

economic trends, the legislation will ease volatility in the banking system and facilitate recovery from economic downturns.

Third, the legislation makes monumental changes to law with regard to deposit insurance coverage levels. The system has gone 25 years without such an adjustment—the longest period in its history—and the increases provided for in the legislation are critical if deposit insurance is to maintain its relevance. The legislation establishes a permanent indexation system to ensure that coverage levels keep pace with inflation by indexing coverage from its current level of \$100,000 every five years. The indexation, which begins in 2010, applies to all accounts, including retirement and municipal accounts. Without these changes, deposit insurance will wither on the vine, which is an unacceptable outcome for the millions of Americans who depend upon it to protect their savings.

The legislation also immediately increases deposit insurance coverage available to retirement accounts, including IRAs and 401ks, from its current level of \$100,000 to \$250,000. Particularly in light of volatility on Wall Street and other developments that have shaken confidence in the markets in recent years, senior citizens and those planning for retirement need a convenient, conservative, and secure place for their retirement savings. With the higher coverage levels provided for in this bill, the American banking system will give seniors that safe haven. That is why the AARP has enthusiastically endorsed the coverage increases in this bill.

All of us have heard from community bankers in our districts about the challenges they face in competing for deposits with large money-center banks that are perceived by the market—rightly or wrongly—as being “too big to fail.” By strengthening the deposit insurance system, the conference report will help small, neighborhood-based financial institutions across the country, particularly in rural America, continue to play an important role in financing economic development. The deposits that community banks are able to attract through the Federal deposit insurance guarantee are cycled back into local communities in the form of consumer and small business loans, community development projects, and home mortgages. If this source of funding dries up, it will have devastating consequences for the economic vitality of small-town America.

I want to again commend Chairman OXLEY for the tremendous leadership he has shown in steering this complex bill through the legislative process. I also want to thank Ranking Member FRANK, Congresswoman HOOLEY, Senator SHELBY, Senator SARBANES, Senator ENZI, Senator CRAPO, Senator ENZI, and Senator JOHNSON for all of their work on this legislation.

Let me also take this opportunity to thank the staff members on the House Financial Services Committee who worked on this legislation. Both Chairman OXLEY and Ranking Member FRANK are to be commended for assembling such a talented group of staff to work on Deposit Insurance Reform legislation. On the majority side, I would like to thank Bob Foster, Carter McDowell, Peggy Peterson, Tom Duncan, Peter Barrett and Dina Ellis who serves as my designee on the Committee. I want to give a special thanks to Jim Clinger who recently left the Committee to work at the

Department of Justice. Without Jim's hard work, dedication and knowledge we would not be here today, and I am grateful for all of his efforts. I would also like to thank Larry Lavender, Warren Tryon and Kim Olive of my staff for their work on this issue. On the minority staff, I would like to thank the following staff members: Jeanne Roslanowick, Jaime Lizarraga, Erika Jeffers, Ken Swab and Matt Schumaker of Congresswoman HOOLEY's staff.

In closing, Mr. Speaker, let me just say that this legislation will promote the stability and soundness of the banking system. It will also provide assurance to working families, retirees, and others who place their hard-earned savings in U.S. banks, thrifts, and credit unions that their FDIC-insured deposits are safe and secure.

Mr. COOPER. Mr. Speaker, I would like to discuss a provision of S. 1932 that has caused great concern among hospitals throughout the State of Tennessee and in my own district. This provision relates to the calculation of Medicare disproportionate share payments for hospitals, commonly known as the DSH adjustment.

Congress created the DSH adjustment to provide appropriate funding to hospitals and other Medicare providers who care for a disproportionate share of low income inpatients. However, since its enactment into law, there has been a dispute between hospitals throughout the country and the Centers for Medicare and Medicaid Services (CMS) over how to calculate the DSH adjustment. Fifteen hospitals in Tennessee took CMS to court over this dispute in the case of Cookeville Regional Medical Center v. Thompson. At issue in Cookeville was whether CMS should include all Medicaid days related to a patient's stay in the DSH calculation, even if the patient was only eligible for Medicaid benefits through a federally approved Medicaid 1115 waiver program. CMS took the position it would exclude Medicare waiver days from the DSH calculation prior to January 20, 2000, in its discussion of an interim final rule promulgated on January 20, 2000.

On September 30, 2005, the United States District Court for the District of Columbia agreed with the Tennessee hospitals that Medicare waiver days must be included for the years 1994 to 2000. The Court determined that Congress intended to include these days in the DSH calculation when it enacted the Medicare DSH statute. CMS's interim final rule did not change that. For the Tennessee hospitals, the decision in Cookeville means up to \$100 million in corrected payments covering the years 1994 to 1999. CMS appealed the District Court's September 30th decision on December 23rd.

Mr. Speaker, I thought that this resolved the matter, however I was disturbed to see language in S. 1932 that CMS might argue applies to the Cookeville case on appeal. Section 5002(b) of the Medicare Title of S. 1932 ratifies the interim final rule promulgated on January 20, 2000 by CMS and makes it effective on the date it was promulgated. In other words, CMS might attempt to accomplish legislatively what it could not accomplish in Cookeville.

I rise today to state, as a member of the House Budget Committee which has jurisdiction over S. 1932, the Deficit Reduction Act, that Sec 5002(b) should not be used to re-

verse the Cookeville decision and deny Tennessee its correct DSH payments as determined under the Medicare statute for the years 1994 through 1999.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

#### USA PATRIOT ACT 5-WEEK EXTENSION

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4659) to amend the USA PATRIOT Act to extend the sunset of certain provisions of such Act.

The Clerk read as follows:

H.R. 4659

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. EXTENSION OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT.

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tolls Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56; 115 Stat. 295) is amended by striking “February 3, 2006” and inserting “March 10, 2006”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4659 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4659, to extend until March 10 crucial provisions of the PATRIOT Act set to expire this Friday.

On December 23 of last year, both Houses unanimously passed a short-term extension of the PATRIOT Act to preserve critical antiterrorism initiatives that were set to expire at the end of last year. Unfortunately, we must

pass another extension today because a minority of Members of the other body have blocked an up-or-down vote on the conference report for H.R. 3199, the USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005 which the full House passed by a broad bipartisan vote of 257–171 on December 14.

The opponents in the other body have repeatedly cited their concern for civil liberties as a justification for their obstruction. Ironically, the conference report that has been blocked contains dozens of vital civil liberty protections, many included at their request.

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The original PATRIOT Act contains none of these protections. As a result, we are once again forced to extend the current PATRIOT Act rather than to implement the current important civil liberties protections contained in the conference report that even its detractors acknowledge is an improvement over current law.

When the PATRIOT Act was first passed in October of 2001, I pledged to rigorously examine its implementation to ensure that new law enforcement authorities did not violate civil liberties. Since April of 2005 alone, the House Judiciary Committee received testimony from 35 witnesses during 12 hearings on the PATRIOT Act. In addition to hearings, I have requested, along with Ranking Member CONYERS, written responses from the Attorney General to detailed questions regarding use of the PATRIOT Act and whether any of its provisions have been used to violate individuals' civil liberties.

