

I have only been chairman of the committee for less than a year, but I have come to see the vicissitudes of leadership. You don't have the freedom to be the dissenter, to stand up and articulate your own views and to accept nothing short of what ARLEN SPECTER has done or I am going to vote no. I have done that a few times when I have had greater freedom, but if you are the chairman of the committee, you have to carve out consensus.

In refusing to sign the conference report on November 18, 2005—to the dissatisfaction of many people—but waiting until December to sign it, that was an effort to gain more negotiations and to try to satisfy more people. My job was to get a consensus, was to work through what is the art of the possible, to get a bill.

The six Senators who opposed the bill issued their press releases not before the ink was dry on the conference report but before the ink was finished on the conference report. When I went to the press galleries on December 8, 2005 to announce the conference report, before I got there the dissenters had already issued their press releases. They weren't waiting to see what the conference report had to say. They did not issue their objections before the ink was dry; they issued their objections before the ink was finished. And you can do that if you are a dissenter and if you are an objecter. But if you are the chairman and you have the obligation to pull the parties together—and when I signed the report on December 6, 2005 I still couldn't get some members of my committee to sign the report. They thought it went too far.

The President has taken the position that this conference report goes as far as he is going to go. I am advised that he issued a statement earlier today that he will not sign a 3-month extension. The majority leader said yesterday that he would not bring up a 3-month extension. There may be ways to get it on the floor in any event. You can't amend the conference report.

If I am given instructions in my capacity as chairman to go back and negotiate, I will salute and go back and negotiate and try to work through whatever circumstances require. But where the President has said he is not going to sign a 3-month extension, if he means business, and I think he does, then in voting on cloture and in looking to a final vote up or down, this body is going to be faced with the alternative of either accepting the conference report, which is a balanced bill, or, if not, the PATRIOT Act is going to expire, and the responsibilities will be on those of us who vote and take positions.

Although we are a considerable distance from 9/11—more than 4 years—terrorism continues to be a problem. This bill gives important tools to law enforcement in a balanced way. This bill has provisions to protect subways, seaports, and airports. It is important that we have a balanced bill, and it is

important that we have a bill. There is no mathematical formula, but this bill is a balanced bill.

How much time remains of my 30 minutes?

The PRESIDING OFFICER. Eight minutes forty seconds.

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, before I start, with the distinguished senior Senator from Pennsylvania in the Chamber, I totally appreciate what he said about the problems of being the leader on a committee and having to make the decisions of how you are going to get a bill through.

I was chairman of the committee when we put through the first PATRIOT Act. I remember the balancing act we went through at that time and how difficult it was to get a bill through. And that PATRIOT Act is this PATRIOT Act. It contains a number of items that I wrote.

I also note that throughout, the chairman and I have kept in very close contact. We have spoken several times. I have considered during my 31 years in the Senate that one of the things which has given me the greatest sense of satisfaction is the relationship the distinguished chairman and I have in getting things through, and we have. I am concerned because we have come so close on this.

As Senator SALAZAR noted, yesterday was the anniversary of the adoption of the Bill of Rights of the Constitution.

Yesterday we engaged in debate seeking to protect and reserve those rights under the USA PATRIOT Act. I thank Senators SUNUNU, FEINSTEIN, CRAIG, WYDEN, FEINGOLD, SALAZAR, and OBAMA for their thoughtful remarks, their willingness to work in a bipartisan way which, after all, is the best tradition of the Senate.

Let all Members understand, this is a vital debate. The terrorist threat to America's security is very real. It is vital we arm the Government with the tools needed to protect American society and security.

At the same time, the threat to civil liberties is also very real in America today. I do read the papers. Today's New York Times reports that over the past 3 years, under a secret order signed by President Bush, the Government has been monitoring international telephone calls and international e-mail messages of people inside the United States—with no court approval, no checks and balances, one person's signature and that is it. This warrantless eavesdropping program is not authorized by the PATRIOT Act, it is not authorized by any act of Congress, and it is not overseen by any court.

According to the report, it is being conducted under a secret Presidential order based on secret legal opinions by the same Justice Department lawyers, the same ones who argued secretly that the President could order the use of torture.

It is time to have some checks and balances in this country. We are a democracy. Let's have checks and balances, not secret orders and secret courts and secret torture.

