

gas prices will fall in the coming decades. However, that prediction depends upon liquefied natural gas imports rising by 600 percent by 2030, a sixfold increase in LNG imports. I find such hopes mind-boggling. How could we increase LNG imports by 600 percent at the same time we have coastal States from Maine, Massachusetts, Rhode Island, Connecticut, and Delaware opposing or blocking LNG terminals?

By the way, these Northeastern States blocking natural gas imports through their States are the very ones proposing we punish Midwestern States using coal by forcing them to switch to natural gas to make electricity—the natural gas that they will not allow us to get through LNG.

Others who claim carbon caps will be affordable, pin their hopes on rosy economic analyses that say we can buy our way out of the problem. They propose, instead of cutting carbon emissions, powerplants will be able to purchase, hopefully, cheap credits from others who, hopefully, cut their own carbon emissions elsewhere.

They are running models from MIT, Stanford, and Harvard that say the price of buying carbon cuts in other countries will be cheaper than forcing U.S. powerplants to reduce their own carbon emissions. I can't dispute these are smart people, but I wonder if they are reading the newspaper. Their models show a ton of carbon cuts costing just over \$1 a ton. At that price, they say it would be affordable. Unfortunately, last week the price to purchase a ton of carbon reductions was \$31. You do not have to be from Harvard to do that math. That is 31 times more expensive. Do we believe that the cost of carbon credits will drop by 97 percent after we impose our own cap, when you see the increasing demand for energy from India and China? That I do not believe is likely.

Europe's system to cap carbon is certainly in a shambles. European countries are failing miserably to meet their Kyoto carbon-cut requirements. Thirteen of the fifteen original EU signatories are on track to miss their 2010 emissions targets—by as much as 33 percent in Spain and 25 percent in Denmark. Talks to discuss further cuts beyond that, when Kyoto expires, have only produced agreement to talk further. It sounds similar to the Senate these days. We can talk well, but doing things is difficult.

If Europe is, for all practical purposes, ignoring their Kyoto carbon commitments and there is no agreement to continue with carbon caps after Kyoto, how can we expect the creation of enough credits? In the alternative, if Europeans suddenly decide to rush and meet their commitments by buying up massive amounts of credits to meet their shortfalls, how will there be enough credits for a U.S. demand bigger than all of Europe combined?

While these questions are complicated, their consequences are simple. A mistake on our part could add

significantly to the misery of our manufacturing workers. A mistake on our part will add to the hardships families face paying their heating and power bills. And one more thought: Iran and Saudi Arabia are furiously busy expanding their petrochemical industry, based upon their vast supplies of natural gas.

I ask unanimous consent an article on that subject be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BOND. This means that not only more cheap foreign chemicals, but it means potentially more closed U.S. plants. We must also ask whether we want to add to our oil addiction a new chemical dependency on Iraq, Iran, and the Middle East.

Before we make any hasty decisions, I believe we must have answers to these questions, and we must answer these questions as we begin to debate further carbon cap proposals.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### EXHIBIT 1

[From MEHRNEWS.com, Jan. 2, 2006]

#### IRAN STRIVING TO RANK FIRST IN ETHYLENE PRODUCTION

Iran plans to be number one in producing ethylene in the world—reaching 12 million tons output within the next 10 years—by allocating 17.5 billion dollars in investment for development of petrochemical projects in the Fourth Five-Year Development Plan (2005–2010).

The figure stood around 12.5 billion dollars for the first to third development plans (1990–2005) in total.

Out of the 25 projects under implementation, the National Petrochemical Company (NPC) have completed 17 and would finish the rest soon, said Hassan Sadat, manager of plans in the NPC.

NPC plans to have an output of 25.6 million tons capacity by March 2010 jumping up from 7.3 million tons in 1999, he added.

The investment in the sector is forecast to increase by 40 percent in the fourth plan.