A chronology of these legislative and oversight activities follows:

OVERSIGHT OF THE USA PATRIOT ACT FROM OCTOBER, 2001, TO NOVEMBER, 2005:

1. November 9, 2005, Department of Justice classified briefing for Committee on the Judiciary staff on press accounts of FBI use of NSLs;
2. October 25, 2005, Department of Justice classified briefing for House & Senate Committees on the Judiciary and Committees on Intelligence staff on press accounts of FBI use of NSLs;
3. October 6, 2005, Department of Justice classified briefing for Committee on the Judiciary Members and staff on press accounts of mistakes in FBI applications to the Foreign Intelligence Surveillance Court under the USA PATRIOT Act;
4. July 12, 2005, letter from Assistant Attorney General William Moschella to the House Committee on the Judiciary responding to July 1, 2005, letter regarding use of the USA PATRIOT Act;
5. July 12, 2005, letter from Assistant Attorney General William Moschella to the House Committee on the Judiciary responding to May 19, 2005, letter regarding use of the USA PATRIOT Act;
6. July 11, 2005, letter from Assistant Attorney General William Moschella to Rep. Bobby Scott responding to questions regarding use of the USA PATRIOT Act;
7. July 11, 2005, letter from Assistant Attorney General William Moschella to the House Committee on the Judiciary regarding use of the USA PATRIOT Act;
8. July 5, 2005, letter from FBI Director Mueller to Senate Committee on the Judiciary responding to questions regarding use of the USA PATRIOT Act;

9. July 1, 2005, letter from Assistant Attorney General William Moschella to Rep. Bobby Scott responding to questions regarding use of the USA PATRIOT Act;

10. July 1, 2005, letter from House Committee on the Judiciary to the Attorney General regarding use of the USA PATRIOT Act;

11. June 29, 2005, letter from Assistant Attorney General William Moschella to the Senate Committee on the Judiciary responding to April 5, 2005, letter regarding use of the USA PATRIOT Act;

12. June 10, 2005, House Committee on the Judiciary hearing on reauthorization of the USA PATRIOT Act;

13. June 8, 2005, House Committee on the Judiciary hearing on reauthorization of the USA PATRIOT Act;

14. May 26, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing on Material Witness Provisions of the Criminal Code & the Implementation of the USA PATRIOT Act; Section 505 that Addresses National Security Letters; & Section 804 that Addresses Jurisdiction over Crimes Committed at U.S. Facilities Abroad;

15. May 19, 2005, letter from House Committee on the Judiciary to the Attorney General regarding use of the USA PATRIOT Act;

16. May 10, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing on the prohibition of Material Support to Terrorists & Foreign Terrorist Organizations & on the DOJ Inspector General's Reports on Civil Liberty Violations under the USA PATRIOT Act;

17. May 10, 2005, Senate Committee on the Judiciary hearing on continued oversight of the USA PATRIOT Act;

18. May 5, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing on Section 212 of the USA PATRIOT Act that Allows Emergency Disclosure of Electronic Communications to Protect Life and Limb;

19. May 3, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing on Sections 201, 202, 213, & 223 of the USA PATRIOT Act & Their Effect on Law Enforcement Surveillance;

20. April 28, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing: Section 218 of the USA PATRIOT Act—If It Expires Will the "Wall" Return?;

21. April 28, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing: Have Sections 206 and 215 Improved Foreign Intelligence Surveillance Act (FISA) Investigations?;

22. April 26, 2005, letter from Assistant Attorney General William Moschella to Senator Dianne Feinstein responding to April 4, 2005, letter regarding use of the USA PATRIOT Act;

23. April 26, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing: Have Sections 204, 207, 214, & 225 of the USA PATRIOT Act, & Sections 6001 & 6002 of the Intelligence Reform & Terrorism Prevention Act of 2004, improved FISA Investigations?;

24. April 21, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security hearing on Crime, Terrorism, & the Age of Technology—(Section 209: Seizure of Voice-Mail Messages Pursuant to Warrants; Section 217: Interception of Computer Trespasser Communications; & Section 220: Nationwide Service of Search Warrants for Electronic Evidence);

25. April 20, 2005, Senate Subcommittee on Terrorism, Technology, & Homeland Security hearing: A Review of the Material Support to Terrorism Prohibition;

26. April 19, 2005, House Subcommittee on Crime, Terrorism, & Homeland Security

hearing on Sections 203(b) and (d) of the USA PATRIOT Act and their Effect on Information Sharing;

27. April 6, 2005, House Committee on the Judiciary hearing with Attorney General Gonzales;

28. April 5, 2005, Senate Committee on the Judiciary hearing on Oversight of the USA PATRIOT Act;

29. March 22, 2005, Department of Justice law enforcement sensitive briefing for Committee on the Judiciary Members and staff on the use of FISA under the USA PATRIOT Act;

30. September 22, 2004, Senate Committee on the Judiciary hearing: A Review of Counter-Terrorism Legislation & Proposals, Including the USA PATRIOT Act & the SAFE Act May 5, 2004, Senate Committee on the Judiciary hearing: Aiding Terrorists—a Review of the Material Support Statute;

31. May 20, 2004, Senate Committee on the Judiciary hearing on FBI Oversight: Terrorism;

32. April 14, 2004, Senate Committee on the Judiciary hearing on Preventing & Responding to Acts of Terrorism: A Review of Current Law;

33. February 3, 2004, Department of Justice briefing for House Committee on the Judiciary staff on its views of S. 1709, the "Security and Freedom Ensured (SAFE) Act of 2003," and H.R. 3352, the House companion bill, as both bills proposed changes to the USA PATRIOT Act;

34. November 20, 2003, request by Chairmen Sensenbrenner & Hostettler to GAO requesting a study of the implementation of the USA PATRIOT Act anti-money laundering provisions. Report was released on June 6, 2005;

35. October 29, 2003, Department of Justice classified briefing for Committee on the Judiciary Members & staff on the use of FISA under the USA PATRIOT Act;

36. September 10, 2003, Senate Subcommittee on Terrorism, Technology, & Homeland Security hearing on Terrorism: Two Years After 9/11, Connecting the Dots;

37. August 7, 2003, Department of Justice briefing for House Committee on the Judiciary Members and staff regarding the long-standing authority for law enforcement to conduct delayed searches & collect business records & the effect of the USA PATRIOT Act on those authorities;

38. July 23, 2003, Senate Committee on the Judiciary hearing on Law Enforcement & Terrorism;

39. June 13, 2003, letter from Assistant Secretary for Legislative Affairs at the Department of Homeland Security, Pamela J. Turner, to the House Committee on the Judiciary responding to questions regarding the USA PATRIOT Act;

40. June 10, 2003, Department of Justice classified briefing for Committee on the Judiciary Members & staff on the use of FISA under the USA PATRIOT Act;

