these issues every month of this year, I think, leading up until maybe about 4 or 5 more months, the Members will have an opportunity to go back to their districts for a week and have these district work weeks. I encourage all of our constituents to engage us on these issues and to continue to keep the pressure on so that we make the right decisions here in Washington, DC.

Mr. Speaker, it was an honor to address the House once again. I yield back the balance of my time.

PROTECT AMERICA ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Texas (Mr. MCCAUL) is recognized for 60 minutes as the designee of the minority leader.

Mr. MCCAUL of Texas. Mr. Speaker, I rise today in support of the Protect America Act, and I urge the Democratic leadership in the House to bring to the floor the bipartisan bill that was passed in the Senate overwhelmingly which brought this act to permanency.

Unfortunately, last month what we saw was, on February 15, this act did not come to the floor; rather, it expired. The Democratic leadership failed to bring that to the House floor. And with the expiration of the Protect America Act, our intelligence communities went dark in many parts of the world.

This is a game of dangerous politics. It is putting the American people at great risk as every day passes. I urge again the Democratic leadership to bring the bipartisan Senate bill to the floor so that democracy can operate, because the American people support this bipartisan legislation that the Senate passed and we need to pass it now to protect American lives. If I can just step back and give this some context.

The Foreign Intelligence Surveillance Act actually passed in 1978, during the Cold War. It was a time, again, during the Cold War, not the threat that we face today, a very different threat. The FISA Act, because the technology now has outdated the law, needs to be modernized. And that is exactly what the Protect America Act does.

The Director of National Intelligence came to the Congress last year to tell us that we needed this modernization because there are dangerous loopholes and intelligence gaps in our collection capability, and that needed to be fixed. Many of us here in the House listened to that warning, answered that call, and voted in a very bipartisan way last August for the Protect America Act. Unfortunately, as I stated, last month, on February 15, the Democratic leadership allowed that act to expire, again placing Americans in grave jeopardy.

And what did we hear from the Democratic leadership at that time? Majority Leader STENY HOYER said, there really is no urgency here; the intelligence agencies have all the tools that they need. Chairman SILVESTRE REYES at the time said, Things will be just fine. Things will be just fine.

But things aren't fine. And all you have to do is look at a letter that we received in the Congress from the Director of National Intelligence and the Attorney General pointing out the grave risk that this expiration is giving to the American people. They said: The expiration of the authorities in the Protect America Act would plunge critical intelligence programs into a state of uncertainty, which could cause us to delay the gathering of, or simply miss, critical foreign intelligence information. And then, they say, that is exactly what has happened since the Protect America Act expired days ago without the enactment of the bipartisan Senate bill.

This is the Director of National Intelligence, a man who served under Democrats and Republicans. This is the Attorney General of the United States. They said we have lost intelligence information this past week as a direct result of the uncertainty created by Congress' failure to act. I submit that this is not only a failure to act; it is a dereliction of duty to the American people. We have the most solemn obligation first and foremost to protect the American people. Mr. Speaker, we are failing in that obligation in the House today.

Intelligence is the best weapon we have in the war on terror. Intelligence is the first line of defense in the war on terror. And, if I could step back to 1993 and tell a story.

I used to work in the Justice Department. I worked on FISAs. In 1993, an individual named Ramzi Yousef came in the country with a fake Iraqi passport, and he plotted to bring down the World Trade Center. Fortunately, he wasn't successful that day, although he did kill people. Innocent lives were lost, and he caused great damage to these buildings. He fled, ended up eventually in Islamabad in Pakistan, where he met up with his uncle, Khalid Shaikh Mohammad. Khalid Shaikh Mohammad of course is the mastermind of September 11. There, they talked about the idea of flying airplanes into buildings.

Eventually, Ramzi Yousef was caught in Islamabad and brought back to justice. But the intelligence that we missed back then because some of the flaws in the system, the 9/11 Commission studied this and they made several recommendations. And, of course, at the time they analyzed what we passed in the PATRIOT Act to fix this problem, that being the fact that a wall separated the criminal division from the foreign counterintelligence. The left hand literally didn't know what the right hand was doing. This caused great consternation within the Justice Department and within the intelligence community. I remember working before the PATRIOT Act passed and I remember some of these frustrations myself.

There is a great quote from an FBI agent who was frustrated with this. He said: You know, someday someone will die and, wall or not, the public will not understand why we were not more effective at throwing every resource we had at certain problems. Let's hope the national security law unit will stand behind their decisions then, especially since the biggest threat to us now, Osama bin Laden, is getting the most protection.

I draw this analogy because the same principle applies to the FISA modernization, and that is that if we fail to pass this act, someday someone will die.

□ 2115

The biggest threat to us is Osama bin Laden and al Qaeda; and they are, unfortunately, now getting great protections. They are getting constitutional protections that they don't deserve. We are required to go to this FISA Court any time we want to listen to overseas intelligence. Foreign communications from a foreign terrorist to a foreign terrorist, we are required to go to a court in the United States with a showing of probable cause, giving a terrorist constitutional protections they do not deserve and putting not only Americans in the United States at great risk, but the war fighter abroad at great risk.

There is a great example last year. Three American soldiers were kidnapped. Because of the FISA restrictions, we had to get lawyered up, go to the FISA Court, apply for a warrant, and show probable cause for an emergency FISA warrant. Many hours expired. In the meantime, one of those soldiers was killed, and two we haven't heard from since. This is a tragic outcome. Again, this is putting Americans at great risk.

