

TRENT has been in Congress 34 years. He is the only person in the history of this country who has served as both the House and the Senate whip. He has been a champion for Mississippi, as we all know, but he has also been an important instrument in the Senate accomplishing what it has during the time he was here. I am disappointed that Senator LOTT is going to be leaving the Senate, and I will miss him. I have been impressed with his ability to get things done. Other than John Breaux and TRENT LOTT, there are no two people able to accomplish as much as they did. John Breaux was a dealmaker, and the place he always went, as a Democrat, to start his deal, was with TRENT LOTT. They developed a friendship that lasts to this day. But as a result of their ability to work together on different sides of the aisle, we were able to accomplish a great deal. During the Clinton years, much of what Senator Breaux was able to accomplish for President Clinton was as a result of his relationship with Senator LOTT.

There is no need for me to dwell on my friendship with Senator LOTT other than to say he is my friend, I wish him well, and certainly I wish Tricia and TRENT and their family the very best. They deserve it.

#### RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, we will, indeed, be saying goodbye to our friend and colleague, TRENT LOTT, over the next few weeks. Senator REID and I will work out a time certain for tributes to Senator LOTT and his extraordinary career sometime between now and the end of this session.

I ask unanimous consent that the Republican time in the morning business coming up be divided equally between Senators BOND, KYL, and CORNYN, in that order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, the U.S.-Peru Trade Promotion Agreement Implementation Act represents new opportunities. It is an opportunity to strengthen America's economic growth and it is an opportunity to forge a stronger relationship with a key ally in an important region of the world.

We already know that trade agreements with countries help grow this economy through increased exports, which translate to more new jobs for many American workers. They also create lower prices and more choices for the consumer.

This bill will do all of that by leveling the playing field for American exporters and producers. As recently as

2006, 98 percent of Peruvian exports to America entered this country duty-free. But because of high tariffs, American exporters have not had anywhere near equivalent access to Peru's markets.

When this agreement enters into force, 80 percent of American consumer and industrial exports to Peru will be duty-free immediately. That is a tremendous benefit to thousands of American businesses, and millions of American workers.

For my home State of Kentucky, this bill will do a lot of good as well. Exports to world markets mean a lot to my State—Kentucky's export shipments of merchandise in 2006 accounted for \$17.2 billion, including \$16.3 million worth of goods to Peru. Almost 16 percent of Kentucky manufacturing workers depend on exports for their jobs.

New markets for Kentucky's transportation equipment manufacturers, chemical manufacturers, and machinery manufacturers will open up because of this bill, as will markets for Kentucky's many agricultural products.

By way of a comparison, 3 years after Congress approved a similar trade deal with Singapore, Kentucky exports to Singapore have grown 68 percent. Kentucky and America can reap similar rewards again in a new, more fruitful partnership with Peru by passing this bill.

Peru stands to gain as well. Greater ties to America can only help strengthen security and stability in that country, a key ally in the Western Hemisphere.

It is critical for America to remain engaged in that part of the world, and it is vitally important for us to build strong ties with countries that have made a commitment to freedom and democracy. Peru is just such an ally.

I thank my good friend, the senior Senator from Iowa, for his important work on this bill. Thanks to Senator GRASSLEY, we are soon about to vote on final passage.

I also want to echo his concerns about the current state of our trade policy. Earlier this year, Democrats and Republicans came to an agreement on trade—in return for concessions on matters such as overseas labor issues, House Democrats would move several free trade agreements.

So far, today's Peru agreement is all we have. We haven't seen any positive movement on free trade agreements with Colombia or Panama. Let me just say with regard to Colombia, it is our most important ally in South America. It is embarrassing that we have not approved the free trade agreement with Colombia. Once the issue of beef is addressed with respect to South Korea, I hope we can see that agreement move along as well.

I am disappointed the other Chamber hasn't been able to pass these agreements more quickly. We know they will strengthen our economy and we know they will strengthen our bonds with some very important allies.

Again, going back to Colombia in particular, it has been making great strides to combat the drug trade that ravages so much of that country, and has done much to cut down on the flow of illegal drugs to the United States. Why can't we move faster and show good faith with this ally?

