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Senate

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

PRAYER

The PRESIDENT pro tempore. Today's prayer will be offered by Pastor Leroy Gilbert of Mount Gilead Baptist Church in Washington, DC.

The guest Chaplain offered the following prayer:

Let us pray.

O Lord, our God, restorer of the joy of those who find You. Lord, we praise Your Holy Name. Thank You for giving us lifetime favor and for Your unchanging faithfulness. Lord, You cloth us with gladness.

Today, we pray for our Senators. Shine Your light of wisdom on them and be gracious to them. Remove from them contention and strife, as You infuse them with humility. Lord, keep Your arms of protection around them and their loved ones in these most challenging times.

Rule in the midst of Your world, until the kingdom of Earth will acknowledge Your sovereignty.

We pray in Your great, marvelous Name. Amen.

The PRESIDENT pro tempore. Thank you, pastor.

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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mrs. CAPITO). The majority leader is recognized.

TRADE BILL AND BULK DATA PROGRAM

Mr. McCONNELL. Madam President, I am glad the Senate voted yesterday to take another step forward on the important trade legislation that is before us. This bill represents an opportunity for Republicans and Democrats to stand together for the middle class, so I hope our friends across the aisle will allow us to seize this opportunity. I am optimistic. We all know that trade is important for American workers and American jobs. We all know that by passing this legislation, we can show we are serious about advancing new opportunities for bigger American paychecks, better American jobs, and a stronger American economy.

We want to process as many amendments as we can. The Republican and Democratic bill managers, Senator HATCH and Senator WYDEN, have done a great job managing this bill in a bipartisan spirit thus far. My hope is that, with some cooperation from across the aisle, we can vote on some amendments today and complete our work on this trade legislation today.

I appreciate all the hard work from both sides that got us to the point we are today. Let's keep the momentum going so we can finally pass a bill that Republicans, President Obama, and many Democrats all agree is good for the middle class, good for the economy, and good for our country.

Let's also move forward in the same spirit to finish our work on the other two important issues on the Senate's to-do list. I will speak about one of them in a moment. But the point is, we have to get our work done, however long it takes. With bipartisan cooperation, we can get it done as soon as this afternoon.

On the issue I mentioned, following the attacks of September 11, the United States improved its laws and legal authorities in an effort to better understand the terrorist threat and, rather than treat it as a crime to be

handled by civilian prosecution, to combat it as a matter of warfare—not as a crime but as a matter of warfare. But that does not mean Al Qaeda and its affiliates stood still. The terrorist threat metastasized under regional affiliates such as Al Qaeda in the Arabian Peninsula, al-Shabaab, Al Qaeda in Iraq, and AQIM.

We have all seen the advance of the Islamic State in Iraq and the Levant, which, despite coalition air attacks and Iraqi military ground operations, actually seized Ramadi last weekend. Although ISIL has broken from core Al Qaeda, it is emblematic of how the threat continues to evolve.

Last week, the Director of the FBI explained how ISIL, operating from safe havens within Syria, is now using social media to radicalize Americans by making contact through Twitter and then directing them to encrypted venues. Moreover, through the publication of online magazines, Al Qaeda and ISIL are able to radicalize recruits and reveal the tactics needed for small-scale attacks here at home. These tactics, along with the information gained by terrorist networks from the unlawful disclosure of classified information by Edward Snowden, challenge counterterrorism officials in their efforts to detect terrorist plots and terrorist communications.

This all comes at a moment of elevated threats to the American people.

Let me read something the L.A. Times recently reported. This is what the Times had to say:

Alarmed about the growing threat from Islamic State, the Obama administration has dramatically stepped up warnings of potential terrorist attacks on American soil after several years of relative calm.

Behind the scenes, U.S. authorities have raised defenses at U.S. military bases, put local police forces on alert and increased surveillance at the nation's airports, railroads, shopping malls, energy plants and other potential targets. Driving the unease are FBI arrests of at least 30 Americans on terrorism-related charges this year in an array of "lone wolf" plots, none successful, but

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



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nearly all purportedly inspired by Islamic State propaganda or appeals.

I ask unanimous consent to have the article printed in the RECORD at the conclusion of my remarks.

We need to recognize that terrorist tactics and the nature of the threat have changed and that at a moment of elevated threat, it would be a mistake to take from our intelligence community any—any—of the valuable tools needed to build a complete picture of terrorist networks and their plans, such as the bulk data collection program of section 215. The intelligence community needs these tools to protect us from these attacks.

