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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania.

The PRESIDING OFFICER. Today's opening prayer will be offered by our guest Chaplain, Reverend Brian C. Mentzer, of Riverdale Baptist Church, in Upper Marlboro, MD.

PRAYER

The guest Chaplain offered the following prayer:

Almighty God, ruler and maker of Heaven and Earth, we recognize that in You we live and move and have our being and that You are not far from each one of us. We praise You for You are the creator and sustainer of all life. We thank You for Your grace and love, righteousness and wisdom.

Sovereign Lord, we humbly seek Your guidance today on behalf of these Senators. May they fulfill their responsibilities before You with courage and compassion. May they chart a course for our Nation to follow that pleases You. May they hold their office in which You have placed them and may they discharge their obligations to this Nation and to You with dignity, charity, and honor. As they face great pressures, please give them Your wisdom to make decisions based on Your principles.

You have told us in Your word that righteousness exalts a nation but sin is a reproach to any people. As Nehemiah of old prayed, we also ask You . . . God please forgive us of our national sins. On too many occasions we have not acted justly, nor loved mercy, nor walked humbly with You. Forgive us, we pray, and cleanse and bless us that we may bless others.

Lord of Hosts, please protect our military forces who bravely stand in harm's way to secure and protect freedom around the world. Grant them swift success in their mission. Bless and keep their families as well.

And now, Lord, we commit the business of this day and this Senate to You,

for Yours is the kingdom and the power and the glory forever and ever.

In Your Name we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY, Jr., 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 8, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CASEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, this morning, the Senate will be in a period of morning business for 1 hour, with the time divided between both sides, the Republicans having the first half and the majority the second half. Following that period of time, the Senate

will resume consideration of the 9/11 legislation, S. 4.

Last night, the Republican leader and I had a discussion about the legislation, the importance of completing it and how we do so. The Republican leader modified a pending amendment in order to include the provisions of three other amendments which were pending, and then filed cloture on that amendment. Before adjourning last night, I filed cloture on both the substitute amendment and the bill. So tomorrow morning, Friday, we will have a cloture vote on the Republican amendment. And, of course, if cloture is not invoked, then there is an immediate cloture vote on the substitute. So Members could be here Friday well beyond the noon hour.

Just to remind Members, since cloture has been filed on the substitute and the bill, they have until 1 p.m. today to file any additional germane first-degree amendments. At this point, approximately 110 amendments have already been filed.

Right now, 40 amendments are currently pending. That includes, of course, the substitute amendment. I am advised that from a preliminary review by the Parliamentarians of these pending amendments, only eight of them are germane. I have the list of amendments here. It is a long list, as we indicated, of some 100-plus amendments. Out of those, there are eight that are germane. There may be a couple more that are arguably germane. But that is where we are. We will instruct the two managers to see if they, today, can move through the germane amendments. That would speed things up postcloture tomorrow.

We are still attempting to resolve other issues on this most important bill. It is a bill that deals, as we know, with the recommendations of the 9/11 Commission. It has been 2½ years since they completed their work. The House has already done theirs. We are going to do our very best to follow suit. I feel

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



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comfortable we will be able to complete something before we leave here this Friday or Saturday or, if good fortune smiles on us, we can work out something tonight.

RECOGNITION OF THE MINORITY LEADER

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

PASSAGE OF S. 4

Mr. McCONNELL. Mr. President, let me echo the remarks of the majority leader. We are hoping we can get a number of amendments handled in the course of today's business. This is a measure that—even though it is at the moment flawed—has a chance of getting better in conference and preventing a Presidential veto. It certainly is not the view of this side that we want to prevent passage of this bill, once we have gotten an adequate number of amendments disposed of that have been offered on this side. I think we can work out some way to wrap up this bill sometime in the near future.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the first 30 minutes under the control of the Republican leader or his designee and the final 30 minutes under the control of the majority leader or his designee.

The Senator from Texas.

IMPROVING AMERICA'S SECURITY

Mr. CORNYN. Mr. President, we are on a very important piece of legislation, as we all know, the unfinished work of the recommendations of the 9/11 Commission. We have been on this bill now for almost 2 full weeks, but we have been unsuccessful so far in being able to get votes on key amendments, which I do believe would fill a significant gap in the protections that are available to the American people in the post-9/11 world.

We yesterday offered a package of amendments which actually represents a consolidation of previously filed amendments I want to discuss briefly, which I think fulfills that important role of gap-filling in the unfinished work from the 9/11 Commission recommendations.

