

NOMINATION OF LESLIE ANN BASSETT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY

NOMINATION OF MARCIA STEPHENS BLOOM BERNICAT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF BANGLADESH

NOMINATION OF JAMES PETER ZUMWALT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU

NOMINATION OF CRAIG B. ALLEN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM

NOMINATION OF WILLIAM V. ROEBUCK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF BAHRAIN

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the following nominations, which the clerk will report.

The assistant bill clerk read the nominations of Leslie Ann Bassett, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay; Marcia Stephens Bloom Bernicat, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of

Bangladesh; James Peter Zumwalt, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau; Craig B. Allen, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam; William V. Roebuck, of North Carolina, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Bahrain.

Mr. REID. Madam President, I will yield back all time on these nominations.

The PRESIDING OFFICER. Without objection, all time is yielded back.

#### VOTE ON BASSETT NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Leslie Ann Bassett, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay?

The nomination was confirmed.

#### VOTE ON BERNICAT NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Marcia Stephens Bloom Bernicat, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh?

The nomination was confirmed.

#### VOTE ON ZUMWALT NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James Peter Zumwalt, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau?

The nomination was confirmed.

#### VOTE ON ALLEN NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Craig B. Allen, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of

the United States of America to Brunei Darussalam?

The nomination was confirmed.

#### VOTE ON ROEBUCK NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William V. Roebuck, of North Carolina, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Bahrain?

The nomination was confirmed.

For the information of the Senate, for the respective nominations just confirmed, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### USA FREEDOM ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2685, which the clerk will report.

The assistant bill clerk read as follows:

Motion to proceed to calendar No. 499, S. 2685, a bill to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, criminal purposes, and for other purposes.

Mr. REID. Madam President, could we have order?

The PRESIDING OFFICER. Order, please.

Mr. REID. Madam President, under the rule that has been initiated here in the Senate and confirmed, we have 30 minutes of debate on this matter, and I have been told that it won't take that full 30 minutes. And, Madam President, the time for debate would be equally divided.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes for debate between the leaders or their designees.

Who yields time?

Mr. REID. Madam President, I suggest the absence of a quorum, and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEAHY. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Madam President, I would ask for order.

We still don't have order in the Chamber.

The PRESIDING OFFICER. Order in the Senate, please. Senators, please take your conversations outside the Chamber.

The Senator from Vermont.

Mr. LEAHY. We have confirmed three judges from Georgia and I want to compliment the two Senators from Georgia for their hard work, both in the Judiciary Committee and the White House. And in that, I am sorry they had to wait so long. On this side of the aisle we cleared every one of those for a voice vote months ago. I am sorry that your side wanted to delay it, but I see a 100-0 vote, and the voice votes are accurate. But I compliment the two Senators from Georgia for sticking with their nominees.

Madam President, I would like to yield to the distinguished Senator from Utah, Senator LEE, for 4 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Madam President, in 2013, the country learned that the government, specifically the NSA, had been collecting and storing enormous amounts of information about American citizens, and that the data collection at issue was not limited to those who were actually suspected of terrorist activity or even necessarily to those who were connected to those suspected of engaging in terrorist activity. Many were understandably very concerned about how much and what kind of data was being collected and whether this information could be or had been abused by government officials.

Today proponents of the metadata program claim it cannot be used to identify ordinary American citizens. But earlier this year researchers at Stanford University proved that the very type of metadata collected under Section 215 of the PATRIOT Act could be used to uncover a lot of information, including information about a person's politics, what kind of medications they might be taking, about where they go to church, and so on and so forth.

The USA FREEDOM Act is a bipartisan piece of legislation that would end bulk collection of metadata currently gathered by the NSA, and it would help address the problem of the American government spying on its own citizens without cause. It also would improve transparency for the data that NSA does collect. It has the support of leaders in our intelligence community, the Department of Justice, civil liberties groups, the National Rifle Association, and several tech companies.

