

into a mini-House, and I have denied it, but maybe I was, in my desire for order and neatness. The messiness of the Senate sometimes was hard for me to take.

But I love this place, and I was thinking about it today—the friendships. They are real here, but they don't go away. Some of our colleagues have gone before us whom I have dearly loved as friends and not just colleagues, people such as Connie Mack, Dan Coats, Phil Gramm, and Paul Coverdell was mentioned. These are friendships which will last forever.

DIANNE FEINSTEIN. One of my regrets in deciding to retire is that now we have sort of formed a team, and I think maybe she is a little peeved at me that she took a stand with me after I took a stand with her, and now I am going to the house. But this is a great Senator, and she is a symbol of what I hope the Senate will remember to do, and that is to really go the extra mile to be a friend and to have a personal relationship.

She took on the seersucker Thursday. When we lost everything, she was the one who made sure my wife had some glasses for us to drink out of. She didn't do it for publicity, and I never talked about it publicly, but it was a very special gesture.

I thank my colleagues for letting me be in the leadership. Thanks to my colleagues and the American people for allowing me to have some fun while being in the Senate. I commend it to you, for the future. I didn't form the Singing Senators, the quartet, just because I like to sing base or because I enjoyed music, but because I wanted to show that side of the Senate. Could the Senate really have soul? Could the Senate really have music in its heart? As bad as we sounded, there was method in my madness. I also thought it would lead me to find ways to get one of our Senators to vote with us more. I think it got one more vote than we would have otherwise.

But the kilts—you know, just being a little looser I think is a good idea every now and then. I believe whatever you do in your life you should find a way to enjoy it and have fun. I have to say I have had fun in the Senate because I really enjoyed it. That is all there is to it. But I tried to find a way to do some things that made us closer as friends.

I am glad we recorded some history with the Leaders Lecture Series. I urge my colleagues to restart that, bring in experts to talk to us, men and women who led the Senate, who led the country, who know the history of our country and the history of this institution, and give us some opportunity to have an intellectual discussion about what the Senate is, what it has been, and what it can be.

I do hope we will always find a way to be just a little bit family friendly. Remember, we all have families at home, back in our States. Our leaders sometimes could give us a little re-

ward; if we would behave and allow them to get to a vote quicker, maybe we could get home to our families a little quicker.

Senator BYRD mentioned the fact that I have been on mountain tops and down in the valleys. I thought many times about my high school class motto. As class president—we had a class flower, we had a class color, we had a class song, we had a class everything. We had a class motto that has lived with me since those years at Pascagoula High School in 1959. Our class motto was:

The glory is not in never failing, but in rising every time you fail.

I have had opportunities to fail, and I have had opportunities to persevere, as the people I represent. It has been a great motto, one I have learned to live by.

I am not going to give a long speech today. I quoted a great philosopher about how you should speak on occasions such as this. He said: You should speak low, you should speak slow, and you should be brief—John Wayne. I am going to try to honor that. I am not going to give you a list of achievements because I have been so pleased with what my colleagues have had to say. But among the things I really am proud that we have done in my years in the Senate: We have built our military, we have made it stronger, we gave them better pay, we gave them better retirement benefits. I will always be proud of that. We had tax cuts, tax reform, and strengthened the economy, even things such as safe drinking water. I had communities in my State that literally couldn't drink water out of the faucets. We have improved on that. We had insurance affordability, welfare reform, transportation.

When I announced my retirement a couple of weeks ago, one reporter asked about what was I most proud of. I said: To tell you the truth, I am not the kind of guy who sits around meditating on what I am going to put on a marker somewhere. I am proud of all of it. But I think I am the most proud of the effort we had with colleagues on both sides of the aisle, working very closely with Senator DOMENICI and Senator GRASSLEY and others. So in my 6½ years as majority leader we have had balanced budgets, four, and surpluses two of those four. It hasn't happened since 1968, and we are kind of struggling again. That is something we need to do. Fiscal responsibility is a very important part of what we can do for our children and our grandchildren. I hope we will find a way to do that again in the future.

