

The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. WILSON of Ohio. Madam Speaker, on Wednesday, January 23, 2008, I was unable to vote on rollcall 21 and 22 due to unavoidable circumstances. Had I been present, I would have voted "yea" for both votes.

APPOINTMENT OF HON. STENY H. HOYER AND HON. CHRIS VAN HOLLEN TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH FEBRUARY 6, 2008

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 23, 2008.

I hereby appoint the Honorable STENY H. HOYER and the Honorable CHRIS VAN HOLLEN to act as Speaker pro tempore to sign enrolled bills and joint resolutions through February 6, 2008.

NANCY PELOSI,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BLUNT asked and was given permission to address the House for 1 minute.)

Mr. BLUNT. Mr. Speaker, I yield to my friend from Maryland, the majority leader, for the purpose of inquiring about next week's schedule.

Mr. HOYER. I thank the distinguished Republican whip.

On Monday the House will meet at 2 p.m. for legislative business. Votes will be postponed until 5 p.m., and that evening we will receive the State of the Union address from the President.

On Tuesday the House will meet at 10:30 a.m. for morning-hour debate and 12 noon for legislative business. We will consider several bills under suspension of the rules. A list of those bills will be announced by the close of business this week.

In addition, we will consider H.R. 1528, a bill to designate the New England National Scenic Trail.

The House will not be in session for the balance of the week in order to accommodate the Democratic Caucus Issues Conference.

I yield back.

Mr. BLUNT. I thank the gentleman for that information. As he and I discussed last week, the FISA legislation that passed with, obviously, a bipartisan majority in early August expires on February 1. I think the Senate intends to bring that up on Thursday, and Senator REID has suggested a commitment from the Speaker to bring a bill up next week. I wonder if we have any information on that.

I yield.

Mr. HOYER. I thank the gentleman for yielding.

I have not talked to Senator REID nor the Speaker about any commitment

about bringing that bill up on Thursday. First of all, of course, next Thursday we won't be here, if they bring it up Thursday.

Mr. BLUNT. I think he's going to bring it up this Thursday on the Senate side is what I meant.

Mr. HOYER. Well, as you know, he may do that. As you know, Leader REID asked for unanimous consent yesterday for a 30-day extension of the present act which expires on the 1st of the month. Mr. McCONNELL, the minority leader, objected to that extension.

Furthermore, obviously, the Senate has not completed its work so that we are unable to go to conference at this point in time on the bill that we passed now some months ago, or over a month ago.

When the present Protect America Act, which we passed in August, time frame comes to an end the 1st of the month, of course the intelligence community will not go dark. The authorizations issued under the Protect America Act are in effect for up to, as you well know, a full year, so that those matters that have been approved for interception will not terminate. Those authorizations do not terminate on the 1st of February; so that hopefully the administration has requested authorization for any and all targets that it believes are important for us to be intercepting at this point in time. And certainly, if they know of any, they ought to be requesting such authorization in contemplation of the possibility. If the Senate doesn't act, we won't have a bill to pass.

I want to tell my friend that, according to a New York Times story today, Kenneth Wainstein, who's the Assistant Attorney General for National Security, he said that if PAA, the Protect America Act, were allowed to expire, intelligence officials would still be able to continue intercepting, he said eavesdropping, on already approved targets for another 12 months. That is what I was asserting, and that's the basis on which I make that assertion.

The Protect America Act only requires that the AG adopt guidelines for surveillance, as you know, rather than the individualized warrants to get 1-year authorization. These authorizations do not require the NSA to specify the name, number or location of the people they want to listen to, so that the situation we will find ourselves in, should the Senate not act or be able to act on Thursday either passing legislation or sending it to us, would be simply that the NSA and the administration would be relying on the authorizations they already have.

I would hope that if the Senate cannot act and that we could not go to conference, that we could agree on this side to a 30-day extension and send that over to the Senate. They failed to do that on unanimous consent, so it would give us time to go to conference, because, as my friend knows, there is obviously substantial controversy in the other body with reference to how the immunity issue is addressed. There is substantial controversy in this

House about how that question should be addressed. And very frankly, I was hopeful that the Senate would act long before this, I know you've been in a similar situation, and that we would be in conference and try to resolve those differences. We haven't been able to do that.

Under no circumstances do we think, however, that the fact that February 1 comes and goes without the passing of either an extension or new legislation will undermine the ability of the NSA and the administration to continue to eavesdrop on those targets that it believes are important to focus on for the protection of our people and our country.

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Mr. BLUNT. I thank the gentleman for his views on that, and I would hope that the Protect America Act is not allowed to lapse. I'm not as comfortable as the article that my good friend referred to or this article may have created comfort for him and other information, particularly about any new targets that might fit some past definition that arose. We've debated this before; we will debate it again.

