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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and God of glory, Your providence has guided our ways in times past. You have taught us to trust You for each day and every event.

As our Senators seek to do Your will, renew their faith, rekindle their love, and regenerate their resolve. Give them the insight to know that not everything old is bad, nor everything new, good; conversely, not everything old is good, nor everything new, bad. Teach them through Your Spirit lessons they need to learn. May their highest aim be to love You and do Your will. Lead them with Your sure hand so they may follow You without hesitation.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will resume debate on the port

security bill immediately following the 30-minute period of morning business. We have an agreement for a vote in relation to Senator REID's amendment to occur at 12:15 today. There is a point of order against that amendment, and therefore the vote is likely to be on a motion to waive the budget relative to that amendment.

The managers have done good work on the bill thus far, but we have not had an agreement yet as to when we can finish this security legislation. Therefore, last night I filed a cloture motion on the bill so that we will conclude the bill this week. I have indicated we are willing to vitiate that vote if an agreement is reached that will bring the Senate to a reasonable conclusion on this port security measure. In the meantime, we will continue to work on amendments, with rollcall votes each day. I also remind Senators that under the rule, Senators have until 1 p.m. today in order to file timely first-degree amendments.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Thank you very much, Mr. President.

REAL SECURITY AMENDMENT

Mr. REID. Mr. President, shortly there will be a debate on an amendment that was offered on my behalf and a number of other Democrats.

It is an amendment that would implement all 41 recommendations of the bipartisan 9/11 Commission.

The amendment would equip our intelligence community to fight terrorists. In effect, what it would do is go back to what we have been doing for 27 years; that is, allow the Intelligence Committee every year to have a bill before this body, to allow them to update what needs to be done so they can proceed with intelligence activities in our country and around the rest of the world. We did not authorize the Intelligence Committee's work for the first time in 28 years last year. Now, this year, we have not done it again. This amendment would put that in effect.

Third, the amendment would secure our ports, rails, roads, airports, chemical and nuclear plants, and mass transit systems.

Fourth, the amendment would refocus America on the war on terror. I went into that in some detail yesterday.

Fifth, the amendment would provide better, updated tools to bring terrorists to justice.

Finally, the amendment would change course in Iraq. Certainly that is something the American people deserve and want.

Yesterday in Iraq, 65 Iraqis were found dead, a number of them beheaded, one with a note saying: Anyone that cooperates with Americans, this is what is going to happen to them. In addition to that, scores of others were killed in bombing incidents around the country. Two American soldiers were killed.

So the amendment would change course in Iraq. Americans deserve real security. This bill is real security. The amendment is real security. I ask colleagues on both sides of the aisle to join me in supporting this amendment. I yield the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, may I proceed?

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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The PRESIDENT pro tempore. You may.

Mr. ROCKEFELLER. I thank the President pro tempore.

NSA WARRANTLESS SURVEILLANCE PROGRAM

Mr. ROCKEFELLER. Mr. President, the National Security Agency has been wiretapping the conversations of Americans without obtaining court orders, as required by the Foreign Intelligence Surveillance Act, or FISA, for the past 5 years.

In recent months, a number of bills have been proposed which would codify the President's program of warrantless surveillance. The White House is now pushing the Senate Judiciary Committee to pass sweeping legislation that would amend FISA and grant the President unprecedented authority to undertake wiretapping in the United States without the judicial scrutiny currently required by law.

For Congress to legislate on this program in the coming days would not only be premature but irresponsible.

The fact remains that despite repeated assurances from the administration, Members of Congress remain in the dark and cannot answer fundamental questions about the program's existence, effectiveness or legal justification.

As one of the few Members who have received the most detailed information to date. I can tell you that, putting aside the legal argument, the administration has not been able to document convincingly the counterterrorism benefits of the program.

In fact for the past 6 months, I have been requesting, without success, specific details about the program including how many terrorists have been identified, how many arrested, how many convicted, and how many terrorists have been deported or killed as a direct result of information obtained through the warrantless wiretapping program.

I can assure you, not one person in Congress has the answers to these fundamental questions.

At the same time, let me be perfectly clear, I support all efforts to track down terrorists wherever they are using all of our best technology and resources. But it can and must be done legally and in a way that protects the rights of all Americans.