Opponents of this bill say it will impair our national security. They say the bill will keep our intelligence community from protecting us. But what opponents of this bill fail fully to appreciate is that most Americans are deeply concerned about the collection of their own personal information. This bill is an opportunity to strike a rea-

sonable commonsense balance between protecting Americans' privacy and at the same time protecting our national security.

While I believe there are honest, decent people working in our intelligence community, and while I think this has been overwhelmingly the norm, it is important to heed a warning given to us centuries ago by James Madison. In Federalist 51, Madison wrote:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

Congress should address this issue now. The provision of the PATRIOT Act authorizing this kind of data collection expires just after Memorial Day this coming year, and it is important to adopt a compromise well ahead of this deadline that all interested parties can accept.

The PRESIDING OFFICER (Mr. DONNELLY). The Senator from Vermont.

Mr. LEAHY. I thank the junior Senator from Utah who has worked so hard on this.

It has been more than a year since Americans first learned that the government had been secretly sweeping up the telephone records of innocent Americans, regardless of whether there was any connection whatsoever to terrorism or criminal activity. I introduced the original USA FREEDOM Act last October with Republican Congressman JIM SENSENBRENNER, and the Senate Judiciary Committee held six public hearings to address these issues.

During those hearings, we learned that the bulk phone records collection program had not, as previously advertised, thwarted 54 terrorist plots, or even dozens, or even a few. In fact, we learned through our public hearings that after all the talk about why we needed this program, we learned that the number was maybe one. That is an important fact for these who argue that the NSA's bulk phone records program is somehow essential to our fight against ISIL or other terrorists. It did nothing to stop ISIL from starting in the first place.

Our bill protects Americans. It enhances privacy protections and ends indiscriminate data collection by the NSA, but also keeps the essential tools our intelligence community needs to protect our Nation. That is the simple truth and important to remember. That is why our intelligence community strongly supports this bill.

As someone who worked in law enforcement, and as a native of Vermont where the right of privacy is cherished, I know we can have both liberty and security. The USA FREEDOM Act provides for commonsense reforms to government surveillance, and promotes greater accountability and transparency of the government's surveillance programs, and it improves the FISA Court.

This is a carefully crafted bill that builds on the work of the House of Representatives. It has the unprecedented support of the Director of National Intelligence, the Attorney General, the Director of the NSA, American technology companies, and privacy and civil liberties groups across the political spectrum, ranging from the ACLU and EFF to the NRA and TechFreedom. Lawmakers from all parts of the political spectrum, from the right to left, support the USA FREEDOM Act. They know it is a reasonable and responsible compromise. There is no reason why we should not proceed to a debate on this important bill.

I understand that there are some Members who want votes on parts of it, and that is fine. Let's have the votes. Let's not block this bill and say: Well, we want something better. That means you don't vote yes, you don't vote no, you vote maybe. Let's have some relevant amendments, and let's vote on them. Don't let this get bogged down in procedural nonsense that the American public hates. Senators should allow us to get onto this bill and help us reach an agreement on a limited list of germane amendments to be considered. Let's have germane amendments and vote them up or down. If we work together, we can finish the bill by the end of the week.

We cannot afford to delay action on these reforms until next year. As both the ACLU and the NRA pointed out yesterday in a joint op-ed in the Washington Times, "every day that the Senate fails to vote on these reforms is a day in which law-abiding citizens have reason to fear that the constitutional protections so dear to the Founders and so crucial to the functioning of a free society no longer apply."

I echoed the words we heard from the Senator from Utah. Every day that we fail to act is another day that American businesses are harmed. One conservative think tank estimated that the "mistrust engendered by the NSA's programs could cost the U.S. technology industry between \$35 billion and \$180 billion over the next three years." That is a staggering amount.

Senators should listen to the intelligence community professionals who protect our nation every day, and who are calling for swift passage of this bill. Ask the Director of National Intelligence. Ask the Attorney General. They will tell you that it is better for our national security, and better for our fight against terrorism if we pass the USA FREEDOM Act.