41. June 5, 2003, House Committee on the Judiciary hearing on the U.S. Department of Justice, including its use of the provisions authorized by the USA PATRIOT Act;

42. May 20, 2003, House Subcommittee on the Constitution hearing: Anti-Terrorism Investigations and the Fourth Amendment After September 11th: Where and When Can Government Go to Prevent Terrorist Attacks;

43. May 13, 2003, letter from Acting Assistant Attorney General, Jamie Brown to the House Committee on the Judiciary responding to questions regarding the USA PATRIOT Act;

44. April 1, 2003, letter from the House Committee on the Judiciary to the Attorney General regarding use of the USA PATRIOT Act;

45. October 9, 2002, Senate Subcommittee on Terrorism, Technology, & Homeland Security hearing: Tools Against Terror: How the Administration is Implementing New Laws in the Fight to Protect our Homeland;

46. September 20, 2002, letter from Assistant Attorney General, Daniel Bryant, to the House Committee on the Judiciary responding to questions regarding the USA PATRIOT Act;

47. September 10, 2002, Senate Committee on the Judiciary hearing on the USA PATRIOT Act in Practice: Shedding Light on the FISA Process;

48. August 26, 2002, letter from Assistant Attorney General, Daniel Bryant, to the House Committee on the Judiciary responding to questions regarding the USA PATRIOT Act;

49. July 26, 2002, letter from Assistant Attorney General Daniel Bryant to the House Committee on the Judiciary responding to questions regarding the USA PATRIOT Act;

50. July 25, 2002, Senate Committee on the Judiciary hearing on the Department of Justice, including its implementation of the authorities granted by the USA PATRIOT Act;

51. June 13, 2002, letter from the House Committee on the Judiciary to the Attorney General regarding use of the USA PATRIOT Act;

52. April 17, 2002, Senate Subcommittee on Administrative Oversight and the Courts hearing: "Should the Office of Homeland Security Have More Power? A Case Study in Information Sharing;"

53. December 6, 2001, Senate Committee on the Judiciary hearing on DOJ Oversight: Preserving our Freedoms While Defending Against Terrorism;

54. December 4, 2001, Senate Committee on the Judiciary hearing on DOJ Oversight: Preserving our Freedoms While Defending Against Terrorism;

55. November 28, 2001, Senate Committee on the Judiciary hearing on DOJ Oversight: Preserving our Freedoms While Defending Against Terrorism; and

56. October 3, 2001, Senate Subcommittee on the Constitution, Civil Rights, & Property Rights hearing: Protecting Constitutional Freedoms in the Face of Terrorism.

Mr. SENSENBRENNER. The Inspector General has issued six reports and found no evidence that law enforcement has abused the PATRIOT Act. Opponents of the PATRIOT Act have repeatedly pointed to the Brandon Mayfield case as an example of abuse of the act. Members of Congress asked the DOJ Inspector General to examine whether the PATRIOT Act was abused in this case. On January 6, 2006, the Inspector General concluded: "We do not find any evidence that the FBI misused any of the provisions of the PATRIOT Act in conducting its investigation of Mayfield."

Even though no credible evidence of abuse of the PATRIOT Act has been received by Congress, the conference report adopted over 30 new additional civil liberty protections to address concerns about the potential for misuse. For example, the conference report contained several new reporting requirements that will provide additional information for congressional oversight of the act. These provisions establish specific procedures to consult legal counsel and seek judicial review for those wishing to challenge the national security letter or a section 215 order, two of the authorities most criticized by opponents.

Additionally, the conference report increases accountability by requiring the FBI director, deputy director, or executive assistant director to authorize applications that request the FISA court to issue a section 215 order for certain records, including library records, medical records, educational record and tax return records. The conference report also requires public reporting of the aggregate use of section 215 orders.

Because time does not permit me to detail all of the civil liberty protections contained in the conference report, the following list details each of those safeguards.

#### ADDITIONAL CIVIL LIBERTIES PROTECTIONS CONTAINED IN THE CONFERENCE REPORT ON H.R. 3199, THE "USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005"

The conference report contains the following additional safeguards:

Requires a description of a specific target in both the application and the court order for "roving wiretaps," and specific facts in the application that show that the target's actions may thwart surveillance efforts—if the target's true identity is unknown.

Requires that the FBI must notify the court within 10 days after beginning surveillance of any new phone for all "roving wiretaps." The notice must include the total number of electronic surveillances conducted under the court's multipoint order.

Includes new reporting requirements to Congress, including new details about the use of "roving" authority.

Requires that for delayed notice search warrants that notice of the search be given within 30 days of its execution, unless the facts justify a later date, eliminating the open-ended period of delay permissible under current law.

Allows for extensions of the delay period in giving notice of a search, but only upon an updated showing of the need for further delay. Also, it limits any extension to 90 days or less, unless the facts of the case justify a longer delay.

Adds new reporting requirements to Congress on the use of delayed notice search warrants.

Requires for section 215 orders, relating to investigator's access to business records, a statement of facts showing reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation to protect against international terrorism or espionage. This provides additional safeguards to the original USA PATRIOT Act, which required the government only to certify that the records at issue were sought for an authorized investigation—without any factual showing.

Requires a three part test for section 215 orders that ensures the records are sought for: a foreign power or an agent of a foreign power; the activities of a suspected agent of a foreign power who is the subject of an authorized investigation; or an individual in contact with, or known to, a suspected agent of a foreign power who is the subject of an authorized investigation. This test combined with the newly required statement of facts should mitigate concerns of government "fishing expeditions," while maintaining the flexibility for legitimate terrorism investigations.

Explicitly guarantees the right for recipients of section 215 orders to consult legal counsel and seek judicial review.

Requires high level approval by either the FBI Director, Deputy Director, or Executive Assistant Director for requests for certain

records, including library records, medical records, educational records, and tax return records.

Limits the scope of section 215 orders to materials that could be obtained via grand jury subpoena or a similar court order for the production of records.

Limits retention, and prohibits dissemination, of information concerning U.S. persons.

Requires that the DOJ Inspector General conduct two separate audits of the FBI's use of section 215 orders that will examine: any noteworthy facts or circumstances relating to 215 orders, including any improper or illegal use of the authority; the manner in which such information is collected, retained, analyzed, and disseminated by the FBI; and an assessment of whether the minimization procedures protect the constitutional rights of United States persons.

Requires enhanced reporting to Congress of section 215 orders, including a breakdown of its use to obtain library records, medical records, educational records, and other sensitive types of records.

Requires public reporting of the aggregate use of section 215 orders.

Allows recipients of National Security Letters (NSLs) to consult with legal counsel.

Creates an explicit right to judicial review of NSL requests.

Permits a reviewing court to modify or set aside an NSL if compliance would be unreasonable, oppressive, or otherwise unlawful—this is the same standard used to modify or quash a subpoena in a criminal case.

Provides for judicial review of the non-disclosure requirements.

