

We have the ability, with our intelligence agencies and our law enforcement, to seek out and stop people before this happens. We are in an open session today, so I won't go into the number of times we have done that. But in the last 10 years, we have had, time and time again, during the former Bush administration, during the Clinton administration, and in the present administration, potential terrorist attacks thwarted. People have either been apprehended or eliminated.

Everybody in America knows our life has changed. Whether the security checks and the changes in our airlines are effective or not, we know they are reality. We know travel is not as easy as it once was. We will be concerned about opening mail. We will worry when we hear the sirens in the night. But we are not going to retreat into fortress America. We are going to remain a beacon of democracy to the rest of the world. Americans don't run and hide. Americans face up, as we have, to adversities, whether they be economic or wars or anything else.

We began this process knowing how we had to protect Americans. It was not that we were intending to see how much we could take out of the administration's proposal, but it was with a determination to find sensible, workable ways to do the same things to protect America the administration wanted but with checks and balances against abuse. We have seen at different times in this Nation's history how good intentions can be abused. We saw it during the McCarthy era.

Following the death of J. Edgar Hoover, we found how much totalitarian control of the FBI hurt so many innocent people without enhancing our security. We saw it during the excesses of the special prosecutor law enacted with good intentions.

We wanted to find checks and balances. We wanted to make sure we could go after terrorism. We wanted to make sure we could go after those who would injure our society, those who would strike at the very democratic principles that ironically make us a target. But we wanted to do it with checks and balances against abuse. That is what we did. In provision after provision, we added those safeguards that were missing from the administration's plan.

By taking the time to read and improve the antiterrorism bill, Congress has done the administration a great favor in correcting the problems that were there. We have used the time wisely. We have produced a far better bill than the administration proposed. Actually, it is a better bill than either this body or the House initially proposed. The total is actually greater than the sum of the parts.

We have done our utmost to protect Americans against abuse of these new law enforcement tools, and there are new law enforcement tools involved. In granting these new powers, the American people but also we, their rep-

resentatives in Congress, grant the administration our trust that they are not going to be misused. It is a two-way street. We are giving powers to the administration; we will have to extend some trust that they are not going to be misused.

The way we guarantee that is congressional oversight. Congressional oversight is going to be crucial in enforcing this compact. If I might paraphrase former President Reagan: We will entrust but with oversight.

We will do this. The Republican chairman and his ranking member in the House of Representatives intend to have very close oversight. I can assure you that I and our ranking member will have tight oversight in the Senate.

Interestingly enough, the 4-year sunset provision included in this final agreement will be an enforcement mechanism for adequate oversight.

We did not have a sunset provision in the Senate bill. The House included a 5-year provision. The administration wanted even 10 years. We compromised on 4. It makes sense. It makes sense because with everybody knowing there is that sunset provision, everybody knows they are going to have to use these powers carefully and in the best way. If they do that, then they can have extensions. If they don't, they won't. It also enhances our power for oversight.

This is not precisely the bill that Senator HATCH would have written. It is not precisely the bill I would have written, or not precisely the bill the Presiding Officer or others on the floor would have written. But it is a good bill. It is a balanced bill. It is a greatly improved piece of legislation. It is one that sets up the checks and balances necessary in a democratic society that allow us to protect and preserve our security but also protect and preserve our liberties.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, shortly after the September 11 attack on America, the President of the United States asked Congress to pass legislation that would provide our law enforcement and intelligence agencies the tools they needed to wage war on the terrorists in our midst. These tools represent the domestic complement to the weapons our military currently is bringing to bear on the terrorists' associates overseas. At the same time, the President asked that, in crafting these tools, we remain vigilant in protecting the constitutional freedoms of all Americans—certainly of all law-abiding Americans.

After several weeks of negotiations with Chairman LEAHY, the House of Representatives, and the administration, we have developed bipartisan consensus legislation that will accomplish both of these goals. It enhances our ability to find, track, monitor, and prosecute terrorists operating here in the U.S. without in any way undermining civil liberties.

We can never know whether these tools would have prevented the attack on America, but, as the Attorney General has said, it is certain that without these tools we did not stop the vicious acts of last month.

