

the respect we show for this young man.

IRAQ

Mr. REID. Mr. President, we have lost about 4,000 soldiers in Iraq. Thirty-five thousand have been wounded. About a third of them have been grievously wounded. As we know, about 40 percent of the men and women coming back from Iraq have what is now called—we used to call it, after the Second World War, shell shock. Now they call it post-traumatic stress syndrome.

I just wrote a letter to the Nevada parents of a young man who was killed. I have done that lots of times. I was unable to speak to them, and that is why I wrote the letter. Most of them I try to visit. But the family has been split up a little bit, and it was not possible for me to do that.

Mr. President, I hope we can figure out a way to get our troops home soon. General Petraeus said the war cannot be won militarily, and every day that goes by that is proven certainly so. The Iraqi Government has nothing to move toward a settlement of this situation. There are far too many stories like Josh.

I hope we can work on a bipartisan basis on many matters. We hope, for this package which is coming from the House maybe sometime next week dealing with the stimulus, that we can work on a bipartisan basis. From all accounts I got yesterday, that, in fact, will be the case. Senators BAUCUS and GRASSLEY, who have jurisdiction of 85 or 90 percent of the potential matters that go into the bill, have indicated they are going to have a bipartisan markup next week, and hopefully we can take a look at that piece of legislation in a bipartisan way and get it to the President as quickly as possible. There are many other things we have to work on, on a bipartisan basis, and I look forward to that.

I say with all due respect to my friend—and he is my friend—the Republican leader, that one thing the President has done and done very well these past years is frighten the American people, and it appears we are entering into another zone of frightening the American people. It started a couple of days ago with the Vice President, and the President followed him by a day, and we have the State of the Union coming. It is obvious that this FISA bill—which I hope something works out so it can be passed, but unless there is a way to amend it, it certainly doesn't appear that it is going to be. The President's State of the Union and certainly leading up to it will, again, frighten the American people. The best way to take that away is for the President to work with us. Are we asking for the impossible?

There have been efforts to amend this FISA legislation. In title I, there are probably five or six amendments we would want to vote on. Title II, which

deals with immunity, Senators DODD and FEINGOLD for a long time have said they wish to have a vote on that. That is not unreasonable. Many of us support that. I can't imagine why we can't move forward on that, unless this is something the President wants to ratchet up so that he has something to frighten the American people about on Monday night when he gives his State of the Union, that we are not protecting the American people. We are protecting the American people, just as this young man, Josh, was, whom the Republican leader talked about. I wrote a letter, as I indicated, to the Gaul family a couple of days ago.

We need to enter into a new era of bipartisanship where we are not frightening the American people but we are trying to work with the American people, to move out of some of the areas in which we find ourselves bogged down. I hope this year will allow us to do that.

MEASURE PLACED ON THE CALENDAR—S. 2556

Mr. REID. Mr. President, I understand S. 2556 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2556) to extend the provisions of the Protect America Act of 2007 for an additional 30 days.

Mr. REID. Mr. President, I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

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

FISA

Mr. MCCONNELL. Mr. President, just one further observation with regard to my friend's remarks.

The Bond-Rockefeller bill is exactly the way we ought to be doing our business. It came out of the Intelligence Committee 13 to 2. It is supported on a bipartisan basis. It is supported by the President of the United States. We have a product that was carefully negotiated by Senator BOND and Senator ROCKEFELLER, approved by the Intelligence Committee 13 to 2, and supported by the President of the United States. That is my definition of a bipartisan accomplishment. Now the question is, Can we finish the job and get a signature?

This is not about frightening the American people. The American people should be frightened, and remember full well what happened on 9/11. They also remember with gratitude that it has not happened again for 6 years. The reason for it, obviously, is we have been on offense, going after the terrorists where they are, and we have improved our defense.

An integral part of protecting the homeland is the measure before us, carefully crafted on a bipartisan basis, supported by the President of the United States. If we want to finish the job and have a bipartisan accomplishment that all of us can be proud of, the way to do that is to pass this bill, send it to the House, urge them to take it up and pass it, and send it to the President, who awaits it to affix his signature.

I yield the floor.

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

Mr. REID. Mr. President, there is no question that Senator ROCKEFELLER and Senator BOND have worked hard on this legislation. Also, we have had good work from Senator LEAHY and Senator SPECTER of the Judiciary Committee. Senator ROCKEFELLER wants a piece of legislation to pass very badly. He does not support cloture in this effort that is going to take place on Monday because he believes the bill needs to be changed. Just because there is a bill that comes out of committee doesn't mean we shouldn't deal with it here on the floor. Senator ROCKEFELLER is not going to support cloture on this bill on Monday. It is a decision he made, and he has made it because we have not had the opportunity to do things to this piece of legislation that he believes should happen. It is a rare piece of legislation that comes out of one of these major committees that comes to the floor that doesn't require some improvement.