Sadat said that the output of polymers would reach 10 million tons within the next 10 years. The production of chemical fertilizers, methanol, and aromatic materials would increase to 8 million tons each. NPC has estimated that the country earns some 20 billion dollars from export of petrochemicals only by the date.

At present, nearly 52,000 employees work in petrochemical sector that enjoys modern technologies such as ABS, PET—PAT, engineering polymers, isocyanides, DME, and acetic acid.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I yield the remaining time in morning business on our side.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2271, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of S. 2271, a bill to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time until 10:30 is equally divided between the two leaders or their designees.

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, the upcoming cloture vote on the motion to proceed to S. 2271, introduced by my friend Senator SUNUNU, is the first opportunity for my colleagues to go on record on whether they will accept the White House deal on PATRIOT Act reauthorization. Back in December, 46 Senators voted against cloture on the conference report. I think it's clear by now that the deal makes only minor changes to that conference report. The Senator from Pennsylvania, chairman of the Judiciary Committee and primary proponent of the conference report in this body, was quoted yesterday as saying that the changes that the White House agreed to were "cosmetic." And then he said, according to the AP, "But sometimes cosmetics will make a beauty out of a beast and provide enough cover for senators to change their vote."

The Senator from Alabama said on the floor yesterday: "They're not large changes, but it made the Senators happy and they feel comfortable voting for the bill today." I agree with both of my adversaries on this bill that the changes were minor and cosmetic. I explained that at length yesterday, and no one else other than Senator SUNUNU came down to the floor to defend the deal.

Some of my colleagues have been arguing, however, that we should go along with this deal because the conference report, as amended by the Sununu bill, improves the PATRIOT Act that we passed 4½ years ago.

It's hard for me to understand how Senators who blocked the conference report in December can now say that it's such a great deal. It's not a great deal—the conference report is just as flawed as it was 2 months ago. No

amount of cosmetics is going to make this beast look any prettier. That said, let me walk through some of the provisions of the conference report that are being touted as improvements to the original PATRIOT Act.

First, there's the issue that was the linchpin of the bill the Senate passed without objection in July of last year, that of course is the standard for obtaining business records under Section 215. Section 215 gives the Government extremely broad powers to secretly obtain people's business records. The Senate bill would have required that the Government prove to a judge that the records it sought had some link to suspected terrorists or spies or their activities. The conference report does not include this requirement. Now, the conference report does contain some improvements to section 215, at least around the edges. It contains minimization requirements, meaning that the executive branch has to set rules for whether and how to retain and share information about U.S. citizens and permanent residents obtained from the records. And it requires clearance from a senior FBI official before the Government can seek to obtain particularly sensitive records like library, gun and medical records. But the core issue with section 215 is the standard for obtaining these records in the first place.

Neither the minimization procedures nor the high level signoff changes the fact that the Government can still obtain sensitive business records of innocent, law-abiding Americans. The standard in the conference report—"relevance"—will still allow Government fishing expeditions. That is unacceptable. And the Sununu bill does not change that.

Next, let me turn to judicial review of these section 215 orders. After all, if we are going to give the Government such intrusive powers, we should at least let people go to a judge to challenge the order. The conference report does provide for this judicial review. But it would require that the judicial review be conducted in secret, and that Government submissions not be shared with the challenger under any circumstances, without regard for whether there are national security concerns in any particular case. This would make it very difficult for a challenger to get meaningful judicial review that comports with due process.

And the Sununu bill does not address this problem.

What we have are very intrusive powers, very limited judicial review—and then, on top of it, anyone who gets a section 215 order can't even talk about it. That's right—they come complete with an automatic, indefinite gag order. The new "deal" supposedly allows judicial review of these gag orders, but that's just more cosmetics. As I explained yesterday, the deal that was struck does not permit meaningful judicial review of these gag orders. No judicial review is available for the first year after the 215 order has been

issued. Even when the right to judicial review does finally kick in, the challenger has to prove that the Government acted in bad faith. We all know that is a virtually impossible standard to meet.

