

FISA AMENDMENTS

Mr. McCONNELL. Mr. President, the one point that I would like to make before we vote later this morning on the various amendments to the Foreign Intelligence Surveillance Act—a law that is aimed at helping us stop terrorists before they can hurt us—is the most important point of all. It also happens to be a fairly straightforward one: adopting any one of these three amendments would kill the underlying bill.

It would risk putting us right back where we were last July, with the August recess approaching, and the authorizations for monitoring foreign terrorist targets set to expire. In that case, if a member of al-Qaida were to call, our ability to monitor his communications would be seriously handicapped, and it may even be impossible for us to do so, at least on a real-time basis.

So the question before the Senate is really quite simple: we either pass this delicately balanced bipartisan bill which gives our intelligence officials the tools they need to find foreign terrorists overseas—which is itself a compromise on the bill the Senate already passed this year by a vote of 68-29, and which will garner a Presidential signature—or we scrap it altogether and end up right back where we were a year ago.

That is our choice. Fix the problem now—finally—or allow the problem that intelligence officials alerted us to more than a year ago continue indefinitely, regardless of the threat.

Just yesterday the White House reiterated its intention to veto any FISA bill that is amended to strip or weaken liability protection for the telecommunication companies that may have helped the Government in the wake of the September 11 attacks.

This means that the adoption of any one of these amendments will take down the entire bill, unraveling more than a year of delicate bipartisan negotiations.

We're not doing these companies any special favors. The U.S. Government wouldn't even have a foreign surveillance program without them. The intelligence community relies on their cooperation to do its job. And any law that makes it less likely that these companies cooperate with us in the future is a law that makes it harder to protect Americans from terrorist attacks.

That is not just my view or the view of Senator BOND on the Republican side. Let me remind my colleagues of what the chairman of the Intelligence Committee told us, quite bluntly, about our responsibilities in this area on the floor of the Senate last February. This is what Senator ROCKEFELLER said:

What people have to understand around here, he said, is that 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.

Everybody tosses that around and says: Well, what do you mean? I say: Well, what are they making out of this? What is the big payoff for the telephone companies? Do they get paid a lot of money? No. They get paid nothing. What do they get for this? They get \$40 billion worth of suits, grief, trashing, but they do it. But they don't have to do it, because they do have shareholders to respond to, to answer to.

There is going to be a degrading of intelligence in some very crucial areas, because we will go right back to where we were last August, and that will be a further jolt to the telecommunications companies, because they will understand that you cannot count on the Congress, you cannot count on us to make policy which will give [them] stability.

Those are the words of the Democratic chairman of the Intelligence Committee. And I would only add to them that it is our job to make policy in this area. The Senate—and especially its Intelligence Committee—has been examining this issue for over a year. The committee of jurisdiction conducted extensive oversight and concluded that the telecommunications companies acted in good faith in answering the administration's call to help protect the country from terrorist attack.

The Intelligence Committee then passed an overwhelmingly bipartisan bill, 13-2, that protected these companies from potentially crippling lawsuits, which would terminate the program. The full Senate made the same policy judgment, defeating the Feingold-Dodd amendment to strike immunity 67-31, as well as the Specter-Whitehouse substitution amendment 68-30, on its way to passing the bill by a lopsided vote of 68-29.

Further modifications were made to the bill in negotiations with the House, including to the liability provisions. The House leadership—which had been holding up enactment of a FISA modernization law because of the liability question—then voted for this compromise bill, and the compromise cleared the House with almost 300 votes.

Now, after all this legislative time and effort and contemplation, the Bingaman amendment would have us say, "Just kidding." This amendment would punt our oversight and legislative responsibilities over to inspectors general in the executive branch so they can look at the same program that the Intelligence Committee and the Congress have been considering for over a year.

It is ironic that those who are concerned about preserving congressional prerogatives and congressional responsibilities, especially in relation to the executive branch, would have us rely on the judgment of employees of the executive branch before we can make policy, especially after all the work that Congress has done on this subject. We should not kick the can down the road for another 15 months and in the process abdicate our role in this area.

An acceptable bipartisan solution to our intelligence problem has already been reached. That solution has been

endorsed by majorities in both houses of Congress. If that solution is compromised by adopting any of these amendments, this bill would not become law, current targeting orders would expire, and the Senate would fail today to do its basic duty of protecting Americans to the fullest extent possible from terrorist attack.

Americans have a right to expect Congress to give our intelligence officials what they need to do their jobs. And the only way we fulfill that trust is by voting against each of these amendments to the FISA modernization bill.

Mr. President, before turning to another subject, I wish to particularly commend the Senator from Missouri, Mr. BOND, who has done an incredibly effective job at trying to traverse the various currents that have surrounded this extraordinarily difficult piece of legislation.

First he established a very good working relationship with Senator ROCKEFELLER, the chairman of the Intelligence Committee. He was an integral part of negotiating and, as I say, kind of dealing with the currents that were going on through the last year.

I just wish to say through the Chair to him how much America owes the Senator from Missouri for his extraordinary work on this subject. America will be safer in the future as a result of the work of the Senator from Missouri. We here in the Senate are deeply grateful for his extraordinary job, and the people of Missouri have every right to be very proud of him.

Mr. BOND. I thank the Senator.

MEMORIAL SERVICE OF SENATOR
JESSE HELMS

Mr. McCONNELL. Mr. President, on one other item, yesterday we said goodbye to our former colleague, Senator Jesse Helms. A significant number of our colleagues were in attendance at the funeral in Raleigh. Since his passing was expected, we certainly did not suffer from shock. It was anticipated that our friend and colleague would soon pass away, so in many respects it was a celebration of the life of a unique and great American.

I was honored by Mrs. Helms to be asked to do one of the eulogies at the funeral yesterday. I ask that my remarks be printed in the RECORD for any of our colleagues who might want to see what I had to say on behalf of our friend and colleague yesterday as we bid him farewell.

I ask unanimous consent to have those remarks printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

MEMORIAL SERVICE OF SENATOR JESSE HELMS
REMARKS OF U.S. SENATE REPUBLICAN LEADER
MITCH McCONNELL, JULY 8, 2008

Dot, Jane, Nancy, Charles, members of the Helms family, Mr. Vice President, Senate colleagues, Reverend Bodkin, distinguished guests, and friends of Jesse Alexander Helms.