I have one regret. I guess I was part of the problem along the way. The one thing I always hoped we could get done for our children and our grandchildren we have not been able to do, and that is to find a way to preserve, protect, and ensure that Social Security will be there for our children and grandchildren in the way that it is here for us now. I hope we will find a way before it is too late to get that done.

With regard to recommendations, I have no anger, complaints, I have nothing but hope and joy in my heart for the future. I am so appreciative of the way the Senate and the Congress and the American people stepped up and helped us after Hurricane Katrina. But if there were just two things I would like to urge the Senate to do—I have touched on them, but I repeat them now—No. 1, find a way to make sure Senators have a life and have some time with their families. When you lose that, you have lost an important part of those pillars that make us who we are—family and friends, faith and freedom. You have to make sure you pay close attention to that and learn to know each other and know each other's families. It will make us better people.

Then, last, find a way to keep the human side. It has been hard for me, with my Scottish roots, to tell people when I really do appreciate them and love them; to call people when they are celebrating and call them when they are hurting. But when I hurt, myself, I know how much it has meant to me to have some of you call and offer your support and your encouragement. Find a way to do that. It is more important than anything else that happens in the Senate. Keep that personal, human touch.

Always find a way to disagree if you have to, but don't be disagreeable. There has come sort of a meanness, sometimes, that I do not think is befitting of the institution. I hope we will find a way to stay away from that.

Again, I repeat something I said a moment ago. This morning when I was doing my morning Bible devotional, the message that came through to me was one of hope and joy for the future. I look forward to my opportunities after the Senate. I am not going to say a fond farewell because I am not leaving. I will not be here, but my heart will be with you and I will be watching and I will stay in touch for the rest of my life.

Thank you so much for being able to serve with you. I thank you all for what you have had to say today. I do have a quick card in my topic. I do want to talk to you about some folks who will be coming up later this week.

Thank you very much. God bless this institution.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I hope we all heed TRENT LOTT's words that he spoke so beautifully right now. He spoke from the heart, and he spoke from experience. As I listened to him, I thought: We do sometimes forget about what is important in life. I think he brought that back to us.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:09 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now be in a period of morning business.

Who seeks recognition? The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I will happily yield to the chairman of the Judiciary Committee. I am going to speak for 10 minutes as in morning business.

FISA

Mr. LEAHY. Mr. President, I thank the Senator.

Mr. President, I strongly oppose the blanket grant of retroactive immunity in the Senate Intelligence Committee's bill to amend the Foreign Intelligence Surveillance Act. This administration violated FISA by conducting warrantless surveillance of Americans for more than 5 years. They got caught. If they had not gotten caught, they probably would still be doing it.

When the public found out about the President's illegal surveillance of Americans, this administration, and the telephone companies who may have assisted them, were sued by citizens who believed their privacy rights were violated. Now, this administration is trying to convince Congress to terminate those lawsuits, in order to avoid accountability. We should not allow that to happen.

The administration knows that these lawsuits may be the only way that it will ever be called to account for its illegal program of warrantless surveillance and its flagrant disrespect for the rule of law. In running its program of warrantless surveillance this administration relied on legal opinions, prepared in secret by a very small group of like-minded officials, who crafted those opinions to fit the administration's agenda. Jack Goldsmith, who came in briefly to head the Justice Department's Office of Legal Counsel, described the program as a "legal mess." The administration does not want a court to get a chance to look at that mess, and retroactive immunity would ensure that there is no court scrutiny of their actions.

Senator ROCKEFELLER and I have been consulting since this summer to find ways to obtain access to the information our members need to evaluate the administration's arguments for immunity. The administration has consistently refused to provide this information to the Judiciary Committee. In

fact, in light of the administration's stonewalling, Chairman SPECTER was prepared to subpoena this information from the telephone companies during the last Congress. Finally, we obtained access, not only for the chairman and ranking member, but for members of the Judiciary Committee. However, I believe all Senators should have access to this information, as well as those staff with the appropriate clearance.