Adds a "knowing and willfully" standard that must be proven before someone who discloses an NSL can be subject to a 1-year misdemeanor offense.

Requires the DOJ IG to conduct two comprehensive audits of the FBI's use of NSLs.

Requires the Attorney General and the Director of National Intelligence to submit to Congress a report on the feasibility of applying minimization procedures to NSLs to ensure the protection of constitutional rights of U.S. persons.

Adds a new "sunshine" provision that requires annual public reporting on NSLs.

Provides for expanded congressional access to significant FISA reporting currently provided to the Intelligence Committees.

Includes a provision requiring the FISA Court to submit its rules and procedures to Congress.

Creates new reporting requirements for the use of emergency authorities under FISA.

Requires new reporting on the use of emergency disclosures of communications information made under section 212 of the USA PATRIOT Act.

Requires the Department of Justice to submit a report to Congress on the Department's data-mining activities.

Mr. SENSENBRENNER. I would remind Members, Mr. Speaker, of both Houses that the conference committee dissolved after the conference report was filed and the House acted in a bipartisan manner to approve it. I believe it is healthy to continue to debate the merits of the PATRIOT Act and to continue vigorous congressional oversight of its authorities. But it is also imperative that we not play political games with the vital tools our law enforcement and intelligence communities need to keep us safe from additional attacks on American soil.

We must not rebuild the wall of separation between the FBI and CIA and return to the pre-9/11 mindset that made

America vulnerable to a terrorist attack. I urge my colleagues to join me in supporting this extension of the PATRIOT Act so as to give the other body the time to expeditiously pass the conference report on H.R. 3199. As recent events have highlighted, the threat of terrorism has not receded, nor has the urgency of continued vigilance.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I intend to support this short extension today. And doing so will give the Members an opportunity to work together to work on the conference report from the last Congress to include some commonsense improvements to ensure that there are appropriate protections for our citizens' civil rights and civil liberties.

Now, many of the provisions of the original PATRIOT Act for which concerns had been expressed have proven to be noncontroversial and have not operated to threaten civil liberties. Other provisions, however, have become more problematic. This extension will give us the time to look at things like the searches for libraries and other intrusive records; second, a standard for issuing national security letters which are essentially subpoenas without probable cause and without the normal checks and balances and a mechanism for making sure that personal information obtained under these letters is destroyed or properly protected.

A review of wire taps, I think, is appropriate, the roving wiretaps and also review of wiretaps under the President's new NSA policy which many legal scholars believe are just illegal. Those are spying on domestic law-abiding citizens. If there is probable cause that someone is breaking the law, obviously a criminal warrant could be given. We need to look and see exactly what is being done and review the law to determine whether or not they are, in fact, illegal. The elimination of totally unnecessary provisions in the conference report involving habeas corpus and expanding the death penalty had nothing to do with the original PATRIOT Act.

Mr. Speaker, as the chairman has indicated, there are improvements in the PATRIOT Act that are in the conference report, but we need to make sure that we have a version that can pass. We can pass a PATRIOT Act. The Senate has passed the PATRIOT Act several times on virtually a unanimous vote or even unanimous consent. The House Judiciary Committee passed unanimously the original PATRIOT Act until a late-night switch to another version that no one had read. But we can pass a PATRIOT Act; and if we use our time effectively, we can develop an act which serves the needs of law enforcement without allowing the unnecessary spying on law-abiding citizens.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), my distinguished predecessor as chairman of the Judiciary Committee.

Mr. HYDE. Mr. Speaker, I take the floor to remind my colleagues of two home truths that may have been forgotten in the 4 years and 4 months since September 11, 2001.

The first of these is that we are a Nation at war. Decades of dealing with terror networks like al Qaeda as a matter of law enforcement or criminal justice helped bring us to September 11. We passed the PATRIOT Act because we understood that we are at war with international terrorism and that wartime measures were required.

The second home truth is that this war is being fought in a technological environment as different from World War II as the technology of World War II is different from the technology of the War Between the States. In a high velocity age of digital communications, the President and those most directly responsible for forestalling another attack of this sort that Osama bin Laden recently threatened must have the means appropriate to the life-or-death task at hand.

If my colleagues will permit me, there has been something surreal, even unreal, about the recent debate on this front. We seem to have forgotten that the terrorists who hijacked the plane that was flown into the Pentagon on September 11 received more than a dozen calls from al Qaeda operatives in Yemen while the terrorists were living in San Diego, and that the NSA, fearful of being accused of domestic spying, did not act.

Do we want a repeat of that? I do not think any of us do. But those who seem to imagine that President Bush is a greater threat to civil liberties than Osama bin Laden is to American lives and liberties need to stop politicizing this issue and work with the rest of us to strike a rational balance between a legitimate concern for civil liberties and the imperative need to equip the agencies responsible for our national security with the technological tools necessary to do their job in an environment where a few hours' delay might prove lethal.

Let us refuse to tie our hands again as our hands were tied before September 11, with the gravest results. The PATRIOT Act is as necessary today as the reauthorization of the draft was in the dangerous months before Pearl Harbor. A few months before that devastating surprise attack, this House came within one vote of essentially dismantling the U.S. Army by refusing to reauthorize conscription. Wiser counsels prevailed.

Let us rise to our responsibility as those who saw more clearly in mid-1941 rose to theirs, and let us give those charged with the weighty responsi-

bility of providing for our national security in a new kind of war, fought with new kinds of weapons, the tools and the legal authority they need to do their crucial job.

Mr. SCOTT of Virginia. Mr. Speaker, I now yield such time as she may consume to the gentlewoman from California (Ms. HARMAN), the ranking member of the Select Committee on Intelligence.

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, I strongly support powerful, flexible, and modern tools to detect the plans and intentions of terrorists who may be operating in our country. For that reason, I voted for the PATRIOT Act, even though I believed and still believe there is room for improvement.

We are being asked today to extend the PATRIOT Act for 5 weeks so that Congress can continue to work on some of its most controversial provisions. I think this extension makes good sense. We must extend it, mend it, but not end it.

To that end, I hope we can soon reach agreement on critical issues. First, we should modify the report to explicitly require that records sought under Section 215—commonly called the Library provision—be connected to a foreign power or an agent of a foreign power. This is the traditional FISA standard. A looser standard invites "fishing expeditions."

Second, we should explicitly state 215 recipients have the right to challenge a gag order in court.

Third, we should ensure that National Security Leaders are not used as back doors for getting library circulation, medical, tax and educational institutions records, and to modify the "conclusive presumption" language which makes it virtually impossible for NSL recipients to challenge "gag" orders in court. These and other critical changes to NSLs are included H.R. 4570—a bill that I, my colleagues on the Intelligence Committee, Representative CONYERS and other congressional leaders introduced in December.

As part of the negotiations, Congress must also insist that the President provide the facts on his NSA terrorist surveillance program. His refusal to brief the 36 Members of the intelligence committees, even though hundreds of people in the executive branch have been briefed, violates the requirements of the National Security Act of 1947.

