United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, (Thursday, December 15, 2005) *No. 161*

Senate

Statement of Senator Dianne Feinstein

"In Advance of a Vote on Cloture on the USA-PATRIOT Reauthorization And Improvement Act Conference Report"

Mrs. FEINSTEIN. Mr. President, I thank the ranking member very much. I would like to make a brief statement. I am not sure I can do it in 5 minutes. I may have to ask unanimous consent for a little additional time.

Today the Senate is taking up the conference report to accompany the PATRIOT Act. I am the original Democratic cosponsor of the unanimously passed Senate bill, as well as cosponsor of the Combat Meth Epidemic Act and the Port Security Crimes Act, both of which are incorporated in the conference report. Thus, it is only after careful consideration that I have determined to vote against cloture tomorrow, and I would like to take a moment to explain why.

I fear that it is going to be a very divisive and partisan vote tomorrow. The USA PATRIOT Act has been a valuable tool in our effort to combat terror, but it has also become a divisive point of contention between Democrats and Republicans and, as a result, doesn't have the broad support of the American people. Thus, it is extremely important that every effort be made to reach an accommodation before debate becomes contentious and even more partisan.

Outside the beltway, the USA PATRIOT Act has come to be terribly misunderstood. Many believe it is related to Guantanamo Bay and the detention of prisoners. Others believe it authorizes torture or the secret arrest of Americans. It does none of these things.

At the same time, some have irresponsibly sought to characterize anyone who seeks to improve or criticize the law as somehow playing into the hands of the terrorists. They have implied that the USA PATRIOT Act will expire in its entirety on December 31, and we will be left with no defense against terrorist acts. This, too, is untrue.

What is true is that when it comes to national security, it is so important to build consensus. Our efforts to combat terror in general, and the authorities in the PATRIOT Act specifically, are diminished in effectiveness if they are not seen by most Americans as the product of bipartisan effort in Washington.

I believe our Nation's safety requires this body to reach compromise on this bill.

That is why, when Senator Specter asked me to join him in introducing the Senate bill, I agreed. I want to say something. Senator Specter has been a wonderful chair of the Senate Judiciary Committee. He listens, he is open, he is smart, he is legally pristine, and he has been a fine leader for the committee.

I believed Senator Specter, working with Senator Leahy and the members of the Judiciary Committee, would be able to build consensus, to reach compromise, and deliver legislation that the American people could be confident represented bipartisan agreement, not politics.

My confidence in Senators Specter and Leahy and my colleagues on the committee was well placed. In July, the committee unanimously reported the bill favorably, and shortly thereafter the Senate, again unanimously, passed the bill.

Having a USA PATRIOT Act reauthorization bill, supported by Senators Cornyn and Schumer, Kyl and Feingold, Hatch, Kennedy, and every single Member of this body gave me great comfort, and I believe was an important step toward healing the divisive partisanship that has come to be associated with the bill.

Unfortunately, that spirit seems to have ended. The conference report process, instead of bringing unity, appears to have had the opposite result: dividing my colleagues by failing to adequately take into account differing views on elements of the bill. The simple result is that in the next day we are likely to divide into two camps.

In the end, of course, we will extend the PATRIOT Act's expiring provisions in some form because despite the rhetoric, nobody doubts that the provisions will be extended. What is at issue is whether and to what extent modifications are made.

What will be lost is the much needed sense that the PATRIOT Act

represents a broad consensus. That may be more important than the specific details of provisions and issues. I believe it is. The bottom line is that having a consensus bill is of paramount importance.
Yesterday, I urged Majority Leader Frist to work as hard as he can to bring people back to the table before the vote. The day before, I urged Attorney General Gonzales to work with Senators Leahy and Specter toward the same end. I have said the same thing to Senators Specter and Leahy personally, and today I renew this request.

Press reports today quote insiders saying that efforts to reach compromise have been abandoned. Some seem to believe that a filibuster fight would be an opportunity to force Democrats into bad votes, thus securing partisan advantage in upcoming elections.

Others seem to believe that the American people can be tricked into thinking that Members such as Senators Craig, Sununu, Murkowski, Hagel, Obama, Durbin, Feingold, Salazar, and Kerry, all of whom signed a moving letter yesterday explaining why they would vote against cloture, are somehow helping terrorists. Still others, counting the votes, think the opportunity to embarrass the administration is too good to miss.

I reject these positions. Instead, I ask respectfully that we get back to work.

I strongly urge my colleagues to carefully read the letter sent by this group of Senators. While I do not agree with every one of their points, the key issues they raise have merit and should be addressed.

The most important of the issues they raise involve section 215 -- the so-called library provision -- and provisions governing judicial review, particularly of national security letters. I believe on these two issues, as well as some of the others, continued good-faith negotiation will result in solving the problems in a way that will be acceptable to a vast majority of this body and will not in any way diminish the ability of our law enforcement and intelligence organizations to do their job.

Congress has a long and honorable tradition of putting aside party politics when it comes to national security. We were able to do that in the Senate with this bill. So it is critical that this approach be carried forward to the end.

I believe the unanimously passed Senate bill represents that compromise. And while I understand that some accommodations must be made to the House, these cannot be so great as to destroy the consensus in the Senate that we have built.

I know that Senator Specter and Senator Leahy have worked long and hard. I also know that Senator Leahy made some compromises to vote for the Senate bill that passed this body unanimously. I asked Senator Specter and Senator Leahy to please try once again to achieve the compromise that we had when the Senate bill passed this body unanimously.

I believe national security deserves no less, and I believe the distinguished leadership of the Judiciary Committee, Senator Specter and Senator Leahy, can achieve this if given the opportunity and if the leadership puts its clout behind bringing the House on board as well.

Absent that, I will vote for the Sununu legislation to provide an element of time. I also ask that the meth bill, as well as the port security bill, be added to his legislation. I thank the ranking member and the chairman and I yield the floor.