

New York and 8 minutes to the Senator from California, both of whom are valued members of the Senate Judiciary Committee.

Mr. CONRAD. Mr. President, will the manager of the bill and others who are waiting permit me 15 seconds to mention what has occurred?

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

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the manager of the bill for including the provisions that Senator BOND, myself, and Senator SNOWE authored to tighten our borders, to provide coordination with schools and employers when visa holders come to this country, to coordinate the work of our intelligence agencies with the INS and the State Department so we are confident of who is coming in, and to impose these new provisions using biometrics so we really know who is coming to our country.

I thank the managers very much, and I thank Senator BOND for his leadership.

Mr. LEAHY. Mr. President, I thank Senator BOND. I thank Senator CONRAD and Senator BYRD.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President.

Mr. President, first, let me thank our senior Senator from Vermont and our senior Senator from Utah for their leadership on this bill; and also the many who have worked on it.

It is good that we have brought this bill in a timely fashion before the Senate. On the one hand, we didn't rush so much that we did the bill in a day or two. On the other hand, we didn't have a great need to wait in terms of security. I think it is coming to the floor at the right time with enough deliberation and care but at the same time not delaying too much because the security problems America faces are large and at times seem almost overwhelming.

If there is one key word that underscores this bill, it is "balance." In the new post-September 11 society that we face, balance is going to be a key word. Technology has forced us to recalibrate in many different ways. The technology that allowed these horrible people to do what they did to my city and to America and the technology that allows law enforcement to try to catch up with them changes rapidly. No law can sit still as that technology changes and still be effective.

The balance between the need to update our laws given the new challenges and the need to maintain our basic freedoms which distinguish us from our enemies is real.

There have been some on the right who have said just pass anything. We just have to go after the terrorists and forget about our freedoms and our civil liberties. There are some on the left who say only look at the civil liberties aspect. They are both wrong. Fortunately, neither prevailed in this fine

piece of work that we have before us. Balance and reason have prevailed.

This is the Senate working at its best under a crisis situation but still with care and an appropriate degree of deliberation.

It is also an example of the two parties coming together, and of the administration and the Congress coming together. In a sense, in this bill there is something for everyone to like and something for everyone to dislike, which may well show that it will end up in the right place.

I would like to talk about a few parts of the bill. The trap-and-trace provision is basically a proposal that Senator KYL and I put together a couple years ago which is basically in the bill intact. It is vital. If you ask law enforcement what they need, they need a standard when they have somebody who is a terrorist or a potential terrorist, that would allow a wiretap to be made so they can find that person.

In the old days it was easy. It was not easy to get a new telephone. You had to go to the phone company to get one, and it would take a few weeks. Now people have cell phones; and anyone, for an illicit or bad purpose, can get a cell phone every day. In fact, we know some of the hijackers regularly bought new cell phones.

Without this new process, without nationalizing trap-and-trace authority so you can follow the numbers that are called—you still cannot look at content without going to a judge—law enforcement would be powerless. It still confounds me that a simple provision such as this, which does not change the balance but simply updates the technology we need, had been held up for so long. Fortunately, it is here now. Or unfortunately, it took an awful incident to make it happen.

Most of the terrorists—and other criminals as well: money launderers, drug dealers—are pretty technologically savvy. To put handcuffs on law enforcement so they cannot be as technologically savvy, would make no sense.

I was also proud to work on the money laundering provision. Law enforcement has often said: Show me the money, and I will show you the terrorists. Let's be honest about it. The money-laundering provision is not going to stop the flow of money completely to the terrorists. They can still have couriers and packets and things such as that. But what it does do, No. 1, is make it harder, and, No. 2, it gives us information, the ability to find information, and find the flow of who is connected to whom, how, where, why, and when.

Again, the late Senator Coverdell and I had a money-laundering bill that is not terribly different than the provisions in this bill. We had introduced it a couple years ago.

I see my friend from Michigan. He has come to the Chamber. He has done great work in relation to money laundering, as has the Senator from Massachusetts, and so many others.