The President also needs to explain why current law, the Foreign Intelligence Surveillance Act, does not provide an adequate framework for his program. Some claim that FISA cannot handle modern communications. But the fact is that the administration requested, and Congress passed as part of the PATRIOT Act of 2001, numerous changes to FISA to deal with phones, e-mail and the Internet. For example, Congress lowered the legal standards for FISA pen registers and trap-and-trace devices to make it easier to track the calls of terrorists who may be in the U.S. We also expanded these pen traps to cover e-mail and the Internet,

and we granted roving John Doe wiretap authority to deal with the issue of unidentified terrorists switching phones.

Moreover, in the 2002 Intelligence Authorization Act, we extended the FISA emergency provision to 72 hours, so that surveillance is not delayed by the paperwork involved in getting a warrant. All of these authorities were powers that the President asked for and supported.

Mr. Speaker, FISA is modern, flexible, and effective. Since 1979, 19,000 warrants have been approved. Those who prepare the warrants tell me the process is efficient. If the President believes otherwise, he must come to Congress and explain why.

Mr. Speaker, the message conferees, and I am one, must send is that the American people want to do whatever is necessary to defend America. Let me repeat: the American people want to do whatever is necessary to defend America. But we also want our President to follow the law.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I do not believe that any of us in the backdrop of 9/11 have changed our attitude about the consistency and the value and the importance and the crucialness of fighting the war on terror. With not enough time to pursue that debate, let me simply say that this extension is crucial for a reasonable response to the needs of the American people to have their liberty protected. And I read very quickly a statement from "On Liberty," written in 1859: "Protection therefore against the tyranny of the magistrate is not enough. There needs protection against also the tyranny of the prevailing opinion and feeling."

This is an important extension, and I wish it were longer because it is crucial that we investigate beyond the infringement on library records, beyond the infringement in terms of wiretapping, is the President's NSA terrorist surveillance program and the lack of use of FISA.

□ 1615

FISA is an effective tool, and as I heard the President use the term, to be hit again, obviously striking at the fear and the hearts of Americans. None of us want to be hit again, but we do want to protect our civil liberties. This extension will allow that very effective debate, and we will get the right way to fix the PATRIOT Act and protect America.

One of our Founding Fathers, John Quincy Adams, made the following statement regarding the importance of civil liberties:

Individual liberty is individual power, and as the power of a community is a mass compounded of individual powers, the nation which enjoys the most freedom must nec-

essarily be in proportion to its numbers the most powerful nation.

I have in my hand a copy of chapter 1 of John Stuart Mill's *On Liberty*, written in 1859. Selections of this chapter are quite fitting for today's proceeding:

Protection, therefore, against the tyranny of the magistrate is not enough; *there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own. There is a limit to the legitimate interference of collective opinion with individual independence; and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs, as protection against political despotism.* (emphasis added).

We passed the PATRIOT Act in 2001 6 weeks after the terrorist attacks of September 11. While the actual bill passed by wide margins in both Chambers of Congress, I made the record clearly reflect my strong reservations about provisions that pose serious threats to fundamental freedoms and civil liberties.

In my capacity as a member of the House Judiciary Committee, I joined a caucus of members in submitting letters to the administration and to the Department of Justice requesting documentation and statements that speak to the protection of individual rights in light of the potentially dangerous provisions contained within the bill.

Congress included in the bill a "sunset clause" that provides an expiration date for over a dozen provisions on December 31, 2005 unless we act to renew them. This fact was the impetus behind several hearings held by the committee in the first session of the 109th Congress. One of the most talked about issues surrounding the PATRIOT Act is the President's authority to conduct warrantless electronic surveillance searches—in essence, execute an order that allows the National Security Agency, NSA, to monitor, without a warrant, the international, and sometimes domestic, telephone calls and e-mail messages of hundreds and possibly even thousands of citizens and legal residents inside the United States.

I do not oppose the monitoring of telephone calls and e-mail messages when it is necessary for national security reasons. I oppose engaging in such monitoring without a warrant as the law specifies. We have a Foreign Intelligence Surveillance Court that was established for the sole purpose of issuing such warrants when they are justified. That court should have been allowed to decide whether the telephone calls and e-mail messages of American citizens and legal residents is justified by security needs. Doing this kind of surveillance without a warrant is illegal.

The day after this monitoring became public, President Bush admitted that he had authorized it but argued that he had the authority to do so. According to the President, his order was "fully consistent with my constitutional responsibilities and authorities." But his constitutional duty is to "take care that the laws be faithfully executed", article II, section 3; the law here clearly establishes well-defined procedures for eavesdropping on U.S. persons,

and the fact is, President Bush ordered that those procedures not be followed. Further, from a statutory argument point of view, it is not credible that the 2001 authorization to use force provides authority for the President to ignore the requirements of FISA. It is very doubtful that the courts would sustain the President on this basis. From a constitutional standpoint, the President can try to make a case, although it is weak, that he does have constitutional authority to conduct warrantless wiretaps of American citizens in the U.S. for national security purposes. Because the Supreme Court has never said he does not have this power, some regard it as an open question. However, passage of FISA seriously undermines this argument.

In closing let me note that this 6-week extension is not enough time to resolve the important issues that surround the PATRIOT Act. Further I am very disappointed, but not surprised that the Republicans have not been willing to come to the table to meet with us in an effort to come to some middle ground.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. NADLER).

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, none of us here deny that some of the provisions of the PATRIOT Act are very useful in fighting the war on terrorism. No one wants the PATRIOT Act to be eliminated, but the PATRIOT Act should be amended to safeguard civil liberties.

Section 215 should be amended to provide meaningful protection from abuse by an overzealous government seeking sensitive and personal documentation. We should replace the mere showing of relevance standard with a three-part test that was the basis of the Senate compromise. Recipients of section 215 orders and of section 505 national security letters must be allowed a meaningful court challenge to the gag order, and the national security letter authority should sunset in order to guarantee Congressional oversight.

We also must be mindful, while debating this, of the President's claim of extraordinary power to wiretap Americans in conversation he says with people who are terrorists abroad. We do not know that is the only wiretapping that is going on. It may be thousands, may be hundreds of thousands of Americans are being wiretapped. We do not know. This is all secret. It only got out because it leaked.

The President claims the power to do this against the apparently plain language of the law. Many of us think it is illegal. Many people think this is illegal the President claims inherent power or that we authorized this when we authorized the use of force in Afghanistan. Well, maybe, but we ought to be holding hearings. It is an abdication of responsibility for the Judiciary and Intelligence Committees of this House not to be holding hearings on this.

Why should the hearings only occur in the Senate? Is this House not an

equal branch of the government? So I urge this bill. This extension ought to pass so that we can work out the problem of modification of the PATRIOT Act, and we ought not to abdicate our responsibility. I urge the chairman of the Judiciary Committee to hold hearings so that we can examine these issues.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 1½ minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I rise in strong opposition to this legislation, because it should become crystal clear that the administration is currently and will continue to abuse, attack and outright deny the civil liberties of American citizens in defiance of our Constitution. This administration is illegally wiretapping American citizens, illegally collecting information on peace groups and illegally using signing statements to ignore the torture ban recently enacted by the Congress. The administration is violating the laws Congress has passed, and they are violating the U.S. Constitution.