I hope the successful vote for passage we are about to have will pave the way for more in the very near future. These trade agreements are good for the American people, and good for our allies around the world, and we ought to enact them soon. I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for morning business of 60 minutes, with the time equally divided and controlled between the two leaders or their designees and with Senators permitted to speak for 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

The Senator from Missouri is recognized.

#### DOING THE SENATE'S WORK

Mr. BOND. Mr. President, I thank the Chair, and I thank our minority leader, Senator MCCONNELL, for outlining the importance of the Peru Free Trade Agreement and the other trade agreements. We have 3 short weeks to get to work and do the work we have not done so far this year. I wanted to address three aspects of it.

First, for the intelligence community, we must act, and we must act now, to assure that the community has the ability and the tools they need to fight terrorists.

Over the last 30 years, the world has experienced a technological revolution, and our laws governing terrorist surveillance have not kept pace. The old 1978 Foreign Intelligence Surveillance Act that I will refer to as FISA was drafted to deal specifically with the technology in use at the time. This spring, a court ruled that because of the change in technology, the old FISA law severely limited our ability to collect intelligence. Essentially, it made us deaf to collection of vitally needed information.

Following that ruling, the Director of National Intelligence, Admiral McConnell, told Congress the United States was unable to conduct the critical surveillance of foreign terrorists planning to conduct attacks inside our country because of the outdated law. It not only affected our ability to protect the United States, but it also threatened the safety and lives of our troops abroad.

In May I heard that directly from the commander of our Joint Special Operations in Iraq, who told me the limitations in the old law prevented him from capturing key information needed to protect our troops in theater. He could kill or capture a top al-Qaida leader, but he was not able to collect signals intelligence on them. The bottom line is that terrorists were able to use technology and our own outdated laws to stay a step ahead of us.

Congress acted. On August 3 and 4, fortunately, we were able to pass the Protect America Act. I was proud to be the lead sponsor of it because passage of this temporary law essentially put our national security forces back in the business of collecting the information they needed.

But this is only a stopgap measure and expires in February. It did not include all of the reforms we wanted.

I hope this week the Senate will move to pass a permanent fix, or at least a longer term fix, to our intelligence surveillance law. It is critical we act before we leave for the holidays to make sure that our intelligence laws will be up to date and we will not run into a deadline when we come back in January and have to rush through a bill at the end or leave our intelligence community deaf to the new collections they need.

We have two bills before us. Unfortunately, the Senate Judiciary Committee took the bill that came out of the Intelligence Committee and changed it so much that it would gut our intelligence surveillance ability. The committee ignored significant concerns expressed by the working level officials in the Department of Justice and the intelligence community, the very operators who know how the system works.

The Senate Judiciary Committee ignored the concerns of its own minority members. The bill was voted out on a straight party line. The good news is there is another option. Earlier this year, the Senate Intelligence Committee voted out a bipartisan bill to update FISA. After the members of our committee had months and months to study this program, most of our committee members went out to the agency to see how it worked, to see the layers of protection built in to make sure it stayed within the law. We put together, Chairman ROCKEFELLER and I, a bipartisan agreement which added more protections to the constitutional rights and the privacy rights of American citizens. We worked with the intelligence community representatives and the Department of Justice lawyers to make sure it would work.

This bill we reported out of the Intelligence Committee gives our intelligence operators and law enforcement officials the tools they need to collect surveillance on foreign terrorists in foreign countries planning to conduct attacks inside the United States or against our troops, our allies. It is the balance we need to protect our civil

liberties without handcuffing our intelligence agencies. I hope we can do the right thing and bring that bill to the floor.

Now while we are working together to get our intelligence community the tools they need, our military needs Congress to provide the funds to get them the equipment, supplies, and fuels they need in the field. We have got men and women fighting for security in Iraq, in Afghanistan, and our own security. Regrettably, the Democratic leadership in Congress wants to hold these funds hostage to a far-left agenda which does not represent anything more than a sliver of popular opinion in this country. There is no excuse for stalling much-needed funds for American troops. These are American troops fighting in the field, and we are not giving them funds.