The last point on section 215 is that the conference report, as amended by Sununu bill, now explicitly permits recipients of these orders to consult with attorneys, and without having to inform the FBI that they have done so. It does the same thing with respect to national security letters. This is an important clarification, but keep in mind that the Justice Department had already argued in litigation that the provision in the NSL statute actually did permit recipients to consult with lawyers. So this isn't much of a victory at all. Making sure that recipients don't have to tell the FBI if they consult a lawyer is an improvement, but it is a minor one.

Next let's turn to national security letters or NSLs. These are the letters that the FBI can issue to obtain certain types of business records, with no prior court approval at all.

The conference report does provide for judicial review of NSLs, but it also gives the Government the explicit right to enforce NSLs and hold people in contempt for failing to comply, which was not previously laid out in the statute. In stark contrast to the Senate bill, the conference report also would require that the judicial review be conducted in secret and that Government submissions not be shared with a challenger under any circumstances without regard to whether there are national security concerns in any particular case. So just like the section 215 judicial review provision, this will make it very difficult for challengers to be successful. Again, the Sununu bill does not address this problem.

Of course, NSLs come with gag orders, too. The conference report addresses judicial review of these gag orders, but it has the same flaw as the Sununu bill with regard to judicial review of the section 215 gag rule. In order to prevail, you have to prove that the Government acted in bad faith, which, again, would prove to be virtually impossible. The Sununu bill does not modify these provisions at all.

Let me make one last point on NSLs. The Sununu bill contains a provision which states that libraries cannot receive an NSL for Internet records unless the libraries provide "electronic communication services" as defined by statute. But that statute already applies only to entities that satisfy this definition, so this provision is essentially just restating existing law. It is no improvement at all. Those cosmetics wear pretty thin when you look closely at this deal.

Let's turn to sneak-and-peek search warrants. As I laid out in detail yesterday, the conference report takes a significant step back from the Senate bill by presumptively allowing the Govern-

ment to wait an entire month to either notify someone that agents secretly searched their home or to get approval from a judge to delay the notice even longer. The Senate said it should be 1 week. I have yet to hear any argument at all, even in direct debate from the Senator from Alabama, much less a persuasive argument, why that amount of time is insufficient for the Government.

The core fourth amendment protections are at stake. This is not like flipping a coin: Let's make it 7 days; no, make it 30 days. This involves people coming into somebody's house without their knowledge and how long that should be allowed without telling them you were in their house. Once again, the Sununu bill does nothing to address this issue.

Let me talk briefly about roving intelligence wiretaps under section 206 of the PATRIOT Act. We have not discussed this issue much, in part because the conference report does partially address the concerns raised about this provision. But the conference report language is still not as good as the Senate bill was on this issue. Unlike the Senate bill, the conference report does not require that a roving wiretap include sufficient information to describe the specific person to be wiretapped with particularity. The Sununu bill does not address this problem.

Supporters of the conference report say it contains new 4-year sunsets for three provisions: section 206, section 215, and the so-called lone wolf expansion of the Foreign Intelligence Surveillance Act that passed as a part of the intelligence reform bill in 2004. We agree, I am sure, that sunsets are not enough. This reauthorization process is our opportunity to fix the problems of the PATRIOT Act. Just sunsetting bad law again is hardly a real improvement. Of course, neither the conference report nor the Sununu bill contains a sunset for the highly controversial national security letter authorities which were expanded by the PATRIOT Act, even though many of us said back in December that was a very important change we wanted to see made.

I have the same response to those who point to the valuable new reporting provisions in the conference report: We must make substantive changes to the law, not just improve oversight.

I have laid out at length the many substantive reasons to oppose the deal. But there is an additional reason to oppose cloture on the motion to proceed; that is, it appears the majority leader is planning to prevent Senators from offering and getting votes on amendments to this bill.