As to information sharing, again, we need to share information more quickly and more rapidly among our various law enforcement agencies and between law enforcement and intelligence agencies.

When we are facing a war where it is more likely that more civilians will die than military personnel, the homefront is a warfront. The old high wall between foreign intelligence and domestic law enforcement has to be modified. The bill does a good job of that.

There is a provision that would improve communication between Federal law enforcement and local law enforcement, which Senator CLINTON and I believe needs tightening up. There were procedural, not substantive, objections raised to it. We hope to bring that measure back either as a freestanding measure or as part of some other legislation.

The other provisions in the bill are good as well. I believe in immigration.

I think immigrants are great for America. But immigrants do not have the exact same rights as citizens. They never have, nor should they. To say that somebody who is not a U.S. citizen and might be suspicious should be detained for a short period of time while law enforcement checks them out—after all, they are trying to enter the country, which is a privilege, not a right—makes sense. To say they should be detained indefinitely without going to a judge cuts too far against the grain of the freedoms we have. Once again, this bill seeks a balance.

Finally, as to the sunset, I was very much opposed to the House 2-year sunset. How could we have law enforcement adapt to a new law knowing that by the time they get geared up, it is almost going to be sunsetted? In fact, I think you do it the other way. If a law is good, you put it on the books permanently, and then you reexamine it. You do not automatically have it off the books. That means you do not trust the product you put together.

Four years is about the minimum amount of time that would be acceptable to me. I thought 5 would be better, or, frankly, no sunset. Putting the burden of proof the other way would have made more sense, still. But a 4-year sunset, again, shows compromise.

Mr. President, I have said this in this Chamber before. In this new world in which we live, everyone has to give a little bit. We are asking our citizens to give a little bit. We are asking our Armed Forces to give a lot. And that applies to us as well.

I hope and pray—and I believe it has happened in this bill—there is a bit of a new attitude. Even if you cannot get everything your way, at least you give the benefit of the doubt to the compromise that has been put together because we have to move things forward, and this bill does that.

In conclusion, the scourge of terrorism is going to be with us for a while. Law enforcement has a lot of catching up to do. There is no question

about it. In this bill, at least, we give them fair and adequate tools that do not infringe on our freedoms but, at the same time, allows them to catch up a lot more quickly.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mr. LEVIN. Mr. President, I wonder if the Senator from California would yield for a unanimous consent request.

Mrs. FEINSTEIN. I would be happy to yield.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that after the remarks of the Senator from California, I be recognized for the time allotted to me.

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

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, Americans tend to be a very open people. Americans, to a great extent, have looked at Government, saying: Just leave me alone. Keep Government out of my life. At least that is the way it was before September 11. What I hear post-September 11 are people saying: What is my Government going to do to protect me?

As we look back at that massive, terrible incident on September 11, we try to ascertain whether our Government had the tools necessary to ferret out the intelligence that could have, perhaps, avoided those events. The only answer all of us could come up with, after having briefing after briefing, is we did not have those tools. This bill aims to change that. This bill is a bill whose time has come. This bill is a necessary bill. And I, as a Senator from California, am happy to support it.

This legislation brings our criminal and national security laws in line with developing technologies so that terrorists will no longer be able to stay one step ahead of law enforcement. And believe me, they can today.

Right now, for example, terrorists can evade Foreign Intelligence Surveillance Act wiretaps, which are device-specific, by simply switching cell phones every few hours. This legislation fixes that and allows for roving FISA wiretaps, the same as are currently allowed for suspected criminals under the domestic law enforcement portions of the law known as title III.

And because modern communications often travel through countless jurisdictions before reaching their final destination, investigators must now get court orders from every one of those jurisdictions. They can have to get 15, 20 court orders to carry out a wiretap. This bill would change that, allowing for just one court order from the originating jurisdiction.