By kowtowing to the far left moveon.org and the Code Pink constituency, some of the leaders of the Democratic Party in Congress who have control of it are playing a dangerous game with the safety of our troops in the field and the readiness and morale of our troops here at home.

The latest partisan move comes despite the good news out of Iraq. Even the media, who has been opposed to our involvement in Iraq, is recognizing that as a result of the new Petraeus strategy, a surge on the counterinsurgency, working with the Iraqi security forces, our forces together with the Iraqis have been successful in eliminating key terrorist safe havens and hampering the enemy's ability to conduct coordinated attacks. There has been a consistent and steady trend of progress over the last 6 months.

There are positive stories describing Baghdad's marketplace coming back to life. All over the place violent attacks in Iraq are falling. Even some of the war's loudest and strongest opponents in the House have acknowledged the signs of progress. But despite this, the leadership has failed to give us the opportunity to improve the funds our troops need in the field.

With only a few legislative days left, our soldiers, sailors, our airmen, and marines cannot afford more of the partisan delay. We have got men and women risking their lives, and we are denying the funds they need for support. That is unthinkable. That is unthinkable. We have got to abandon the far left's strategies of retreat and defeat and allow our troops to do their jobs.

#### PERU FREE TRADE AGREEMENT

While we are talking about winning the war, there is also the war that is the soft war, the war of economic progress and opportunity. That is why, as Leader McCONNELL said, the free trade agreements are so important. We have the opportunity to help countries that are less developed get the free markets, the economic opportunity, the democratic chances to influence their government that we treasure and that have helped make our country successful.

One of the most important things we can do is adopt the free trade agreements. We have four agreements pending. If enacted, these four pending FTAs would expand market opportunities between the United States and countries that have nearly 126 million consumers.

Today's vote on the Peru FTA is very important. I urge us to support that. This will generate U.S. exports, create jobs, enhance the well-being of farming communities such as those I represent in Missouri. Ask these farmers and the small businesses how important these agreements are. Opening these markets would boost U.S. farm exports by \$1.5 billion. Under the Peru FTA, more than two-thirds of current U.S. farm exports will become duty free. Tariffs on all farm products would be eliminated in 17 years.

The FTAs are vitally important. When FTAs are defeated, it is bad news for progressive government supporting the United States. In particular, it would be a blow to President Uribe in Colombia, who has been successfully fighting the leftist FARC terrorists, curbing illicit drug production. He is the most important counterweight to the anti-American vitriol of Hugo Chavez in Venezuela.

Chavez was rebuffed by students in his own country. We have an opportunity to establish good working relationships with Peru, with Colombia, with Panama, to show the leaders of the opposition in Venezuela that there is a better way than Hugo Chavez and his blind adherence to the Castro model in Cuba.

Every President since World War II, Republican and Democrat, has fought to reduce the kind of trade barriers that triggered the Great Depression of the 1930s. This administration has followed that example. I hope that in addition to Peru, the leadership of Congress will seek approval of free trade agreements and pass them for South Korea, Panama, and Colombia. It is vitally important not only for free trade between those countries but for our standing in leading for security, peace, and freedom in Latin America.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, the last 2 weeks we have been back in our States visiting with our constituents and reporting to them on the work of the Congress. I did the same. I was in Texas traveling across our State. People would ask me almost everywhere I went what is happening in the Congress, and specifically the Senate. I am sorry to say I had to tell them: Not much is happening. Here we are, 2 months into a new fiscal year and we have yet to pass 11 out of the 12 appropriations bills that literally keep the lights on and instead are working on a continuing resolution, or on auto pilot based on last year's budget and appropriations bills.

I guess I was a little embarrassed to tell them that the approval ratings

which we have seen on the Rasmussen poll and others, the Gallup poll and others, appears to be well deserved. It is not a partisan matter. It is not that Republicans like what is happening and Democrats do not like what is happening, or vice versa, or independents like what we are doing. The fact is, no one seems to be satisfied. Given the 11 percent or so approval rating, I have to believe that in large part it is due to the fact that we simply have not taken care of our business.

