Passions run high on this issue—very high. But there is new reason this week to believe a bipartisan consensus in Iraq is emerging. It is what the American people want. A recent poll—in fact, it was from a couple days ago—shows 75 percent of Americans favor benchmarks and 60 percent favor a timetable for reducing combat forces. It is what President Bush's own military advisers say we need, including General Petraeus, who has said this war cannot be won militarily. It is what Democrats have stood for with firm resolve throughout these entire negotiations.

Now, in the last few days, we have seen our Republican colleagues move closer to our position. Over the weekend, the House majority leader, JOHN BOEHNER, said:

By the time we get to September or October, members are going to want to know how well this is working, and if it isn't, what's Plan B.

That is a timetable. The President has objected to our timetables. He vetoed our bill with timetables in it. The Republican leader in the House—the No. 1 Republican in the House—has told the President if things are not OK in September or October, something else has to happen. That is a timetable.

Senator LOTT said:

This fall we have to see some significant changes on the ground.

And days ago, Leader MCCONNELL echoed those sentiments as well.

Meanwhile, on Wednesday a broad coalition of Republican House Members expressed their dissent directly to the President. They went to the White House, spent an hour and 15 minutes with the President. One of them, TOM DAVIS of Virginia, called it their chance to confront a President who, as he put it, is in a bubble.

In the spirit of bipartisanship, I am inclined to agree with that assessment. The President is in a bubble. He is isolated.

Every day, the ranks of dissatisfied Republicans grow. But I wish my Republican colleagues—who now agree that President Bush's open-ended commitment has failed—would put some teeth behind their views.

We have courageous American troops in harm's way every day. We lost another Nevadan this week. There may be a State that has lost more than the Presiding Officer's State, but I do not know what State that would be. The State of Ohio has suffered significantly in the loss of life.

It is time for action. It is time to change course. It is long past due.

But I would say the shift we are hearing from the Republicans, even though a little bit quiet, each day is getting louder and louder and louder. It is a welcome shift, and it is very encouraging. It gives me hope that in the coming days, weeks, and months we will be able to work together with good faith and bipartisanship to give our troops and all Americans the new course they demand and deserve and the opportunity for our troops to come home.

We are going to do our very best to come up with something we can pass here in the Senate, send to the House, and confer, have a conference. We will do that to the very best of our ability. But, as I indicated earlier, it is not going to be easy.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Rhode Island is recognized.

POLITICIZATION OF THE DEPARTMENT OF JUSTICE

Mr. WHITEHOUSE. Mr. President, competence, independence, and sound judgment are the lodestar of the administration of justice in this country. Unfortunately, over the past few months, I and many Americans have been forced to question on all three counts those whom this President has appointed to lead the Department of Justice. Indeed, with each passing day, we sense more and more that something is gravely wrong.

For example, we have learned about the misuse and abuse of the Department's power to issue national security letters under the PATRIOT Act—which, even under the most legitimate and benign circumstances, represents a truly imposing authority. As you know, a national security letter, or NSL, is a Government demand for private information, issued without a warrant to third parties such as banks, phone companies, and Internet service providers. In March, the Department of Justice's inspector general reported that NSLs were being ''seriously misused.'' Among other things, there were no clear guidelines for issuing national security letters. They were issued without proper authorization, there was sloppy recordkeeping by the FBI, and there were no procedures for purging a citizen's private information if the investigation was closed.

We have also, of course, learned about the unprecedented firings of eight U.S. attorneys—dismissals which seem to have been motivated by politics, marred by incompetence, or, more likely, both.

The details of the Department's misjudgments in this matter, and particularly the degree to which partisan politics has infiltrated this Department, become more numerous and more damaging to the Attorney General's credibility every day. But the politicization of the Department should come as no surprise when we examine how the rules governing initial contacts between the White House and the Department of Justice on non-national security-related investigations and cases—traditional criminal cases—have changed since President Bush took office.