So it is simply unfair to say that Senator ROCKEFELLER and Senator BOND's piece of legislation should go through as if it were written in script on top of some big mountain. It was written in a committee room with a lot of discussion and votes, and some of the amendments passed, some didn't. It came to the floor. We all are happy it came to the floor. But at this time, even Senator ROCKEFELLER believes there should be changes in it, and he will not support cloture, as he told me last night, because he feels it has been handled so poorly by the minority here on the floor.

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

FISA AMENDMENTS ACT OF 2007

Mr. BOND. Mr. President, we are on the FISA bill, I believe. Has the bill been reported? Is it before us?

The ACTING PRESIDENT pro tempore. It has not yet been reported.

The clerk will report the pending business by title.

The legislative clerk read as follows:

A bill (S. 2248) to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Pending:

Rockefeller/Bond amendment No. 3911, in the nature of a substitute.

Feingold/Dodd amendment No. 3909 (to amendment No. 3911), to require that certain records be submitted to Congress.

Bond amendment No. 3916 (to amendment No. 3909), of a perfecting nature.

Reid amendment No. 3918 (to the language proposed to be stricken by Rockefeller/Bond amendment No. 3911), relative to the extension of the Protect America Act of 2007.

IRAQ

Mr. BOND. Mr. President, I wish to address the FISA bill. I also commend our majority and minority leaders on their statements about the lives that have been lost by our brave troops in Iraq and Afghanistan.

I believe there are a couple of comments that are appropriate.

Number 1, it was said that General Petraeus said the war is not going to be won militarily. That is the key point which General Petraeus has brought to the battle. There is a kinetic and nonkinetic impact of the counterinsurgency strategy that General Petraeus has laid out and that is showing such great progress in Iraq.

Today, the news is not dominated by Iraq. Those people who have been criticizing it don't talk about it because General Petraeus's strategy is working. It is not just the surge; it is the strategy, the counterinsurgency strategy, or COIN, as it is sometimes called. That involves clearing, holding, and building.

There is a real difference between the approach we took right after the fall of Saddam Hussein, which has been hazily called the "whack a mole" theory—we would go out, send our troops out, trying to keep a small footprint. We would also send our troops out where there was an al-Qaida stronghold and try to suppress them, and then we would leave. The problem is that al-Qaida would come back, and they would take vengeance on anybody thought to have cooperated. That strategy, apparently pushed by those who felt it would be—we wanted to maintain a small footprint and not appear to be taking an occupier's role—was not working.

General Petraeus expanded upon the usual doctrines of counterinsurgency, and he brought a new approach beginning over a year ago. He said: We will send in troops to clear areas, working with the Iraqi security forces. When they clear an area, they will stay there to maintain security—that is clear—and then hold. And holding involves the U.S. forces working with the Iraqi security forces to train them, to provide them intelligence, logistics, medical support, to ensure that they can sustain the peace and the security in the area. Once they do that, then the U.S. Government has come in either with aid in dollars or with the work of the troops in the field to help build the infrastructure to provide the services, whether it is health care, whether it is reparations for damages, and show the Iraqi people that we want to turn over that country to the Iraqi security forces to maintain the stability and security which is necessary for the long-

term process of establishing a democracy.

I was there with a group of my colleagues from the Senate Intelligence Committee in early May, and we were seeing the beginnings of the effectiveness of that strategy. We went into Al Anbar Province. Six months before, it had been regarded as the headquarters of al-Qaida. They were in control. It was their area. It was a Sunni area. The only way the American troops could get into the capital of Ramadi was to fight their way in, and then they would usually have to withdraw. But on this occasion, four of us went in, in a Cougar, with the commanding general of the region and two marines. We drove into the center of Ramadi, got out, and walked around Firecracker Corner—so-called because of the continuing firefights going on there previously—and we went to visit the embedded American marines with the Iraqi Army, who had bunked there, and the Iraqi police who were serving that area. They live together, they work together, they train together. You know something. It was working.

We even went out to see the Blue Mosque, one of the holy places for the Sunni in Al Anbar Province, which had been badly hurt by gunfire, by artillery and rockets and bombs. The marines had gone in and helped repair and clean up the Blue Mosque, so it was open for worship again.