We talk a lot in the 9/11 Commission about connecting the dots. And the fact of the matter is, if we can't gather and collect those dots, there is no way we can connect the dots. And the gentlelady from New Mexico has stated so eloquently so many times that very point. I want to yield to her. The gentlewoman from New Mexico (Mrs. WILSON) has been the leader in the House on this issue. She was the one who really brought this issue to the attention of the Congress, and I believe America owes her a great deal of gratitude, so we can fix this intelligence gap we currently have in the law and ultimately save lives.

Mrs. WILSON of New Mexico. I thank my colleague from Texas, and I also thank him for his leadership on this issue. It has been a tremendous help to this body to have people who have actually worked and tried to enact and implement the provisions of the Foreign Intelligence Surveillance Act to come and be able to explain why it doesn't work in the way it is intended to work in a time of terror.

I think it is important for people to understand, what is the Foreign Intelligence Surveillance Act and why do we

have it. In the 1950s and the 1960s, there were abuses by our intelligence agencies where they were wiretapping Americans without warrants. In fact, a friend of mine gave me a copy once of a declassified memorandum signed by Robert Kennedy and J. Edgar Hoover that authorized the wiretapping of Martin Luther King. So there were abuses in the 1950s and 1960s, and the 1978 Foreign Intelligence Surveillance Act was put in place. The intention of it was to say if you want to collect foreign intelligence in the United States, and there are reasons to do so, you go to a special court called the FISA Court and get a warrant.

There are folks we suspect of being spies who are here in the United States, people working for the Soviet Union, at that time, or Cuba or China, and you want to be able to go to a court and get a warrant to listen to someone in the United States. And the Foreign Surveillance Intelligence Court was set up for that purpose. But it was written in a way that was technology specific.

In 1978, that was the year I graduated from high school. The telephone was on the wall in the kitchen, and it still had a dialy-thing in the middle. It wasn't even a push-button phone at my house. The Internet didn't exist. Cell phones were Buck Rogers stuff. So the law was written in a technology-specific way that said over-the-air communications you can listen to, you don't need a warrant for that. And at the time, almost all international calls were over the air. They were bounced over a satellite. But to touch a wire in the United States, it is presumed to be a local call and you need a warrant.

Of course today, the situation is reversed. There are over 200 million cell phones in America, and all of that communication is bouncing over the air. But that is not what we need for foreign intelligence and to prevent another terrorist attack.

So, ironically, we now have a law written specific to 1978 technology which does not protect local calls and does protect international calls. Why, because today almost all international calls are over a wire or a fiberoptic cable. And because of the way that global telecommunications is now routed, telecommunications now follow the path of least resistance, and it is entirely probable that a phone call from northern Spain to southern Spain may transit the United States because that might be the path of least resistance. Likewise, a call from Afghanistan to Pakistan or a call from the Horn of Africa to Saudi Arabia may well transit the United States. But in order to listen to that communication, if you touch a wire in the United States, our courts were saying you have to have a warrant.

So we now have the situation that was building up last year where we had intelligence agencies trying to develop statements of probable cause to get a warrant to touch a wire in the United States to listen to foreigners in foreign countries principally for the issue of preventing terrorism because terrorists use commercial communications. And so we had this huge backlog of requests. And it is worse than just the time it takes to develop a case for probable cause or to go to the courts and the time it takes our experts to be able to take time away from actually listening to terrorists to explain to other lawyers and judges why they believe someone is affiliated with a terrorist group. Sometimes you can't meet that high standard of probable cause.

Think about this for a second. If we are trying to get a warrant on someone here in the United States because we believe they are involved with organized crime, you have all of law enforcement to go out and look at what they are doing and talk to their neighbors and so on. If you have someone who is a suspected terrorist living in the Horn of Africa, you can't send the FBI out to talk to their neighbors. Sometimes the probable cause standard is too high to meet; and as a result, by the middle of last year, we had lost two-thirds of our intelligence collection on terrorism. The law had to be changed.

In the first week of August we changed it with the Protect America Act. Eighteen days ago that act expired. Now, to their credit, they worked through the backlog in that 6 months and they were able to get collections started on that whole backlog of intelligence collection related to terrorism. Those won't expire for a year. But here's the problem. New tips come in every day.

I sometimes go out and visit our intelligence agencies in my role as the ranking member of the Technical and Tactical Intelligence Subcommittee. Sometimes the director of that particular agency will say, Congresswoman, I know you are here to get a briefing on such and such a program, but I want you to know the threats we are following today. This is who we are looking for today. This is the tip we got yesterday that we are trying to track down. We have 12 terrorists who transited Madrid who just finished training in Pakistan. We are trying to figure out where they are going. We think we know the throw-away cell phone numbers that they picked up in the rail station in Bonn. We need to listen to them to figure out their plans, capabilities, and intentions. Are they going to kill Americans tomorrow?

That's why this is so important. We have to match the terrorists stride for stride, and we can't afford to have delays in intelligence collection when we are trying to prevent another terrorist attack.

Mr. MCCAUL of Texas. Mr. Speaker, as so eloquently stated by the gentlelady, this is about saving American lives, first and foremost. That is the issue at stake here. And it is also about protecting our war fighters so we don't have to go through a court in the United States to get a warrant to hear what al Qaeda is saying overseas about the threats to our military.

Mrs. WILSON of New Mexico. If the gentleman would yield for a question, is it true that if we have soldiers in a war zone, whether it is Iraq or Afghanistan, if we have soldiers in a war zone, that they may actually be authorized to shoot an insurgent, but they have to go back to talk to lawyers in Washington in order to listen to them? Is that true?

Mr. MCCAUL of Texas. That is the absurd result of us failing to pass the Protect America Act in this body. It is putting our soldiers at grave risk.

These constitutional protections, to extend them to foreign terrorists, the FISA when it was enacted was not enacted to give foreign terrorists constitutional protections. It was enacted, if you are an agent of a foreign power in the United States, to give some protection.

