

Having the opportunity to meet with the Mr. Bilkey Saturday evening—he asked to see me, and I was happy to do that—I learned a great deal about the knowledge and level they have of how to put a greater security situation in the transit of these containers. Let us give them an opportunity.

I thank my friend for his remarks.

Mr. SCHUMER. Mr. President, I thank my colleague, and I certainly agree. I have talked to a good number of people in the business community and in the ports community of New York. The issue is a complicated one but one that is hardly clear-cut. But I will continue to pursue that.

I also will make just one other point; that is, the worry many of us have is not that the head of this company would be wanting to facilitate terrorism but, rather, that terrorists might too easily infiltrate such an organization. I will get to that in a little bit of time.

(The remarks of Mr. SCHUMER pertaining to the introduction of S. 2333 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. In my capacity as a Senator from Tennessee, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic leader is recognized.

#### APPOINTING PENSION CONFEREES

Mr. REID. Mr. President, right before the recess, the distinguished majority leader and I had an exchange regarding the pension reform conference. Everyone acknowledges the conference is necessary. The pension reform bill is headed to conference. It is a very important piece of legislation that will affect the pensions of millions of working Americans. It has strong bipartisan support. It passed this Senate by a vote of 97 to 2.

This has boiled down to something that is fairly simple: Who will be the conferees? We have a right, of course, on our side to choose who we believe should be in the conference. The distinguished majority leader has the right to choose whom he wants to be in the conference. Arbitrarily, the majority leader said that conference would have seven Republicans and five Democrats. That is not acceptable. We have said that because of the complexity of this issue we need another Democrat. We are willing to maintain the margin of two where Republicans would have an advantage. But we believe it should be eight to six. Republicans would get another conferee. Democrats would get another conferee.

Now, certainly, we are eager to work on producing a conference report that

will protect the benefits working Americans have earned, provide certainty to employers who sponsor pensions, and strengthen the Pension Benefit Guaranty Corporation. I can see nothing harmful about having six Democrats instead of five. It is important to get the right people into the room when these issues are being discussed and decisions are being made. Remember, this conference will have jurisdictional aspects relating to the Finance and the HELP Committees.

When we had the corporate tax bill last year, there were 23 conferees—23 conferees. We are saying there should be, again, eight Republicans and six Democrats. Conferees on this legislation will need to resolve a number of important and very technical issues because we have different feelings than does the House. And when I say "we," I mean Democrats and Republicans, as indicated by the overwhelming vote to get it out of here.

I have confidence in the abilities of the two lead Senators on our side, Senators KENNEDY and BAUCUS. But this is one conference where the addition of a couple more sets of eyes is likely to lead to better legislation. So I would hope the majority leader would focus his attention on this issue and let the conference go forward. The only thing holding this up is whether this conference will have six Democrats or five in arriving at a bill that will be brought back to this body.

#### REMEMBERING THE ADMINISTRATION

Mr. REID. Mr. President, I rise to talk a little bit about this administration, the administration of George W. Bush. Unless there is a significant turnaround, this administration will not be remembered for its accomplishments. It, in fact, will be remembered for its incompetence. And this dangerous incompetence has made America less secure.

From Social Security to border security, the American people know that incompetence lies at the heart of this administration's failures. Ultimately, this incompetence has come with a price. It has made our country less safe and less secure.

We can talk about a lot of things, but this afternoon I will talk about a few. Let's talk about the prescription drug program. I support a Medicare drug benefit, but this administration has botched the program so badly that relatively no one has signed up for it. The President, in his Saturday address, said 25 million Americans have signed up for this program.

That is simply not true. Twenty of those twenty-five million, prior to this legislation passing, already had prescription drug benefits. And now, under this program, they have a lot less than they had before. So after all this talk, there are a few million new people who have signed up, and tens of millions of people are still left trying to figure out what to do and how to do it.

Of the seniors currently in the program, millions are paying more for their drugs than they were under the previous coverage. This includes thousands of seniors in Nevada who face more restrictions and higher costs. Millions more seniors were wrongly dropped from the system, leaving them without coverage for the life-saving drugs.

I had the opportunity, this morning, to meet with the Governors. They are terribly concerned because of this legislation being so poorly managed and, frankly, poorly written. The States have had to advance their hard-earned moneys to pay for the drug coverage of people who simply are cut off. They want to know when they are going to be reimbursed.

What about the President's incompetence in the war on terror?

In 2002, Osama bin Laden was trapped in the mountains of Afghanistan.