I personally believe that if these tools had been in law—and we have been trying to get them there for years—we would have caught those terrorists. If these tools could help us now to track down the perpetrators—if they will help us in our continued pursuit of terrorists—then we should not hesitate to enact these measures into law. God willing, the legislation we pass today will enhance our abilities to protect and prevent the American people from ever again being violated as we were on September 11.

This legislation truly represents the product of intense, yet bipartisan, negotiations. Senator LEAHY and I carried out a painstaking review of the antiterrorism proposal submitted by the administration. There have been several hearings on this legislation in the Senate—not just this year, but in prior years—on some of the provisions and features that we have in here, including discussions during the enactment of the 1996 Antiterrorism Effective Death Penalty Act, called the Dole-Hatch bill.

We have heard from countless experts and advocates on all sides of this issue in this debate. Of late, we have also worked closely with Chairman SENSENBRENNER in the House, Mr. CONYERS, the ranking member on the House Judiciary Committee, and others in our effort to complete legislation that could receive near unanimous approval and support in the Congress. Although I do not expect every Senator to vote in favor of this legislation, Senator LEAHY and I have worked tirelessly to accommodate every concern. While Members ultimately may differ on some of these proposals, I know we all share the same overriding concern, and that is protecting our country from further harm.

The bill before us, which I hope we will pass today, differs in several respects from the legislation we passed in the Senate 2 weeks ago. These changes result from negotiations with our House counterparts, and some of the changes are certainly not objectionable. For example, we have included language requiring prosecutors to notify Federal courts when they have disclosed grand jury information to other Federal agencies for national security purposes. Also, the bill includes a provision requiring law enforcement to provide detailed reports concerning their use of the FBI's so-called Carnivore computer surveillance system. These changes will properly encourage the law enforcement community to use these tools responsibly.

Unfortunately, not all of the changes are welcome. For instance, our effort to mitigate the unforeseen problems created by a change in the law governing the discipline of Federal prosecutors was rebuffed by the House of

Representatives. As a result, Federal prosecutors will continue to be hampered by the myriad and often contradictory State bar rules, and sometimes very politicized State bar rules. Even more alarming, Federal law enforcement authorities in the State of Oregon will continue to be prohibited from engaging in legitimate undercover activity—even undercover activity designed to infiltrate a terrorist cell. That is ridiculous. Nevertheless, we could not get our House counterparts to resolve that problem.

Another troublesome change concerns the 4-year sunset provision. As my colleagues know, the legislation that passed the Senate 2 weeks ago by a vote of 96-1 did not contain a sunset. This omission was intentional and wise. In my opinion, a sunset will undermine the effectiveness of the tools we are creating here and send the wrong message to the American public that somehow these tools are extraordinary.

One hardly understands the need to sunset legislation that both provides critically necessary tools and protects our civil liberties. Furthermore, as the Attorney General stated, how can we sunset these tools when we know full well that the terrorists will not sunset their evil intentions? I sincerely hope we undertake a thorough review and further extend the legislation once the 4-year period expires. At least, we will have 4 years of effective law enforcement against terrorism that we currently do not have.

Despite these provisions, the legislation before us today deserves unanimous support. The core provisions of the legislation we passed in the Senate 2 weeks ago remain firmly in place. For instance, in the future, our law enforcement and intelligence communities will be able to share information and cooperate fully in protecting our Nation against terrorist attacks.

Our laws relating to electronic surveillance also will be updated. Electronic surveillance conducted under the supervision of a Federal judge happens to be one of the most powerful tools at the disposal of our law enforcement community. We now know that e-mail, cellular telephones, and the Internet have been the principal tools used by terrorists to coordinate their attacks, and our law enforcement and intelligence agencies have been hamstrung by laws that were enacted long before the advent of these technologies. This bill will modernize our laws so our law enforcement agencies can deal with the world as it is, rather than with the world as it existed 20 years ago.