I have quoted before Admiral Bobby Inman who is one of the principal architects of the FISA statute. Again, it was designed to, when we want to monitor an agent of a foreign power in the United States, go to a special court and get a warrant. It was not designed to apply to foreign terrorists overseas talking to terrorists overseas. And these constitutional protections that I suppose our friends on the other side of the aisle would like to extend to the terrorists turns the statute on its head.

What Admiral Inman says is to apply FISA to ''monitoring foreign communications of suspected terrorists operating overseas such as Osama bin Laden and other key al Qaeda leaders turns the original intent of FISA on its head.'' This is the man who was principally responsible for writing the statute.

He says, contrary to some of the rhetoric coming from the Democrats, it is the members of al Qaeda, not American citizens, as our colleagues will say, it is al Qaeda who is the target of these intelligence-gathering activities.

I think the majority of the American people support the idea that we should be able to hear what al Qaeda is saying overseas without getting lawyered up and going to a court to get a warrant. We know this agenda is driven by many on their side of the aisle, the special interests, the ACLU, the trial lawyers, and it is such a dangerous policy.

Mrs. WILSON of New Mexico. If the gentleman would yield for a question, is it true that under the Protect America Act, in the Senate bill, the bipartisan Senate bill that we should vote here on this floor on as soon as possible, is it true that it is still against the law to listen to an American in the United States? Do you still need a warrant to listen?

Mr. MCCAUL of Texas. You still need a warrant because the fourth amendment of the Constitution applies to persons in the United States. But the fourth amendment of the Constitution

does not apply to foreign terrorists overseas not in the United States.

That is the sort of root of this problem is that we are applying constitutional protections to overseas terrorists. Now how absurd is that?

I think if the American people really knew what was going on up here and really knew what this debate was all about, and I do think that they are rising by the day. We are getting letters and phone calls by the day, and I believe they are not going to stand for this kind of nonsense that puts the American people and the war fighter at risk.

Mrs. WILSON of New Mexico. If the gentleman would yield, there are some fallacies about the Foreign Intelligence Surveillance Act that I think we need to put to rest.

One is there is an emergency provision, you can just listen to this stuff and go to the court 72 hours from now. You have an emergency provision. It is true there is an emergency provision, but you have to develop the whole case for probable cause and present it to the Attorney General who has to stand in the shoes of the judge. So you have to get all of the work done; you just don't have the final signoff for a judge. And the time problem occurs before you get to that point. It is to develop the whole case for probable cause.

I have seen one of these packets. It is sometimes close to 2 inches thick of paper that explains how you meet all of the requirements of the act. When it really matters, when we had three soldiers who were kidnapped in Iraq, it took over 24 hours to get an emergency warrant.

I don't know whether that would have saved our soldiers or not. We thought we had a tip on who it was that had kidnapped them. I don't know if it would have been fast enough even if we would have been able to turn it on immediately. But I know if they were my kids, a 24-hour delay is not good enough, and we should expect more from our Government.

Mr. MCCAUL of Texas. Reclaiming my time, I would like to add to that, having worked on FISA applications, as the gentlelady has seen, it is a very cumbersome, paperwork-intensive process to establish probable cause and to get a court-ordered warrant. In many cases, it took us 6 to 9 months to get these warrants.

Now, it has been a little streamlined since 9/11, but it is still a very, very cumbersome process. And again, the statute was never intended to apply to this type of situation. That is why we need to fix this now.

Again, the majority leader, STENY HOYER, says there is no urgency. There is no urgency. Tell al Qaeda that.

Chairman SILVESTRE REYES, things will be just fine. Tell al Qaeda that. They must be celebrating. When they look at what we are doing with this statute, they must be saying to themselves, How naive. We are playing right into their hands, and this needs to stop.

I yield now to the gentleman from Georgia (Mr. GINGREY).

□ 2130

Mr. GINGREY. Well, I thank my colleague for yielding. I thank all of my colleagues for bringing this important issue to the floor tonight to make sure that each and every Member on both sides of the aisle has a good understanding of this issue. And anybody who might be listening or tuned in, but mainly for our colleagues here to understand.

The gentlewoman from New Mexico clearly understands the issue. The gentleman from Texas, having worked in the Justice Department, clearly understands the issue. Our colleague from Pennsylvania (Mr. DENT) who was here last week with us, I know that he clearly understands.

But it can be confusing. And you know, you listen to this, and I think sometimes eyes glass over pretty quickly when you get into the weeds of it.

But I think the bottom line is what my colleagues have already said. This law originally passed for the reasons Representative WILSON outlined back in the late 1970s. And it was very much based on the technology of the time.

And here we are in 2008, and I don't even have a hard line at my apartment here in Washington. We have a cell phone. And we have a cell phone that has a yearly contract. But, of course, the bad guys, what they do, in regard to cell phone technology, is they buy these throwaway cell phones and these burn cards and it's very difficult to track them.

So in the modernization of FISA in the Protect America Act, and indeed in the PATRIOT Act, we tried to bring that law into the 21st century. And I'll tell you this; I trust the three Michaels on this. I trust the Attorney General, Michael Mukasey; I trust Michael McConnell, the Director of National Intelligence. I trust Michael Hayden, the Director of the CIA. And I think they would tell us what they are telling us no matter who was in the White House, no matter who the Commander in Chief was. This is not political. They're basically saying to the Congress, we need these tools. We need these new tools. We need to grant immunity to the telecommunications companies so they can provide phone records to us, so that our intelligence experts can look at this data, if you want to call it data mining. I don't know exactly how it's done. But you have to have that ability.