Last night, Senator McCONNELL, the Republican leader, filed cloture on

amendment No. 312, as modified. It is my hope, when we have that vote tomorrow—as currently scheduled under the regular order—we will have an up-or-down vote on provisions critical to addressing threats that terrorists employ in the United States and on U.S. citizens.

This amendment contains five critical homeland security tools. It is imperative we include this legislation to give the appropriate Federal agencies the authority, No. 1, to punish those who recruit terrorists; No. 2, to revoke the visas of terrorists; No. 3, to allow the U.S. Government to detain dangerous aliens; No. 4, to punish those who provide material support—in other words, financial inducement—or I should say support to families of those who engage in terrorist acts; and, No. 5, to protect families of soldiers from terrorist hoaxes.

These are all contained in amendment No. 312, on which a cloture motion has been filed, and upon which we will vote tomorrow, if not before by agreement.

I want to explain these important tools so Members understand what is at stake.

The first of these provisions is to provide the Federal Government, for the first time in our Nation's history, the ability to punish those who actually recruit terrorists. We know from intelligence products gained from—and now public—Khalid Shaikh Mohammed, the mastermind of 9/11, they were actively engaged in recruiting terrorists within the United States—in our prisons, in some mosques, and elsewhere—with the idea of having a terrorist who could act within this country and who would, therefore, not be stopped by the various protective mechanisms we put in place, whether it be the Transportation Security Administration, improvement of our intelligence gathering and sharing to prevent dangerous aliens from entering the country and committing terrorist acts.

The whole concept behind Khalid Shaikh Mohammed's efforts was to recruit people domestically, people who would not meet sort of the typical description some would anticipate or the profiles the intelligence officials might have of the type of person who would be logically suspect for terrorist activities. So what this part of the amendment would do would be to punish recruitment of terrorists within the United States. This is a gap in our laws that needs to be filled.

Senator GRASSLEY had previously filed an amendment which is now included in this consolidation. This has to do with revoking the visas of terrorists. Under current law, visas approved or denied by consular officials are non-reviewable. That is overseas. If somebody applies for a visa, and they do not get it, then those are not reviewable. In other words, there is not a stream of litigation or successive appeals they can go through in order to challenge the denial of their visa.

However, if a visa is approved but later revoked and that individual is on U.S. soil, the decision by the consular officer is reviewable in U.S. courts. This amendment makes these revocations nonreviewable.

This is both a practical problem and is actually a huge difficulty, identified by the Government Accountability Office in 2003. They said that even if an alien's visa is revoked on terrorism grounds after the alien reaches the United States, it is almost impossible to deport the suspected terrorist because persons with a revoked visa can stay in the United States and have a right to successive appeals of a consular officer's decision.

Moreover, allowing the review of these revoked visas, especially on terrorism grounds, jeopardizes the classified intelligence that may have led to the revocation in the first place and makes the FBI and CIA hesitant to share the information. We can see how that standoff would occur. They are hesitant to share the information; therefore, visas of dangerous persons are not revoked.

So due to the practical delay caused by review, we would suggest—this amendment suggests—we treat the visas exactly the same whether they are denied outside of the country or revoked inside of the country based on terrorism grounds.

Also included in this package is an amendment that has to do with the detention of individuals who have entered our country illegally and are subject to being repatriated, particularly criminal aliens. This grows out of a Supreme Court decision in 2001, where the Supreme Court held, in the *Zabidah* case, the Department of Homeland Security could not detain a person longer than 6 months. In this case, for someone with a criminal record, who could not legally stay in the United States, they could not detain them more than 6 months. Unless they were successful in getting them repatriated or returned to their country of origin, the only thing the Department of Homeland Security could do is release them into the general population of the United States. That is simply an unacceptable result.

What this amendment would do is change the statutory law of the United States, as invited by the U.S. Supreme Court, to authorize the Department of Homeland Security to detain dangerous aliens longer than 6 months if, in fact, there is a reasonable expectation that individual will be repatriated to their country of origin.

For example, the Government had to release Carlos Rojas Fritze, who sodomized, raped, beat, and robbed a stranger in a public restroom and then called it, bizarrely, "an act of love," and Tuan Thai, who repeatedly raped, tortured, and terrorized women and vowed to repeat his crimes. These are just two individuals who, under the Supreme Court decision, had to be released into the American public—obviously a great danger to the American