The Iraqis began to understand that we would work with their security forces to help them take control of the area, and that is what they were doing. It continued to get better. I know personally from reports I had from one marine there, the scout snipers found that by midsummer, their services were not necessarily needed in Al Anbar because if somebody planted an IED—an improvised explosive device—or a terrorist came to town or somebody set up a vehicle factory to build explosive vehicles, the Iraqi Sunni watch told the Iraqi security forces, and they went and took care of it. The Iraqi Sunni police took care of it. This continued to spread throughout Al Anbar.

Now, one of the helps—quite honestly, everybody will admit that one of the things that made it so easy for us to work with the Sunnis was that al-Qaida had shown their true colors. They are terrorists first, second, foremost, and last. They went in and they terrorized the people, even the people who at first were cooperating with them because they thought they were Sunni brethren. Well, they were not. They went in and had forced marriages, rape, pillage, murder, torture. They disrupted the activities, the business activities of the Iraqi Sunni leaders in the area, and they quickly learned that al-Qaida was not their friend and they needed us there temporarily to help them take control of their country. That is what we are doing. It is not done all over. There are still areas where we have not been able to provide

Iraqi security forces sufficient training, sufficient personnel to take control of the area.

Now, the majority leader said: We want to bring our troops home as soon as possible. As one who supported the war, I agree with him wholeheartedly. I had a personal stake in it. I wanted to see our troops come home. But as the President said, we need to return on success. We need to bring those troops home when they have succeeded in their missions, because as several men on the ground who have seen their comrades killed said: We have made too many contributions and too many sacrifices to see a political defeat declared by Congress, forcing us to withdraw, so that those contributions and sacrifices will be for nothing.

When you ask the American people do they want to see the troops come home, sure, they do; we all do. But we want them to come home and not leave Iraq in chaos and to return on success. That is where the American people are. And they are returning on success. The 2/6 Marines cleared Al Anbar and came home several weeks early. General Petraeus says more will be coming home. But we have a vital stake in making sure Iraq does not fall back into chaos and confusion.

We have laid the groundwork. There is much more political work to do at the national level, but political reconciliation is occurring from the ground up. The Shia in Baghdad are beginning to recognize they must provide financial assistance and support to the Sunnis. Recently, the Iraqi Parliament passed a reform of the deBaathification law, which put out of the Government anybody who had been associated with Saddam Hussein. It was probably a bad idea that our original U.S. coalition commanders had to fire all the Iraqi soldiers and send them home with no pay, no jobs but their weapons; to throw out of office all the former Government bureaucrats who worked for Saddam Hussein. They are going to have to move carefully but quickly to get those people back who know how to make government run.

General Petraeus has said that as we continue to build these forces—the forces of peace who can run the Government—we will bring our troops home. We have been in Germany and Korea for decades. We have been in Kosovo for years. We need to have a minimal presence there, probably for a long time. But the primary responsibility of maintaining peace and security in Iraq is being turned over and must be turned over to the Iraqi security forces. We can back them up and make sure al-Qaida doesn't make another run at them, doesn't bring in external fighters. These are the ones causing the most trouble, people coming in from Syria, or Saudi Arabia through Syria, and other areas—the terrorists. We have the ability to assist the Iraqi security forces to do that.

Why is it so important we leave Iraq secure and stable? Well, Saddam Hussein was a real threat to us. Even

though he did not actually have any weapons of mass destruction that we could find, we know he used them. We know he had the ability to restart at any time and that he had attempted to begin a nuclear weapons program. Most of all, he had a country where terrorists were running wild. We heard a lot about Abu Mus'ab al-Zarqawi, of Ansar al-Islam, the infamous butcher who delighted in decapitating people for television. His group became al-Qaida in Iraq. Fortunately, we killed him. He and other terrorists were running loose in Iraq. They were waiting to get their hands on weapons of mass destruction.

With the decline and decapitation of the Saddam Hussein regime, we made it much less likely the Government was going to provide weapons of mass destruction. But that was what the Iraqi survey group said was the greatest danger, that made Iraq far more dangerous than we knew, because with Saddam Hussein in control, terrorist groups running wild in a chaotic country could have provided the weapons of mass destruction the terrorists seek, and continue to seek, to use against our allies, our troops abroad and us here at home.

If the place falls into chaos, there is likely to be broad-ranging genocide among the parties in Iraq, settling old grievances. That could bring other countries into the region, starting a regionwide civil war. But the most important thing is Osama bin Laden and Ayman al-Zawahiri, his No. 2 man, said the purpose of their struggle is to establish the headquarters of their caliphate at the land of the two rivers. That is Iraq, Baghdad and Ramadi. They want to get their hands on the oil resources. If they have unfettered access for establishing camps to recruit, train, develop weapons, issue command and control, then we in this Nation are much less safe. Return on success, yes. The 2/6 Marines have come back and others will come back on success. That is the strategy we have now and it is the right one.