This is a reasonable compromise that all Senators should support, and I thank the Majority Leader for bringing this bill to the floor. And I thank Senators DEAN HELLER, MIKE LEE, DICK DURBIN, AL FRANKEN, and RICHARD BLUMENTHAL for their steadfast work on this bill.

Our bill is good for privacy and civil liberties, and upholds our Constitution. It is good for American business. It is

good for national security. And most importantly, it is the right thing to do on behalf of Vermonters and the rest of the American people. I urge all Senators to vote in favor of the cloture motion pending before us.

I ask unanimous consent that the Statement of Administration Policy in support of the USA FREEDOM Act be printed in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY  
S. 2685—USA FREEDOM ACT

(Sen. Leahy, D-VT, and 18 cosponsors, Nov. 17, 2014)

The Administration strongly supports Senate passage of S. 2685, the USA FREEDOM Act. In January, the President called on Congress to enact important changes to the Foreign Intelligence Surveillance Act (FISA) that would keep our Nation safe, while enhancing privacy and better safeguarding our civil liberties. This past spring, a broad bipartisan majority of the House passed a bill that answered the President's call. S. 2685 carefully builds on the good work done in the House and has won the support of privacy and civil liberties advocates and the private sector, including significant members of the technology community. As the Attorney General and the Director of National Intelligence stated in a letter dated September 2, 2014, the bill is a reasonable compromise that enhances privacy and civil liberties and increases transparency.

The bill strengthens the FISA's privacy and civil liberties protections, while preserving essential authorities that our intelligence and law enforcement professionals need. The bill would prohibit bulk collection through the use of Section 215, FISA pen registers, and National Security Letters while maintaining critical authorities to conduct more targeted collection. The Attorney General and the Director of National Intelligence have indicated that the bill will retain the essential operational capabilities of the existing bulk telephone metadata program while eliminating bulk collection, based on communications providers' existing practices. The bill also authorizes an independent voice in significant cases before the Foreign Intelligence Surveillance Court (FISC)—the Administration is aware of the concerns with regard to this issue, as outlined in the letter from the Attorney General and the Director of National Intelligence, and the Administration anticipates that Congress will address those concerns. Finally, the bill will enhance transparency by expanding the amount of information providers can disclose and increasing public reporting requirements.

In sum, this legislation will help strengthen Americans' confidence in the Government's use of these important national security authorities. Without passage of this bill, critical authorities that are appropriately reformed in this legislation could expire next summer. The Administration urges Congress to take action on this legislation now, since delay may subject these important national security authorities to brinksmanship and uncertainty. The Administration urges the Senate to pass the USA FREEDOM Act and for the House to act expeditiously so that the President can sign legislation into law this year.

Mr. LEAHY. I yield the floor.

Mr. CHAMBLISS. Mr. President, I yield 3 minutes to the Senator from Florida, Mr. RUBIO.

Mr. RUBIO. I thank the Presiding Officer.

God forbid tomorrow morning we wake up to the news that a member of

ISIL is in the United States and Federal agencies need to determine who this person is coordinating with to carry out a potential attack within the homeland. One of the tools they will use is a tool that allows them to see the people they have been calling and interacting with so we can disrupt that cell before they carry out a horrifying attack that could kill millions of American people.

Today we are able to do that because of a program that collects those records and keeps them—not in the hands of anyone who is looking at them on a regular basis but keeps them readily available for the government so the government can access those records and disrupt that plot. What this bill would do is take that apart. In essence, it would ask the companies to keep those records—at least in the hopes that they would. Under this plan, if this were to pass, if suddenly we were to go target these members of ISIL and find out whom they are coordinating with, those records may not be there and that plot may indeed go forward. That would be a horrifying result.

Here is why this doesn't make sense. First of all, we are rushing this to the floor of the Senate in a lameduck session, on an issue that doesn't even expire until next year, on a bill that was not listened to or heard in a committee, and they cannot cite a single example of this program ever being abused—not one simple example of this specific program being abused by anybody intentionally. So we are dealing with a theoretical threat.

