presumption is in favor of our freedom. The presumption is in favor of our privacy. It is the Government's responsibility to show that it has to go beyond current law to take away our basic freedom. That is where I start. And I think many Members of the Senate—conservative and liberal—feel exactly the same way.

Now, I understand there may be an attempt to shut off the debate on this PATRIOT Act. I think that is a mistake. I think we should give it the time necessary because we are talking about fundamental freedoms in this country. It is rare we stand on the floor and really consider a bill of this importance and this magnitude. But this is one of them. We rushed through the PATRIOT Act 4 years ago, as I said, in the light of what happened on 9/11, with an understanding we needed to pause and reflect on this in 4 years. We should not rush through this debate again.

Some claim we should not be concerned with problems in this bill because it includes another sunset clause,

which gives Congress the power to review three of the bill's most controversial provisions 4 years from now. A sunset is really important. I am glad we included it in the original bill. But it is no justification for delaying changes to the PATRIOT Act that are needed to protect our fundamental liberties. We ought to fix the PATRIOT Act now.

In the last 4 years, 400 communities in 45 different States have passed resolutions expressing concerns about the PATRIOT Act. The American people are sensitive to the fact that this could be an infringement on their basic rights. The communities that passed these resolutions represent about 62 million people across this country from every corner of the United States.

Senator CRAIG and I introduced the SAFE Act to address these concerns. Three Republican Senators, three Democratic Senators, we came together across the aisle to try to find a bipartisan and sensible approach to dealing with this issue. The SAFE Act, as I said, would not eliminate the PATRIOT Act. It would only reform it.

And the bill has an amazing array of support: the American Conservative Union joined with the American Civil Liberties Union. When was the last time those two got together? But they did for this act because they believe whether you are on the right or on the left that basic freedoms should be protected.

The Senate bill was based on the SAFE Act that we introduced. We reached an agreement. We made compromises. So some of the reforms of the SAFE Act were included, some were not. The result was extraordinary. The Senate unanimously passed the bill.

The SAFE Act, like the Senate bill, retains all of the new powers created by the PATRIOT Act but places some reasonable limits on them.

Then came the conference report. The current version of the PATRIOT Act reauthorization legislation does not include some of the most important reforms of the Senate bill. In the limited time I have, let me speak to one or two issues.

Section 215 has been called the library records provision of the PATRIOT Act. Let me tell you what it would do. The bill would allow the Government to use this section to obtain library, medical, tax, gun records, business records, and other sensitive personal information simply by showing that the information might be relevant to an authorized investigation.

This is not in the tradition of American jurisprudence and American constitutional law. It has been our premise that before the Government can investigate any of us, any person who is following this debate, there must be some individualized suspicion about that person. This section of the PATRIOT Act says just the opposite. The Government can start looking at thousands of individual records held by different companies or libraries or hospitals and

look to see if there is anything suspicious that they can glean from looking at those records. Section 215 clearly allows such a fishing expedition.

Who has raised concerns about this provision? The U.S. Chamber of Commerce, the National Association of Manufacturers, groups on the right and on the left. They argue that the Government should be required to show a judge that a person whose records they want has some connection to a suspected terrorist or spy.

This is basic to the law of America. In this country, you have the right to be left alone. It is pretty basic and important to all of us. If the Government wants to get into my personal life or yours, it has to do so with a reason, not in general terms that say: Let's look at all of the people who have checked books out of the New York Public Library in the last 30 days. Let's go to a hospital and ask for all of the medical records of people who have had a certain medical procedure, regardless of who those people happen to be. This is too broad.

When the FBI is conducting a terrorism investigation, they should not be able to snoop through your sensitive personal records unless you have some connection to a suspected terrorist act. The original Senate bill would provide that protection. This bill we are going to consider does not. That is what is at stake.

There are other problems with section 215. Let me mention another. An individual who receives a section 215 order—for example, the person who is running a library, the administrator of a hospital with medical records, the administrator of a credit agency, for example, with sensitive financial information—is subject to an automatic permanent gag order that prevents that person from speaking out, even if he believes that this section 215 order has gone way too far and violates their rights.

The original Senate bill we supported on a bipartisan basis and passed unanimously would give someone who receives a section 215 order the right to go to court to ask that the gag order be lifted. The current version of the bill does not.

It, in fact, continues to gag those individuals who could protest the Government reaching too far with a section 215 order. This is a serious threat to our freedom of speech. Courts have held that an individual who is subject to a Government gag order has a first amendment right to challenge that gag order in court. The current version of the PATRIOT Act does not provide that right. I am concerned that that on its face is unconstitutional.

I don't have time to get into all of the details of this conference report. There are many provisions of the bill which trouble me. This morning, I am going to be sending a letter, with several of my colleagues, to our other colleagues in the Senate outlining those concerns.

In this morning's Washington Post, Attorney General Gonzales says we have a choice: either accept this flawed conference report or it will expire. I respectfully disagree. We must not allow the PATRIOT Act to expire. There are provisions we desperately need to keep America safe. But we should not pass a reauthorization that fails to protect basic constitutional rights. Once we give these rights away in this act, can we ever reclaim them?

The 9/11 Commission said it best: The choice between security and liberty is a false choice. Our bipartisan coalition believes this legislation can be changed and improved to protect civil liberties and give the Government the tools it needs to fight terrorism.