Mr. President, I needed to say that.

FISA

It is now important to talk about FISA. I am glad we are on the floor. I think, as the majority leader has said, all first-degree amendments need to be filed by 1 o'clock this afternoon. We are available to do business and we look forward to working with our colleagues to see if we can make this happen in a timely fashion.

I believe it is important this morning, for the RECORD and for the benefit of my colleagues and the American people, to clear up several things mentioned in yesterday's consideration of the FISA bill. When I say "FISA," I mean the Foreign Intelligence Surveillance Act—the act that authorizes the President and the intelligence community to use electronic signals collection to get information on terrorist enemies and other threats to the United States.

First, I will state the obvious. Yesterday, we had a very positive result in

the Senate. The Senate Judiciary Committee substitute to the Senate Intelligence Committee bill failed on a clear vote. I believe the Members of this body recognized it was a partisan, unworkable, inadequate bill. It was written without any consultation with the intelligence community or the lawyers who know how FISA works and how signals intelligence is carried out. It was done without the participation of any of the Republican members of the Judiciary Committee, and it failed.

Chairman ROCKEFELLER and I have, as has been said, a bipartisan bill worked out over a number of months, as the occupant of the chair knows so well. We worked long and hard. We didn't always agree, but we came to a bill that passed 13 to 2.

There were two problems with the bill—a good idea but unworkable as introduced. So we worked with the sponsors of that provision and had a very good idea that we need to protect American citizens, when they are abroad, from warrantless surveillance. It took 24, 25 pages to work out the details for it. But I believe that provision we now have in the managers' amendment, the pending amendment before us on this bill, accomplishes the purposes all of us on the committee support.

I voted against the original proposal in the committee because I didn't think it was workable, but we have fixed that, and I am proud to support it.

These are the fixes Chairman ROCKEFELLER and I put together, with the help of Senator WYDEN and the occupant of the chair, so we now have a functional, working amendment. The drafting has been fixed, and I believe we have a much better bill. We have an improvement over the original FISA bill and the Protect America Act, which was a necessary short-term extension that allowed the continuation of electronic intercepts against foreign targets overseas, without having a court order, which was absolutely necessary because the change in the technology in electronic communications had put too many of the overseas collections, which used to be outside the scope of FISA, within the scope of FISA.

The Protect America Act had a lot of nasty things said about it yesterday. They were all wrong. What the Protect America Act did not do, however, involves two very important things the Senate Intelligence Committee did. By a 13-to-2 vote, we added the protection for American citizens overseas. It is very important. It added other protections as well. It also said those companies, the carriers that may have worked with the intelligence community in adopting or effectuating the collection of signals intelligence against terrorists planning attacks in the United States, should not be sued in civil court. That provision—protecting any private sector entities that cooperated but not Government offi-

cials from lawsuits—was necessary to end a string of lawsuits brought by opponents of intelligence collection who want to destroy the system, who seek money damages but who really seek to harass and drive communication companies out of the business of cooperating with intelligence officials.

If they are successful, if they can drive and harass and bludgeon private sector entities from cooperating with intelligence officials, then our country will be significantly less safe. Those of us who have been on the Intelligence Committee heard the discussion that there are threats that continue to be raised and that this world is still a dangerous place. We need to be able to find out what our enemies are planning. We cannot have the entire Nation as fortified as the Capitol grounds and the White House grounds. We have a free and open country. Our only hope of being safe is to identify planned terrorist attacks before they occur.

So what we have before us today is a workable, bipartisan bill. It is supported by the Director of National Intelligence. I will refer to Admiral McConnell as the DNI, the head of that agency, and the President would sign it into law. We started with a solid bipartisan update to FISA that is needed to protect the country to increase civil liberty protections and protections for the privacy rights of Americans. We should now all heed the first law of responsible leadership, and that is, first and foremost, do no harm with any amendments to be considered in the bill.

I hope my colleagues will think long and hard before offering amendments, to make sure they have no unintended consequences and that they do no harm.

One good way to do that is to talk with the intelligence community. Talk with the office of the DNI, talk with the Department of Justice. If you have a good idea, talk with them. Maybe there is a way your objectives can be achieved without interfering with the ability to collect information. If you don't, if things are offered that would significantly impair our intelligence community's ability to collect the vitally important intelligence we need to have, then I will have to oppose it and I will urge my colleagues to oppose it.