But instead of redoubling our resources to capture him, the President shifted to Saddam Hussein, and bin Laden was left to fight another day. As a result, the al-Qaida leader continues to plot and threaten us as we speak.

Meanwhile, terrorist attacks across the globe are up sharply over the last 5 years, and al-Qaida has morphed into a global terror franchise.

Government reform. What has the President done? President Bush promised to create a new tone in Washington. He has, but it hasn't been a pleasant tone. His incompetence has created the biggest culture of corruption our Nation has ever seen, with scandals in the House, the Senate, and the White House, and the country is paying a price for this corruption: higher gas prices, higher health care costs, and deficits year after year. Every Bush budget has broken a record of paying a higher deficit than the year before. But the problem is that he keeps breaking his own record.

It is difficult for me to comprehend how my friends on the other side of the aisle can allow this to go on. We were told by Alan Greenspan, when we were in the majority, that the deficit was the most important thing facing this country. So we did something about it—the Budget Deficit Reduction Act of 1993—and not a single Republican voted for it in the House or the Senate. Vice President Gore had to break the tie in the Senate. In the last 3 years of the Clinton administration, less money was being spent than we were taking in. We retired the debt by about a half trillion dollars. That certainly has not been the case during the Bush years.

Whether we like it or not, President George W. Bush will be President for the next 2½ years. We need him to govern competently. We cannot afford more of what we have seen since 2001. So today I offer three issues: The port security issue, Iraq, and Katrina—these are only three—where President Bush can work with us in order to turn his record into a record of progress and competence.

First, our ports. Now, the President said he would not allow any legislation to go forward; he would veto it. Of course, there has been a change of tone because even Michael Savage—I was in Reno and I wanted to listen to the news, and I flipped it on about 10 to 9 or 8—I don't remember the hour. Michael Savage was on. I never listen to him. I heard a lot about him, so listened. He spent that 10 minutes berating the President. Michael Savage does not very often do that. It is not only Michael Savage, but everybody in America is so upset about this port situation. Their decision to outsource our ports to Dubai shows they still don't understand the realities that exist in this world.

How in the world was the decision made to give another country control of our ports? It is not another company but another country that will be taking care of our ports. That is a state-owned company. The administration's decisionmaking process could not be more flawed. On the one hand, we have Secretary of Treasury Snow, who I am told from his CFX retirement got about \$100 million, being asked to rule on this. Part of his CFX responsibility was CFX's involvement in ports. He was the one who made the final signoff on this, not Chertoff. This was not a security issue; it was a business issue. I am sorry to say that any time in this administration when it is business versus security, business wins.

No effort was made to brief Congress, relevant States, or the port authorities. The decision seems to have ignored the truth about Dubai, one of the seven city states of the United Arab Emirates. Of course, we are told now that the United Arab Emirates wants to be a friend of the United States. Everybody knows we need more friends in the world, that is for sure. But we cannot ignore the historical connection of the United Arab Emirates to terrorism and the proliferation of terrorism. The United Arab Emirates was only one of three nations in the world to recognize the government of the Taliban, the government which allowed Osama bin Laden and al-Qaida development.

The 9/11 Commission found that UAE represented a persistent counterterrorism problem for the United States. Terrorism money has been laundered through UAE, and 11 of the hijackers flew from Dubai to the United States in preparation for the attacks.

Bin Laden's operatives are said to have used Dubai as a logistical hub after 9/11. In 2004, it was exposed that Dubai was the center of the world's largest nuclear weapons proliferation ring, as the AQ Khan network used Dubai to traffic nuclear weapons technology to the highest bidders.

Finally, according to Freedom House, a nonpartisan and highly respected organization often cited by the Bush administration, the United Arab Emirates is not free, not democratic, and has been found to engage in human

trafficking and forced child labor. So, of course, we need them to be our ally. I think they can be our ally on a range of issues, but right now we better stop and look at what we are doing.

There are significant national security considerations involved in this deal that have never been considered by the President. They must be considered in the post-9/11 world. That is what the law and our Nation's security require. After fumbling this process so badly, the President decided yesterday to accept the company's 45-day investigation of the port sale.

While this is a good first step, the administration's consistent involvement in this, which has not been positive, makes me skeptical. There is no indication that they will do better in 45 days than they did in 14.

The lesson of 9/11 is that we cannot leave any stone unturned. So I call upon this administration to take three steps concerning our ports and this sale, in particular. First, during the next 45 days, I urge the President to take a hard look at the national security implications of this arrangement. He cannot leave this decision to under secretaries and deputies. He needs to get involved and provide leadership.