Nowhere in the rest of America could people fail to do as much as we have failed to do in the Senate and survive. Whether it is your family budget or it is the small business, you could not get away with it. Only Congress can get away with it, I guess, to the extent it has, the failures and inaction.

There are two areas particularly I want to talk about in the next few minutes, where this has grave national security implications.

First, as Secretary Gates, the Secretary of the Department of Defense, has told us, if they do not get emergency supplemental funding for our troops in Iraq and Afghanistan, they are going to have to begin to give people notices that they are going to run out of money in February. But they have to issue the notices 60 days in advance, which means by December 15 there are going to be lots of folks who are going to be getting pink slips just in time for Christmas because the Senate has failed to act on an emergency supplemental request to fund our troops.

Frankly, I do not think we ought to be in that position. No. 1, it is completely inconsiderate of the families and the individual circumstances of those individuals who are doing their best to support our men and women in uniform.

Secondly, it is completely unnecessary. If we would simply take care of our business and quit playing political games by tying deadlines to the appropriation of emergency funds to support our troops, we could fund our troops and continue to have the debates here in the Congress about what our policy ought to be.

Those debates are important. I respect people with different opinions than mine. But we should not be doing it at the expense of our men and women in uniform or putting in jeopardy the jobs of people in civilian clothes who support our men and women in uniform, by tying the appropriation of this emergency funding to these deadlines to the emergency funding. I hope we will get this done and get it done quickly.

Also, we have, in fact, a middle-class tax increase getting ready to come into full flower with the so-called alternative minimum tax. Unless we act, the 6 million people who currently pay this tax today will grow to 23 million next year. So that is another victim, those taxpayers are another victim of our inaction and failure to act in a re-

sponsible way when it comes to getting our work done.

I want to join my colleague from Missouri, the ranking member of the Intelligence Committee, as well as my distinguished colleague from Arizona, and focus a little bit here in the next 5 minutes or so on the Foreign Intelligence Surveillance Act.

As most Americans who have followed our debates here know, our ability to listen in on conversations between terrorists and to stop further terrorist attacks on our mainland and our homeland, as well as over in Iraq and Afghanistan, depends on a robust intelligence-gathering capability.

The Foreign Intelligence Surveillance Act was a law passed back in 1978, back in a different era, which served our purpose then and made sure that no intelligence gathering, no wiretaps could occur against Americans. But the fact is that law has needed updating, has been updated from time to time. But we need to make clear that when it comes to monitoring communications between terrorists and foreign nations, it is not necessary to prepare a mound of paperwork and have an army of lawyers process it through a Foreign Intelligence Surveillance Court in order to get a permit to do so.

We have, as we all know, passed a temporary measure which will expire in February. But we need to act on this permanently and not continue to jam all of our business into the last few weeks and put people in doubt, particularly in the intelligence community, of whether they will have the capability to detect and deter future terrorist attacks by employing this capability.

Before we passed a temporary patch, I think, in August—or before we broke for the August recess—because of a ruling by a judge and because of changes in technology, it had been reported in the press that we had lost about two-thirds of our intelligence-gathering capability. Fortunately, we were able to fix that on a temporary basis.

But there are also other important parts of this legislation such as how do we treat the telecommunications carriers that did what they were asked to do in the security interests of the American people and cooperated with the Federal Government? Are we going to provide them the legal protection they are entitled to under the law or are we going to hang them out to dry and make them liable for lawsuits and damages, perhaps, and jeopardize the intelligence that we have gained with their cooperation?

That is the wrong way to treat these telecommunications carriers. We ought to not reward them but at least do our duty with regard to these citizens, corporate and individual alike, who cooperated with the U.S. Government in gathering intelligence and not punish them by hanging them out to dry and making them the subject of numerous lawsuits and litigation.