I will not vote to give this administration any police powers until I am assured that their attack on our democracy is reined in. This Congress is walking away from the checks and balances of our democracy.

I do not believe that this Congress was zealous in oversight investigation prior to 2001. I am not a partisan. I have joined my colleagues in an oversight role prior to 2001. However, since that time we have ignored our constitutional duty, and 200 years of American democracy has suffered. The complacency of Congress is clearly viewed by the administration as a license to ignore the laws it disagrees with and demand Congress pass extended police powers.

I reject this complacency in defense of the United States Constitution. I will not vote to give a single new police power to this administration. The bill before us today enables the FBI to investigate any American for any reason, without the checks and balances of a judicial system. History tells us that unchecked police powers with little or no oversight will be abused, and citizens will be harmed.

The administration's record in this area is concrete proof that history repeats itself. I am for a strong police function that protects citizens of this great Nation, not a police function which nullifies our constitutional rights.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, in a difficult week, well, weeks, following September 11th, Congress passed the U.S. PATRIOT Act in an effort to comfort and protect a shocked and grieving Nation. Yet even in the face of all that, Congress found 16 of the PATRIOT Act's provisions to be so egregious and far-reaching that they were not made permanent, and were slated to expire within 4 years.

Yet somehow, here we are, in the midst of having learned that our President has authorized the NSA to spy on Americans without a warrant, still debating if it is a good idea to further compromise our privacy, and make permanent some of the PATRIOT Act's worse provisions, such as roving wiretaps and expanded access to personal information like medical, library, financial records.

Threats to our civil liberties and freedoms are mounting, an open-ended war, a President copping a "I can because I say I can" attitude, and a dangerous view of what executive powers are bestowed on our President in the U.S. Constitution. We cannot continue on this slippery slope.

As the elected leaders this country, we must vote to protect Americans from dangerous infringements of civil rights and liberties. That is why I encourage my colleagues to oppose extending the PATRIOT Act today.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I would hope that we would give this brief extension to the PATRIOT Act and that we would use this time effectively to review the NSA wiretaps and also to use this time effectively to develop a bill that can pass both Chambers.

I yield back the balance of my time.

Mr. SENSENBRENNER. I yield myself the balance of my time.

Mr. Speaker, the two speakers who proposed this brief 5-week extension of the PATRIOT Act are symptomatic of the problems that the opponents of the PATRIOT Act have attempted to tar it with. They are wrong.

First, no Federal court has declared unconstitutional as violative of civil rights any of the 16 provisions of the PATRIOT Act that the sunsets were applied to, none whatsoever.

As I stated in my opening remarks, the Inspector General of the Department of Justice is required by the PATRIOT Act to report on civil rights violations to the two Judiciary Committees twice per year. We have received six of those reports on time, and the number of civil rights violations that have been found by the DOJ Inspector General have been zero.

Furthermore, there is a provision in the PATRIOT Act that anybody whose civil rights have been violated can obtain a statutory judgment of \$10,000 in addition to any proven monetary damages against the Justice Department if they are successful in a lawsuit. The Justice Department has not paid out one dime in either monetary or statutory damages under this law.

The PATRIOT Act has nothing to do with NSA wiretaps, and anybody who has been familiar with the operation of the PATRIOT Act knows very, very clearly that it does not have anything to do with NSA wiretaps, and I really wish that the opponents would read the law and stick to the proven testimony of the operation of this act. To say

that the Judiciary Committee has not conducted oversight is living in a dream world, and it does not comport with the facts.

Mr. CONYERS and I have sent joint oversight letters to the Justice Department and published the nonclassified results of those oversight letters on the committee's website. Last year we had 12 hearings on the PATRIOT Act and the 16 provisions that expire. And guess what? There was no criticism about 14 of the 16 provisions, which the conference report makes permanent. And to say that the 16 provisions that were passed in the PATRIOT Act in October of 2001 were so egregious that sunsets had to be applied really does not talk about what happened then. Every expansion of law enforcement authority contained in the 2001 bill contained a sunset, and we did the oversight, and we found that in 14 of the 16 provisions there was not a problem. And even the witnesses the Democrats brought before the Judiciary Committee said that there was no problem in 14 of the 16 provisions. In the two provisions where there is a sunset in the conference report, there have not been any civil rights violations proven. I have just said that, but one would think that the people's rights were being trampled on. No courts found that, the DOJ Inspector General has not found that, and I really wish that people who do not like the PATRIOT Act would stick to the facts.

Now I would like to talk a little bit about what good the PATRIOT Act has done, and I am going to give credit to Deroy Murdock, who is a New York-based columnist with the Scripps Howard News Service and a senior fellow with the Atlas Economic Research Foundation in Arlington, Virginia. It says: "Let the Numbers do the Talking."

First, the total number of individuals who Islamic fanatics murdered on September 11, 2001: 2,977 people whose civil rights were snuffed out because they were murdered;

The cash sum that PATRIOT Act section 371 let Customs agents seize when terror-tied New Jersey imam Alaa al-Sadawi tried to smuggle funds into Egypt in his father's airline luggage: \$659,000;

Pounds of heroin the three al Qaeda and Taliban-linked San Diego weapons dealers offered undercover FBI agents as partial payment for four Stinger anti-aircraft missiles until PATRIOT Act sections 218 and 504 helped authorities unravel their conspiracy: 1,320 pounds of heroin;

Total terror-related defendants captured with the help of PATRIOT Act provisions: 401;

Total terror-related defendants who have pled guilty or who have been convicted with the aid of PATRIOT Act provisions: 212;

Total feet the Brooklyn Bridge would have plunged into the New York City's East River had the PATRIOT Act not helped authorities stop Iyman Faris's



plan to sever the span's cables with acetylene torches: 119. That is New York City.

According to Federal prosecutor Ken Wainstein's January 3 comments after meeting with President Bush, the number of U.S. attorneys who use "the PATRIOT Act tools each and every day in his or her efforts": 93, out of 93 U.S. attorneys;

As U.S. Attorney Roslynn Mauskopf notes, total years of prison time earned under the PATRIOT Act by Osama bin Laden's self-proclaimed spiritual adviser, Mohammed al-Moayad, for trying to funnel \$20 million to al Qaeda and Hamas: 75;

Number of scholars, former Cabinet members, and other prominent Americans, including Democratic ex-CIA Directors James Woolsey and James Schlesinger, who joined in signing a January 25 open letter advocating the PATRIOT Act's reauthorization: 68;

Years that David Wayne Hull, former Imperial Wizard of the White Knights of the Ku Klux Klan, will spend behind bars after PATRIOT Act section 201 helped convict him for plotting to blow up abortion clinics with hand grenades: 12;

Number of Northern Virginia Islamofascists jailed after the PATRIOT Act's information-sharing provisions let spies and cops jointly determine that they had trained in Afghan and Pakistani terror camps between 1999 and 2001: Eight;

Total al Qaeda associates in Lackawanna, New York who were jailed for 7 to 10 years after the PATRIOT Act finally let cops and intelligence officers sit in the same room to discuss each other's investigations: Six;

According to the Associated Press, the number of tickets for American Airlines Flight 77 that Pentagon-bound 9/11 hijackers Khalid al-Mihdhar and Nawaf al-Hazmi purchased online, using William Patterson University's library computers, that might have been detected had PATRIOT Act section 215 been in place: Two;

The number of the Portland Seven extremists who escaped the PATRIOT Act by being killed by Pakistani troops on October 3, 2003: One.