The debate is not about whether the Government should have the tools it needs to protect the American people. Of course it should. That is why, as I say, I coauthored the PATRIOT Act 4 years ago. That is why the act passed with such broad bipartisan support. When I voted for that PATRIOT Act, I did not think it was an ideal piece of legislation. I knew it would need careful oversight, but I was in favor of most of the PATRIOT Act. I am in favor of most of the PATRIOT Act now. That is why I voted for the bipartisan Senate bill in July. The distinguished chairman of the Senate Judiciary Committee got it through our committee unanimously, with Senators from the right to the left voting for it.

This debate is not whether it should suddenly expire. Of course it should not. That is why Senators from both parties have offered a bill to extend it in its present form for 3 months in order to give us time to either return to the bipartisan compromise we reached, pass the Senate bill, or reach a new bipartisan compromise.

Our goal is to mend the PATRIOT Act, not to end it. None of us want it to expire. Those who threaten to let it expire rather than fix it are playing a dangerous game. This is a debate about reconciling two shared and fundamental goals—assuring the safety of the American people and protecting their liberty by a system of checks and balances that keeps the Government, their Government, our Government, accountable.

America can do better. And we should. Those goals are not the goals of any particular party or ideology. They are shared American goals.

How to balance security with liberty and Government accountability was the most fundamental dilemma with which the Framers of our Constitution wrestled. How to adjust that balance with the post-September 11 world is the most fundamental dilemma before this Congress.

No one should doubt those who vote for cloture on the conference report care deeply about the liberty of the American people. We all do. No one should doubt that those who vote against cloture are devoted to protecting both the security and liberty of the American people. We all care deeply.

However, let us have a Government of checks and balances. In the long run, we are more secure. Our liberties are more secure. Frankly, we are more American in doing that.

The PRESIDING OFFICER. Senator from Nevada.

#### MILK REGULATORY EQUITY ACT OF 2005

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to the consideration of S. 2120 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2120) to ensure regulatory equity between and among all dairy farmers and handlers for sales of packaged fluid milk in federally regulated milk marketing areas and into certain non-federally regulated milk marketing areas from federally regulated areas, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (S. 2120) was read the third time and passed, as follows:

S. 2120

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Milk Regulatory Equity Act of 2005".

**SEC. 2. MILK REGULATORY EQUITY.**

(a) MINIMUM MILK PRICES FOR HANDLERS; EXEMPTION.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new subparagraphs:

"(M) MINIMUM MILK PRICES FOR HANDLERS.—

"(i) APPLICATION OF MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this section, a milk handler described in clause (ii) shall be subject to all of the minimum and uniform price requirements of a Federal milk marketing order issued pursuant to this section applicable to the county in which the plant of the handler is located, at Federal order class prices, if the handler has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases.

"(ii) COVERED MILK HANDLERS.—Except as provided in clause (iv), clause (i) applies to a handler of Class I milk products (including a producer-handler or producer operating as a handler) that—

"(I) operates a plant that is located within the boundaries of a Federal order milk marketing area (as those boundaries are in effect as of the date of the enactment of this subparagraph);

"(II) has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a milk marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases; and

"(III) is not otherwise obligated by a Federal milk marketing order, or a regulated milk pricing plan operated by a State, to pay minimum class prices for the raw milk that is used for such dispositions or sales.

"(iii) OBLIGATION TO PAY MINIMUM CLASS PRICES.—For purposes of clause (ii)(III), the Secretary may not consider a handler of Class I milk products to be obligated by a Federal milk marketing order to pay minimum class prices for raw milk unless the handler operates the plant as a fully regu-

lated fluid milk distributing plant under a Federal milk marketing order.

"(iv) CERTAIN HANDLERS EXEMPTED.—Clause (i) does not apply to—

"(I) a handler (otherwise described in clause (ii)) that operates a nonpool plant (as defined in section 1000.8(e) of title 7, Code of Federal Regulations, as in effect on the date of the enactment of this subparagraph);

"(II) a producer-handler (otherwise described in clause (ii)) for any month during which the producer-handler has route dispositions, and sales to other plants, of packaged fluid milk products equaling less than 3,000,000 pounds of milk; or

"(III) a handler (otherwise described in clause (ii)) for any month during which—

"(aa) less than 25 percent of the total quantity of fluid milk products physically received at the plant of the handler (excluding concentrated milk received from another plant by agreement for other than Class I use) is disposed of as route disposition or is transferred in the form of packaged fluid milk products to other plants; or

"(bb) less than 25 percent in aggregate of the route disposition or transfers are in a marketing area or areas located in one or more States that require handlers to pay minimum prices for raw milk purchases.