We constructed a delicate, bipartisan compromise that is a good bill. I hope we will refrain from trying to deconstruct it or try to make the bill worse in any way before final passage. The American people want to have well-regulated intelligence collection that keeps the country safe, and they deserve no less.

That brings us to where we are today. Senator FEINGOLD yesterday offered an amendment over which the Department of Justice expressed real concerns. I understand those concerns, so I offered a second-degree amendment that gives the Senator from Wisconsin three-quarters of what he sought, yet refrains from mandating that the executive branch provide Congress with

pleadings containing very sensitive sources and methods submitted to the FISA Court. I will refer to that court as the FISC, the Foreign Intelligence Surveillance Court.

Three months ago in a committee compromise, I agreed to include the provisions of the Senator from Wisconsin in our bill, which calls for the opinions, orders, and decisions of the FISC prospectively, and in my second-degree amendment, I propose to go further and agree with him to accept his mandate to require the community to go back 5 years to dig up all the past orders and opinions which are of significant consequence but go back and find all those and give them to us.

We have received in the Intelligence Committee, on a semiannual basis, the reports of FISC, orders and opinions of significance, and they have been available for review by our staff for each 6-month period. But we will order them to go back and provide them. I am not sure what he is digging for, but I think we are willing to work with him. It will be a burden on the community, but I think that is information that might arguably be useful to those of us with oversight responsibility.

I am not willing to agree to mandating that pleadings be turned over, and my second-degree amendment eliminates them from his mandate. It also stipulates that this mandate would be levied with due regard to sensitive sources and methods.

Even though I believe this mandate for tranches of documents, truckloads perhaps, puts a tremendous burden on officials in the Department who have already given us semiannual reviews, since now they will have to go back and find, produce, screen, redact, and submit them to Congress, I am willing to work with the Senator from Wisconsin and others to include them up to the point of pleadings. I hope this will be viewed as a reasonable compromise.

Regrettably, instead of working with me on this issue, the Senator from Wisconsin attacked my efforts to reach a compromise saying "a ridiculous notion and disrespectful of the United States Congress." I was accused of "hiding behind a tragedy in this country to make arguments that have no merit" and trying to help the intelligence community "prevent the Members of Congress from seeing the pleadings provided to an article III court."

These insinuations are not only inaccurate, but I believe they come close to violating debate rule XIX of the Senate, which says:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

I do not believe the accusations against me were appropriate in the debate. They only underscore the divisive and partisan intentions behind some of the efforts we are seeing on the floor, and I hope we can avoid future such accusations.

I will restate for the record my reasons for eliminating pleadings from the required submission to the intelligence communities. These are not policy documents, policy of which the Intelligence Committee said: We don't like the policy of where you are going. These are not broad issues for legislative implementation. They are detailed analyses of sources and methods for collecting intelligence. They are submitted to the article III judge sitting at that time as the FISC judge to provide a basis for a warrant based on probable cause to allow electronic surveillance of persons within the United States, U.S. persons.

It is possible those pleadings would include, No. 1, the name or other identifying features of the sensitive sources who provided the intelligence information they set forth. That could risk getting somebody killed. They could provide the identification and location of the collection facility. They could provide information on the means of collection. They would obviously have to provide information on the target and other relevant information.

In the intelligence business, these are the ultimate sources and methods. They are highly classified because, if they were to leak out, there would be very serious harm done to individuals and perhaps even locations where collection occurs.

So I believe the intelligence community has a legitimate reason for saying we are not going to share the sources and methods that identify the names of the individuals, the sources. I do not see that is a necessary element of our oversight, to know Joe Doe was the one who gave us the information on Ralph Roe and they needed to get the information through facility X using means Y. That is kept at a closely compartmental level.

We have already in the bill that Senator ROCKEFELLER and I have been able to forge with great bipartisan support a solid compromise piece of legislation, and that is the model on which we should move ahead.

Today we have heard again some accusations that the minority side—my side—is stalling this important legislation. A quick review of the FISA legislation history over the past year is in order.

The President declared he was bringing the surveillance program under FISA in January of 2007, 1 year ago. In April of last year, because of some changes in court orders, the DNI asked us to modernize FISA so it would be compatible with new technology. On May 1 of last year, he testified in open session before our committee and again he asked us to modernize FISA. Shortly thereafter, we were informed in the Intelligence Committee about the ruling of the FISC that altered the collection ability of that program, to the point where our intelligence agencies were shut down with regard to vital intelligence collection that would protect us.

What was the response of our Intelligence Committee? Regrettably, nothing. We did absolutely nothing. I urged that we act, that we move forward on it, but our committee and Congress did nothing.