□ 1630

The number of individuals whom Muslim terrorists have killed on American soil since the adoption of the PATRIOT Act: zero.

Mr. Speaker, this law is working. This law has not violated anybody's civil liberty rights. It has not been held unconstitutional by any Federal court in the country. All of the arguments against the PATRIOT Act are a red herring. It has kept us safer. We ought to continue it. We ought to vote for this bill.

Ms. LEE. Mr. Speaker, I rise in total opposition to the extension of this unpatriotic act.

The NSA's warrantless domestic spying scandal has shown how this President has a tendency to overstep the rule of law.

Expanding the administration's powers, in light of these recent developments, may even be unnecessary.

That said, we should be repealing these undemocratic provisions, not continuing to expand government's reach into the private lives of the American people.

Since 2001, the PATRIOT Act has been used more than 150 times to secretly search private homes, and nearly 90 percent of those cases had nothing to do with terrorism.

Americans have rejected provisions in this legislation like sneak-and-peek searches, national security letters, and roving John Doe wiretaps.

And Americans have rejected unwarranted searches of private residences, libraries, businesses, and medical records.

I don't know how much clearer we need to be.

All the administration's word games and sugar-coating will do nothing to change the fact that we can protect our nation and protect civil liberties at the same time.

The PATRIOT Act fails to do so.

Vote "no" on this extension, and keep our civil liberties and our civil rights off the chopping board.

Ms. WATERS. Mr. Speaker, I rise in opposition not only to the lack of opportunity that a five-week sunset will provide but to the underlying legislation that it extends, the USA PATRIOT Act passed during the 107th Congress, Public Law 107-56. Similarly, I felt that the prior-enacted five-week extension, Public Law 109-160, that expires this Friday, February 3, 2006, was inadequate. For the sake of the American people and pursuant to the words of the President of the United States just last night in his State of the Union Address, I hope that the draconian provisions that were contained in the House-passed measure have been removed or drastically improved. Alas, even the process of negotiating the betterment of this very important legislation was kept a secret until brought to the Floor.

I voted in favor of a motion to recommit this Conference Report with instructions, which would have replaced the text of the conference report with the text of the original bill passed by the Senate. The original Senate bill included many more civil liberties protections than does this conference report. That Senate measure would have included a process of judicial review for recipients of a National Security Letter as well as a standard requiring the Government to show a connection to a suspected terrorist or organization when requesting business or library records. The sunsets to the Conference Report that we consider today still require the Government to demonstrate "relevance" in an investigation.

The underlying conference report seeks to make 14 of 16 controversial PATRIOT Act provisions permanent. In making these provisions permanent, Congress will relinquish its responsibility to review their use, granting more permanent power to the executive branch. Congressional oversight has been maintained only through the two provisions scheduled to sunset in 4 years, as well as through the inclusion of a "lone wolf" provision, also scheduled to sunset in 4 years. Congress has a responsibility to check the power of the executive branch, not cede that authority, potentially threatening the civil liberties of our citizens. The underlying conference report unfortunately still fails to safeguard individual privacy rights, and allows the Government, with little burden of proof, to scrutinize nearly every aspect of a person's life.

The President stated in his "State of the Union" address last night that "Our country must . . . remain on the offensive against terrorism here at home." However, in doing so, we cannot allow terrorism to erode our national security or our civil liberties.

I would like to address the following words stated by the President, again in his address:

. . . based on authority given to me by the Constitution and by statute—I have authorized a terrorist surveillance program to aggressively pursue the international communications of suspected al-Qaida operatives and affiliates to and from America. Previous presidents have used the same constitutional authority. I have—and Federal courts have approved the use of that authority. Appropriate Members of Congress have been kept informed. This terrorist surveillance program has helped prevent terrorist attacks. It remains essential to the security of America.

I authored a letter to the President that is currently being circulated and has already been signed by 50 of my colleagues that categorically negates these assertions based on well-settled caselaw, Federal statutes that remain in the books, and the words of the U.S. Constitution.

At no point during the floor debate of the Authorization to Use Military Force, AUMF, Resolution was there any discussion that the authorization to use military force would extend to the use of warrantless searches and vest the President with the broad authority to intercept telephone calls and other electronic communications of American citizens on American soil without first obtaining a warrant. To the contrary, it was stated during the debate that the authorization "provides no new or additional grants of power to the President." (see CONGRESSIONAL RECORD dated Sept. 14, 2001, page H5677)

It is our duty to uphold the provisions of the U.S. Constitution, preserve the system of checks and balances between branches of our Government, and to protect the rights of the American people to the greatest extent possible. We must remain committed to protect the United States from terrorist attacks and to exercise our legislative responsibility to support any lawful means of preventing any future terrorist activity. However, it is our duty to clarify the mischaracterization of our actions. Congress simply did not intend for the AUMF to be used as justification for programs such as the one currently in use by the NSA.

I join my many colleagues, many victims of terrorism, and many victims of racial and religious profiling in opposing the underlying conference report for H.R. 3199.

Of particular concern to me are a number of immigration-related provisions that cast such a broad net to allow for the detention and deportation of people engaging in innocent associational activity and constitutionally protected speech and that permit the indefinite detention of immigrants and noncitizens who are not terrorists. (Carlina Tapia Ruano, Statement for Oversight Hearing on the Reauthorization of the USA PATRIOT Act before the House Committee on the Judiciary, June 10, 2005.)

Among these troubling provisions are those that:

Authorize the Attorney General, AG, to arrest and detain noncitizens based on mere suspicion, and require that they remain in detention irrespective of any relief they may be eligible for or granted." (In order to grant

someone relief from deportation, an immigration judge must find that the person is not a terrorist, a criminal, or someone who has engaged in fraud or misrepresentation.) When relief from deportation is granted, no person should be subject to continued detention based merely on the Attorney General's unproven suspicions.

Require the AG to bring charges against a person who has been arrested and detained as a "certified" terrorist suspect within seven days, but the law does not require that those charges be based on terrorism-related offenses. As a result, an alien can be treated as a terrorist suspect despite being charged with only a minor immigration violation, and may never have his or her day in court to prove otherwise.