For 4½ years, the President had restricted knowledge of this program to the top leaders of the Senate and House and the two top leaders on the congressional Intelligence Committees.

By limiting the briefings to 2 of the 15 Intelligence Committee members, the White House had sought to prevent the committee from conducting the legally required oversight of the NSA program.

Because of this restriction on access to the program, the committee has been effectively prevented from knowing about the program, evaluating the program, and acting on the program.

Frankly, I believe the White House goal of the past 5 years has been to use the iron cloak of secrecy to keep Congress ignorant of and powerless to challenge a controversial program of suspect legality.

The repeated representations by the President and senior administration officials that the warrantless wiretapping program was and is subject to extensive congressional oversight are simply outrageous.

Entire committees, not individual Senators, report out legislation that authorizes and funds intelligence collection programs. The full Senate, not individual Senators, takes action to approve or reject this legislation.

The White House wanted a warrantless wiretapping program that was exempt from the scrutiny of both the courts and the Congress, even if it meant ignoring the legal requirements of FISA and the National Security Acts and shattering what had been decades of responsible, bipartisan congressional oversight of intelligence programs. Why?

Administration officials have stated that the fact that the NSA was collecting the communications of suspected terrorists coming in or out of the United States without a court's determination that probable cause existed was simply too sensitive to disclose to the other Members of Congress intimating that the congressional Intelligence Committees could not keep aspects of the program classified.

I would remind this administration that the Intelligence Committee is entrusted on a daily basis with the secrets that if disclosed would irreparably harm our national security, compromise multibillion-dollar collection programs, and even get people killed.

There are 15 members of the Senate Intelligence Committee and many more of my colleagues who at an earlier time served on the committee.

All Senators, by right of their elected position and the duties they are sworn to carry out have access to the details of these highly classified collection programs.

It is a sobering responsibility but members of our committee and the Senate as a whole have protected these secrets because each of us understands what is at stake.

In fact, as someone who has been briefed on the NSA wiretapping program, I can assure my colleagues that the sensitivity of the program pales in comparison with other intelligence activities our committee oversees on a routine basis.

My colleagues should be troubled by the fact that the only NSA intelligence collection program that the White House has directed be described in detail publicly is also the only NSA program the White House continues to withhold from the full Senate.

I want my colleagues to consider the implications of this carefully.

At a time when terrorism is the No. 1 threat to America's security, the

White House has decided that Congress cannot be trusted with the job of protecting our citizens.

Instead of working with Congress, the President decided with an almost imperial disdain to ignore the constitutional role the legislative branch plays in providing for the National defense.

It wasn't until March 9 of this year, and after enormous pressure, that the administration agreed to allow five additional committee members and three staffers to be briefed into the program.

Another 2 months would pass before the White House agreed with our request that the entire committee membership be apprised of the program's operations.

However, contrary to public statements in recent months by the President and Vice President that Congress is being fully briefed, I am dismayed to report that this administration continues to pursue its policy of depriving the Congress the information it needs to understand and evaluate the NSA program's legal underpinnings, operational conduct, and usefulness in identifying and arresting terrorists.

On February 23, 2006, I wrote to NSA Director GEN Keith Alexander, Attorney General Alberto Gonzales and Director of National Intelligence John Negroponte requesting documents and information about the NSA program, including the Presidential orders authorizing the program, legal reviews and opinions relating to the program, procedures and guidelines on the use of information obtained through the program, and specifics about the counterterrorism benefits of the program.

This letter was followed up with a second more refined request on May 15 of 54 items based on briefings the committee had recently received.

The May letter repeated my earlier request for basic documentation and information, such as the Presidential authorization orders, which are essential in order for the Intelligence Committee to fully understand and thoroughly evaluate the NSA program, a necessary step before considering whether legislation relating to the program or amending FISA is needed.

Over 6 months have passed since I sent my original February letter and the Intelligence Committee has not received the requested information.

During this time, I and my staff director repeatedly raised the issue of the delinquent replies with White House and administration officials, including a direct appeal I made to Director Negroponte in July.

Six months and no response from the administration. This is simply unacceptable.

Three days after I met with Director Negroponte and expressed my concerns about the lack of a response to the February and May requests for documents and information, the Intelligence Committee received a fax from the NSA's Office of General Counsel forwarding "a set of administration-approved unclassified talking points for members to use."