Instead of conducting warrantless surveillance in violation of FISA, trying to cover it up, and then trying to justify the coverup, this administration should have come to Congress immediately and asked for the authority it is now claiming it needs.

I have drawn a different conclusion than Senator ROCKEFELLER about retroactive immunity. I oppose granting blanket retroactive immunity. I agree with Senator SPECTER and many others that blanket retroactive immunity, which would end ongoing lawsuits by legislative fiat, undermines accountability.

Immunity against future litigation is not the issue; the issue is retroactive immunity. If they followed the law, and FISA was not violated, the telephone companies would automatically have immunity and there would be no need for Congress to now duplicate that immunity.

I also would note that title I of the FISA law was changed during markup in the Senate Judiciary Committee. When we come back to this bill next year, it will be my intent to bring much of what we did in the Judiciary Committee before the Senate for a vote.

Again, I want our intelligence agencies to be able to intercept the communications of those people overseas who are trying to do harm to the United States. We all agree with that. But I want to make sure that Americans' communications cannot be acquired by the executive for just any reason. If the Government is going to listen to the communications of Americans it must abide by the legal system that has served us so well throughout the history of this country: court determination of the legality of surveillance before it begins, and court oversight throughout the process.

We hear from the administration and some of our colleagues that we must grant immunity or the telephone companies will no longer cooperate with the Government.

Senators should understand that if we do not grant retroactive immunity, telecommunications carriers will still have immunity for actions they take in the future. If they follow the law, they have immunity.

Instead, I will continue to work with Senator SPECTER, as well as with Senators FEINSTEIN and WHITEHOUSE to try to craft a more effective alternative to retroactive immunity. We are working with the legal concept of substitution to place the Government in the shoes of the private defendants that acted at

its behest, and to let it assume full responsibility for any illegal conduct.

I believe that requires reaching agreement that the lawsuits should be able to reach the merits rather than be short-circuited by Congress, and that the program be subject to judicial review so that its legality can be determined.

Again, this administration violated FISA by conducting warrantless surveillance for more than 5-years. They got caught and they got sued. The administration's insistence that those lawsuits be terminated by congressional action is designed to insulate itself from accountability.

Retroactive immunity would do more than let the carriers off the hook. It would shield this administration from any accountability for conducting surveillance outside the law. It would leave the lawsuits that are now working their way through the courts dead in their tracks and leave Americans whose privacy has been violated no chance to be made whole.

These lawsuits are perhaps the only avenue that exists for an outside review of the Government's actions. That kind of assessment is critical if our Government is to be held accountable. That is why I do not support legislation to terminate these legal challenges and I will vote to strike it.

The PRESIDING OFFICER. The Senator from Missouri has yielded earlier to the Senator from Vermont.

Mr. GREGG. Would the Senator yield so I may propound a unanimous consent request that I be recognized at the completion of her remarks?

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

The Senator from Missouri is recognized.

CREDIT CARD COMPANY DECEPTION

Mrs. MCCASKILL. Mr. President, I first want to comment on what a pleasure it was listening to several hours of tribute to Senator LOTT. I have not served with Senator LOTT for very long, but at the point in time that I, hopefully, would be allowed to decide to retire from the Senate, I could only hope I have such kind things said about me in so many different ways.

I was glad I got an opportunity to listen to 3 hours of Senators talking nicely about each other. It is an important thing to do this time of year, and I think, frankly, it is an important thing to do more often, and we do not do enough of it around here, particularly across the line.

I rise today to speak as in morning business for a few minutes about something that is on everybody's mind this time of year; that is, credit cards. Now, I know why it is on my mind, because my fingers are having to do the shopping because I cannot get home to Missouri, and so I am having to click, click, click on the Internet. I now know my credit card number by heart