Just one quick example: When Joseph Anzack was kidnapped by al-Qaida

on May 12 while serving in Iraq and killed a few weeks later, you have to wonder if the paperwork that took roughly 10 hours to complete, along with a group of lawyers before an authorization to monitor communications which directly implicated his kidnappers would have saved his life. On that date, May 12, he and Alex Jimenez and Byron Fouty were kidnapped. But a 10-hour delay in getting the FISA paperwork done may have cost Joseph Anzack his life, and may have severely hampered the continuing efforts to find Alex Jimenez and Byron Fouty.

While the Protect America Act that passed in August, as I said, provided a temporary fix to the problem, it will expire in February. I just ask our colleagues on the other side of the aisle, why are we delaying the passage of this important fix to this temporary act? Isn't it important enough to make sure we do everything possible not to hamper our intelligence-gathering capability? We are, in fact, a nation at war, and we ought to act like it. That means arming our intelligence community with the tools they need to detect terrorist communications and to deter future terrorist attacks.

I know 9/11 seems like a long way off in the minds of many, and many have acted as if it never happened, but the fact is, unless we have robust intelligence-gathering capability, and unless the Senate acts promptly to permanently grant the power to our intelligence community to detect these communications, we are at grave risk, and we should not be as a result of Congress's inaction.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. I thank my colleague from Texas for his comments about the Foreign Intelligence Surveillance Act and would like to expand on those a little bit more.

The Foreign Intelligence Surveillance Act we sometimes refer to as FISA or the FISA law. It is important we understand why we need to update this FISA law. In a word, it has to do with the fact that technology has moved forward faster than our ability to change the law. As a result, as the Senator from Texas just noted, we lost about two-thirds of the intelligence gathering on al-Qaida that we could have intercepted and were previously intercepting when it became clear we needed to change the law to keep pace with the advances in technology.

In the Protect America Act we restored access to that information, and we are now back to collecting that information. But the Protect America Act expires on February 1. As a result, we are now back to reauthorizing that act in a permanent way. We need to do so because, again, if this authority lapses, we are back to where we were when we were losing two-thirds of the information that we should be gathering on al-Qaida.

It is not as if we do not understand this is a serious problem. Al-Qaida still exists. It has not been destroyed. We know what it has done. We know what it would like to do. We know they continue to plot. It is critical for us not to ignore the threat. Of course, the first step in dealing with it is to do the best possible job we can in monitoring communications between people who would do us harm.

We all agree that congressional oversight is important to the effort, and all of the legislation we have adopted has enhanced congressional oversight. That is a good thing. That is not in question. But you do not have congressional oversight so oppressive that the intelligence folks cannot collect the information they need to collect. We need to be careful that in redrafting FISA we do not actually impede our intelligence collection in the name of congressional oversight.

There are some problems with legislation that came out of our committee, the Judiciary Committee—some big problems—much less so with the bill that passed out of the Intelligence Committee. Even Members who objected earlier agreed, and I think have agreed, we can provide the necessary statutory authorization for the President to act, and I think most would agree we have to have such authorization in place to deal with groups such as al-Qaida. But their concern was we simply wanted to have congressional authority for it, and that is what the act has done.

We have to be careful that in granting the authority we do not attach so many conditions to it that, once again, it is impossible for the intelligence agencies to do the job we have mandated they do. As I said, the bill reported out of the Judiciary Committee, and to some extent even the bill from the Intelligence Committee, does tie down our intelligence agencies with too many limits on how they can monitor foreign intelligence organizations.

What we are really looking at is some of my colleagues' efforts to take away core responsibilities and authority that the President has to protect our Nation in gathering foreign intelligence.

Let me cite a couple of examples. The Judiciary Committee bill makes FISA the “exclusive means”—that is the language—of gathering foreign intelligence absent express statutory authority. That is too narrow. In other words, what it is saying is, if another intelligence-gathering tool is not actually authorized by a statute, then it cannot be used to gather intelligence on a group such as al-Qaida.

One obvious example of this is grand jury subpoenas. They are authorized by rules of evidence, not by a Federal statute. The way the Judiciary Committee bill appears to be written, the United States could not even use grand jury subpoenas to gather information about al-Qaida. Obviously, that is not an intended result—at least I would hope not—but it is one of the things that would have to be fixed if we were

to consider the Judiciary Committee bill.