Also, the legislation retains the compromise immigration proposals that I negotiated with Senator LEAHY, Senator KENNEDY, Senator KYL, Senator BROWNBACK, and also Senator FEINSTEIN, who has played a significant role. She and Senator KYL have both played significant roles leading up to this particular bill, and over the last 5

years in particular. We have worked hard to craft language that allows the Attorney General to be proactive, rather than reactive, without sacrificing the civil liberties of noncitizens.

In total, the amendments made by this legislation to the Immigration and Nationality Act reflect, and account for, the complex and often mutating nature of terrorist groups by expanding the class of inadmissible and deportable aliens and providing a workable mechanism by which the Attorney General may take into custody suspected alien terrorists. Further, the legislation breaks down some of the barriers that have in the past prevented the State Department, the Immigration and Naturalization Service, the FBI, and others from effectively communicating with each other. If we are to fight terrorism, we cannot allow terrorists, or those who support terrorists, to enter or to remain in our country.

Finally, the bill provides the administration with powerful tools to attack the financial infrastructure of terrorism. For instance, the legislation expands the President's authority to freeze the assets of terrorists and terrorist organizations and provides for the eventual seizure of such assets. These financial tools will give our Government the ability to choke off the financing that these dangerous organizations need in order to survive.

The legislation provides numerous other tools—too many to mention here—to aid our war against terrorism. Many of these were added at the request of our Senate colleagues, and I commend all of them for their input.

Before I yield the floor, I must take a moment to acknowledge the hard work by my staff, the staff of Senator LEAHY, and the representatives of the administration, from the White House and the Justice Department and elsewhere, who were involved in the negotiation of this bill. These people have engaged in discussions literally around the clock over the 6 weeks to produce this legislation. So I thank everybody who has worked on this legislation.

This is a major anticrime, antiterrorism bill. It is probably the most important bill we will enact this year, certainly with regard to national security and terrorism. I thank everybody involved, and I will make further remarks about that later in the debate.

With that, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Madam President, it is my hope that today as we pass this antiterrorism legislation and as we will in future days take action on issues of resources to fight antiterrorism and changes in organizational structure, we will be making as significant a national statement about our will and determination to eliminate the scourge of global terrorism as previous generations did about other scourges that afflicted our country.

It was not that long ago that America was beset by the scourge of organized crime. Many of our communities had been seriously invaded by these insidious influences of organized crime. People, many of whom occupy the chairs that we now occupy in this very Chamber, decided a half century or more ago that was intolerable and we would take the necessary steps to recapture the essential values of our country.

I think it is fair to say we live in a much safer and more secure America because of those efforts. I hope that in years in the future those who occupy this Chamber will look back with a similar belief that the actions we are taking now have had a similar effect in terms of making this a more secure, not just America but world for our children and grandchildren.

With that hope, I wish to talk about a few of the provisions of this legislation that relate directly to America's intelligence community and the role it will play in securing that future.

First, a bit of history. For most of America's history, we have been extremely uncomfortable with the idea of clandestine intelligence. It ran contrary to our basic spirit of national openness. While the British have had a well-developed intelligence system since the Napoleonic wars, our first adventure in this field really is a product of the Second World War, and as soon as the war was over, the military intelligence services were essentially collapsed.

Two years later, President Truman recognized that with the advent of the Soviet Union and the development of what we came to know as the Iron Curtain that separated the Soviet Union from the free world, we were going to have to have some capability to understand what this large adversary was about and therefore prepare ourselves. So in 1947 the National Security Act was adopted which created the Central Intelligence Agency and from that the other intelligence agencies which now constitute America's intelligence community.

For 40 years that intelligence community was focused on one target: the Soviet Union and its Warsaw Pact allies. We knew that community. The United States had been dealing with Russia since even before John Quincy Adams was our Ambassador in St. Petersburg. It was a homogenous enemy. Most of the countries spoke Russian, and therefore if we had command of that language, we could understand what most of the Warsaw Pact nations were saying. It was also an old style symmetrical enemy: We were matching tanks for tanks, nukes for nukes.

With the fall of the Berlin Wall, the world changed in terms of intelligence requirements. Suddenly, instead of one enemy, we had dozens of enemies. Suddenly, instead of having command of one language which made us linguistically competent, there were scores of languages we had to learn to speak. In