The second thing is that even as we speak, law enforcement agencies investigating a common crime don't even need to go to a court to access these very same records. They can just issue an administrative subpoena and get ahold of them. We are actually making it harder to go after a terrorist than it will be to go after a common criminal.

This is happening at a time when homegrown violent extremism is the single fastest growing threat to the United States, people here at home who have been radicalized—even on the Internet—and people who have traveled to the Middle East and been radicalized in the hopes of returning and carrying out attacks here.

I hope this body would take more time to study an issue of this magnitude because this program was specifically designed to address the intelligence gaps that existed after the 9/11 attacks. I promise you, if, God forbid, any horrifying event like that were to happen, the first question we will be asked is why didn't we know about it and why didn't we prevent it. If this program is gutted, we potentially will not be able to know about it, and we will not be able to prevent it.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this program does not gut it; it actually enhances it.

Secondly, if this was important to stop ISIL, ISIL never would have started. The fact is that we had this pro-

gram way beyond anything anybody is talking about today, and it didn't slow up or eliminate ISIL one iota. That is a straw man which we should not even have here. It has no effect on that, and everybody who has read the intelligence knows that.

I yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I wish to begin by thanking our very esteemed colleague, the chairman of the Judiciary Committee, Senator LEAHY, for his leadership on this issue and my colleagues whom he has named who have helped in drafting and crafting this very important piece of legislation.

I also wish to thank my friends and colleagues across the aisle, such as the Senator from Utah, who have supported and helped to make clear that this bill advances the cause of safeguarding our Nation without in any way detracting from its essential operational intelligence capabilities.

In fact, National Intelligence Director Clapper said:

The bill will retain the essential operational capabilities of the existing bulk telephone metadata program while eliminating bulk collection.

This bill increases trust and confidence and credibility of our intelligence system. It advances that trust and confidence in the capability of government surveillance to do its job but at the same time protect our vital privacy interests. It advances the cause of constitutional liberty and the appearance and perception of trust in that system. It does so by making the Foreign Intelligence Surveillance Court look and function like the courts we are accustomed to seeing issue search warrants in the criminal process and protect essential liberties. It does it by strengthening and, in fact, installing an adversarial process so that more than just the government's version of the facts and law are presented to the Foreign Intelligence Surveillance Court. It does it by providing for appellate review, just as we have in normal civilian court. It does it by increasing the transparency and accountability of the FISA Court system.

Our Founders would have been astonished and appalled to learn that we permit warrants to be issued by a court that is operating in secret, issuing secret opinions, and making secret law much like the Star Chamber did, and that is why this reform is so profoundly and historically important—because we made the FISA Court one that we can more aptly and abundantly trust and one that will have credibility and confidence.

I support this bill.

I thank my colleagues for showing that we can work together in a bipartisan way to safeguard the essential

rights of Americans at the same time we protect and preserve our national security.

I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Presiding Officer. I wish to speak to this bill, and I have to say that this is one of the few times that the vice chairman, the distinguished Senator from Georgia, and I have a disagreement.

I very much support this 215 metadata program. I think the Intelligence Committee had approximately 12 hearings on the subject last year.

Many people believe that the NSA is using this program all the time. In fact, in the year 2012 there were 288 approved queries, and 12 of them eventually led the FBI to obtain a probable cause warrant for the content of the communications. In fact, you cannot obtain content in a query; a query just searches the phone metadata.

Then the next criticism we have heard has been, well, the government should not hold the metadata. And that is essentially the big change this bill makes.

In October 2013, we voted out of our committee—by a vote of 11 to 4—a FISA reform act; however, in my judgment, that bill is not going to pass in this Congress.

The PRESIDING OFFICER. The Senator's time is up.

Mrs. FEINSTEIN. I ask unanimous consent that my time be extended, please.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. FEINSTEIN. I thank the Presiding Officer.