During previous administrations, there were strict rules governing contacts between the White House and the Department of Justice on investigations and cases—and for good reason. A strong firewall is necessary to prevent undue and untoward efforts to inject politics into the administration of justice. During the Clinton administration, this firewall was articulated in a September 1994 letter from Attorney General Janet Reno to White House Counsel Lloyd Cutler. It is my understanding that credit goes to Senator HATCH, then chairman of the Judiciary Committee, for his interest in seeing this policy confirmed in this way. So this has been a continuing and bipartisan concern, this question of the firewall between the White House and the Department of justice. The Reno letter stated:

Initial communications between the White House and the Justice Department regarding any pending Department investigation or criminal or civil case should involve only the White House counsel or deputy counsel, or the President or Vice President, and the Attorney General or Deputy or Associate Attorney General.

That policy is represented by this chart. On the White House side, the only people authorized to have these initial discussions on criminal cases are the President, Vice President, Deputy White House Counsel, and the White House Counsel. Within the Department of Justice, it is only the Attorney General, Deputy Attorney General, and the Associate Attorney General—a grand total of seven people.

As I noted during the Attorney General's testimony before the Judiciary Committee last month, that rule was changed in an April 2002 memo from Attorney General Ashcroft. The new policy permits initial communications on cases and investigations between the Office of the Deputy Attorney General and the office of the counsel to the President, and it also states that staff members of the Office of the Attorney General, if so designated by the Attorney General, may communicate directly with officials and staff of the Office of the President, the Office of the Vice President, and the office of counsel to the President.

The new rule is represented by this other chart. There are over 400 people in the White House now authorized to have those conversations with the Department of Justice, where before it was 4. Before, it was the very top administration officials in the White

House—the President, Vice President, Attorney General, White House Counsel, and Deputy White House Counsel. Who knows who all these other folks are. One of these boxes is Karl Rove. That makes you wonder. Down here, these are all the staff now within the Department of Justice who are authorized to have those communications, whereas before it was limited to the Attorney General, Deputy Attorney General, and Associate Attorney General.

These charts demonstrate the extraordinary latitude now permitted the White House and Department of Justice to discuss sensitive investigations and prosecutions. With the clear exception of discussions related specifically to national security, where one can understand you might want to have discussion also with the White House when it is a national security issue that would involve the military and other agencies of Government, for regular criminal cases and for prosecutions, I am hard-pressed to imagine any reason the Clinton-era rule needed expansion. Indeed, when I put this question to Attorney General Gonzales when he was before our committee, he had no answer.

These are not just bureaucratic niceties. Rules governing conduct within organizations have an obvious and direct effect on the conduct of people within those organizations. Clearly, the politicization of the Department has been either a byproduct or a cause of this changed rule. After all, the more political people you allow to weigh in on sensitive investigations and cases, the more you run the risk—or, indeed, make it possible—that those investigations and cases become inappropriately politicized.

So this brings us to FISA, the Foreign Intelligence Surveillance Act. Given all this, perhaps I should not have been surprised when I reviewed the administration's proposed Foreign Intelligence Surveillance Act ''modernization'' bill and compared it to the current FISA statute.

Under the current statute, title 50 of the U.S. Code, section 1804, passed in 1978, each application for a court order approving electronic surveillance under FISA must include the approval of the Attorney General, plus a number of required statements and certifications. One of those is a certification that information sought is ''foreign intelligence information'' and that such information ''cannot be reasonably obtained by normal investigative techniques.'' That certification—a critical proceeding with a FISA application—can currently be made by only a few people:

> The Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate.

That is actually a grand total of nine people, all senior level, all with a lot at stake in making sure they do the right thing. This makes perfect sense, given the importance of such a certification.

Now, let's take a look at the administration's proposed FISA ''modernization.'' That bill will allow the following people to certify applications for court orders under FISA:

> The assistant to the President for National Security Affairs or an executive branch official or officials designated by the President to authorize electronic surveillance for foreign intelligence purposes.

So any executive branch official or officials designated by the President can now authorize—or could if this passed—electronic surveillance for foreign intelligence purposes.

According to the Congressional Research Service, the most conservative estimate of the number of people who could be called ''executive branch officials'' under this definition is 9,050. The number is actually probably greater than that. So, in other words, if the administration had its way, more than 9,000 people would be eligible for designation by the President to certify an application for a warrant to the FISA Court. That is what this chart demonstrates.

