friend, for the treasured moments I shared with you, for your soaring spirit, and for the marvelous work you accomplished.

THE CIVIL LIBERTIES RESTORATION ACT

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 6, 2005

Mr. BERMAN. Mr. Speaker, today, I am joined by my colleague BILL DELAHUNT (D–MA) in introducing the Civil Liberties Restoration Act.

Three and a half years ago, following the attacks of Sept. 11th, the Attorney General asked Congress for a long list of new powers he felt were necessary to protect the United States from future terrorist attacks. Six weeks later, Congress granted those powers in the USA PATRIOT Act.

I voted for the PATRIOT Act in 2001 because I felt that a number of its provisions provided essential tools to fight terrorism. I did so expecting that Congress would undertake diligent oversight of the Attorney General's use of the tools we provided. Unfortunately, that has not been the case.

The Civil Liberties Restoration Act (CLRA) is our effort to return oversight to our legal system and restore the kind of checks and balances that are the foundation of our government.

Since we enacted the PATRIOT Act almost, there has been tremendous public debate about its breadth and implications on due process and privacy. I do believe that there are some misperceptions about the law and its effects, but I also believe that many of the concerns raised are legitimate and worthy of review by Congress.

The CLRA does not repeal any part of the PATRIOT Act, nor does it in any way impede the ability of agencies to share information. Instead, it inserts safeguards in a number of PATRIOT provisions.

The bill addresses two pieces of the PATRIOT Act in particular. First, it ensures that when the Attorney General asks a business or a library for personal records, he must have reason to believe that the person to whom the records pertain is an agent of a foreign power. Second, the bill would make clear that evidence gained in secret searches under the Foreign Intelligence Surveillance Act (FISA) cannot be used against a defendant in a criminal proceeding without providing, at the very least, a summary of that evidence to the defendant's lawyers. One of my biggest concerns when we passed the PATRIOT Act was that the changes we made in FISA would encourage law enforcement to circumvent the protections of the 4th Amendment by conducting searches for criminal investigations through FISA authority rather than establishing probable cause. This provision in the CLRA does not take away any of the powers we provided in the PATRIOT Act. It simply requires that if the government wants to bring the fruits of a secret search into a criminal courtroom it must share the information with the defendant under existing special procedures for classified information.

The Civil Liberties Restoration Act deals with more than the PATRIOT Act. It also addresses a number of unilateral policy actions taken by Attorney General Ashcroft both before and after enactment of the PATRIOT Act without consultation with or input from the Congress. For example, the Administration has undertaken the 'mining' of data from public and non-public databases. Left unchecked, the use of these mining technologies threatens the privacy of every American. The CLRA requires that any federal agency that initiates a data-mining program must report to Congress within 90 days so that the privacy implications of that program can be monitored.

The Attorney General unilaterally instituted a number of policies dealing with detention of noncitizens that we address. For example, the AG ordered blanket closure of immigration court hearings and prolonged detention of individuals without charges. The CLRA would permit those court hearings to be closed to protect national security on a case by-case basis and requires that individuals be charged within 48 hours, unless they are certified as a threat to national security by the AG as mandated under the Patriot Act.

The CLRA also addresses the special tracking program (known as NSEERS) created by the Attorney General, which requires men aged 16 and over from certain countries to be fingerprinted, photographed and interrogated for no specific cause. This program creates a culture of fear and suspicion in immigrant communities that discourages cooperation with antiterrorism efforts. The CLRA terminates this program and provides a process by which those individuals unjustly detained could proceed with interrupted immigration petitions. This is the only provision of the CLRA that eliminates a program outright, but this program has already been partially repealed by the Department of Homeland Security and largely replaced by the US VISIT system.

When I voted for the PATRIOT Act, I understood that my vote carried with it a duty to undertake active oversight of the powers granted by the bill and carefully monitor their use. When Congress passed this law, Mr. Speaker, we included a sunset provision that would require us to reconsider and evaluate the policies we adopted. This afternoon, the House Judiciary Committee held its first hearing to consider these sunset provisions, and we heard testimony from Attorney General Alberto Gonzales asking that we make the sunsetted provisions of the PATRIOT Act permanent.

In light of the many policies implemented unilaterally by this Administration since passage of the PATRIOT Act, our review of this Congress must go beyond just the sunset provisions in order to fulfill our duty of oversight. The review started today by the House Judiciary Committee must encompass the whole of our anti-terrorism policies. Congress should continue to examine whether the policies pursued by the Attorney General are the most effective methods to protect our nation from terrorists, whether they represent an efficient allocation of our homeland security resources, and whether they are consistent with the foundations of our democracy.

Fortunately, the 9/11 Commission laid out a standard by which we can evaluate our current policies. First, Congress should not renew any provision unless the government can show, "(a) that the power actually materially enhances security and (b) that there is adequate supervision of the executive's use of the powers to ensure protection of civil liberties." Second, the Commission advises that "if the power is granted, there must be adequate guidelines and oversight to properly confine its use." This is the standard that we ought to apply across the board. It is the standard that Mr. Delahunt and I applied in drafting this legislation.

It is my hope Mr. Speaker, that this standard will guide us in our work and that we will enjoy an active debate on these issues and this legislation.

GREEK INDEPENDENCE DAY

SPEECH OF

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 5, 2005

Mr. VAN HOLLEN. Mr. Speaker, I am honored to rise today and join the millions of my fellow Americans in commemorating Greek Independence Day which, on March 25th celebrated the 184th anniversary of the rebellion and the struggle of the Greek people against the Ottoman Empire.

What makes Greek Independence Day so special here in America is that it reminds us of the strong principles and bonds that the U.S. and Greece share. In looking into the struggles of our two nations, we realize how much our struggles have in common, and how much each country has been influenced by the other.

Greece and the United States are bound by an absolute commitment to the democratic ideals of justice and freedom and continue to be strong allies. By commemorating Greek Independence Day, we also celebrate the strength and the resolve of the human spirit that has been the inspiration of us all.

I am very pleased to place into the record a statement made on this 184th anniversary of Greek independence written by one of my constituents, Constantinos Nicolaou.

The greatness of the human spirit, regardless of any efforts to suppress it, will always rise against tyranny and oppression and will start revolutions where heroism will pay any price, even the ultimate sacrifice of life, in order to gain freedom and independence.

Every time we commemorate heroism such as the one exhibited by the Greeks on March 25, 1821 and during the ensuing struggle for their freedom, we cannot help but think of our great founding fathers, who were so much influenced by the ancient Greeks in their struggles for freedom and the creation of what had become the freest, most democratic country in history, the United States of America.

Thomas Jefferson looked to the ancient Greek philosophers and their teachings as an inspiration in trying to create a fair, strong, democratic state. And it was not accidental that many of the Greek leaders of the 1821 revolution, turned to America for inspiration as they were embarking in their struggle for freedom.

Both nations were faced with seemingly insurmountable struggles, rising against empires to claim their rights to life, liberty and the pursuit of happiness. Both nations became triumphant at the end, because of their love of freedom. The great American Patriot, Patrick Henry, proclaimed, Give me liberty or give me death." The Greek patriots went to battle proclaiming, "Eleftheria I Thanatos" —liberty or death.