

for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. CARDOZA. Madam Speaker, I yield back my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 6304, FISA AMENDMENTS ACT OF 2008

Mr. ARCURI. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1285 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1285

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 6304) to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI.

The bill shall be considered as read. All points of order against provisions of the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided among and controlled by the chairman and ranking minority member of the Committee on the Judiciary and the chairman and ranking minority member of the Permanent Select Committee on Intelligence; and (2) one motion to recommit.

SEC. 2. During consideration of H.R. 6304, pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentleman from New York is recognized for 1 hour.

Mr. ARCURI. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Washington (Mr. HASTINGS). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. ARCURI. I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ARCURI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 1285 provides for consideration of H.R. 6304, the FISA Amendments Act of 2008. The rule provides 1 hour of debate equally divided among and controlled by the chairman and ranking minority member of the Committee on the Judiciary and the chairman and ranking minority member on the Permanent Select Committee on Intelligence.

Madam Speaker, we have come a long way on the crucial issue of intelligence gathering. First, I must commend our majority leader, Mr. HOYER, for his commitment and dedication to reaching a sensible, bipartisan and bicameral agreement on FISA. Ensuring that we provide our Nation's intelligence community with the necessary tools and resources to prevent a future terrorist attack on our Nation must transcend partisan politics, and doing it in a way that protects the rights guaranteed to law-abiding Americans under this Constitution.

Clearly, thanks to the hard work of Mr. HOYER, Minority Whip BLUNT, Chairman REYES and many others, we will continue to work to protect the American people today.

Bringing this FISA agreement to the floor is the result of months of long and thoughtful deliberation between the House and Senate, Democrats and Republicans, and the White House. What we're doing today is proof that we in the House should not have to just settle on the will of the Senate. It's proof that we can achieve a bipartisan, bicameral agreement on how our Nation gathers its intelligence. This type of bipartisanship is precisely what the American people expect of us.

Today we're not voting on the Senate version of the bill, instead we have the opportunity to vote in favor of a sensible, bipartisan FISA bill that will help protect our Nation from terrorism, while protecting the civil liberties we, as Americans, hold dear.

I also admit that I don't think the FISA agreement is perfect, but seldom should we expect an opportunity to vote in favor of legislation that every Member of this Chamber believes to be perfect.

Effective legislation demands bipartisan consensus. And an example of such bipartisan consensus is the issue of immunity for telecom companies. The civil liberty protection provision in this agreement finally removes the shackles for our telecom companies to tell their side of the story. No longer can the administration step in and assert the "State Secrets Privilege" and deny telecom companies and the plaintiff seeking to protect his or her Constitutional rights the opportunity to make their case in front of a judge.

As a former district attorney, I for one couldn't agree more that if the intelligence community goes to a telecom company with adequate authorization and says, we need communication records for person X because he or she is believed to be a terrorist, the telecom company deserves to be afforded that protection.

Unfortunately, under the old system we would never know if adequate authorization and substantial evidence, for that matter, ever existed. Thanks to this bipartisan agreement, we now will.

Madam Speaker, we have come a long way over the last few months. We can all agree that the world changed on September 11, 2001. Our Nation faces new threats on new fronts. What we are doing here today is proof that we can come together, Republicans and Democrats, to provide our Nation's intelligence community with the necessary tools to face and fight those threats, while protecting the civil liberties of Americans, and ensuring that the rights guaranteed under the Constitution are not mere words but, rather, solemn ideas that our Nation holds dear.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I want to thank the gentleman from New York (Mr. ARCURI) for yielding me the customary 30 minutes, and I yield myself as much time as I may consume.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Madam Speaker, I am very pleased to be able to urge my colleagues to support this rule and the underlying bipartisan bill to update our Nation's Foreign Intelligence Surveillance Act.

Since the Protect America Act expired in February, our Nation has been relying on an outdated 1970s law to monitor foreign persons in foreign places who seek to do our Nation's citizens harm. At long last, Madam Speaker, the House will be permitted to vote on a bipartisan bill that our Nation's intelligence leaders are confident will allow them to do their jobs without costly delays and mountains of paperwork.

This bill is not perfect, but it takes vital steps to modernize FISA to reflect 21st century cell phone and Internet technology, and to protect our Nation from today's determined and sophisticated terrorist threats.

