

in this House to correct something that has been a grievous assault on our Constitution.

We are offering this amendment to restore integrity to the fourth amendment by denying funds from being used to carry out section 213 of the PATRIOT Act, that section which allows for the sneak-and-peak searches. Common law has always required that the government cannot enter your property without you and must, therefore, give you notice before it executes a search. That knock-and-announce principle has long been recognized as having been codified in the fourth amendment to the United States Constitution.

The PATRIOT Act, however, unconstitutionally amended the Federal Rules of Criminal Procedure to allow the government to conduct searches without notifying the subjects, at least until long after the search has been executed. Let me tell you what this means. This means that under this law, this law which was passed by the Congress, the government can enter your house, your apartment, your office, with a search warrant, when the occupants are away, search through your property, take photographs, and, in some cases, even seize property and not tell you until later. This effectively guts the fourth amendment protections.

In response to questioning by the Committee on the Judiciary, the Department of Justice makes it clear that the fourth amendment is already in peril as a result of section 213. Listen to this box score of their activity: the Department of Justice reports that sneak-and-peak searches have been used on 47 separate occasions and that the period of delay for notification has been sought almost 250 times. I would suggest to you just once constitutes a threat to our Bill of Rights.

These secret warrants have been used in Federal criminal investigations not necessarily related to terrorist investigations.

Notice with a warrant is a crucial check on the government's power. It forces authorities to operate in the open. It allows citizens to protect their constitutional rights. For example, it allows subjects to point out problems with a warrant, for instance, if the police are at the wrong address or if the scope of the warrant is obviously being exceeded.

If, for example, authorities in search of a stolen car go into someone's apartment and rifle through a dresser drawer, search warrants rightly contain limits on what may be searched. But when the searching authorities have utter control and discretion over a search, American citizens are unable to defend their constitutional rights.

This assault on the fourth amendment is wrong, it is unconstitutional, it is un-American; and it must stop. I would ask my colleagues to recall the oft-invoked words of a great American, Benjamin Franklin, who once said:

"Those who would give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety."

I say today that section 213 of the PATRIOT Act destroys an essential liberty. The Otter amendment restores it.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Chairman, I rise in support of this amendment. I want to compliment the gentleman from Idaho (Mr. OTTER) for bringing this to the floor.

When the PATRIOT Act was passed, it was in the passions following 9/11, and that bill should have never been passed. It was brought up carelessly, casually, in a rapid manner. The bill that had been discussed in the Committee on the Judiciary was removed during the night before we voted. The full text of this bill was very difficult to find. I am convinced that very few Members were able to review this bill before voting. That bill should have never passed. We certainly should continue to maintain the sunset provisions. But that is a long way off, and we should be starting to reform and improve this particular piece of legislation. This is our first chance to do so.

I have had many Members in the Congress come to me and on the quiet admit to me that voting for the PATRIOT Act was the worst bill and the worst vote they have ever cast; and this will give them an opportunity to change it, although this is very narrow. It is too bad we could not have made this more broad, and it is too bad we are not going to get to vote on the amendment of the gentleman from Vermont (Mr. SANDERS) to make sure that without the proper search warrant that the Federal Government would not have access to the library records.

But there is no need ever to sacrifice liberty in order to maintain security. I feel more secure when I have more liberty; and that is why I am a defender of liberty, because my main concern is security, both in the physical sense as well as the financial sense. I think the freer the country is, the more prosperous we are; and the freer the country is, the more secure we are.

Yet it was in the atmosphere of post-9/11 that so many were anxious to respond to what they perceived as demands by the people to do something. But just to do something, if you are doing the wrong thing, what good is it? You are doing more harm.

But my main argument is that there is never a need to sacrifice liberty in order to protect liberty, and that is why we would like to at least remove this clause that allows sneak-and-peak search warrants.

It took hundreds, if not thousands, of years to develop this concept that governments do not have the right to break in without the proper procedures

and without probable cause. And yet we threw that out the window in this post-9/11 atmosphere, and we gave away a lot.

Yes, we talked about numbers of dozens of examples of times when our government has used this and abused it. But that is only the beginning. It is the principle. If they had only done it once, if they had not done it, this should still be taken care of, because as time goes on, and if we adapt to this process, it will be used more and more, and that is throwing away a big and important chunk of our Constitution, the fourth amendment.

Not only should we do whatever we can to reform that legislation, but we already know that there is a PATRIOT Act No. 2. It has not been given to us, the Congress; but the administration has it for the future. It is available, but we have only gotten to see it from the Internet.

In that bill there is a proposal that the government can strip us of our citizenship, and then anybody then stripped of their citizenship could be put into the situation that many foreigners find themselves in at Guantanamo before the military tribunals.

I see this as a very, very important issue, if anybody cares about liberty, if anybody cares about personal freedom and the rule of law and the need for probable cause before our government comes barging into our houses. It has been under the guise of drug laws that have in the past instituted many of these abuses, but this is much worse. This has been put into an explicit piece of legislation, and the American people and this Congress ought to become very alert to this and realize how serious the PATRIOT Act is.

I hope that the Congress and our colleagues here will support this amendment. It is very necessary, and it will be voting for the Constitution; and it will be voting for liberty if we support this amendment.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to congratulate the gentleman from Texas (Mr. PAUL) who just spoke. It is a cliché in this House that almost no speeches change people's minds, but I think this speech is one occasion when it has certainly changed mine, and I want to thank the gentleman for that.

Originally, when I first heard the amendment offered, I thought, well, this is not the right place for this, and it is not; and I thought there may be ramifications to this that we do not understand, and there probably are. But I have full confidence in the ability of the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) to see to it that that is fixed in conference if this amendment is adopted.

The reason I have changed my mind listening to the gentleman from Texas and the reason I intend to support this amendment is because of the history of the PATRIOT Act.