Second, he needs to work with Congress to fix the review process. We need to make sure that all future sales of critical infrastructure go under an automatic 45-day review, and that the President personally signs off on deals such as this, and that Congress is kept informed throughout the process.

Finally, there is something else the President needs to do with our ports: Make a real commitment to port security. We have known for years how vulnerable our ports are. Only 5 percent of the containers coming into this country are inspected. For years, we have tried to make them more secure. Unfortunately, every time we bring a measure to the floor, it is defeated on a party-line vote. They have fought us every step of the way, going as far as eliminating grants to port security in next year's budget.

If the President is serious about protecting our ports, he will reconsider this decision and join with Democrats to do everything we can to keep our ports safe.

The President's second chance to turn incompetence into progress comes in Iraq. To be successful in Iraq, there must be victory on three fronts: the security front, the political front, and the economic or reconstruction front. Unfortunately, on all three fronts there is only incompetence by the administration right now.

On the security front, we have gone from having one Iraqi battalion capable of operating independently to zero. We have gone backward. Our troops and our generals are performing bravely, doing their job with honor every day. Unfortunately, they have been let down by our civilian leaders time and time again. The political leaders of this administration didn't have a plan

to win the peace. They sent our troops into battle without the equipment they needed. According to Paul Bremer, Provincial Governor of Iraq, in his book, this administration denied the military's request to put more troops on the ground so we could control Baghdad and Iraq's borders. We know that General Shinseki said we would need more than 200,000 troops. He was fired. We know Larry Lindsay, who was the President's chief economic adviser, said the war would cost us \$100 billion. He was fired.

The political front has been mired by similar incompetence. To achieve political victory, we need the Iraqi people to work together, but the raging violence between the Shia and Sunnis last week shows how far we are from that goal.

President Bush cannot fulfill his responsibilities simply by placing a periodic phone call to the Iraqi leadership. He needs to be personally involved. The job of bringing all the factions together has been delegated to our fine Ambassador on the ground. The Secretary of State was in the region last week, but she apparently didn't have time to stop in Iraq and impress upon the Iraqi leadership the importance of coming together to form a government.

On the reconstruction front, things are just as bleak. The Iraqi people still lack basic infrastructure. We don't know how many Iraqis are getting drinkable water. Their oil and electrical output continues to decline, and it is lower than before the war started. On reconstruction, only \$3 billion has been delivered. The money has been spent, mired in fraud, with teams of Justice Department lawyers investigating contractor fraud and crimes by Americans running this civil authority.

It is long past time for President Bush to come forward with a strategy to complete the mission in Iraq. We are losing ground on the three key fronts: economic, military, and political. The window of opportunity for the Iraqi people and this administration to get things right grows smaller every day.

If the President is serious about our security, he will identify a strategy for achieving the remaining objectives that must be met in Iraq. We will pay a real price if the incompetence continues in Iraq. As the New York Times reported Friday, leaders across the Middle East fear that violence could spread from Iraq across the entire region. The President must get a handle on Iraq and do it now.

On these three issues and other issues, we reach out to the President. We are willing to work with the President, but he must understand that it cannot be only his way; we have to work together. If we do this, we can have a better country.

CONCLUSION OF MORNING  
BUSINESS

The PRESIDING OFFICER (Ms. MURKOWSKI). Morning business is now closed.

USA PATRIOT ACT ADDITIONAL  
REAUTHORIZING AMENDMENTS  
ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2271, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2271) to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

Pending:

Frist amendment No. 2895, to establish the enactment date of the Act.

Frist amendment No. 2896 (to amendment No. 2895), of a perfecting nature.

PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, as we begin the debate and discussion on the USA PATRIOT Act, I urge my colleagues to invoke cloture to cut off debate tomorrow when the vote is scheduled at 2:30, and then proceed to pass the PATRIOT Act.

The PATRIOT Act was passed by the Congress and signed into law by the President shortly after September 11, 2001, to provide additional tools for law enforcement, and it was reviewed extensively by the Committee on the Judiciary, which I chair, last year; and the Judiciary Committee came out with a unanimous report, with all 18 members on the committee concurring in the final product.

We considered this a unique, if not remarkable event, considering that our Judiciary Committee has people at all positions on the political spectrum. So to have unanimous agreement was, we thought, quite an accomplishment. When the matter came to the floor of the Senate, it was passed by unanimous consent, which again was unique, if not remarkable, in that on a matter as complex and controversial as the PATRIOT Act all of the Senators were in agreement that it should be enacted.