I would like to quote the observations that someone intimately familiar with this program made in the aftermath of the unauthorized leaks of classified material by Edward Snowden.

“This program does not involve the content of phone calls or the names of people making calls,” he said. “Instead, it provides a record of phone numbers and the times and lengths of calls, metadata that can be queried if and when we have a reasonable suspicion that a particular number is linked to a terrorist organization.”

He then described why the program was necessary.

“The program grew out of a desire to address a gap identified after 9/11,” he said.

One of the 9/11 hijackers, Khalid A. Mihdhar, made a phone call from San Diego to a known Al Qaeda safe house in Yemen. NSA saw that call, but it could not see that the call was coming from an individual already in the United States. The telephone metadata program under Section 215 was designed to map the communications of terrorists, so we can see who they may be in contact with as quickly as possible.

Let me say that again: “as quickly as possible.”

This capability could also prove valuable in a crisis. For example, if a bomb goes off in one of our cities and law enforcement is racing to determine whether a network is poised to conduct additional attacks, time is of the essence. Being able to quickly review telephone connections to assess whether a network exists is critical to that effort.

He concluded by noting this:

The Review Group turned up no indication that this database has been intentionally abused.

“[N]o indication that this database has been intentionally abused.”

And I believe it is important that the capability that this program is designed to meet is preserved.

The person who made those observations I just quoted was President Obama, and he made them just last year—just last year.

Unfortunately, there is now a huge gap between the capabilities the President rightly recognized as being necessary for our intelligence professionals and the legislation he is endorsing today. The untried—and as of yet, nonexistent—bulk collection system envisioned under that bill would be slower and more cumbersome than the one that currently helps keep us safe.

At worst, it might not work at all due to, among many other problems, the lack of a requirement for telecommunications providers to retain the data to begin with—no requirement to retain the data.

Last week, the Obama administration briefed Senators on the current bulk data program under section 215. Senators were impressed with the safeguards built into the current program, and they were impressed that there had not been one incident—not one—of abuse of the program. But many Senators were disturbed by the administration’s inability to answer basic, yet critical, questions about the alternate bulk data system that would be set up at some point—at some point—under the legislation the administration now supports. The administration could not guarantee whether a new system would work as well as the current system, and the administration could not guarantee whether there would be much, if any, data available to be analyzed under a new system given the lack of a data-retention requirement in the legislation.

Despite what the administration told us just last week about its inability to guarantee that this nonexistent system could even be built in time, it did an about-face earlier this week—sort of. The administration had the Director of NSA write that the nonexistent system could be built in time if—if—the providers cooperated in building it. And, of course, they are not required to.

The problem, of course, is that the providers have made it abundantly clear that they will not commit to retaining the data for any period of time as contemplated by the House-passed bill unless they are legally required to do so. There is no such requirement in the bill. For example, one provider said the following: “[We are] not prepared to commit to voluntarily retain documents for any particular period of time pursuant to the proposed USA FREEDOM Act if not otherwise required by law.”

Far from addressing the concerns many have had about the USA FREEDOM Act, the administration in its letter only underscored the problem. It said the only way this nonexistent system could even be built in time is if the providers cooperate. But the providers have made it abundantly clear they will not cooperate, and there is nothing—absolutely nothing—in the bill that would require them to do so.

This is just as cynical as the letter from the Attorney General and the Director of National Intelligence that assured us they would let us know about any problems after the current program was replaced with a nonexistent system. Let me say that again. This is just as cynical as the letter from the Attorney General and the Director of National Intelligence that assured us they would let us know about any problems after the current program was replaced with a nonexistent system. Boy, that is reassuring.

This is beyond troubling. We should not establish an alternate system that contains a glaring hole in its ability to function—namely, the complete absence of any requirement for data retention.

I have begun the legislative process to advance a 60-day extension of section 215 and the other two authorities that will expire soon. This extension will allow for the Intelligence Committee to continue its efforts to produce a compromise bill we can send to the House that does not destroy an important counterterrorism tool that is needed to protect American lives.

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

[From the Los Angeles Times, May 19, 2015]

WHITE HOUSE STEPS UP WARNINGS ABOUT TERRORISM ON U.S. SOIL

(By Brian Bennett)

Alarmed about the growing threat from Islamic State, the Obama administration has dramatically stepped up warnings of potential terrorist attacks on American soil after several years of relative calm.

Behind the scenes, U.S. authorities have raised defenses at U.S. military bases, put local police forces on alert and increased surveillance at the nation’s airports, railroads, shopping malls, energy plants and other potential targets.