"(N) EXEMPTION FOR CERTAIN MILK HANDLERS.—Notwithstanding any other provision of this section, no handler with distribution of Class I milk products in the marketing area described in Order No. 131 shall be exempt during any month from any minimum price requirement established by the Secretary under this subsection if the total distribution of Class I products during the preceding month of any such handler's own farm production exceeds 3,000,000 pounds.

"(O) RULE OF CONSTRUCTION REGARDING PRODUCER-HANDLERS.—Subparagraphs (M) and (N) shall not be construed as affecting, expanding, or contracting the treatment of producer-handlers under this subsection except as provided in such subparagraphs."

(b) EXCLUSION OF NEVADA FROM FEDERAL MILK MARKETING ORDERS.—Section 8c(11) of the Agriculture Adjustment Act (7 U.S.C. 608c(11)), reenacted with amendments by the Agriculture Marketing Agreement Act of 1937, is amended—

(1) in subparagraph (C), by striking the last sentence; and

(2) by adding at the end the following new subparagraph:

"(D) In the case of milk and its products, no county or other political subdivision of the State of Nevada shall be within the marketing area definition of any order issued under this section."

(c) RECORDS AND FACILITY REQUIREMENTS.—Notwithstanding any other provision of this section, or the amendments made by this section, a milk handler (including a producer-handler or a producer operating as a handler) that is subject to regulation under this section or an amendment made by this section shall comply with the requirements of section 1000.27 of title 7, Code of Federal Regulations, or a successor regulation, relating to handler responsibility for records or facilities.

(d) EFFECTIVE DATE AND IMPLEMENTATION.—The amendments made by this section take effect on the first day of the first month beginning more than 15 days after the date of the enactment of this Act. To accomplish the expedited implementation of these amendments, effective on the date of the enactment of this Act, the Secretary of Agriculture shall include in the pool distributing plant provisions of each Federal milk marketing order issued under subparagraph (B) of section 8c(5) of the Agriculture Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agriculture Marketing

Agreement Act of 1937, a provision that a handler described in subparagraph (M) of such section, as added by subsection (a) of this section, will be fully regulated by the order in which the handler's distributing plant is located. These amendments shall not be subject to a referendum under section 8c(19) of such Act (7 U.S.C. 608c(19)).

**GULF OPPORTUNITY ZONE ACT OF 2005**

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of Calendar No. 328, H.R. 4440.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4440) to amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, this amendment 2680 acts on our commitment to provide rebuilding assistance to areas of the country devastated by this year's relentless hurricane season. It will benefit residents of the gulf region, as well as more recently impacted areas of Texas and Florida, and provides much needed relief and resources for economic rebuilding to those areas.

As promised, we have made our best effort to marry up our compassion for displaced persons and damaged communities with attention to fiscal discipline and the best use of taxpayer dollars. This bill represents an effort to most efficiently and effectively use the tax code to assist in the rebuilding and revitalization of those regions. I will reiterate the guiding principles of our hurricane relief legislation. First, because market forces will be the driver in getting these regions back on their feet, our bill includes only provisions that encourage and incentivize redevelopment. Second, our package provides resources only to those who incurred uninsured losses and does not provide for a bailout of those who assumed risk as an insurer in our capitalist, free-market system. Third, we have focused our limited Federal resources on those most in need—like the many devastated small business employers who were the backbones of these economies and who will be the engines of their future growth and prosperity. The amendment provides front-loaded incentives on a timely basis to encourage people and businesses to return to the region as quickly as possible.

I want to show my appreciation to my colleagues in the Senate and in the House for working to get this legislation to the President as quickly as possible. Before we go home to spend time with our families, it is important for us to help the many families who have had their lives overturned by the recent hurricanes. Hopefully they will think of this holiday season as a time of rebuilding and opportunity.