I recently talked with Members of the House, and here is what they told me: If we didn't pass the House bill, there were Members who wanted to end the whole metadata program. I do not want to end the program. I am prepared to make this compromise, which is that the metadata will be kept by the telecom companies.

Senator CHAMBLISS and I wrote a letter to the four big telecoms, and we asked them if they would hold the data. The answer came back from two "yes," and the answer that came back from the other two was inconclusive. Since that time the situation has changed—not in writing but by personal testament from officials with the two other companies that they will hold the data for at least 2 years.

Here is the problem: Although there is no mandate to hold the phone metadata, the fact is that the telecoms have agreed to hold the data for a sufficient period of time.

The President himself has assured me that he is comfortable with this bill. And I believe that if we do not pass this bill, the metadata program is at risk because the 215 program sunsets next year.

Senator RUBIO sits on the intelligence committee. I listened to him

with interest. I agree with what he said about ISIL and other terrorist groups. They will come after us if they can, and the only protection we have is essentially to disrupt a plot before it becomes a reality in this country.

The metadata program is not as widely used as the 288 approved queries in a given year would indicate.

Additionally, in this bill—and I think this should be of satisfaction to a number of people—the FISA Court would have to approve a query before that query takes place.

I am prepared to support this bill, and I do so for very practical reasons because without it, I believe we will not have a metadata program.

This is hard for me because I have tried to be supportive of the legislation that comes out of our committee. I have talked to Senator LEAHY. I have said that the one big problem I have with his bill is that the Foreign Intelligence Surveillance Court is upset with the language on the special advocate. Senator LEAHY said he would change the language on this part of the bill.

Senator BLUMENTHAL has an amendment—which I assume will pass—which does change the language on this part of the bill to accommodate the objections of the FISA court. If that is the case and the telecoms agree to hold the data, I believe that solves what is a very practical problem.

In any event, I have agreed to support this legislation.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. How much time on the other side has been used?

The PRESIDING OFFICER. The Senator from Vermont has 30 seconds remaining.

Mr. CHAMBLISS. How much time do I have remaining?

The PRESIDING OFFICER. Six and a half minutes.

Mr. CHAMBLISS. I only had one speaker and I had 15 minutes. Did he use 7½, 8 minutes?

The PRESIDING OFFICER. The Chair was instructed that the Senator from California spoke on the time of the Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the time the Senator from California used be added to my time.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I will not object. I was going to yield the remainder of my time to the Senator from Texas, Mr. CRUZ, and I ask unanimous consent that he be allowed up to 4 minutes.

Mr. CHAMBLISS. I object to that. He can have your 30 seconds.

Mr. LEAHY. I will not object to the request, and I will yield the remainder of my time to the Senator from Texas. I am sorry the Senator from Georgia would not offer me the courtesy.

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

The Senator from Georgia.

Mr. CHAMBLISS. I yield to the Senator from Maine for 2 minutes.

Ms. COLLINS. Mr. President, we need reform of the NSA program but not in this manner. Let's remember why this intelligence tool was put into place. It was enacted in the wake of the worst terrorist attack in our country that took the lives of nearly 3,000 people. We have testimony from the former Director of the FBI and from the former Deputy Director of the CIA telling us that had this tool been in place, it is likely—most likely—that the plot that killed nearly 3,000 people would have been uncovered. Why would we weaken the ability of our intelligence community at a time when the threats against this country have never been greater?

Let me address to my colleagues the privacy issue that has been raised—an issue that all of us care about. These data are far more safe, far more subject to privacy protections if they are held by the Federal Government where only 22 vetted and trained government employees have access to them instead of nearly 150 telecommunications companies that employ thousands of workers, and the government is going to have to go to those companies and ask for the data. That greatly exposes the privacy of individual Americans far more than the current system.

So for both of those reasons, I urge my colleagues to oppose the bill of the distinguished Senator from Vermont. It is a mistake. It would make us less safe, and we have expert testimony telling us that.

Thank you, Mr. President.