In February, 68 Senators voted to pass a bipartisan compromise. Yet, ever since that overwhelming bipartisan Senate vote, the liberal leaders of this House have refused to allow a vote because they knew a majority would pass it. Republicans tried for months to advance the bipartisan Senate compromise to a vote in the House, but we were blocked time after time. Today, this blockade will be broken when Democrats join Republicans in voting to pass the bipartisan FISA modernization bill.

So Madam Speaker, I urge my colleagues to vote for this rule and the underlying bill.

I reserve the balance of my time.

Mr. ARCURI. Madam Speaker, I'd just like to read a quote today from The Washington Post on the FISA legislation that we are considering today.

The article is entitled “A Better Surveillance Law.” I just want to read one excerpt from it:

“Congress shows it still knows how to reach a compromise in the national interest. Congressional leaders in both parties should be commended for drafting legislation that brings the country’s surveillance laws into the 21st century, while protecting civil liberties and preserving important national security prerogatives.”

Madam Speaker, it’s this type of bipartisanship that I think the American people expect out of Congress. And I believe that, as my colleague from Washington just said, this bill is not perfect. But it is the kind of compromise that people expect from their congressional leaders in a way that protects us, and, at the very same time, ensures that the civil liberties guaranteed under the Constitution, again, are not just mere words but rather strong ideals that we preserve. So, again, I strongly urge my colleagues to support this rule. With that, I would reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, if I could inquire of my friend from New York, I have no requests for time and I’m prepared to yield back if the gentleman is prepared to close.

Mr. ARCURI. Madam Speaker, we’re waiting on several speakers who aren’t here yet. But if the gentleman is ready to close, we are prepared to close as well.

Mr. HASTINGS of Washington. With that, Madam Speaker, I yield back my time.

Mr. ARCURI. Madam Speaker, as I said earlier, we have come a long way over the last few months. We can all agree that the world changed on September 11, 2001. Our Nation faces new threats on new fronts. What we’re doing here today is proof that we can come together, Republicans and Democrats, to provide our Nation’s Intelligence Community with the necessary tools to fight terrorism while protecting civil liberties of Americans.

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Again, I commend Majority Leader HOYER, Minority Leader BLUNT, Chairman REYES and CONYERS, and many others who were able to go beyond the partisanship that too often consumes this Chamber and deliver a sensible FISA bill that we can be proud of.

I urge a “yes” vote on the previous question and on the rule.

Mr. MCGOVERN. Madam Speaker, I will oppose the underlying FISA bill.

Yes, this represents a compromise. It is better than what President Bush first proposed. But, that’s not good enough. That’s not a high enough standard.

I want to remind my colleagues that what we are debating today is something very serious. We are talking about our most basic civil liberties and civil rights. And when it comes to those issues and principles we must be very, very careful.

This compromise still provides immunity for telecom companies that may have participated in President Bush’s illegal surveillance pro-

gram and it fails to adequately protect the privacy rights of law abiding, innocent American citizens. Furthermore, the bill has a four year sunset provision which, in my view, is much too long.

I know that we live in a dangerous world. I am well aware that there are some who want to do us harm. It is for that reason I understand the need to update our laws to better protect our people.

I continue to believe that we can do that—without turning our backs on the values and principles that make America unique and great. This bill goes too far. I urge a “no” vote.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in opposition to the rule on H.R. 6304, the “FISA Amendments Act of 2008.” I am disappointed that I did not have the opportunity to restore my language regarding reverse targeting, which was included in the FISA legislation passed by the House. This body has worked diligently with our colleagues in the Senate to ensure that the civil liberties of American citizens are appropriately addressed. Sadly, this compromise bill, falls short of that aim. I will support no bill that fails to protect American civil liberties, both at home and abroad.

The bill contains a general ban on reverse targeting. However, it lacks the strong language that I worked so diligently to include in the original House legislation sent to the Senate. In my view, the RESTORE Act is far superior to this piece of legislation. I wish to take a few moments to discuss the improvement that I offered to the RESTORE Act in the full Judiciary Committee markup, and which was sent over to the Senate for consideration just a few months ago.

My amendment, which was added during the markup, made a constructive contribution to the RESTORE Act by laying down a clear, objective criterion for the administration to follow and the FISA court to enforce in preventing reverse targeting.

Reverse targeting is the practice where the Government targets foreigners without a warrant while its actual purpose is to collect information on certain U.S. persons.