We believe it is possible for Republicans and Democrats to come together, dedicated to protecting our basic constitutional rights. We believe we can be safe and free.

The American people have already lived with the PATRIOT Act for 4 years. They shouldn't have to wait any longer for Congress to take action to protect their constitutional rights.

This morning, the Senate majority leader came to the floor to speak about a provision in the PATRIOT Act which I certainly support. It is the Combat Meth Act. My State of Illinois, many States with rural populations, knows that this insidious drug crime has been increasing with these meth labs and an addiction which has destroyed lives and created chaos, starting, of all places, with rural areas and small towns. The Combat Meth Act includes \$15 million in COPS funding to combat the growing methamphetamine problem, and I support it. However, what the Senate majority leader did not mention was that the Republicans in this Chamber have consistently voted against COPS funding.

As recently as last March, when the Senate considered the budget resolution—I see my friend, the chairman of the Budget Committee, and he may respond—Senator BIDEN proposed an amendment to increase COPS funding by \$1 billion. That amendment did not receive a single vote on the other side of the aisle. Time and again, the President has proposed eliminating funding for hiring additional police officers through the COPS Program to help combat this methamphetamine problem. Simply authorizing another \$15 million in COPS funding in the PATRIOT Act is not enough. It is time for Congress to take a stand and provide real money to fund the COPS Program, to help State and local law enforcement fight this insidious meth epidemic across America.

I yield the floor.

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#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### DEFICIT REDUCTION ACT OF 2005

The PRESIDING OFFICER. The Chair now lays before the Senate a message from the House.

The bill clerk read as follows:

*Resolved*, That the bill from the Senate (S. 1932) entitled "An Act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)", do pass with the following amendment.

The bill is printed in the House proceedings of the RECORD of November 17, 2005.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of motions to instruct conferees with respect to S. 1932, and the Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, we are now proceeding to try to appoint conferees for the purposes of passing, hopefully, at some point, the deficit reduction bill which would reduce the deficit of the United States by \$45 to \$48, maybe \$49 billion and, thus, reduce the debt of the United States and be the first piece of legislation passed in the last 8 years which attempts to address one of the most serious issues we have as a matter of Federal spending policy, which is the issue of how we bring under control our entitlement accounts. It is important, as we move down this road, that we once again set the table as to what the issues are. It is a complex issue, and it is one which a lot of people who are not focusing on it probably do not really appreciate the subtleties because it is something that takes a certain amount of expertise or at least a fair amount of time relative to understanding it.

The way the Federal spending process works is that there are essentially two different sets of accounts. One is discretionary. Those are accounts that we spend every year. They are for things such as national defense, education, environmental cleanup, health care, items which every year need to be appropriated. That is called the appropriations bills. They represent about a third of the Federal spending.

Another set of accounts is entitlement accounts. Entitlement accounts are programs from which you, as American citizens or an organization, have a right to receive a payment. It is not a question of being appropriated. In other words, there doesn't have to be a law passed every year for you to get that expenditure like you have to do with national defense.

Rather, this money, you have a right to because the law says you meet certain criteria. You may be a veteran. You may be a student going to college and you have a right to a student loan. You may be a senior citizen who is retired and you have a right to Social Security payments and you have a right to health care payments. You may be a low-income individual and you have a right to Medicaid payments.

The problem we confront in the Federal Government is that although the

discretionary accounts have been held at a very low rate of increase—in fact, nondefense discretionary funding has essentially been frozen under the budget resolution we passed. That freeze has been enforced through what is known as spending caps, where in order to go past this essential freeze, you have to have a supermajority to do it. On the entitlement side, there is no way in the regular order of the Senate to control the rate of growth in entitlement spending because, for a certain number of people or programmatic activity, the payment must be made. We confront a fiscal tsunami, driven by the fact that we are facing the largest retired generation in the history of this country, the baby boomers.

As Chairman Greenspan pointed out in what was essentially his wrap-up statement as to what he thought were the concerns we as a Nation should be looking at in the area of fiscal policy—or maybe not his last statement but maybe a major policy statement made in London. He said the one thing that most concerned him was the fact that the baby boom generation—this large generation born after World War II, through the 1950s—when it hits the retirement system, tremendous demands are going to be put on the Federal Treasury and, therefore, on the taxpayers of the country—the younger generation who are trying to earn and have a good lifestyle—are going to be overwhelmed. We are essentially going to confront the situation where we will have so many people retired compared to the number of people working that those people who are working are going to have to pay a disproportionate amount of their income in order to support the retired generation, and it will be to a level that will essentially eliminate or dramatically reduce our children's and grandchildren's ability to have a quality lifestyle. These pages today are going to have a tax burden that is so high that basically their ability to buy a house, to send their children to college, to have a quality of life that is equal to or better than ours—which is, of course, what we hope to pass on to our children—will be dramatically reduced.

To put this in context of dollars—and the dollars are so big it is hard to understand it—there is presently \$47 trillion of unfunded liability out there to support the generation that is about to hit the retirement system. That is an unfunded liability. That means there is no way anybody knows how to pay for those programs. The vast majority of that is in the health care area, where there is about \$24 trillion of unfunded liability between the Medicare and the Medicaid systems. Those numbers were not numbers I thought up or even that CBO thought up or OMB thought up, the in-house accounting groups we turn to for advice. Those numbers came from the independent, totally objective source of the Comptroller's office.

So we confront this huge cost, and the issue for us as policymakers and as