Mr. CHAMBLISS. Mr. President, I yield 2 minutes to the Senator from Indiana.

Mr. COATS. Mr. President, I regret that I just have 2 minutes. It is unfortunate that a bill with this amount of consequence for Americans is being debated in such a limited amount of time.

We have 2 bills, one produced by the intelligence community, written and supported by the chairman, a Democrat from California, and by the vice chairman, the Republican from Georgia, and it passed on a bipartisan basis with more than a 3-to-1 ratio. Here we are trying to go forward, allowing only one vote on one different bill.

Why do we have to rush this through in a lameduck session when it has such consequences and when the director of the agency that oversees this, when asked by me what are the ultimate consequences of this, his answer was: A compromise of our ability to detect terrorist attacks—and the consequence will be Americans will die. And when that happens, and when those of us who go everyday to the Intelligence Committee know what the threat is—the threat is greater than it has ever been—we need to understand that eventually something will happen here, and people will turn to us and say: Did you have every possible tool in place to try to stop this from happening? If you

didn't, why didn't you? Let's not have a repeat of 9/11 when the commission then comes to us and says get the tools that you need.

This program has been so mischaracterized in terms of what it does and doesn't do. Even as I talk to my colleagues, they don't have a full understanding of what it doesn't do. It has more oversight than any other Federal program in our committee's jurisdiction. We have enhanced it through our committee with hours and hours of discussion, and here we have a bill that wasn't even taken up by the Judiciary Committee and was just brought here to the floor.

So I urge my colleagues to think this through before we come to a conclusion we are going to regret.

I thank the vice chairman for the time.

Mr. CHAMBLISS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 5½ minutes remaining.

Mr. CHAMBLISS. Mr. President, in closing, let me say there are any number of reasons why the substance of this bill is totally flawed. We live in a dangerous world today. We all know and understand that. While the provisions in this bill wouldn't have prohibited ISIL from being formed—it didn't prevent ISIL from being formed—the provisions in the underlying FISA bill give the Intelligence Committee all the tools they need to make sure that when ISIL recruits individuals to go to Syria to fight, if they are trying to recruit Americans, we can find out about that. We have under surveillance today any number of individuals, whom we think have been committed to jihad, who live in America.

Secondly, there is another part of their recruiting that is even more dangerous than asking young men and women to come to Syria to fight for ISIL. They want people to go into the Parliament in Canada and start killing people. They want people to walk the streets of New York and pull out a gun or a hatchet or whatever it may be and start killing people.

If we eliminate this program—and that is basically what the Leahy amendment does—then we are going to take a tool away from our intelligence community that is not going to allow them to be able to interrupt and disrupt those types of terrorist attacks.

Now, with respect to our privacy, folks, gosh, we need to be really protective of privacy issues in this country. We live under a Constitution that has survived for in excess of 200 years. It has lots of privacy protections in it, and all of us want to see that happen. But let me tell my colleagues what is going to happen if this amendment comes to the floor and should happen to pass today. The metadata that is collected by the NSA can be accessed by 22 individuals—22. That means there is an opportunity for leaks to occur or for individual privacy rights to be breached by 22 people. If this amend-

ment ever became law, all of a sudden, all of the telecoms are going to be holding this metadata information as opposed to the NSA holding it. All of those telecoms have thousands of employees, lots of whom have access—will have access to this metadata. So instead of having the potential for 22 people to breach the privacy rights of American citizens, all of a sudden we are going to have thousands of opportunities for the privacy rights of Americans to be breached.

Let me close by saying that this program has been criticized an awful lot simply because of the leaks that Mr. Snowden made because of his theft of government property. But the fact is there cannot be one single case pointed to by anybody who can show that as a result of the collection of metadata under 215, any American has had their privacy rights breached. It simply has not happened. It will not happen if we keep this program in place.

Do we need to modify it? You bet. And Senator FEINSTEIN and I did a good job of that, considering 10 amendments within our committee, voting on all 10 of them. Some of them passed. Some of them didn't. The bill came out of our committee on a bipartisan vote.