Another provision is in both bills, and it has been referred to as the Wyden amendment, named after my good friend and colleague from the State of Oregon. But as that provision is written, a warrant would be required for any overseas surveillance that is conducted for foreign intelligence purposes and is targeted against a U.S. person.

Under current law, however, a warrant would not be required for overseas surveillance targeted at a U.S. person if that surveillance is conducted strictly for a criminal investigation. So you have the anomaly where a much lesser standard exists for mere criminal investigations and the tough standard for the intelligence community to try to meet exists for gathering foreign intelligence against terrorists, when you want to be able to gather that intelligence and may need to do so in a very quick fashion in order to prevent an attack.

So the Wyden amendment would create the anomaly whereby U.S. overseas surveillance in the course of, say, drug trafficking or money laundering does not require a warrant, but foreign surveillance against a terrorist does. That is not a wise way to write the statute. It should not be more burdensome to monitor al-Qaida than it is to monitor a drug cartel. So that, obviously, would need to be fixed.

Moreover, many foreign terrorist organizations engage in both terrorism and ordinary criminal behavior such as drug smuggling or money laundering. This provision, unfortunately, creates the perverse incentive for U.S. agents to monitor a group for its criminal activities rather than on account of its terrorist activities. The provision literally makes it easier to monitor a group on account of its smuggling of marijuana than on account of the fact that it is a foreign terrorist organization. These kinds of artificial distinctions, obviously, make no sense and overly complicate the mission that is very difficult to begin with that we have asked our intelligence community to engage in.

In another area the Judiciary Committee stripped provisions from the Intelligence Committee bill that protect from lawsuits those telecommunications companies that have assisted U.S. intelligence agencies. This is very wrong. These companies were asked by the United States to help monitor al-Qaida after the September 11 attacks. Being patriotic Americans who wanted to help the United States in responding to the threat, the phone companies agreed to provide the help, and now they are being punished with lawsuits that damage these companies' reputations and are very expensive for them to respond. These companies helped us after September 11. They are not going to help again if we do not protect them from these types of lawsuits. The Intelligence Committee bill included a provision in the bill to do exactly that. Yet that provision was stripped, as I

said, in the Judiciary Committee. It took away the protection for those who helped monitor al-Qaida. We need to restore that protection for these folks who helped us.

The bottom line is, what is our goal? Do we want to allow our intelligence agencies to be able to use every legal tool at their disposal to track al-Qaida communications or do we want to again tie up our intelligence agencies in restrictions and procedures and then have some future 9/11 Commission—after, God help us, perhaps another terrorist attack—say Congress balled this up and included so many restrictions on intelligence gathering that they were not able to find out this attack was about to occur?

We have to enable our intelligence agencies, not unduly restrict them. Obviously, we need oversight to prevent abuses. That is included in the statutory language, and that is fine. But it does not make sense to impose other restrictions that primarily serve only the purpose of preventing us from collecting good intelligence. There is no excuse, in effect, for making the same mistake twice.

So, in summary, we are going to be dealing with the FISA reform on the floor of the Senate very soon. We need to. The authorization that currently exists expires on February 1. We need to have something in place before that occurs. The bill that came out of the Intelligence Committee by and large will provide the intelligence collection authority that is needed, although there are some problems with it as well. But the provisions that came out of the Judiciary Committee will not work. They will not allow our intelligence collection agencies to do their job properly and, as I said, create the anomalous situation where it is easier to go after intelligence on a criminal enterprise than it is against a terrorist organization. That cannot be.

So I hope my colleagues, when we bring this bill to the Senate floor, will consider the future, the threat of groups such as al-Qaida, and understand it is up to us to ensure our Nation can be protected and not make the same mistake we made before of unduly restricting our intelligence-gathering agencies in fulfilling the mission—the so very important mission—we have asked them to perform.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

(The remarks of Mr. SANDERS pertaining to the introduction of S. 2405 are printed in today's RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

#### PERU FREE TRADE AGREEMENT

Mr. BROWN. Mr. President, I rise to oppose the Peru Free Trade Agreement on which we will vote midafternoon today.