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Let me say that again. A huge swath of America, including many expert legal minds, does not agree with the arguments put forth by the administration. These arguments are transparently contrived, intellectually deficient, indefensible excuses being served up like tripe to silence legitimate criticism of the White House, a White House so infused with its own hubris that it has talked itself into believing that its inhabitants are above the law. But they are not. They are not above the law. President Bush is not above the law. No President is above the law. No United States Senator is above the law. No man is above the law. No one in the United States of America is above the law. Remember, this is a nation of laws, not of men.

Yesterday, the Senate's Select Committee on Intelligence jettisoned its constitutional responsibility to make certain that our laws are not being breached, and that the spirit and text of our revered Constitution remain in force. It is a sad day, indeed, to see such an important committee wilt under political pressure applied by the Vice President in partisan meetings held behind closed doors. The committee adjourned last night without considering a Democratic proposal to begin an investigation of the warrantless spying program, even though Senator JAY ROCKEFELLER, the vice-chairman of the Intelligence Committee, had been assured that his proposal would receive a vote.

I want to commend my colleague, Senator ROCKEFELLER. He has worked hard to protect the people's liberties, to make sure that this administration, even in its most secret circles, follows the law and the Constitution. It has not been an easy task, but it is one that Senator ROCKEFELLER has carried diligently.

Like Senator ROCKEFELLER, I will not sit idly by and allow the President's possible breaking of the law to be swept under the rug. I refuse to go quietly into the night, abdicating my responsibility as a U.S. Senator to a secretive executive branch, which refuses to brief the Congress of the United States on its clandestine spying on U.S. citizens without a warrant—an administration that believes it can, on its own, nullify constitutional provisions intended to protect the freedoms of millions of Americans for over 200 years.

This travesty must not stand. The peeping and snooping and spying must be investigated.

I am today announcing my intention to submit to the Congress legislation that will establish a nonpartisan, independent, 9-11-style commission to investigate and determine the legality of the President's actions.

There is a critical need for a thorough investigation of all domestic surveillance programs.

As I stated on Wednesday in my remarks on this subject, we, the American people—not just the NSA or the White House—have a legitimate need to know what is being done, by whom, and to whom. If there is a justifiable and valid reason to surveil a potential terrorist in the U.S., we certainly can find a way to do it legally. If there is a need to provide more efficient tools to fight terror, Congress has the responsibility to deliberate and, if warranted, to approve them. The President should ask Congress for them; not seize new powers that have never been enumerated by any U.S. court.

Congress would be pleased to entertain his request, as we have in the past, by updating FISA and the PATRIOT Act, but not—I repeat, not—before a full investigation to determine if laws have been broken—an investigation which will give members a fuller understanding of just what these surveillance programs entail. A little sunshine on this process is long overdue. Congress cannot fix what the White House does not want us to fully understand.

Congress needs to know if the Foreign Intelligence Surveillance Act or any other U.S. law has been broken, and whether the constitutional rights of thousands of Americans have been violated without cause. It is essential that Congress obtain the answers to these questions, not for partisan political reasons, but because our system of checks and balances requires it.

James Madison advised in Federalist 47 that: the accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

The assumption of power by an unchecked executive, who arrogantly believes that he can seize the authority to spy on innocent Americans and wantonly violate the fourth amendment is the beginning of the tyranny Madison so feared.

Mr. President, I ask unanimous consent that the text of the fourth amendment of the Constitution be printed in the RECORD.

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

U.S. CONSTITUTION: FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Mr. BYRD. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

LIHEAP

Mr. STEVENS. Mr. President, our country needs additional funding for LIHEAP. Temperatures in rural Alaska have reached 62 below zero. These temperatures have frozen heating systems and water and sewer lines in many of our villages. Alaskans are struggling this winter and paying over \$5 per gallon to heat their homes. In fact, the mayor of a North Slope community told me that at one point, a village paid \$8 per gallon.

While the home heating picture is not as bleak in other parts of our country, all Americans are feeling the effects of high energy prices.

In December, I tried to address this situation by including emergency LIHEAP funding in the Defense Appropriations Bill. Our bill created a new revenue stream by authorizing oil and gas development in the Coastal Plain of ANWR—and used this revenue to provide funding for several emergencies. Our bill included \$2 billion for LIHEAP and funding for the hurricane victims, first responders, and farmers.

The ANWR provision would have created a long-term, dedicated funding stream for home energy assistance.

Most of my colleagues on the other side of the aisle successfully filibustered consideration of this package under the guise of a Rule XXVIII violation. They then noted to remove the ANWR provision and the funds it provided from the bill, including emergency funding for LIHEAP.

It was a sad display of good policy dying a quick death at the hands of partisan politics. It was a particularly sad day for the people this funding was designed to help.

Despite this, Americans still need heating assistance this winter. I hoped the Senate would put partisan politics aside and create a long-term funding stream for LIHEAP in December. I believe that would have been the best solution.

The measure before us today is the only other solution available, and I urge my colleagues to pass emergency LIHEAP assistance.

S. RES. 374 (PASSED THURSDAY, FEBRUARY 16)

Mr. FRIST. Mr. President, S. Res. 374 concerns a request for testimony, document production, and representation in a criminal case. The U.S. Department of Justice has brought a case in Federal court in the District of Columbia against the former chief of staff of the General Services Administration. The five-count indictment includes charges of making false statements and obstructing the investigation of the Committee on Indian Affairs into allegations of misconduct by lobbyists in the