Just to give you an idea, over here on this chart, we are talking about individuals—each block represents a person. Here, because the numbers are so big, we have divided by nine. This block represented the existing FISA certification authority to the nine Presidentially appointed and Senate-confirmed individuals who qualified, and we reduced it to one. Each one of these blocks would also represent nine, so multiply by nine. I am probably stretching my limits on the floor by using two charts at the same time. If I had to represent this with 9 people here and 9,000 here, I would have charts up to the ceiling of this room. That is the scale they are trying to change this to. By the way, one of these people, again, would be Karl Rove.

What we have is another example of the Bush administration trying to break down established barriers that defend fair, professional, and responsible decisions in national security and in the administration of justice.

Making matters worse, the administration's FISA bill would greatly expand the powers of the Attorney General in a number of key areas.

I don't think I need to say again that this Attorney General has thoroughly and utterly lost my confidence. I think he has also lost the confidence of this Chamber and of the American people. In my view, he does not merit any greater authority, particularly where that authority involves the power of the Federal Government to invade personal privacy for the purpose of secret wiretaps. We gave him that kind of authority when we gave him the authority with the national security letters. Look what he did with it. That authority was ''seriously misused.'' This is the man who has proven he cannot be trusted with these authorities.

The administration's bill would give the Attorney General expanded powers to hold on to information that was obtained without a warrant or obtained unintentionally. It would grant blanket immunity to any person or company that, from September 11 on, provided the intelligence community with any records, facilities, or assistance purportedly intended to protect against a terrorist attack. This blanket immunity power would allow the Attorney General to shut down a number of lawsuits and State investigations looking into whether and how companies provide detailed records about their customers' private communications.

It would allow powers to transfer any case before any court challenging the legality of classified communications intelligence activity, or any case in which the legality of such activity is even an issue, from the court it is filed in to the secret Foreign Intelligence Surveillance Court. This would be an extraordinary and unprecedented power for the Attorney General to forum-shop by grabbing cases out of open court and placing them before the secret FISA Court.

Finally, it would authorize the Attorney General to conduct surveillance directed toward foreign powers with fewer safeguards to ensure the surveillance will not capture the contents of Americans' communication.

This is just a sampling of the ways in which this bill would expand the Attorney General's authority under that FISA statute. We count at least 10 expansions of power.

Mr. President, the Department of Justice wields some of the most powerful tools held by any Federal agency.

The prosecutive power is probably the most severe power the Government holds. Among these powers is included the power to issue national security letters, the power through U.S. attorneys to prosecute criminal cases, and the power to help administer the Foreign Intelligence Surveillance Act.

These awesome powers must be used with competence, independence, and sound judgment. I am afraid the current Attorney General has not lived up to those high standards, and for that reason, I cannot support legislation that would increase this Attorney General's authority.

For that reason, I also call on him again to step down so we can begin to put this sad episode in the history—the proud history—of the Department of Justice behind us.

The Attorney General's resignation will not solve all the problems at the Department of Justice or the White House, but, regrettably, I have come to the conclusion it is a necessary first step.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, it is my understanding that we are now in morning business; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 1369 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTERNATIONAL TRADE

Mr. DORGAN. Mr. President, this has been a very disappointing week from the standpoint of a discussion about international trade. Yesterday morning, at about 8:30 in the morning, we learned the trade deficit for the previous month has once again spiked up to a $63.9 billion trade deficit in 1 month. And yet, most of this town continues to say how successful it is, this strategy of free trade.

This what has happened with our trade strategy. This chart represents an ocean of red ink. You can see, going back to 1995, we have had nothing but trouble, increasing deficits year after year. We are deep in debt with respect to our combined trade deficits. This is not a trade strategy that is working.

At about the same time that I learned that our trade deficit spiked up once again to $63.9 billion in 1 month, I also learned that one of the largest employers in North Dakota, Imation, is leaving our State. They announced they are going to be closing their plant in Wahpeton, ND.

They have actually announced it well ahead of time, and they are not going to be completely gone until the year 2009. It is helpful that we received some advanced notice.

But this is a company that has 390 employees. It produces high-tech products in data storage and so on. Mr. President, 390 workers who are paid well, who have good jobs with good pay and good benefits, facing the prospect of all that disappearing.

I was on the phone yesterday with the CEO of this company, Imation, and asked questions. The company has said to its employees and to me that they are closing down this factory in North Dakota because it produces floppy disks, and that is yesterday's technology. Floppy disks are on the way out, not on the way in. The market has moved and that is just the fact. So supposedly that has required them to make a decision to close this plant.

