Ted's work on the staff of the Finance Committee is so highly respected that the members signed a resolution expressing gratitude and respect for Ted's service and dedication.

In addition to his 23 years of service in the U.S. Senate, Ted worked for 5 years for the U.S. Department of Health and Human Services and served 2 years in the military.

In the Senate, Ted's policy acumen and understanding of the complexities of the legislative process, insight into the executive branch of Government, political wit, as well as his strong work ethic and intellectual honesty and his evenhandedness and personal generosity have made him remarkably effective and universally regarded.

Ted is a true public servant who was committed in his work to the people of Iowa and of this great country. I am grateful for his loyalty and applaud his legacy of accomplishment. Ted has made a positive difference in the lives of so many Grassley staff members, and his daily presence will be greatly missed by all of us. We wish Ted well and look forward to continuing our friendship with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I see my neighbor from across beautiful Lake Champlain, the State of New York, here. If the managers of the bill have no objection, I will speak for 4 or 5 minutes about a matter that has just come up. There has been a lot of interest in it.

I ask unanimous consent to speak for up to 7 minutes as in morning business.

Mr. BENNETT. I have no objection if we can add to that that following the presentation of the Senator from Vermont, I will be recognized.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Is there objection?

Without objection, it is so ordered.

THE FISA PROGRAM

Mr. LEAHY. Madam President, earlier today, I spoke with the Attorney General of the United States. He is going to be testifying before the Senate Judiciary Committee tomorrow morning. We anticipate it will be for much of the day. He wished to inform me, as he did Senator SPECTER, of some changes in the so-called FISA Program. I have been very critical of the administration's actions through the National Security Agency—their wiretapping of Americans, wiretapping of people throughout the country, and apparently doing so without obtaining any warrants.

Interestingly enough, the information about this spying on Americans came not from our administration reporting it either through the Intelligence Committee or the Judiciary Committee or the appropriate committees involved; it came out because, like so many other things we find out about, we read about it first in the newspaper.

Apparently, the administration has decided not to continue this warrantless spying program on Americans, but instead to seek approval for all wiretaps from the Foreign Intelligence Surveillance Court. I say this based on the letter sent to us. This is public; this is not a classified matter. The law has required for years that they do it this way.

I welcome the President's decision not to reauthorize the NSA's warrantless spying program because, as I have pointed out for some time, and as other Senators on both sides of the aisle have pointed out, the program was, at very best, of doubtful legality.

Since this program was first revealed, I have urged this administration to inform Congress of what the Government is doing and to comply with the checks and balances Congress wrote into law in the Foreign Intelligence Surveillance Act.

We know we must engage in all surveillance necessary to prevent acts of terrorism, but we can and we should do it in ways that protect the basic rights of all Americans, including the right to privacy.

The issue has never been whether to monitor suspected terrorists—everybody agrees with that; all Americans do. The question is whether we can do it legally and with proper checks and balances to prevent abuses. Providing efficient but meaningful court review is a major step toward addressing those concerns.

I continue to urge the President to fully inform Congress and the American people about the contours of the Foreign Intelligence Surveillance Court order authorizing the surveillance program and of the program itself. Only with meaningful oversight can we assure the balance necessary to achieve security with liberty.

I ask unanimous consent that a copy of a letter from the Attorney General, dated January 17, addressed to me and Senator SPECTER, which indicates copies to numerous other people, be printed in the RECORD.

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

THE ATTORNEY GENERAL,
Washington, DC, January 17, 2007.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: I am writing to inform you that on January 10, 2007, a Judge of the Foreign Intelligence Surveillance Court issued orders authorizing the Government to target for collection international communications into or out of the United States where there is probable cause to believe that one of the communicants is a member or agent of al Qaeda or an associated terrorist organization. As a result of these orders, any electronic surveillance that was occurring as part of the Terrorist Surveillance Program will now be conducted subject to the approval of the Foreign Intelligence Surveillance Court.