We then went to conference with the House of Representatives and, as expected, the House had different views than what the Senate had in mind. But we worked through in a collegial way with Chairman SENSENBRENNER and others on the House side and came to a conference report which we submitted to the Senate.

We fell short of having enough votes to impose cloture when objections were reached to a number of provisions which had been included in the conference report.

There have since been some changes made in the legislation which is pend-

ing before the Senate. I compliment my colleagues, Senator SUNUNU, Senator CRAIG, Senator MURKOWSKI, who is presiding today, and Senator HAGEL, for a number of additions which led those four Republican Senators who had not voted for cloture to find the PATRIOT Act acceptable, taking the conference report and making these additions.

It is our expectation that there will be a number of Democrats, I think most of whom oppose cloture, so we have an expectation of receiving 60 votes tomorrow to be able to move the bill ahead.

The changes which were made as a result of these modifications provide for explicit judicial review of a section 215 nondisclosure order, a provision to remove from the conference report the requirement that a person inform the FBI of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to a national security letter, and an additional provision to clarify current law that libraries that have been functioning in their traditional roles, including providing Internet access, are not subject to section 2709 national security letters.

These changes were, in my opinion, not major but helpful in the sense they have satisfied a number of Senators, I think, and are very constructive and enable us to move forward, which I expect will enable us to obtain cloture.

With the revised bill which is now before the Senate for a cloture vote tomorrow, it is my hope my colleagues will cut off debate, invoke cloture, and let us move ahead to the passage of the PATRIOT Act. It is not a bill to my precise satisfaction, but in the Congress of the United States, we reach accommodations and we reach compromises. My preference would have been to have the Senate bill enacted, but there were significant concessions made on both sides, especially by the House of Representatives, in agreeing to a 4-year sunset provision.

What I intend to do tomorrow is to propose additional legislation in this field which would take the current bill with the improvements made by Senator SUNUNU and his group and add a number of additional safeguards on civil liberties which will improve the bill even further, in my opinion, and to consider that on additional legislation in the Senate.

In so doing, I fully realize we will have to go through the legislative process. We will have hearings in the Judiciary Committee. We will make this the subject of oversight on what the law enforcement officials, specifically the FBI, will be doing, and we will ultimately, hopefully, report out of the Judiciary Committee a bill with the provisions which I am now about to enumerate which will, if successful in conference and to be signed by the President into law, return the bill to its form which passed the Judiciary Committee unanimously last year and passed the Senate unanimously.

The provisions in the bill which I will introduce tomorrow—I wanted to give my colleagues notice of what I intend to do—would be a provision, first, on the notice on search warrants to require that the target receive notification of the execution of a delayed notice search warrant within 7 days as the Senate-passed PATRIOT Act provided. The conference report provides for notice within 30 days, which was a significant compromise when the House of Representatives moved from 180 days to 30 days and the Senate moved from 7 days to 30 days, but it continues to be my view that the 7-day requirement is the best requirement.

The bill will further provide that section 215 will have the Senate-passed three-part test which will require a statement of facts accompanying an application to show that the records sought, first, pertained to a foreign power or an agent of a foreign power, second, relevant to the activities of a suspected agent of a foreign power who is the subject of an authorized investigation, or three, pertain to an individual in contact with a suspected agent of a foreign power.

I will put in the RECORD a memo detailing the differences between the Senate bill and the House bill and the conference report.

This provision goes to the heart of strenuous objections raised by people who filibustered the bill who objected to a fourth provision which gave the judge discretion to allow for a court order if there were a terrorism investigation involved generally which did not have one of this three-part test.

My view is that the three-part test is decisively preferable, although I do think in the spirit of compromise on our bicameral legislation, having the discretion of the judge to authorize the order if he found it warranted in light of the terrorism investigation was acceptable. This is preferable, and this will be included in the new bill to be introduced.

A third change will provide for judicial review of national security letters to eliminate the conclusive presumption in the conference report on the national security letter provision. The bill removes the ability of the Government to prevent judicial review of the nondisclosure requirement if it certifies in good faith that “disclosure may endanger the national security of the United States or interfere with diplomatic relations.”

This provision in the conference report was identical with what passed the Judiciary Committee unanimously and was adopted unanimously by the Senate. Those who have objected to this conclusive presumption say it was overlooked and that on further consideration they objected to it.

Upon additional analysis, it is my view this conclusive presumption is better out of the report, which gives the court the discretion to allow for the judicial review of these national security letters.