And indeed, the telecommunications companies in this country are required by Federal law under the penalty of both civil and criminal if they don't provide this data. So they're darned if they do and they're darned if they don't. And the Democrats seem to want to insist that this liability persist. I don't know. Maybe it's a sop to the trial lawyers. But it's absolutely essential that we pass this bill.

And as my colleagues pointed out, here we are 18 days since the FISA law expired. I heard Mr. REYES say on television this weekend on one of the Sunday morning TV shows, well, you know, we've talked to the telecommunications companies. He, of course, I'm referring to the gentleman from Texas, who is the chairman of the Select House Committee on Intelligence basically saying it's time, now that we understand, he understands the need that let's go ahead and pass this law.

And here we are this week and what happens? You know, this is the 18th day. It just goes on and on and on.

So clearly, I think when you strike right to the bottom line, it's exactly what my colleagues have said. You don't have to understand it any more than that. We need this renewal. We need this modern technology of this law to continue to protect our citizens.

I'm honored to be here with my colleagues and to share my thoughts, although I don't have the depth of knowledge that they do. I don't need to have that. I just have a little faith in what my colleagues are telling me and the need to protect our citizens.

So with that I will yield back to the gentleman from Texas, and be glad to be with my colleagues for the rest of the hour and continue to dialogue with them.

Mr. MCCAUL of Texas. I thank the gentleman for his comments. And reclaiming my time, there is an urgency here. We need to act in real time with real time intelligence. We can't afford to wait 6 to 9 months for a FISA Court to issue a warrant to a foreign terrorist overseas who has no constitutional protections.

Let's look at what the Director of National Intelligence said about this issue just recently since the expiration of the Protect America Act. He says, ''Our experience in the past few days since the expiration of the act demonstrates that these concerns are neither speculative nor theoretical. Allowing the act to expire without passing the bipartisan Senate bill has had real and negative consequences for our national security. Indeed, this has led directly to a degraded intelligence capability.''

I don't know of any American who can read these words from our Director of National Intelligence, the man who heads up our intelligence communities, the man who served under both Democrats and Republican, and not have a chill run up your spine when you read this quote. The threat, the risk, the grave risk that the majority is putting this country in by allowing this act to expire. There is an urgency and we need to get it passed.

With that I am going to yield to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. I would like to thank the gentleman from Texas (Mr. MCCAUL) and the gentlelady from New Mexico, Congresswoman WILSON, for their leadership on this critical issue. I'm also pleased to be joined by my colleague from Georgia (Mr. GINGREY).

But after looking at that graphic, I think all of us should take note. It was not only Attorney General Mukasey and National Intelligence Director McConnell who have talked about the degradation of our intelligence and the intelligence product. But it's also the chairman of the Senate Intelligence Committee, a Democrat, JAY ROCKEFELLER, who also talked about how our intelligence capacity has been degraded because of the failure to enact the Protect America Act. He said, and I quote, ''What people have to understand around here,'' and that's the Senate, ''is the quality of the intelligence we are going to be receiving is going to be degraded. It is going to be degraded. It is already going to be degraded as telecommunications companies lose interest.''

He said three times, this capacity will be degraded. And I do want to applaud the gentleman from Texas for bringing up that e-mail that was cited in the 9/11 Commission report from the FBI agent who was so frustrated in August of 2001 about the failure of our law enforcement intelligence officers being able to collaborate effectively because of the wall that existed pre-PATRIOT Act. And he talked about that frustration. And he wanted to make sure those barriers were removed. And he also talked about how so many protections were being provided to Osama Bin Laden and al Qaeda at the expense of the security of the American people.

When we came to this Congress, the 110th Congress, when it first convened, we were told by the new leadership under Speaker PELOSI that fulfilling the recommendations of the 9/11 Commission report was a top priority. Well, it's time to equate those words with action. It's absolutely essential that we do so.

And many of our friends on the other side of the aisle, and this shouldn't be a partisan issue because we have bipartisan support for this bill. We have more than a two-thirds majority in the Senate, and there are over 20 members of the Democratic Caucus who have said that they're going to vote for this bill. It shouldn't be a partisan issue. We all know that.

And they've often talked about that we should be allowing our law enforcement officials to deal with these terrorists more effectively and that we shouldn't be using our military as much. That is what they say.

I have a letter here from the Fraternal Order of Police asking us to pass this law. We need to give law enforcement the tools they need to do their job. We can't simply say on the one hand we shouldn't be using the military but we should be using law enforcement, and then tie the hands of those very law enforcement officials we need to help us.

Mr. Speaker I will be happy to submit this letter for the RECORD so that people can see what the Pennsylvania Fraternal Order of Police police have said or, actually it's the National Fraternal Order of Police, what they have said, why we need to enact the Protect America act.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
December 4, 2007.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington. DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATORS REID AND MCCONNELL: I am writing to you on behalf of the members of the Fraternal Order of Police to advise you of our position as the Senate prepares to consider legislation amending the Foreign Intelligence Surveillance Act.

The FOP does support the inclusion of language that would adequately protect telecommunications companies which cooperated with the Federal government and law enforcement investigators from any liability as a result of that cooperation. It is important that such a provision strike the right balance between the need to investigate and gather intelligence about our nation's enemies—those actively plotting to attack and kill our fellow citizens—and the genuine expectation of privacy of the customers of these firms. It is important to emphasize that these records were voluntarily turned over because these companies were trying to assist the Federal government and law enforcement protect the United States and investigate terrorists, and we do not believe they should be punished for providing this assistance. In the view of the FOP, this is no different from a citizen helping to protect their streets by participating in a Neighborhood Watch program and reporting suspicious activity to the police.