In the spring of 2005—well before the first press account disclosing the existence of the Terrorist Surveillance Program—the Administration began exploring options for seeking such FISA Court Approval. Any court authorization had to ensure that the Intelligence Community would have the speed and agility necessary to protect the Nation from al Qaeda—the very speed and agility that was offered by the Terrorist Surveillance Program. These orders are innovative, they are complex, and it took considerable time and work for the Government to develop the approach that was proposed to the Court and for the Judge on the FISC to consider and approve these orders.

The President is committed to using all lawful tools to protect our Nation from the terrorist threat, including making maximum use of the authorities provided by FISA and taking full advantage of developments in the law. Although, as we have previously explained, the Terrorist Surveillance Program fully complies with the law, the orders the Government has obtained will allow the necessary speed and agility while providing substantial advantages. Accordingly, under these circumstances, the President has determined not to reauthorize the Terrorist Surveillance Program when the current authorization expires.

The Intelligence Committees have been briefed on the highly classified details of these orders. In addition, I have directed Steve Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, and Ken Wainstein, Assistant Attorney General for National Security, to provide a classified briefing to you on the details of these orders.

Sincerely,

ALBERTO R. GONZALES,
Attorney General.

Mr. LEAHY. Madam President, I was a prosecutor for 8 years. I enjoyed being a prosecutor. But I also was well aware that we acted within checks and balances. Courts had their role, prosecutors had their role, defense attorneys had their role. It only worked when everybody did what they were supposed to, including the executive.

I was also a prosecutor and on the board of the National District Attorneys Association at the time of COINTELPRO, a program of spying on Americans who disagreed with the war in Vietnam, and even, we found out later, spying on Martin Luther King because he was speaking so radically as to suggest that we might actually want equality between people, no matter what their color might be, in this country.

Our Government was spying on people who objected to war. Our Government was spying on people who wanted integration in America. I don't want us to go back to that point.

I shudder to think what might have happened if J. Edgar Hoover had had all the electronic capabilities we have today. The only way we stop this—it makes no difference if we have a Democratic or Republican administration—the only way we stop it is with the checks and balances we have built in.

FISA and the Foreign Intelligence Surveillance Court came about because of illegal spying on Americans who were not committing any unlawful act, but were simply questioning what their Government was doing. Many of us

worry that has happened now. We have seen, for example, that the Department of Defense has had surveillance, has even recorded movies, of Quakers protesting war. Quakers always protest wars.

Madam President, I ask for 2 additional minutes, under the same agreement.

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

Mr. LEAHY. They always do this. We heard in the press that there has been surveillance of Vermonters who protested the war. I can save them money. Turn on C–SPAN. I do it all the time on the Senate floor, if they want to find a Vermonter who may protest the war.

The question here is a greater one. What right does our Government—our Government, which is there to serve all of us—have to spy on individual Americans exercising their rights? Of course, go after terrorists, but to go after terrorists, you can do it within the law.

The distinguished occupant of the chair, the Presiding Officer, is also a former prosecutor. She knows how we have to go to court and follow the law for search warrants or anything else. In this area of foreign intelligence, we have made it very easy and very quick for the government to go before special courts, FISA courts. Let's do that, because when this administration or any administration says they are above the law, they don't have to follow the law, they can step outside the law, they don't have to follow checks and balances, then I say all Americans, no matter what your political leaning might be, all Americans ought to ask why are they doing this, why are they doing this. Because it doesn't in the long run protect us, not if we let them take away our liberties.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007—Continued

AMENDMENT NO. 20

Mr. BENNETT. Madam President, I have an amendment, No. 20, which I have offered and which I believe we will be voting on at some point, if not today then tomorrow. I rise to discuss the amendment and to share with my fellow Senators comments that have been made about the amendment by those groups in the Nation that would be most affected by it.

My amendment is very simple. It is a single sentence. It strikes section 220 of the underlying bill. So the whole focus of this discussion has to be on section 220 and what is it and what does it do and why do I think it should be stricken.

If I can go back to the history of this bill, back to the Senate-passed bill we dealt with in the previous Congress, I can tell you where section 220 came from. It was an attempt to deal with what the press has labeled ''the astroturf groups.'' That is a little bit hard to understand.

What does astroturf have to do with anything here? There are grassroots lobbyists and then there are groups the press has decided are phony groups pretending to be grassroots lobbyists. And it is these phony groups that they have labeled ''astroturf lobbyists'' and they think something ought to be done about it.