Through May, June, and July of last year, the DNI's pleadings to modernize FISA grew stronger. After he came before our committee in May, he came before Members of the Senate in closed session in our confidential, secure hearing room. Over 40 Members were there, and he told us in July it was absolutely essential we move, that everybody said it was essential we move. We did not move until the final week, and we still did not have a committee hearing.

I brought the DNI's bill, the Protect America Act, to the floor on Wednesday, before we had a vote on it on Friday. There were comments yesterday about how partisan and secret and one-sided the negotiations were, but it was not our efforts for the support of the DNI that were secret and one-sided. There were secret negotiations on the majority side prior to the passage of the Protect America Act.

Several committee chairmen got together, shutting out Republicans and shutting out members of the Intelligence Committee from any consideration of their proposals. They were not vetted with the Director of National Intelligence.

The DNI has been accused of going back on his word. I managed to get in finally at the end of some of those negotiations, and I can tell you that the DNI said he will go back and check with his lawyers on these issues. He did not agree to incorporate the changes that were suggested and, as suspected, when he viewed some of the proposals, he found they were unworkable.

We never saw the bill the committee leaders on the majority side proposed to offer until less than an hour before it appeared on the Senate floor—before we were voting, actually, when it appeared on the Senate floor.

During that time, the majority and minority members of the Intelligence Committee asked me for more information about the Protect America Act. I had a session in my office for members of the committee, bipartisan, going over with the DNI what the details of the Protect America Act were.

Fortunately, on a bipartisan basis, we approved the Protect America Act. It was a stopgap. It was meant to serve for 6 months, but it got us back in the business of collecting vital signals intelligence. That is where we needed to be. We were not there.

That was on August 3. Fortunately, on August 4, the House passed the bill, and on August 5, the President signed it, and we were back in business collecting information on new targets who were coming up on our screen.

Because of the need to add a 6-month sunset, which I agreed with all parties on both sides was a good idea, that 6-month sunset expires in 1 more week.

It expires next Friday. Knowing that this law would soon expire, when the Senate returned from the August recess in September, the Intelligence Committee began working on a new FISA bill, and after 6 weeks of constant work, deliberations, compromise, extensive discussions among staff, with staff, the members, with the DNI—and the occupant of the chair knows how much time and effort went into that—we produced the carefully crafted compromised legislation before us today on a 13-to-2 vote out of the committee.

This is a model for the law we should pass in the Senate, a bipartisan product. The majority leader tried to bring up this bill in December before the recess, and I commend him for it. But majority Senators filibustered the bill.

Make no mistake about it, the majority stalled FISA last month and filibustered the bill. At that time, the majority leader made a commendable plea to his colleagues. He stated any amendment offered to this bill, in view of its delicate nature and the bipartisan compromise it represents, should be required to meet a 60-vote threshold to clear any procedural hurdles in the Senate. This would also ensure it remained a bipartisan product.

If we look at the history of the important legislation we passed, it passed this past year with 60 votes—60 votes—to ensure there will be a bipartisan bill. Neither party can pass something alone, without bipartisan compromise—getting 60 votes. The Protect America Act required 60 votes: That is how it was brought to the floor. The partisan majority committee leader's bill came to the floor with a 60-vote requirement and it failed. We got the Protect America Act by meeting the 60-vote threshold.

Sixty votes, for those who may be following this elsewhere, is what is needed to invoke cloture to shut off a filibuster, but it is a good principle when you have a very contentious, important, and technical bill.

I commended the majority leader for his leadership and agree wholeheartedly with him now. In fact, if he were able to follow through with that offer now, then we would have already passed FISA last night. The fact is there is a majority of Senators who will not give their consent for such an agreement. They would prefer to deconstruct the Senate Intelligence Committee compromise and, by simple majority vote, transform the bill before us into a partisan product, thus gutting the bipartisan support—and the DNI's support, I would add—in this important legislation. That is little bit shortsighted, I believe.

If a majority can be mustered to undo the important compromises worked out with the intelligence community, with the DNI, you can go through the act of passing the bill, but it is not going to be signed, and the monkey is going to be back on our back. We have an opportunity to pass a bill here that can be signed into law to

keep our country safe. If we want to be in the situation where we were last summer, where our intelligence community was effectively deaf and blind to terrorist threats, then go ahead and tear up this bill, take it apart, leave it with no support from the intelligence community. And, by definition, if it is not supported by the intelligence community, it will not be signed into law by the President.