The Leahy amendment has not even gone to the Judiciary Committee to give the members of the Judiciary Committee the opportunity to review it, to file amendments on it, to debate it in committee, and vote on it. That is not the way this institution has ever worked, and it is not the way it should work here in a lameduck session with time running out, and particularly on a controversial and sensitive and important program as is the 215 FISA amendment program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. COATS. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. There is 1 minute remaining.

The Senator from Texas.

Mr. CRUZ. Mr. President, many months ago the American people were astonished to learn the Federal Government was collecting bulk metadata from personal cell phones of millions of law-abiding citizens. This legislation protects the Constitutional rights of privacy under the Fourth Amendment while maintaining important tools to protect national security and law enforcement.

This is bipartisan legislation that enjoys the support of the intelligence community as well as the tech community. The bill is not perfect, but in my view we should take it up and consider reasonable amendments on the floor to make it better. But it is imperative that we stand together, united, protecting the Bill of Rights.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Georgia has 1 minute remaining.

Mr. CHAMBLISS. I yield back the remaining time, and I ask for the yeas and nays.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 499, S. 2685, a bill to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes.

Harry Reid, Patrick J. Leahy, Sheldon Whitehouse, Martin Heinrich, Richard Blumenthal, Sherrod Brown, Thomas R. Carper, Al Franken, Bernard Sanders, Carl Levin, Tom Udall, Charles E. Schumer, Mazie Hirono, Tom Harkin, Cory A. Booker, Barbara Boxer, Christopher A. Coons, Richard J. Durbin.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2685, a bill to reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant bill clerk called the roll.

The yeas and nays resulted—yeas 58, nays 42, as follows:

[Rollcall Vote No. 282 Leg.]

#### YEAS—58

Baldwin	Heinrich	Murray
Begich	Heitkamp	Pryor
Bennet	Heller	Reed
Blumenthal	Hirono	Reid
Booker	Johnson (SD)	Rockefeller
Boxer	Kaine	Sanders
Brown	King	Schatz
Cantwell	Klobuchar	Schumer
Cardin	Landrieu	Shaheen
Carper	Leahy	Stabenow
Casey	Lee	Tester
Coons	Levin	Udall (CO)
Cruz	Manchin	Udall (NM)
Donnelly	Markey	Walsh
Durbin	McCaskill	Warner
Feinstein	Menendez	Warren
Franken	Merkley	Whitehouse
Gillibrand	Mikulski	Wyden
Hagan	Murkowski	
Harkin	Murphy	

#### NAYS—42

Alexander	Cochran	Grassley
Ayotte	Collins	Hatch
Barrasso	Corker	Hoeben
Blunt	Cornyn	Inhofe
Boozman	Crapo	Isakson
Burr	Enzi	Johanns
Chambliss	Fischer	Johnson (WI)
Coats	Flake	Kirk
Coburn	Graham	McCain

McConnell  
Moran  
Nelson  
Paul  
Portman

Risch  
Roberts  
Rubio  
Scott  
Sessions

Shelby  
Thune  
Toomey  
Vitter  
Wicker

The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Vermont.

Mr. LEAHY. Mr. President, obviously I am disappointed by tonight's vote, but I am not new to this fight. We have had six public hearings on this issue. We heard interesting testimony by the head of the NSA who talked about 50-some-odd terrorist activities that have been thwarted by the bulk collection program. When he had to testify in public, it came down to possibly one.

I mention that because people asked whether we had hearings. We had six. But the reason I say I am not new to this fight is the very first vote I cast as a Senator in 1975 was in favor of the Senate resolution that created the Church Committee. I have worked ever since to ensure strong oversight of surveillance authorities.

We found in the Church Committee that administrations of both parties had so badly misused the tools they had in the intelligence community. We tried to put in restrictions that would balance our constitutional rights and the security that we needed as Americans. We tried to do that. I think we did.