Here is the theoretical definition of an astroturf lobbyist: An astroturf lobbyist is someone who gets paid, presumably by a large organization—a labor union, a corporation, a trade association, whatever it might be—to pretend there is a groundswell of grassroots support or opposition for or to a particular piece of legislation. So this hired gun, if you will, sends out letters, e-mails, faxes—whatever it is—to stir up phony grassroots support for or against the particular piece of legislation.

The idea was that this hired gun, this individual who does this is, in fact, a lobbyist, even though he or she never talks to a Member of Congress, even though he or she may not live in Washington, DC, or even come here, even though he or she has no connection with any Member of Congress or the staff, because he or she is trying to stimulate communications to Congress that have the effect of putting pressure on Congress. He or she is a lobbyist and, therefore, must register, must report who pays him or her, must go through all of the procedures connected with a lobbyist under the Federal Lobbying Disclosure Act.

Put in that narrow context, there may be some justification for section 220.

Now let's step out of that hypothetical context and go to the real world, and we discover that section 220 is pernicious in its effect, which is why it is opposed all across the political spectrum by those who are involved in trying to put pressure on Congress by virtue of communicating with their Members.

On the right-hand side of the slate we have the Eagle Forum, on the left-hand side of the slate, if you will, we have the ACLU, and all across the spectrum we have a number of groups that are saying: Wait a minute, the prohibitions on astroturf lobbyists or grassroots lobbyists, as they are called in the bill, are prohibitions that cut to the heart of the constitutional right of Americans to petition the Government for redress of their grievances.

I have a letter, a copy of which was sent to every Senator, from the ACLU. Knowing what I know about senatorial offices, I think most Senators will not see the letter, so I will quote from it and at the end of my presentation ask unanimous consent that it be printed in the RECORD so that all Senators and their offices can read it.

Here is what the ACLU has to say about this particular provision:

> Section 220, entitled ''Disclosure of Paid Efforts to Stimulate Grassroots Lobbying'' imposes onerous reporting requirements that will chill constitutionally protected activity. Advocacy organizations large and small would now find their communications to the general public about policy matters redefined as lobbying and therefore subject to registration and quarterly reporting. Failure to register and report could have severe civil and potentially criminal sanctions.

If I can end the quote there and insert this fact: When we adopted the Vitter amendment on January 12, we raised that fine to $200,000. Someone who gets his neighbors together and says, let's all write our Congressmen on this issue, and then spends some money doing it, under this provision becomes a paid lobbyist, and if he does not report and register would be fined $200,000 for having done that. The ACLU does not overstate the case when they say this would have a chilling effect on constitutionally protected activity.

If I can go back to the ACLU letter and continue quoting:

> Section 220 would apply to even small, state grassroots organizations with no lobbying presence in Washington. When faced with burdensome registration and reporting requirements, some of these organizations may well decide that silence is the best option.

I guarantee you that if this small organization has a lawyer, the lawyer will advise them that silence is the best option. The lawyer will say: You are exposing yourself to a $200,000 fine if you don't do this right, and if you don't have the capacity to go through all of the paperwork and be sure you do this right, the best thing to do is simply not try to stimulate anybody to write his Congressman or go visit the local congressional office.

Back to the letter from the ACLU:

> It is well settled that lobbying, which embodies the separate and distinct political freedoms of petitioning, speech, and assembly enjoys the highest constitutional protection.

And for every statement they make here, as you will see when you get the letter inserted in the RECORD, the ACLU gives Supreme Court decisions in support of the position, and in many instances they are quoting directly from the Supreme Court opinion and not paraphrasing.

Back to their letter:

> Petitioning the government is—

and this is a subquote from the Supreme Court—''core political speech,''—the ACLU again—

> for which the First Amendment protection is—the Supreme Court—''at its zenith.''

So we are talking about something the Supreme Court has ruled is at the zenith of protected political speech under the first amendment.

Now, back to another Supreme Court position, quoting again from the ACLU:

> Constitutional protection of lobbying is not in the least diminished by the fact that it may be performed for others for a fee. Further—from the Supreme Court—''the First