The attacks on the United States in 2001 were a turning point in our nation's history and, like any turning point, it demands that we change and adapt without yielding our essential liberties or compromising our American values. One of these values is that of compromise, of working together to find common ground and solving problems. The defense of the United States against our terrorist enemies is not the sole province of any entity. If we are to be victorious in this struggle, we must work together. I am proud that law enforcement agencies at every level of government, Federal, State, and local, have changed the way they work so as to foster greater cooperation in the war on terror. I am pleased that our nation's corporate citizens worked with law enforcement and Federal investigators in the wake of September 11th. And now I implore our executive and legislative branch to put aside political considerations, to seek the common ground and to do the right thing those who acted in the best interests of their nation and its citizens.

Law enforcement officers must make decisions every day weighing the safety of the public against the individual's expectations of privacy—occasionally these decisions have to be made in seconds—because a law enforcement officer may not have the luxury of having months to deliberate the matter. It is time for all parties—the Administration, Congress and interest groups from both sides of this issue—to stop the hyperbole and work together to reach a solution that will protect those companies that came to the aid of their country in our war against terrorism.

I urge both of you, as leaders of your respective parties, to bring the compromise version of this legislation to the floor and work together to see it pass. I thank you in advance for your thoughtful consideration of the views of the more than 325,000 members of the Fraternal Order of Police. If I can be of any additional assistance on this or any other matter, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

Moreover, my own Attorney General from the Commonwealth of Pennsylvania, Tom Corbett, visited me today. He's down here with the Attorneys General. He also talked about the need to enact the Protect America Act. And it is absolutely essential that we do so.

People are often frustrated by what they consider the mindless partisanship, the inability of people to get things done in Washington. That's why they're upset with Washington. They believe that Washington is broken. They're angry because Congress just fails to get commonsense legislation accomplished. And I think they want us to put the national interest ahead of special interests.

I think great points have been made here tonight about why we should pass this law, and I think we have to recognize what's holding this up. There are people in this body who are more interested in protecting the concerns of the most litigious among us in our society at the expense of the security of the American people. We all know a bipartisan accord has been reached on this FISA Act, on the Protect America Act. There really should be no more excuses. It's time to take yes for an answer. It's time to get the job done. I look forward to working with all of you to make sure we accomplish this before our intelligence is degraded further than it is today.

With that I would yield back to my friend from Texas.

Mr. MCCAUL of Texas. I thank the gentleman for his comments. Reclaiming my time, the gentleman is absolutely correct. This is a bipartisan piece of legislation. The Senate passed it overwhelmingly in a bipartisan way. In fact, the Chairman of the Intelligence Committee, Senator ROCKEFELLER, a Democrat, said this is the right way to go in terms of security of the Nation.

The gentlelady serves on the Intelligence Committee. We serve on the Homeland Security Committee, Mr. DENT and I. When you talk about the security of the Nation, you've got to leave your partisan politics and your special interests behind because protecting the American people deserves better than that. It doesn't deserve the partisan rhetoric.

Twenty-five attorneys general signed a letter, Democrat and Republican, please pass this act. So I do believe the time is now.

And the sad thing is, the most tragic thing is, we know good and well if this was brought to the floor today or tomorrow, that it would pass overwhelmingly. And yet the American people are denied that opportunity to vote on this bill, through their representatives, because special interests are holding this up.

Again, I point to the ACLU and the trial lawyers who want to take a shot at the companies, the private sector, who have carried out their patriotic duties, when the government asked them in a time of war to do their duty, to help the United States Government listen to terrorists overseas and somehow we should subject them to liability. I think that's crazy. If the government did something wrong then, of course, the government should be held accountable.

When companies are acting on behalf and certified on behalf of the Attorney General to do this, essentially a mandate to do it, they should not be held liable for those actions. So I think that is the real issue here, what's holding up this bill that would protect Americans.

I yield to the gentlelady from New Mexico.

Mrs. WILSON of New Mexico. I thank my colleague.

In fact, one of the reasons that attorney generals and the Fraternal Order of Police are so strongly in support of this legislation is that they worry that what's happening to our telecommunication companies because of their cooperation with the government on terrorism will also extend and poison the relationship between law enforcement and our telephone companies.

There are at least 15 States where we have over 25 lawsuits, some of them against telephone companies that weren't even involved, and those who are involved can't defend themselves in civil court without revealing to the terrorists how we're collecting intelligence on them and compromising our national security. I'm convinced, having looked at this, that they actually have immunity. They just can't prove it. And it is up to this Congress to clarify that companies that cooperated with the U.S. Government in helping us prevent terrorism through electronic surveillance are immune from civil liability lawsuits. I think the law is clear. It's up to the Congress to step up and reaffirm it quite clearly.

My colleague from Georgia says, and he's right, that this is kind of a difficult-to-understand technical subject in some respects. But there are some things that aren't difficult to understand. I mean, we all remember where we were the morning of 9/11. We remember who we were with, what we had for breakfast, what we were wearing, who we called first to check to see if they were okay.

Very few Americans remember where they were in August of 2006 when the British government arrested 16 people who were within 48 hours of walking onto airliners at Heathrow and blowing them up simultaneously over the Atlantic. One of the terrorists that was involved intended to bring his wife and his 6-month-old baby with him so that they'd all die together. Comprehend that evil for a moment. You're willing to kill your own 6-month-old child in order to blow up an airliner. If that had happened, more people would have died that day than died on the morning of 9/11. But you don't remember it because it didn't happen. And it didn't happen because of cooperation between the British, American and Pakistani intelligence services. Forty-eight hours. They were within 48 hours.

How much time should we wait while lawyers gather in Washington to develop cases for probable cause to get a warrant on a foreigner in a foreign country?