One of the major concerns that libertarians and classical conservatives, as well as progressives and civil liberties organizations, have with this legislation, as they did with its successor, the Protect America Act, is that the temptation of national security agencies to engage in reverse targeting may be difficult to resist in the absence of certain safeguards in the law to prevent it.

My amendment attempted to produce such safeguards. My amendment reduced even further any such temptation to resort to reverse targeting by requiring the administration to obtain a regular, individualized FISA warrant whenever the “real” target of the surveillance is a person in the United States.

The amendment achieved this objective by requiring the administration to obtain a regular FISA warrant whenever a “significant purpose of an acquisition is to acquire the communications of a specific person reasonably believed to be located in the United States.”

It is far from clear how the operative language “reasonably designed to ensure that any acquisition authorized . . . is limited to targeting persons reasonably believed to be located outside the United States; and prevent the intentional acquisition of any communication as to which the sender and all intended

recipients are known at the time of acquisition to be located in the United States.”

Yes. It is true that H.R. 6304, the compromise legislation, attempts to ensure that American civil liberties are protected, but the operative language in the legislation does not provide a paradigm for consistency. This is so because it does not provide an objective criterion. H.R. 6304 does not go as far as the legislation that the House sent over to the Senate a few months ago. H.R. 6304 does not retain the objective standards contained in my amendment.

The language used in my amendment, “significant purpose,” is a term of art that long has been a staple of FISA jurisprudence and thus is well known and readily applied by agencies, legal practitioners, and the FISA Court. Thus, the Jackson Lee amendment provided a clearer, more objective criterion for the Administration to follow and the FISA court to enforce to prevent the practice of reverse targeting without a warrant, which all of us can agree should not be permitted.

A FISA order should be required in those instances where there is a particular, known person in the United States at the other end of the foreign target’s call in whom the Government has a significant interest such that a significant purpose of the surveillance has become to acquire that person’s communications. This protection has been stripped from H.R. 6304. I fought hard to keep this language in the bill because it is important to me; and it should be very important to members of this body and to all Americans. It is important that we require what should be required in all cases—warrant anytime there is specific, targeted surveillance of a United States citizen.

I am unable to support this bill that will overhaul how the Government monitors foreign terrorist suspects. I will not support any legislation that grants legal immunity to telecommunications companies that provide information to Federal investigators without a warrant.

Madam Speaker, this administration has the law to protect the American people. When Americans are involved, the Bill of Rights, the fourth amendment, civil liberties must be adhered to. This legislation does not go far enough to ensure that American rights are protected.

The original legislation offered by the House Majority gave the Administration everything that it needed, but today, after months of negotiation, if we endorse H.R. 6304, which grants sweeping wiretapping authority to the Government with little court oversight and ensures the cases against the dismissal of all pending telecommunications companies, we are shredding the Constitution.

Let me explain my objections to H.R. 6304. It permits the Government to conduct mass, untargeted surveillance of all communications coming into and out of the United States, without any individualized review, and without any finding of wrongdoing.

H.R. 6304 permits minimal court oversight. The Foreign Intelligence Surveillance Court (FISA Court) only reviews general procedures for targeting and minimizing the use of information that is collected. Under these circumstances, the court may not know, what or where will actually be tapped.

Madam Speaker, I have more objections to H.R. 6304 which I will quickly note. H.R. 6304 contains an “exigent” circumstances loophole that thwarts the judicial review requirement.

The bill permits the Government to start a spying program and wait to go to court for up to seven (7) days every time “intelligence important to the national security of the U.S. may be lost or not timely acquired.” The problem with H.R. 6034 is that court applications take time and will delay the collection of information. Therefore, it is possible that there will not be resort to prior judicial review.

Under H.R. 6304, the Government is permitted to continue surveillance programs even if the application is denied by the court. The Government has the authority to wiretap through the entire appeals process, and then keep and use whatever it gathers in the meantime.

I am also troubled by H.R. 6304’s dismissal of all, cases pending against telecommunication companies that facilitated the warrantless wiretapping program over the last 7 years. The test in the bill is not whether the Government certifications were actually legal—only whether they were issued. Because it is public knowledge that they were, all the cases seeking to find out what these companies and the Government did without communications will be dismissed. Under this bill, we will start as a tabula rasa. Telecommunications companies will be prevented from having their day in court and we, the American people, will never have a chance to know what the companies did and what information is collected. I am deeply troubled by this, and frankly, you should be, too.