And the bill recognizes that voice mails and e-mails should be treated alike when law enforcement seeks ac-

cess to them. Technology, as it changes, changes the ability to conduct an intelligence surveillance. This bill attempts to keep a very careful balance between the personal right to privacy and the Government's right to know, in an emergency situation, to be able to protect its citizens.

It also increases information sharing between the intelligence community and law enforcement. As a matter of fact, it mandates it. Criminal investigations often result in foreign intelligence. This information, up to this point, is not shared with the intelligence community. After this bill becomes law, it must be shared.

And it makes it easier for law enforcement to defeat those who would use the computers of others to do mischief.

For example, with the Zombie computer, I invade your computer and, by invading your computer, go into 1,000 other computers and am able to get one of them to open the floodgates of a dam. This bill prevents that.

Overall, this bill gives law enforcement and the intelligence community the tools they need to go after what is an increasingly sophisticated terrorist element.

I am very pleased this legislation also includes a number of provisions I drafted with Senator GRAHAM well before the events on September 11—title 9 of this bill. These provisions give the Director of the CIA, as head of the intelligence community, a larger role with regard to the analysis and dissemination of foreign intelligence gathered under FISA. These mandate that law enforcement share information with the intelligence community.

And title 9 improves the existing Foreign Terrorist Asset Tracking Center which helps locate terrorist assets. It authorizes additional resources to help train local law enforcement to recognize and handle foreign intelligence.

We now have these anti-terrorist teams throughout the country. They need to be trained, and they need to learn the tools of the trade and get the security clearances so they can tap into these databases.

I agree with the 4-year sunset included for certain surveillance provisions in the bill. In committee I suggested a 5-year sunset. The House had 2 years. It is now 4 years. That is an appropriate time. It gives us the time to review whether there were any outrageous uses of these provisions or whether uses were appropriate under the basic intent of the bill.

Let me briefly touch on a related topic of great importance in the war against terrorism. As an outgrowth of the Technology, Terrorism, and Government Information Subcommittee, today Senator JON KYL of Arizona and I held a press conference indicating a bill we will shortly introduce to create a new, central database, a database that is a lookout database into which information from intelligence, from

law enforcement, from all Federal agencies will go. That database will be for every visa holder, every person who crosses borders coming in and out of this country. The legislation will provide for "smart visa cards", reform the visa waiver program, reform the unregulated student program, and improve and beef up identity documents.

I passed around at the press conference a pilot's license, easily reproducible, no biometric data, no photograph, perforated around the edges showing that it had been removed from a bigger piece. This is the pilot's license that every 747 pilot carries, every private pilot carries. It is amazing to me that this can be a Federal document and be as sloppy as it is in this time.

We intend to see that identity documents are strengthened to provide not only photographs, but biometric data as well (such as fingerprints or facial recognition information). And the data system would be such that it is flexible and scalable so as biometric technology and requirements progress, the database can keep up.

Both Senator KYL and I also met with Larry Ellison, the CEO of Oracle. Oracle has stated that they are willing to devote some 1,500 engineers to develop a national identity database. What we are proposing is different from that. He said they would devote their software free of charge.

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

Mrs. FEINSTEIN. If I may just have 1 minute to conclude.

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

Mrs. FEINSTEIN. We are not proposing a national identity card, but we do believe this kind of database could be prepared by a company such as Oracle—they have offered to give it to the Government for free or by NEC, which did a state-of-the-art fingerprint system for San Francisco. We believe this should be under the auspices of the Homeland Security Director, that these decisions need to be made rapidly, and that we need to get cracking to close the loopholes that have made the United States of America one giant sieve.

This bill, which I am so happy to support, takes a giant step forward in that direction. I thank both the chairman of the committee and the ranking member for their diligence on this bill.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the antiterrorism bill which the Senate is about to pass reflects the sentiments the American people have expressed since the events of September 11—that we must act swiftly and strongly to defend our country without sacrificing our most cherished values. The Senate antiterrorism legislation meets that test. It responds to these dangerous times by giving law enforcement agencies important new tools to use in combating terrorism without denigrating