Come to find out, though, that only 55 people in a plant of 390 people are making floppy disks. The rest of the employees, of course, are not. They are involved in the production of other things. So it doesn't really make sense that they are closing the plant because of floppy disks.

Yesterday, in a conversation with the president of the company, after a lot of probing, I found out that 168 of the jobs in this plant are in fact going to moved to Juarez, Mexico. Why? Undoubtedly because of low wages paid in Juarez, Mexico. You can produce things less expensively if you are paying people 50 cents an hour, I suppose. But at its root it is exactly what is wrong with what is happening in international trade and our participation in it.

Instead of lifting others up, our entire trade strategy has been a strategy that says it is all right to push the standards in this country down. No, the workers in Wahpeton can't compete with Mexican workers, nor should they be expected to. And by the way, I will bet some others of these jobs will be migrating to China and some other places in Asia.

I am not here to trash a corporation; that is not my point. This company has been a good employer in our State for a long time. But I am very disappointed and very troubled they have announced they are leaving. In the last 5 to 7 years we worked hard to get them Federal Government grants, almost $3 million in Federal grants, plus a guaranteed Federal loan to expand their plant in Wahpeton, ND. Then, just a few short years later, there is a U-turn in the corporate board room that says they have decided not only are they not going to want to proceed here, they are going to leave.

What about the millions of dollars of grants that we worked to get because we want to support those jobs? This, in a microcosm, is exactly what is going on all across this country. It is Wahpeton this week, but I could name almost any city and you will have the same thing.

I have been on the floor of the Senate many times talking about who is leaving and when and where and why and how. Levis—gone. They don't make any Levis in America. There is not one pair of Levis made in America. Fruit of the Loom underwear—all gone; no underwear made in America by Fruit of the Loom. Fig Newton cookies, they, too, went to Mexico. If you want to eat Mexican food, buy Fig Newton cookies. Radio Flier, Little Red Wagon—gone to China; Huffy bicycles, gone to China.

I could go on forever talking about things. But what happened in Wahpeton, ND, brings it home in a stark way to the people who dressed up in the morning to go to work, appreciating those jobs, believing those jobs were important in their lives, just to find out that one day they are gone. And at least part of the reason they are gone is they can't compete with people who will work for a whole lot less money in other parts of the world. Should they be required to? Is our strategy to say, after we have built a set of standards for a century in this country, that those standards don't matter because you have to compete against a different standard? And the different standard is what they pay in China, what they pay in Mexico? We can't live on that in this country and that ought not be the standard.

I showed a chart with the red ink in terms of international trade deficits that we have. Our trade deficit last year was $832 billion. You can make a case with the budget deficit, where the Congress spends more than it takes in—you can make the case from an economics perspective that is money we owe to ourselves. You can't make that case with the trade deficit. That is money we owe to foreigners, and we are going to repay it someday with a lower standard of living in this country. That is a fact.

I wake up and read there is apparently some sort of fiesta at the White House. It is probably appropriately following the Cinco de Mayo period. They gathered together, Republicans and Democrats, and said: We have reached a deal on trade.

So now we have a couple of trade agreements coming up—Peru, Panama, maybe also Colombia and Korea. And we have some folks who got together and said: We reached a deal on trade.

No one I know of in this Chamber has reached a deal on trade. I think there are plenty of voices in this Chamber that will rise in the coming week to say, no, the trade debate has to involve people in this Chamber who know that the current trade strategy doesn't work for this country.

It is not because we don't want to be engaged in trade. We believe in trade, and plenty of it. We support international trade. But we support international trade that is mutually beneficial to us and others. What has happened in recent trade agreements? I come back now to the issue of Mexico. We do a trade agreement with Mexico, and you turn a $2 billion surplus into an annualized trade deficit now with Mexico—in the first 3 months of this year it is going to be $70 billion a year, with Mexico. Think of that. We turned a trade surplus with Mexico, a $2 billion surplus, into a $70 billion deficit. You talk about incompetence? You talk about bad trade deals? This is the cherry on top of the sundae in bad trade deals.

Among the things they discussed yesterday is Korea. They made brief mention of that today in the paper. You have a couple of problems with Korea, aside from the fact that the agreement was generally negotiated incompetently.