Madam Speaker, let me be clear in my opposition. Nothing in the Act or the amendments to the Act should require the Government to obtain a FISA order for every overseas target on the off chance that they might pick up a call into or from the United States. Rather, what should be required, is a FISA order only where there is a particular, known person in the United States at the other end of the foreign target’s calls in whom the Government has a significant interest such that a significant purpose of the surveillance has become to acquire that person’s communications.

Thus, the way forward to victory in the war on terror is for the United States country to redouble its commitment to the Bill of Rights and the democratic values which every American will risk his or her life to defend. It is only by preserving our attachment to these cherished values that America will remain forever the home of the free, the land of the brave, and the country we love.

Madam Speaker, FISA has served the Nation well for nearly 30 years, placing electronic surveillance inside the United States for foreign intelligence and counterintelligence purposes on a sound legal footing, and I am far from persuaded that it needs to be jettisoned.

However, I know that FISA as outlined in this bill, H.R. 6304, attempts to curtail the Bill of Rights and the civil liberties of the American people. I continue to insist upon individual warrants, based upon probable cause, when surveillance is directed at people in the United States. The Attorney General must still be required to submit procedures for international surveillance to the Foreign Intelligence Surveillance Court for approval, but the FISA Court should not be allowed to issue a “basket warrant” without making individual determinations about foreign surveillance.

Given the unprecedented amount of information Americans now transmit electronically

and the post-9/11 loosening of regulations governing information sharing, the risk of intercepting and disseminating the communications of ordinary Americans is vastly increased, requiring more precise—not looser—standards, closer oversight, new mechanisms for minimization, and limits on retention of inadvertently intercepted communications.

Madam Speaker, I encourage my colleagues to join me in opposing the rule on H.R. 6304. In my view, this is wrong and unacceptable.

Mr. Arcuri. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered. The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: approval of the Journal, de novo; ordering the previous question on H. Res. 1276, by the yeas and nays; adoption of H. Res. 1276, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker’s approval of the Journal which the Chair will put de novo.

The question is on the Speaker’s approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCURI. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 230, nays 168, not voting 36, as follows:

[Roll No. 434]

YEAS—230

Abercrombie
Ackerman
Allen
Andrews
Arcuri
Baca
Bachmann
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)

Boyda (KS)
Brady (PA)
Braleigh (IA)
Brown (SC)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Cazayoux
Chandler
Childers
Clarke
Clay
Clever
Clyburn
Cohen
Conyers
Cooper
Costa

Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards (MD)
Edwards (TX)
Ellison
Emanuel

Engel
English (PA)
Eshoo
Etheridge
Farr
Filner
Foster
Frank (MA)
Giffords
Gillibrand
Gonzalez
Goode
Goodlatte
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Herseth Sandlin
Higgins
Hinchee
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslie
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind
Kirk
Klein (FL)
Kuhl (NY)
Lampson

Larsen (WA)
Larson (CT)
Latham
Lee
Levin
Lewis (GA)
Lipinski
Loeb sack
Loftgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Melancon
Michaud
Miller (FL)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Pomeroy
Price (NC)
Pryce (OH)
Rahall
Rangel
Reichert
Reyes

Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Sutton
Tanner
Tauscher
Taylor
Thompson (MS)
Tierney
Tsongas
Udall (NM)
Van Hollen
Velázquez
Walz (MN)
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Whitfield (KY)
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—168

Aderholt
Akin
Alexander
Altmire
Bachus
Barrett (SC)
Biggart
Bilirakis
Blackburn
Boehner
Bonner
Bono Mack
Boozman
Brady (TX)
Broun (GA)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Carney
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan

Ehlers
Ellsworth
Emerson
Everett
Fallin
Feeney
Flake
Forbes
Fossella
Foxy
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Granger
Graves
Hall (TX)
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jordan
Keller
King (IA)
King (NY)
Kingston
Kline (MN)
Knollenberg
Kucinich
LaHood
Lamborn
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder

LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCreery
McHenry
McHugh
McKeon
McMorris
Rodgers
Mica
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Putnam
Ramstad
Regula
Rehberg
Renzi
Rogers (AL)