I am asking that we go back to the procedure we followed before in passing the Protect America Act, that we used in passing other important pieces of legislation, and make it a bipartisan effort. The people of this country are crying out for bipartisanship. We got the Protect America Act on a bipartisan basis. We passed a bill out of the Senate committee that far exceeded the 60-percent test. We need to deal with this bill under the same rules. Gutting the bill with a bare majority, and plurality, as could happen under the current situation, is a bad approach. I say to my colleagues that if they can agree to a 60-vote threshold for all amendments offered, then we can start voting on any and all of them right now, and we will go through them. There are some very important amendments, and there are very good arguments for those amendments. I hope my arguments on the other side are better. But we have to deal with this on a 60-vote basis. What I am not willing to do right now, and our minority leader is not, is to allow this bipartisan product to be dismantled on the Senate floor by partisan efforts that make FISA unworkable, loses the DNI's support because it won't work, and thus the President's signature. It makes for good politics but it fails to protect America.

If the majority will work with us, then we are happy to have any and all amendments. I know the leaders may still come up with an agreement of that sort, but barring that, I don't see a way around this because we are not going to accept, by majority vote, a jumbled-up structure that leaves the intelligence community without the ability effectively, efficiently, and within proper constitutional and statutory restrictions to collect the intelligence we need to keep this country safe. We have to have a good bill. We have incorporated far more protections in the Senate substitute than have ever been in FISA before, and I think those of us on the Intelligence Committee, the occupant of the chair, can take great credit for protections we have added.

National security is not red or white, it is red, white, and blue. The blues and the reds need to work together on this, passing a product the DNI supports so the President will sign it into law. Anything else and we are not helping the country. We are ready to consider amendments; we simply don't want to see the bill destroyed through partisan ploys.

Mr. President, seeing no other Senators present, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAMBLISS. Mr. President, I would inquire as to what the pending business is before the Senate.

The ACTING PRESIDENT pro tempore. S. 2248, the Foreign Intelligence Surveillance Amendments Act.

Mr. CHAMBLISS. I thank the Chair, and I rise to support the managers' amendment on this piece of legislation as proposed by Chairman ROCKEFELLER and Vice Chairman BOND. This is the result of a bipartisan discussion which included the Office of Director of National Intelligence and the Department of Justice. I commend Senator ROCKEFELLER and Senator BOND on drafting this complicated yet critical piece of legislation.

The Senate has had a healthy debate while considering the Judiciary Committee's substitute amendment. I was pleased to see a majority of the Senate reject that bill, and I hope the Senate can now move past that flawed bill rather than offering a number of amendments which contain fragments of it. There is no benefit to rehashing the same points in the Senate bill that was just handily tabled versus the Rockefeller-Bond compromise piece of legislation that came out of the Senate Intelligence Committee.

The Director of National Intelligence, the National Security Agency, and the Department of Justice have stated their opposition to a number of proposed amendments which were part of the failed Judiciary Committee's substitute. The DNI has made it clear he would recommend to the President that he veto this legislation if it does not contain immunity for communication carriers, and rightly so. Some Members offered amendments to strike title II from the managers' amendment or to substitute the Government as the defendant in these lawsuits.

But substitution will not give the carriers protection, nor will it protect our national security. The plaintiffs can still seek documents and other evidence from them through the discovery process at trial. This risks exposing our intelligence sources and methods, and there is simply no doubt about that fact.

The Government can assert the states secrets privilege, but the ongoing litigation has shown that courts reject this theory. Even the FISA Court, which operates in secret and handles classified information, is not suited to handle these cases. The FISA Court primarily reviews ex parte requests and was not meant to hear regular trials.

The members of the FISA Court are sitting district court judges and have their own full dockets.

The risk of unnecessarily exposing some of our most sensitive collection if litigation continues is too great. The best remedy is to provide immunity to the telecommunication providers as the managers' amendment does. Other amendments propose unnecessary additions to provisions already included in the managers' amendment. For example, the managers' amendment contains a 6-year sunset and an exclusivity provision. Yet amendments have been offered to make this legislation expire in 2 years or 4 years.

Additionally, an amendment has been offered to state that absent some other expressed order from Congress, FISA and title XVIII are the exclusive means to conduct electronic surveillance. This would require Congress to pass a law authorizing the President to conduct electronic surveillance after an attack on our country.

What if Congress were not able to meet, let alone agree on language authorizing electronic surveillance after an attack on our country? This amendment ignores longstanding debate regarding article I and article II powers, a debate the courts have dodged time and again. I support the bipartisan language in the managers' amendment which maintains the status quo of this important constitutional question.