Driving the unease are FBI arrests of at least 30 Americans on terrorism-related charges this year in an array of “lone wolf” plots, none successful, but nearly all purportedly inspired by Islamic State propaganda or appeals.

The group’s leader, Abu Bakr Baghdadi, drove home the danger in a 34-minute audio recording released online Thursday. He urged Muslims everywhere to “migrate to the Islamic State or fight in his land, wherever that may be.”

The audio was released with translations in English, French, German, Russian and Turkish, signaling the militants’ increasingly ambitious attempts to draw new recruits—and to spark violence—around the world.

U.S. officials estimate the Sunni Muslim group has drawn 22,000 foreign fighters to Syria and Iraq, including about 3,700 from Western nations. About 180 Americans have gone, or tried to go.

U.S. counter-terrorism officials initially viewed Islamic State as primarily a regional security threat, focused on expanding and protecting its self-proclaimed Islamist caliphate in Syria and Iraq, rather than launching attacks abroad.

But the analysis has shifted sharply as gunmen inspired by the group, but not controlled or assisted by them, opened fire at the Parliament in Ottawa; at a cafe in Sydney, Australia; at a kosher grocery in Paris; and, on May 3, in Garland, Texas.

In the Texas case, two would-be terrorists apparently prompted by Islamic State social media messages tried to shoot their way into a provocative contest for caricatures of the prophet Muhammad. Both gunmen were shot to death, and no one else was killed. Islamic State later claimed responsibility for the assault, the first time it has done so for an attack on U.S. soil.

James B. Comey, the FBI director, warned this month that “hundreds, maybe thousands” of Americans are seeing recruitment pitches from Islamic State on Facebook, Twitter and other social media, as well as messages sent to smartphones of “disturbed

people” who could be pushed to attack U.S. targets.

“It’s like the devil sitting on their shoulders saying, ‘Kill, kill, kill,’” Comey told reporters.

The United States has entered a “new phase, in my view, in the global terrorist threat,” Jeh Johnson, director of Homeland Security, said Friday on MSNBC.

“We have to be concerned about the independent actor, and the independent actor who is here in the homeland who may strike with little or no warning,” he said. “The nature of the global terrorist threat has evolved.”

That poses a special challenge for U.S. intelligence and law enforcement agencies, which spent years desperately trying to penetrate and understand Al Qaeda’s rigid hierarchy and top-down approach to terrorism.

Now they are struggling to detect and prevent lethal attacks by individuals—such as the April 2013 bombing of the Boston Marathon by two Russian-born brothers—with little or no outside communication or support.

The administration has sought to stiffen homeland defenses, and intelligence gathering, in response.

This month, U.S. Northern Command boosted security at all bases in the United States. Officials cited the May 3 shooting in Texas, specific threats against military personnel and the increasing number of Americans communicating with Islamic State supporters.

In March, a group calling itself “Islamic State Hacking Division” posted online the names, home addresses and photos of 100 U.S. troops. The group wrote on Twitter that it was posting the apparent hit list “so that our brothers residing in America can deal with you.”

More armed guards have been deployed at federal buildings across the country, and Homeland Security officials have quietly urged more security at privately run facilities and infrastructure that could be targeted, including shopping malls, railroads, water treatment facilities and nuclear power generators.

“Since last summer we have ramped up security at federal installations across the country, and we have increased our outreach with critical infrastructure operators,” a senior Homeland Security official said in an interview.

Authorities have urged companies to conduct more “active shooter” drills to “heighten awareness and make sure people are leaning forward with security protocols,” he said. The official was not authorized to publicly discuss internal communications and security measures.

Defeating Islamic State will take not only the ongoing military operations in Iraq and Syria, U.S. officials said, but stronger international efforts to block foreign recruits from joining and to cut the group’s financing networks. Officials acknowledge they also need better messaging to counter a barrage of polished videos, social media and Internet appeals from the militants.

“It’s a long-term challenge,” Brett McGurk, deputy assistant secretary of State for Near Eastern affairs, told CNN. “We have not seen this before. And it’s going to take a very long time to defeat them.”

Still, attacking Western targets is not the group’s top priority, as it was for Osama bin Laden, according to Seth Jones, a former U.S. counter-terrorism official now with Rand Corp., the Santa Monica-based think tank. The group is far more focused on the battleground in Iraq and Syria, and establishing ties to terrorist groups in Libya, Yemen, Algeria and elsewhere.