Make material support for groups that have not been officially designated as "terrorist organizations" a deportable offense. Under this law, people who make innocent donations to charitable organizations that are secretly tied to terrorist activities would be presumed guilty unless they can prove they are innocent. Restrictions on material support should be limited to those organizations that have officially been designated terrorist organizations.

Deny legal permanent residents readmission to the U.S. based solely on speech protected by the First Amendment. The laws punish those who "endorse," "espouse," or "persuade others to support terrorist activity or terrorist organizations." Rather than prohibiting speech that incites violence or criminal activity, these new grounds of inadmissibility punish speech that "undermines the United States' efforts to reduce or eliminate terrorist activity." This language is unconstitutionally vague and overbroad, and will undeniably have a chilling effect on constitutionally protected speech.

Authorize the AG and the Secretary of State to designate domestic groups as terrorist organizations and block any noncitizen who belongs to them from entering the country. Under this provision, the mere payment of membership dues is a deportable offense. This vague and overly broad language constitutes guilt by association. Our laws should punish people who commit crimes, not punish people based on their beliefs or associations.

While every step must be taken to protect the American public from further terrorist acts, our government must not trample on the Constitution in the process and on those basic rights and protections that make American democracy so unique.

While the PATRIOT Act may not deserve all of the ridicule that is heaped against it, there is little doubt that the legislation has been repeatedly and seriously misused by the Justice Department. Consider the following:

Its been used more than 150 times to secretly search an individual's home, with nearly 90 percent of those cases having had nothing to do with terrorism.

It was used against Brandon Mayfield, an innocent Muslim American, to tap his phones, seize his property, copy his computer, spy on his children, and take his DNA, all without his knowledge.

Its been used to deny, on account of his political beliefs, the admission to the United States of a Swiss citizen and prominent Muslim Scholar to teach at Notre Dame University.

Its been used to unconstitutionally coerce an Internet Service Provider to divulge infor-

mation about email activity and Web surfing on its system, and then to gag that Provider from even disclosing the abuse to the public.

Because of gag restrictions, we will never know how many times its been used to obtain reading records from library and book stores, but we do know that libraries have been solicited by the Department of Justice—voluntarily or under threat of the PATRIOT Act—for reader information on more than 200 occasions since September 11.

Its been used to charge, detain and prosecute a Muslim student in Idaho for posting Internet Web site links to objectionable materials, even though the same links were available on the U.S. Government's Web site.

Even worse than the PATRIOT Act has been the unilateral abuse of power by the Administration. Since September 11, our Government has detained and verbally and physically abused thousands of immigrants without time limit, for unknown and unspecified reasons, and targeted tens of thousands of Arab-Americans for intensive interrogations and immigration screenings. All this serves to accomplish is to alienate Muslim and Arab Americans—the key groups to fighting terrorism in our own county—who see a Justice Department that has institutionalized racial and ethnic profiling, without the benefit of a single terrorism conviction.

Mr. Speaker, the sunset proposed in the bill before us is insufficient to allow adequate consideration by the House; therefore, I oppose it.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4659.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

H. Res. 648, by the yeas and nays;

H. Res. 653, by the yeas and nays;

H.R. 4659, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes may be conducted as 5-minute votes.

#### ELIMINATING FLOOR PRIVILEGES OF FORMER MEMBERS AND OFFICERS

The SPEAKER pro tempore. The pending business is the question of sus-

pending the rules and agreeing to the resolution, H. Res. 648.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DREIER) that the House suspend the rules and agree to the resolution, H. Res. 648, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 50, answered "present" 1, not voting 3, as follows:

[Roll No. 3]

YEAS—379

Ackerman	Davis (IL)	Hobson
Aderholt	Davis (KY)	Hoeksstra
Alexander	Davis (TN)	Holden
Allen	Davis, Jo Ann	Holt
Andrews	Davis, Tom	Honda
Baca	Deal (GA)	Hooley
Bachus	DeFazio	Hostettler
Baldwin	DeGette	Hoyer
Barrett (SC)	Delahunt	Hulshof
Barrow	DeLauro	Hunter
Bass	Dent	Hyde
Bean	Diaz-Balart, L.	Inglis (SC)
Beauprez	Diaz-Balart, M.	Inslee
Becerra	Dicks	Israel
Berkley	Dingell	Issa
Berman	Doggett	Jackson-Lee
Berry	Doolittle	(TX)
Biggart	Doyle	Jefferson
Bilirakis	Drake	Jenkins
Bishop (GA)	Dreier	Jindal
Bishop (NY)	Duncan	Johnson (CT)
Bishop (UT)	Edwards	Johnson (IL)
Blackburn	Ehlers	Jones (NC)
Blunt	Emanuel	Kanjorski
Boehlert	Emerson	Kaptur
Boehner	Engel	Keller
Bonner	English (PA)	Kelly
Bono	Eshoo	Kennedy (MN)
Boozman	Etheridge	Kennedy (RI)
Boren	Evans	Kildee
Boswell	Everett	Kilpatrick (MI)
Boucher	Farr	Kind
Boustany	Fattah	King (NY)
Boyd	Feeney	Kirk
Bradley (NH)	Ferguson	Kline
Brady (PA)	Filner	Knollenberg
Brown (OH)	Fitzpatrick (PA)	Kolbe
Brown (SC)	Foley	Kuhl (NY)
Brown, Corrine	Forbes	LaHood
Brown-Waite,	Ford	Langevin
Ginny	Fortenberry	Lantos
Butterfield	Fossella	Larsen (WA)
Buyer	Fox	Larson (CT)
Calvert	Frank (MA)	Latham
Camp (MI)	Franks (AZ)	LaTourette
Campbell (CA)	Frelinghuysen	Leach
Cantor	Gallely	Lee
Capito	Gerlach	Levin
Capps	Gibbons	Lewis (CA)
Cardin	Gilchrest	Lewis (GA)
Cardoza	Gingrey	Lewis (KY)
Carnahan	Gohmert	Linder
Carson	Gonzalez	Lipinski
Carter	Goode	LoBiondo
Case	Goodlatte	Lofgren, Zoe
Castle	Gordon	Lowe
Chabot	Granger	Lucas
Chandler	Graves	Lungren, Daniel
Chocola	Green (WI)	E.
Cleaver	Green, Al	Lynch
Clyburn	Green, Gene	Mack
Coble	Grijalva	Maloney
Cole (OK)	Gutierrez	Manzullo
Conaway	Hall	Marchant
Conyers	Harman	Markey
Cooper	Harris	Marshall
Costa	Hart	Matheson
Costello	Hastert	Matsui
Cramer	Hastings (WA)	McCarthy
Crenshaw	Hayes	McCauley (TX)
Crowley	Hayworth	McCollum (MN)
Cuellar	Hensarling	McCotter
Culberson	Herger	McCrery
Cummings	Herseth	McGovern
Davis (AL)	Higgins	McHenry
Davis (CA)	Hinchey	McHugh
Davis (FL)	Hinojosa	McIntyre