Finally, an amendment has been offered requiring an audit of the terrorist surveillance program. As I stated earlier in comments yesterday, the Intelligence Committee has conducted a thorough review of this program over many months, which included testimony, extensive document reviews, and even trips out to our intelligence agencies to witness how this program is operated.

I understand that sometimes partisanship impedes action in Congress. But I do not recall when some of my colleagues have had such little faith in the bipartisan findings and conclusions of a committee in this body.

This amendment disregards the committee's finding and asks for yet another retrospective review of this program. This is not only duplicative, but it is unnecessary. The Protect America Act expires a week from today; the threat from al-Qaida will not expire a week from today.

It is now time for Congress to act and to fix FISA so our intelligence community has the tools it needs to do its job in a very professional manner and gather information necessary to protect our national security.

Protecting our national security is in the interest of all Americans, and Congress should seek to ensure that our Nation is protected fully. The members of the intelligence community say the managers' amendment contains many tools they need to protect our country. I urge my colleagues to support the managers' amendment.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ECONOMIC STIMULUS

Mr. DODD. Mr. President, I had earlier this morning intended to spend a few minutes talking about the stimulus package that was at least agreed to between the leadership of the other body and the administration, a matter that will be coming here and the Senate will have an opportunity to express its will on that matter.

But I wanted to speak on it for a moment, at least as Chairman of the Senate Banking Committee that will have at least a small part of that discussion, because of the inclusion of the FHA proposals as well as the loan limits within the GSEs, which I commend the administration for including. These are critical elements.

We must, of course, deal with people's problems. But is something else again to deal with the problems that have caused people's problems. In my view, the deeper problem is the foreclosure crisis. That is the underlying issue, in my view, and therefore to have dealt with a short-term stimulus package that did not include some measures and steps that would address the housing issue and the foreclosure issue would have been shortsighted. So I was pleased to see that in addition with some rebates and refundable tax assistance, even to those who have very limited incomes, as well as assistance to those with young children and families. All are wonderful ideas.

I know Senator BAUCUS, who will have the bulk of the responsibility in the Finance Committee for dealing with this, along with others who want to add elements of dealing with such things as unemployment insurance or food stamps or low-income energy assistance and the like, will have some additional thoughts on this short-term package. But I felt it was important to express some optimism about the direction it is going in and to note how important it is for consumers and investors to begin to have their confidence restored.

FISA

Mr. DODD. Mr. President, I rise this morning to continue the debate and discussion on the Foreign Intelligence Surveillance Act. Let me underscore the point that Majority Leader REID and others have made. I listened carefully to the comments of Senator MCCONNELL, the distinguished Republican leader.

I have served in this body for more than a quarter of a century now, and it

is unfortunate that we seem to have come to a point where not as much is happening as should be happening, in my view.

I brought committee products to the floor on many occasions, and I am sort of envious of the remarks of the Senator from Kentucky—because as a committee chairman, I love nothing more than to bring a product out of my committee. Many times I brought them out with unanimous votes, only to have to spend days here on the floor as amendment after amendment was being offered to change, in some cases dramatically, the substance of our bill, which we had worked on for weeks and months and years in some cases.

So it is a new idea here to just accept committee product and say the other 90 or 85 Members should respect the work of our colleagues, and acknowledge that and pass the legislation as if we had all had some input here. That is unique and, I suppose, an idea that most of us would like to embrace at one point or another. But this is the Senate. This is not an operation that runs by fiat.

This institution has an historic responsibility. In this institution, every single Member has the opportunity to express themselves, not only rhetorically for unlimited amounts of time, but also with the ability to contribute to the policy products we frame. To suggest that other Members, including members of a committee that had commensurate jurisdiction, the Judiciary Committee, ought to be excluded from adding their thoughts and ideas, is ridiculous. Even members of both Committees, Judiciary and Intelligence, are excluded, such as Senator FEINGOLD. It was his amendment, as a member of both of these committees, that the Republican leadership would not even consider debating or acknowledging with a vote. So that is unique in any regard. Anyone who has observed this institution for more than an hour—or less—understands how this works.

So the idea that we should accept this bill because the President will sign it, is nice to hear, but I have been around long enough to know that Presidents will sign things they did not think they would in time, and particularly if we can add some thoughts that Members have.

I do not want to dwell on the procedural aspects of all of this, but I wanted to underscore the point that Senator REID, our leader, the majority leader, made this morning, on the unique idea that Members who have substantive ideas and thoughts and amendments should somehow stick them back in their pockets, accept the product of the Intelligence Committee and go home, because the President will sign that bill. I will be anxious to raise the argument in future dates when I bring a bill to the floor and I find that the Republican leadership is going to offer some amendments to my