I was on the Senate floor for 9 hours yesterday. I was not asking for much, just a guarantee that once we moved to proceed to the bill I could offer and get votes on a handful of amendments relevant to the bill. There was a time—in fact, I was here—when Senators did not have to camp out on the floor to plead for the opportunity to offer

amendments. In fact, offering debate and voting on amendments is what the Senate is supposed to be all about. That is how we craft legislation. But my offer was rejected.

It appears as if the other side may try to ram this deal through without a real amending process. I hope that even colleagues who may support the deal will oppose such a sham process. It makes no sense to agree to go forward without a guarantee that we will be allowed to actually try to improve the bill. It is a discourtesy to all Senators, not just me, to try to ram through controversial legislation without the chance to improve it.

In sum, I oppose the sham legislative process the Senate is facing, and I oppose the flawed deal we are being asked to ratify. Notwithstanding the improvements achieved in the conference report, we still have not adequately addressed some of the most significant problems of the PATRIOT Act. I must oppose proceeding to this bill which will allow this deal to go forward. I cannot understand how anyone who opposed the conference report back in December can justify supporting it now. The conference report was a beast 2 months ago, and it has not gotten any better looking since then.

I urge my colleagues to vote no on cloture. I reserve the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 2271: to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive National Security Letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

Bill Frist, James Inhofe, Richard Burr, Christopher Bond, Chuck Hagel, Saxby Chambliss, John E. Sununu, Wayne Allard, Johnny Isakson, John Cornyn, Jim DeMint, Craig Thomas, Larry Craig, Ted Stevens, Lindsey Graham, Norm Coleman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to

proceed to S. 2271, the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 96, nays 3, as follows:

(Rollcall Vote No. 22 Leg.)

#### YEAS—96

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Menendez
Allen	Durbin	Mikulski
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Obama
Bond	Grassley	Pryor
Boxer	Gregg	Reed
Brownback	Hagel	Reid
Bunning	Harkin	Roberts
Burns	Hatch	Rockefeller
Burr	Hutchison	Salazar
Cantwell	Inhofe	Santorum
Carper	Inouye	Sarbanes
Chafee	Isakson	Schumer
Chambliss	Johnson	Sessions
Clinton	Kennedy	Shelby
Coburn	Kerry	Smith
Cochran	Kohl	Snowe
Coleman	Kyl	Specter
Collins	Landrieu	Stabenow
Conrad	Lautenberg	Stevens
Cornyn	Leahy	Sununu
Craig	Levin	Talent
Crapo	Lieberman	Thomas
Dayton	Lincoln	Thune
DeMint	Lott	Voinovich
DeWine	Lugar	Warner
Dodd	Martinez	Wyden

#### NAYS—3

Byrd	Feingold	Jeffords
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#### NOT VOTING—1

Vitter

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

#### USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the motion to proceed to S. 2271 was agreed to, and the clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2271) to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

#### AMENDMENT NO. 2895

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Tennessee (Mr. FRIST) proposes an amendment numbered 2895.

Mr. FRIST. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add the following: This Act shall become effective 1 day after enactment.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 2896 TO AMENDMENT NO. 2895

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. FRIST) proposes an amendment numbered 2896 to Amendment No. 2895.

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

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

The amendment is as follows:

Strike all after the first word and insert: Act shall become effective immediately upon enactment.

#### CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion on the bill to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2271: to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive National Security Letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

Bill Frist, Arlen Specter, Thad Cochran, Richard Burr, Mel Martinez, Jim Bunning, Jon Kyl, Craig Thomas, Mike Crapo, David Vitter, Bob Bennett, Norm Coleman, Michael B. Enzi, Lindsey Graham, Jeff Sessions, Saxby Chambliss, John Cornyn, John Thune.

Mr. FRIST. Mr. President, the actions just taken, coupled with the agreement we came to last night, set out a sequence I will review later today. We will have final passage once we get back from the recess. I am very disappointed in the fact that on a bill I know will pass overwhelmingly, by 90 to 10 or 95 to 5, it has been required of us from the other side of the aisle to be here all day yesterday, today, tomorrow, through the recess, Monday when