I yield back to my colleague from Texas.

□ 2145

Mr. MCCAUL of Texas. I thank the gentlelady for her insight, and she's absolutely right that this terrorist surveillance program has protected Americans from the very scenario that you mentioned.

We all remember this day. It's etched in our memory forever. I will never forget this day, and every patriotic American will never forget what they did to us that day. But yet, every day this Act, since it has expired, with every day there's greater risk to this happening again.

There's a reason why this hasn't happened again. It's because we have been able to thwart and to stop plots against the United States to kill us. That's what this program does. That's what the Protect America Act did until the Democrats allowed it to expire almost 3 weeks ago.

Alluding back to Ramzi Yousef, very interestingly, and I know the FBI agents when they arrested him, when they busted down his door to talk about what the gentlelady talked about in terms of a sinister evilness about the terrorist, to get in the mind of the terrorist, what they found were about a dozen baby dolls, and those baby dolls were stuffed with chemical explosives. They were going to carry those on the airplanes and blow them up.

Now, chemical weapons we saw with the London arrest. They always go back to their old tricks. They attempted to sneak chemical explosives onto these airplanes. Fortunately, we had good intelligence. Without good intelligence, people die. Without good intelligence, we cannot fight this war on terror. Without good intelligence, we cannot protect the American people, and as we stated before, we put the war fighter at tremendous risk.

So, with that, I will yield again to the gentleman from Pennsylvania.

Mr. DENT. That graphic you just showed from 9/11 in New York vividly reminds me of that day, and my cousin was on the 91st floor of the north tower. He was one of the lucky ones. He got out. Everybody above him was killed, and all 11 people on his floor made it out, and it was a harrowing experience which I won't go through here tonight.

But we should also remember an article that was written by a woman named Debra Burlingame. She wrote this editorial in The Wall Street Journal a few years ago, and she talked about the fact that there were two individuals in this country before 9/11 that FBI agent you referred to earlier was concerned about. He was concerned about those individuals, and for whatever reason, nobody in the FBI was prepared to go to the FISA Court to go on a nationwide manhunt for these two individuals. Didn't happen until the afternoon of September 11, 2001.

And those two individuals that Debra Burlingame wrote about, who we were so concerned about, who were operating out of San Diego, who were making phone calls to Yemen into a switchboard run by the brother-in-law of one of those two individuals, bin Laden would call into that switchboard himself.

The point is those two individuals were the ones who crashed the plane into the Pentagon, and the pilot of that plane was a man named Burlingame, Captain Burlingame, the brother of Debra, and it really speaks to the issue that we should be surveiling and monitoring calls of people who are not American citizens and who we suspect that are engaged in serious terrorist activities.

We had a sense that those two people were bad actors, but we failed to act. We can't let that happen again. Heaven forbid if there's another terror attack like that of 9/11 or something worse, and heaven forbid if, for whatever reason, we failed in our duty to provide our law enforcement officials, our counterterrorism officials the tools they needed to connect the dots. And as you so eloquently stated, we cannot connect the dots if we can't find the dots. That's precisely the point.

Mr. MCCAUL of Texas. I thank the gentleman, again, for his insight.

Because of the wall back then and because of the intelligence gap, people did die, 3,000 Americans. Haven't we learned our lesson? How many times do the terrorists have to hit us? We know before September 11 there were many attacks against American interests, whether it was Beirut, the Khobar Towers, the USS *Cole*, the 1993 World Trade Center, they went back to it again. When are we going to learn the lesson?

The 9/11 Commission came out with its recommendations, and yet I don't believe we're heeding the warnings from the 9/11 Commission today. When are we going to learn the lesson that we need the dots to connect them in the first place?

And I think it's worth repeating, for those who have just tuned in, again the FBI agent's frustration that Mr. DENT has referred to, and I can see this. Having worked with the FBI, I can see an agent who is pounding his head against the wall because some bureaucratic rule prevents him from coordinating with the intelligence side of the house and he can't get the intelligence he needs to protect Americans because the intelligence community knows that

two of these terrorists are in the United States but they can't tell the FBI about it. It is an absurd result, and he says, very, very frustrating, sending a letter to FBI headquarters, which could be a career-breaking act to do, very dangerous thing for an FBI agent to do, but he voices his frustration, saying someday someone will die. This is before 9/11. And law or not, the public will not understand why we were not more effective at throwing every resource we had at certain problems. They don't seem to understand the biggest threat to us now is Osama bin Laden.

That fell on deaf ears, and I'm afraid that this message is now falling on deaf ears again. It's certainly falling on deaf ears in this House when the majority fails and it's a dereliction of duty not to bring this bill that will protect American lives to the floor of this House.

Mrs. WILSON of New Mexico. It's not even the majority. The majority of this House, a bipartisan majority of this House, would pass this bill tonight if the liberal Democratic leadership would allow a vote. That's the thing that's so frustrating to me. This is a bill that passed with 68 votes in the Senate. It's pending on the floor of this House. The liberal Democratic leadership who, to a person, opposed the Protect America Act in August is blocking the will of the majority of the House of Representatives that wants to protect this country. They're standing in the way of protecting this country and letting the majority work its will.

Why? Because they're concerned about lawsuits against telephone companies and the deep pockets of the telecommunications industry, with trial lawyers saying, hey, aren't you with us.

Well, this majority in this House, led by the Republicans in this House, know that national security is the priority of the country, not protecting the trial lawyers.

Mr. McCAUL of Texas. I thank the gentlelady, and I couldn't agree more.

If, God forbid, we are hit again while we have this act expiring, while we're dark in many parts of the world, while we're losing intelligence all over the world, if we could have stopped it when it happens here again and the American people wake up and realize who is responsible for this, and if American blood is spilled once again, that blood will be on the hands of Congress, and I feel very passionately, and I yield to the gentleman from Georgia.