That is why over the past decade I have consistently opposed expanding the USA PATRIOT Act and FISA Amendments Act sunsets without including meaningful reforms. The first sunsets were put in place by the Republican leader in the House, Dick Armey, a conservative Republican, and myself in the Senate. We joined together for the same reason: If you do not have an ability to look at these issues on a periodic basis, then they will get out of hand.

I fought the status quo every step of the way in these efforts. The broad coalition of those in favor of the USA FREEDOM Act shows we are gaining ground. While I am critical of those Republicans who failed to answer the call of the American people who elected them to stand up and work across the aisle, those who reverted to scare tactics rather than working productively to protect America's basic privacy rights and our national security—I acknowledge the hard work and principled stance of several Republicans: Senator HELLER, Senator LEE, and Senator CRUZ, as well as other Republicans in the other body, including my initial partner in this effort, Congressman JIM SENSENBRENNER. There have also been two important partners on the Democratic side in this reform effort: Senators FRANKEN and BLUMENTHAL who worked with me on transparency and the FISA Court reforms.

We Vermonters fight to protect our privacy rights. Every Vermonter does. They mean a great deal to us. Every

Vermonter feels that way, and this life-long Vermonter will not give up the fight. I owe that to the Vermonters I serve and to the Constitution I swore an oath to defend.

I would say to those both in this Chamber and outside who approached this issue by fomenting fear, fomenting fear stifles serious debate and constructive solutions, like the carefully drawn reforms in this bill. Doing it at the last minute is all the more regrettable. This Nation deserves more than that.

This Nation should not allow our liberties to be set aside by passing fears.

America will always face the threat of terrorist attacks, both outside our borders and inside. We didn't do away with all our civil liberties after the Oklahoma City bombing. It was an American who did that, somebody who served in our military, churchgoing, and so forth. No more should we do it if the attacks come from outside our country. We talk about 9/11. We had all the evidence necessary to stop 9/11 before it happened.

Everybody who has looked at that now agrees that if we had bothered to translate the material we had, if we had bothered to listen to people in Minnesota who tried to warn us about it, we could have stopped it.

But because mistakes were made then, let's not take away the liberties of 325 million Americans.

I felt this way when I was a prosecutor. We even had people escape from prison with the intent to kill me.

I said: OK. We will get them, but we will follow the law in doing it, and we did.

Mr. President, 13 years ago this week a letter was sent to me. The anthrax in it was so deadly that the one person who touched the envelope—that I was supposed to open—died. They died from it. We still haven't caught all of the people involved.

But notwithstanding that, when people came to me and said: Well, maybe we should do away with some of our search and seizure laws, maybe we should do away with some of our laws for wiretaps, after all somebody tried to kill you. And if you had touched that envelope you would have died.

I said: No, this is more than one Senator, more than one person, more than one individual. This is the Constitution of the United States. If we, 100 Members of this body, do not protect our Constitution, we do not protect our country, and we do not deserve to be in this body.

I will continue to fight, and whatever years I have left in this body, I will continue to fight to preserve our Constitution and our rights as Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

## EXECUTIVE SESSION

### NOMINATION OF PAMELA PEPPER TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN

Mr. REID. I move to proceed to executive session to consider Calendar No. 928.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Pamela Pepper, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

#### CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk, and I ask the Chair to report it.

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

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Pamela Pepper, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

Harry Reid, Patrick J. Leahy, Robert Menendez, Patty Murray, Debbie Stabenow, Benjamin L. Cardin, Amy Klobuchar, Kirsten E. Gillibrand, Christopher Murphy, Brian Schatz, Richard J. Durbin, Richard Blumenthal, Tom Harkin, Angus S. King, Jr., Tom Udall, Mazie Hirono, Sheldon Whitehouse.

Mr. REID. I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

## LEGISLATIVE SESSION

Mr. REID. I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

## EXECUTIVE SESSION

### NOMINATION OF BRENDA K. SANNES TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK

Mr. REID. I move to proceed to executive session to consider Calendar No. 930.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Brenda K. Sannes, of