Without a strong hand to help direct and organize attacks abroad, they are “likely to

be less sophisticated,” Jones said. “You actually need a lot of training to conduct a Madrid-style attack or a London-style attack. Those kinds of bombs are hard to put together.”

Most of the 30 Americans arrested this year were suspected of aiding or trying to join Islamic State. Many were approached on social media or on chat programs designed for cellphones.

In March, for example, a 22-year-old Army National Guard specialist was arrested at Chicago Midway International Airport as he allegedly attempted to join Islamic State in Syria. The FBI said he had downloaded military training manuals to take with him and told an undercover agent he was prepared to “bring the flames of war” to the United States.

That same month, a retired Air Force avionics instrument specialist was indicted in Brooklyn, N.Y., on suspicion of trying to travel to Syria to join the group. Prosecutors in Brooklyn also have charged three other men with seeking to link up with the militants.

And on Thursday, the FBI arrested a former interpreter for the U.S. military in Iraq, now a naturalized American citizen, who had tried to travel to Syria from Texas. In June he had used Twitter to “pledge obedience” to Islamic State.

“As a numbers game, it is pretty easy for ISIS to reach out to a very large number of people using a very robust social media presence,” said J.M. Berger, a nonresident fellow at the Brookings Institution, using a common acronym for Islamic State.

“I suspect we should see more plots going forward,” he added.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

HELPING THE MIDDLE CLASS

Mr. REID. Madam President, I think everyone knows that I disagree with the reasoning for the trade bill. Based on my experience of looking at trade bills that have passed the Congress in years past, it is not going to help the people whom I want to help.

I am happy that multinational corporations are doing well, but my first goal is not them. It is people who work for a living, middle-class Americans, who work so hard, first of all to find a job, and then once they find a job, they do everything they can to hang on to that job. The trade bill is another example of how we have ignored in this Congress the working men and women of this country.

I so admire our ranking member of the banking committee, Senator BROWN of Ohio. He has done a remarkably good job of pointing out what is wrong with the trade bill. It passed, and I accept this. The vast majority of Democrats opposed it, but there are some who didn’t. I respect them, and I respect their judgment. I am not here to criticize them. I am here to criticize the underlying legislation. This Republican-led Senate has done nothing to help the middle class. It doesn’t matter what you look to—minimum wage, equal pay for men and women, the bur-

den of student debt, and, of course, the tremendous lack of impetus to do something about our surface transportation system, our highways.

We have 64,000 bridges in America that are structurally deficient. Fifty percent of our highway roads are deficient, and we do nothing. Likely, what will happen here in the next day or two is that we will extend the highway authorization for 60 days. It should be pretty easy to do because we have done it 32 other times.

Since the Republicans came to town and started flexing their muscles, we found a situation where they were unwilling to help middle-class Americans. Think about that. Our country has 64,000 bridges that are structurally deficient. Does this really matter? Well, talk to the people of Minnesota. One of their bridges collapsed and 13 people died. Of course it matters, and we are ignoring it as a Congress, and that is not right.

Ray LaHood, a Republican, who was Secretary of Transportation for President Obama for a long time, said that our transportation system should be called the pothole because that is all the highways are anymore.

The trade bill is an example of not helping the middle class, and it is an example of how we focus on multinational corporations.

My friend the Republican leader talked about the FISA bill, the Foreign Intelligence Surveillance Act. The Republican leader and I are friends. We have served together for decades here in this body. But with all due respect to him, I think I will take the word and opinion of the head of the FBI, the Attorney General of the United States, and the man who is in charge of all of our intelligence, James Clapper, who has said, without any question, that the bill that passed the House of Representatives—by almost 390 votes—is what we should be doing here.

Among other things, in a letter they wrote to Senators LEAHY and LEE, they say:

The Intelligence Community believes that the bill preserves essential operational capabilities of the telephone metadata program and enhances other intelligence capabilities needed to protect our Nation and its partners.

I repeat, the bill passed by a 4-to-1 margin in the House of Representatives. My friend the Republican leader talks continually about bipartisanship. We have a piece of legislation out of the House. It was one of the rare times where bipartisan efforts were made and they worked. They passed this bill, and we should do the same before we leave here rather than extend this program.

Efforts have been made to extend a program that has already been declared by the Second Circuit Court of Appeals of the United States as illegal. How can we extend an illegal act? That is what some of the talk is from the other side of the aisle. I think that is unfortunate, and I think we should make sure that before we leave here, we do what