Mr. GINGREY. I thank the gentleman from Texas for yielding.

It's just like I said earlier about the chairman of the House Select Committee on Intelligence, the gentleman from Texas (Mr. REYES), who I have tremendous respect for, and I think on both sides of the aisle, my colleagues would agree with me, a good man, a good Member.

And what he said Sunday morning, this past Sunday morning, was, look, we have now had the opportunity to talk with the telecommunication companies and understand what it is they need to provide under the law and why they did that, why they did it in a patriotic way, and yes, Mr. Moderator, we are ready to move forward and modernize this bill. And I'm reading his lips. I'm listening to what he says, and I believe him and I sincerely believe that he wanted this bill to be brought to this floor this week.

As my colleagues have already said, it would pass overwhelmingly, but unfortunately, I can't help but believe that a good man, Mr. REYES, is being trumped by his leadership. And as the gentlewoman from New Mexico just said, why? Why would they do that unless, again, it's more concern for this special narrow interest group of trial attorneys that want to bring more lawsuits against telecommunications companies who were just obeying the law that they were required to obey.

I just want to point out, too, that as my colleagues have said, the 9/11 Commission, which was insisted upon by the 9/11 families, led by a distinguished Democrat, Lee Hamilton, former Republican Governor of New Jersey, Governor Kean, they clearly understood that we had a stovepipe system pre-9/11 in regard to intelligence gathering, as my colleague from Texas said, not really finding the dots, much less connecting them.

And it was a clear outline, a clear blueprint that that commission asked us to do. That, indeed, is what ultimately led to creation of a directorship of national intelligence so that those 16 or 18 communities of intelligence, many of which are within the Department of Defense, could talk to one another so that we could win this war. This global war on terrorism is not going to be won with air superiority, sea superiority, greater weapons systems. It's going to be won with greater intelligence, and that's what this is all about. And I yield back to my friend from Texas and I thank him for the time.

Mr. McCAUL of Texas. I thank my colleague, and he points out so eloquently how important good and accurate intelligence is.

Because we had an intelligence gap, September 11 occurred. What we're trying to do is to stop that from ever happening again. Without that, we fail, and it's the best weapon we have, the first line of defense in the war on terror. And yet, for some reason, the majority in the Congress are being denied the right to vote on this and pass it and, in turn, denying the will of the American people, who we know support it. They want us to know what al Qaeda is saying overseas, and yet what we're doing is we're extending protection, giving the trial lawyers authority and extending constitutional protections to foreign terrorists.

The Constitution does not apply to a terrorist in a foreign country, and that is the absurd result that we find ourselves in today. And with that, I will yield to Mr. DENT from Pennsylvania.

Mr. DENT. Mr. Speaker, I'd like to just say that I think the American people hear our frustration here tonight. People of all ideological stripes in this body support the Protect America Act, and I think the people of the United States expect an answer as to why the leadership of this body under Speaker PELOSI will not allow this legislation to be considered.

And I believe very respectfully that Speaker PELOSI and the far left are driven by an extreme agenda on this critical national security issue, and it appears that there are a very small number of people in this body, in this country, who don't want to enact these important reforms.

It's time to stop pandering to trial lawyers or to the ACLU or moveon.org and get on with the business of this country, and it seems that in too many cases there are some people who are misguided, who seem to think that the FBI and the CIA and the NSA and other intelligence agencies that support this government are a greater threat to us than is al Qaeda, led by Osama bin Laden.

And that is what is so frustrating to me, that our law enforcement officials, our counterterrorism officials, our intelligence officials want us to get the job done. Intelligence officials are taking out personal liability insurance to protect themselves against lawsuits or a congressional inquiry, not protect themselves against al Qaeda but to protect themselves against people in this town, Washington, DC. And again, it's really time for us to get on with the business of this Nation.

The bipartisan compromise that we have all talked about has been reached. Many of us try to work in a very bipartisan manner on a number of issues. This is one clear case where we've done so, and it's time for the leadership to allow us to get the job done, and we call on Speaker PELOSI to do just that.

Mr. McCAUL of Texas. I thank the gentleman, and I have to make the analogy that prior to 9/11 it's almost like before Pearl Harbor; we as a country were a sleeping giant and alarms went off at various times, the flags went up, that the majority of people here in the United States really, we didn't understand it. We didn't heed the warning. We didn't listen to those alarms before they went off.

And then, of course, on September 11, the sleeping giant awoke, and we wanted to do everything we could possibly do to secure and protect this Nation. And I think the most tragic thing that could happen is for the sleeping giant to go back to sleep, and I believe that if we fail to pass this important national security legislation, that's exactly what's going to happen. And I yield to the gentlelady from New Mexico.

Mrs. WILSON of New Mexico. I thank the gentleman for yielding.

I think there are two points that haven't been made tonight that I do

think are worth making concerning the Protect America Act, which we hope to make permanent in the bill that's come over here from the Senate to fix the Foreign Intelligence Surveillance Act.

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But one of the points that hasn't been made is that the Senate bill that has passed, that's pending on this floor, actually has stronger civil liberties protections for Americans than in the original 1978 law. In fact, Admiral McConnell and Attorney General Mukasey said in a letter on the 22nd of February, ''We note that the privacy protections for Americans in the Senate bill exceed the protections contained in both the Protect America Act and the House bill.''

So, in fact, one of the things that has changed under this new piece of Senate legislation is that if you are an American, wherever you are in the world, if you're known to be an American, you have the protections of the American Constitution. That's not the case under the 1978 FISA law. So, there is actually more civil liberties protections for Americans on the bill that is on the floor of the House than there is under existing statute.

