

those things are not only repugnant but they are not permitted to be used by any of our intelligence agencies. He reiterated that waterboarding is not permitted under the political guidelines that include legislation and that we have passed here in direct orders.

So what was done yesterday does not prevent torture. That is prevented already. It doesn't prevent cruel, degrading, and inhumane interrogation techniques. It does not prevent other cruel, degrading, or inhumane acts by the intelligence agencies. Those are already prohibited.

What the measure that was passed yesterday does—were it to be signed into law, and I certainly hope it will not be—would be to deny the intelligence community the ability to use techniques that are similar to but different from the techniques authorized in the Army Field Manual. These enhanced techniques have been used only on roughly a couple of dozen detainees in the custody of the CIA. They are lawful, and they have produced some of the most important intelligence that the intelligence community has gathered to identify high-level members of al-Qaida and other terrorist organizations, and to interfere, impede, and stop terror attacks directed not only at our troops abroad, our allies, but the United States.

Unfortunately, some people were misled by comments that were bordering on irresponsible on the floor yesterday, to say that we banned torture, cruel, inhumane, and degrading conduct. That is not what happened. We tied the hands of the CIA with the purported provision that would severely limit their ability to gain information using totally lawful techniques in questioning high-value detainees. Rather than being a blow for freedom, reaffirming our values, it merely proposed to cripple our intelligence collection.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I commend the ranking member and chairman of the Select Committee on Intelligence for the outstanding work they have done on this critical piece of legislation, passing it in the Intelligence Committee by a vote of 13 to 2, which was no easy feat. This passed in the Senate by a strong bipartisan vote of 68 to 29, I believe. It is about as strong a bipartisan vote as you can possibly get. This is a well-thought-out piece of legislation that, once sent over to the House of Representatives, we were told the House of Representatives, rather than to deal with this legislation, would simply decide to fold their tent and go home. That is the height of irresponsibility.

The Senator from Missouri described why it is so important for us to be able to listen to our enemies: because, simply, it saves American lives. We learned a harsh lesson on September 11, 2001, which is that we are not safe even within our own shores.

There are those who believe in a radical ideology that celebrates the murder of innocent men, women, and children, and who are willing to use instruments of destruction, whether they be primitive tools such as flying an airplane into a building, or chemical, biological, or nuclear weapons—whatever they can get—to kill innocent civilians. We have to do everything in our power to protect ourselves. Thank goodness, due to the noble work of our men and women in uniform who are fighting in places such as Afghanistan, Iraq, and elsewhere around the world, we are keeping the enemies of the United States on the run.

The best way we can deter these terrorist attacks is to listen in on conversations and communications. That is the only way we are going to be able to continue to do it. For the House of Representatives to know that they are causing our intelligence community to go deaf to the communications of terrorists who are plotting attacks against the United States is the height of irresponsibility. I hope it is not true and that they reconsider.

My hope is they will come back and they will pass this important legislation that will encourage our telecommunications industry to cooperate with the lawful requests of the Commander in Chief as certified by the chief law enforcement officer of the United States, and that is the Attorney General, so we can continue to listen to these communications in a lawful and legal way and protect the American people. For the House of Representatives to refuse to take up this matter and to vote on it is, again, I say, the height of irresponsibility, and it endangers American lives.

I yield the floor.

AMENDMENT NO. 4036

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4036.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUE), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) and the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 21, nays 73, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—21

Alexander	Cornyn	Isakson
Allard	DeMint	McConnell
Barrasso	Ensign	Sessions
Brownback	Enzi	Shelby
Burr	Grassley	Sununu
Chambliss	Gregg	Vitter
Coburn	Inhofe	Warner

NAYS—73

Akaka	Bayh	Biden
Baucus	Bennett	Bingaman

Bond	Harkin	Nelson (NE)
Brown	Hatch	Pryor
Bunning	Hutchison	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Roberts
Cardin	Kerry	Rockefeller
Carper	Klobuchar	Salazar
Casey	Kohl	Sanders
Cochran	Kyl	Schumer
Coleman	Landrieu	Smith
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Corker	Levin	Stabenow
Craig	Lieberman	Stevens
Crapo	Lincoln	Tester
Dodd	Lugar	Thune
Dole	Martinez	Voinovich
Domenici	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wicker
Feingold	Murkowski	Wyden
Feinstein	Murray	
Hagel	Nelson (FL)	

NOT VOTING—6

Boxer	Graham	McCain
Clinton	Inouye	Obama

The amendment (No. 4036) was rejected.

AMENDMENT NO. 4032

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on Coburn amendment No. 4032.

The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, this is a straightforward amendment that says when somebody has been abused or sexually assaulted, they have the right, postindictment, to have the person who assaulted them tested for HIV and sexually transmitted diseases. It is current law in many other areas, and I would appreciate your support.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I support the amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered on amendment No. 4032. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUE), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER (Mr. WEBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—94

Akaka	Cantwell	Dodd
Alexander	Cardin	Dole
Allard	Carper	Domenici
Barrasso	Casey	Dorgan
Baucus	Chambliss	Durbin
Bayh	Coburn	Ensign
Bennett	Cochran	Enzi
Biden	Coleman	Feingold
Bingaman	Collins	Feinstein
Bond	Conrad	Grassley
Brown	Corker	Gregg
Brownback	Cornyn	Hagel
Bunning	Craig	Harkin
Burr	Crapo	Hatch
Byrd	DeMint	Hutchison