And the second thing that I think is worth pointing out is that after 9/11 the President turned to his advisers and everyone in all the intelligence agencies and said, you know, what tools do we have? How can we prevent another terrorist attack? How can we find out what their plans and capabilities and intentions are? The fact is that the terrorist threat is much different than the threat that we faced in the height of the Cold War. I was an Air Force officer in Europe during the Cold War. And the Soviets were a very convenient enemy from an intelligence point of view. They had a very big footprint. We knew where they were. We knew what they had. They had exercises the same time every year out of the same barracks using the same radio frequencies. They would have been very difficult to defeat, but we knew where they were.

With the terrorist threat, the problem is completely reversed. If we can find them, we can stop them. The problem is finding them. And, in general, they are using commercial communications. So, instead of being one ugly monster in the forest where you know where they are like the Soviets were, it's more like a ''Where's Waldo'' problem. Can you find the person in the clutter of everything else? That puts the premium on good intelligence.

And particularly, in the case of terrorism, electronic surveillance has been one of our most important tools because they are hiding and using commercial communications. That has been one of our strongest tools in preventing terrorist attacks for the last 6 years. And I must say that I believe that the greatest accomplishment of the last 6½ years has been what has not happened. We have not had another terrorist attack on our soil since the morning of 9/11. And they have tried. It has been good intelligence that has kept this country safe. And for the last 18 days, we have been building another intelligence gap, and this body must act to close it.

Mr. MCCAUL of Texas. I thank the gentlelady for her eloquence, as always.

I would like to just add that, certainly during the Cold War at least, the principle of mutually shared destruction applied; we valued our lives and so did the Soviets. In this war against terrorism, in the day of suicide bombers, we can't say that. So real-time intelligence is absolutely critical to protecting the Nation.

I want to state again, from the DNI, the Director of National Intelligence, he says, ''Expiration of this act will result in a degradation of critical tools necessary to carry out our national security mission. And without these authorities, there is significant doubt surrounding the future aspects of our operations.'' Again, that is a warning to the United States Congress that if you don't do your job, I can't do my job. Do your job.

With that, I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, I want to thank the gentleman from Texas and the gentlelady from New Mexico and the gentleman from Georgia for engaging in this colloquy tonight.

I think just about everything has been said. We have a job to do. The American people expect us to get it done. We've heard from the attorney generals, we've heard from the U.S. Attorney General, Michael Mukasey. We've heard from the Director of National Intelligence, Michael McConnell. We have heard from everyone. And the fact that this intelligence product is being degraded should be alarming to every single American. The fact that we're debating this this evening, knowing that we may not be getting vital intelligence or information I think should be cause for alarm.

There are going to be those who say that we're doing this fear-mongering. That is absolute nonsense. We're simply stating facts. And the facts are that our intelligence personnel today don't have the tools that they had just a few weeks ago to deal with the threats that we face as a Nation.

With that, I want to thank you again for your leadership. As a member of the Homeland Security Committee, you and I are deeply engaged in these issues, along with Mrs. WILSON, who has been a great leader on the House Permanent Select Committee on Intelligence. Again, we need to keep pounding this point home. I am prepared to come to the floor of the House every single night until this law is enacted.

With that, I yield back to the gentleman from Texas.

Mr. MCCAUL of Texas. Thank you, Mr. DENT, for your leadership as well. I see we just have a few minutes left.

I yield 2 minutes to the gentlelady from New Mexico.

Mrs. WILSON of New Mexico. I want to thank the gentleman from Texas, and I won't take the 2 minutes, but I wanted to thank him for his leadership and persistence. This is going to get fixed because we will not rest until it's fixed, and it is critical to the country that it be fixed.

It is now up to the liberal Democrat leadership to listen to the will of this body and pass the Senate bill that will close the intelligence gap.

I yield back to my colleague.

Mr. MCCAUL of Texas. I thank the gentlelady.

I would like to close with a quote. Why is this debate so important? I think it's important to understand the threat and to understand who the enemy really is. Who is the enemy? Let's get inside the mind of the enemy. And our enemy says, ''The confrontation that we are calling for with the apostate regimes does not know Socratic debates, Platonic ideals, nor Aristotle diplomacy. But it knows the dialogue of bullets, the ideals of assassination, bombing and destruction, and the diplomacy of the cannon and machine gun. Islamic governments have never and will never be established through peaceful solutions and cooperative councils. They are established as they always have been, by pen and gun, by word and bullet, and by tongue and teeth.''

The words I just read to you are the preface of the al Qaeda training manual. That is how it begins. That's in their words, not mine. That is the enemy. That is the threat. That is why it's so important we pass the Protect America Act on the House floor, and pass it now.

DEMOCRATIC FRESHMEN HOUR

The SPEAKER pro tempore (Mr. BRALEY of Iowa). Under the Speaker's announced policy of January 18, 2007, the gentleman from Kentucky (Mr. YARMUTH) is recognized for 60 minutes.

Mr. YARMUTH. Mr. Speaker, it's a great honor for me to be here tonight representing the class of 2006, the freshmen Democrats who were responsible for returning the majority to the Democrats in the last election. I'm particularly proud to be here to talk about the whole area of intelligence and surveillance, which our colleagues from across the aisle spent the last hour talking about.

I don't have props tonight because I look down at the dais and I see engraved in the side of the dais two words that serve as the only props I need in discussing this very important topic. I see the word ''justice,'' and I see the word ''freedom.'' Because that's really what we're talking about when we're talking about the FISA controversy. We're talking about whether the incredibly important principles of justice will apply to the way we treat corporations in this country that choose not to