I would think that allowing this act to expire on the basis that somehow we have a 12-month window would not be something that either I would be comfortable with or the intelligence community would be comfortable with. And we would have another day to debate that.

I do hope we continue to work both to resolve this issue permanently. The issue of immunity is an issue that's been out there long enough now that we should be able to bring it to some resolution, and I hope we can find a way to do that; and I would hope we could find a way to do that before February 1, which would almost require action next week. I understand that if the Senate doesn't bring their debate that would be initiated this week to some conclusion, it's hard for us to get that permanent solution at that time frame.

But I do think a permanent solution is important here, and I don't have the confidence that my good friend does that we would have a lot of time beyond February 1 where there is no harm by not having the ability to look quickly in those areas involving foreign individuals in foreign countries who come to our attention that are not to our attention today, but I would yield.

Mr. HOYER. I thank the gentleman for yielding. I understand his concern.

Obviously what concerns me is the proposition, as the gentleman puts forward, that we make sure we have the authorization to intercept those communications which may pose a danger to the United States and to our people.

I would hope and urge this administration if they know of any such targets, that they immediately request authorization under that, and they have another week essentially to do so. We believe those could be approved within, as some previous Justice Department official said, hours of application.

So in the first instance, I would hope that they would make efforts to preclude the possibility that we would have targets that aren't authorized.

Secondly, my concern is that the other body likes to put us in a position where it's take it or leave it; in other words, without discussion in terms of the very substantive important discussion on how we protect ourselves against terrorists and protect the Constitution. We think those are very important questions on both sides, not that they're either side, but we believe they can be consistent with one another, but we think we need the time to do so.

That is why I pressed so hard, as the gentleman knows, to pass a FISA bill through this House. We passed a FISA bill through this House over a month ago. It was in November, so with clearly enough time to give the other body which had also considered a bill. And when we passed our bill, we already had bills out of the Intelligence Committee; and the Judiciary Committee bill, I'm not sure whether it was out of committee or not, but it had been considered in committee.

So I think it's unfortunate that we've been put in this time frame, but I frankly, without deciding the question today on the floor, am very interested in pursuing this in the regular order to discuss between the two Houses whether or not we can reach a resolution on this immunity issue which I think is an important one, as well as reaching a resolution on what I think is a much improved process that the House passed and, very frankly, which I think the Senate bill also has made some improvements on in the Judiciary Committee.

There are differences on that, whether the Senate Intelligence Committee is a preferable item, Senate Judiciary or some blend of those two, but they have not reached a resolution on that.

So I hope I have conveyed to the gentleman that while I understand the concern, which I share, of getting this done, I was not happy in August. I voted against the bill in August as the gentleman knows. An overwhelming majority of this caucus voted against that legislation. However, many people voted for it, justifiably in the sense that we needed to get something done for the interim and set a time limit on it so that we would not be vulnerable if, in fact, we were. But we think the FISA court needs to be involved in these issues.

So, again, what I'm trying to convey to you is these are very serious questions, and they need to be thoughtfully addressed, and I, for one, am very unenthusiastic about addressing these issues on the horn of hours to go before a bill expires.

I urge the Senate not to do that to us, and we are about to find ourselves in that position. I'm not happy about it.

Mr. BLUNT. Well, I hear my friend's displeasure. In August, I think 41 Mem-

bers of the majority joined with almost everyone on my side of the aisle to put the Protect America Act in place for this period of time that's about to expire.

The very fact that the Senate majority leader and others are calling for an extension leads me to believe that there is a reason to have something beyond the normal bill, the regular bill, that may or may not allow some listening to information we need to hear in the future because of what's been decided today.

Clearly, in my view at least, the Senate believes that an extension of the current law would be necessary to provide the current level of protection or they wouldn't be worried about the deadline. They'd take the gentleman's suggestion that maybe we have a year to listen to the things that we now know we need to listen to, and we shouldn't be rushed. I would not like to see the current law expire without an adequate replacement.

The goal the gentleman mentioned for the legislation, hearing those things we need to hear, and I'd paraphrase here, in the quickest possible time frame, is an appropriate goal. We'll continue to debate how we get there. I would hope that neither body allows this law to lapse with nothing to provide the level of protection the American people now have and in the future, and I yield.

Mr. HOYER. Mr. Speaker, I thank my friend for yielding.

In that context, can I ask the distinguished Republican whip whether or not, if we find ourselves in that position, whether you believe your side of the aisle would be prepared to support a 30-day extension so that we would not get into that position that you're concerned about, that if something came to light that the administration and/or NSA and the intelligence community felt ought to warrant action, that they would then be able to request such action during that additional 30 days while we see if both bodies can act?

Mr. BLUNT. I appreciate the question. I would think that if we find ourselves in that situation, at least I personally would want to look for the shortest period of time when we could reasonably reach a permanent solution to this. I don't think the country benefits from a constant debate on how we move forward on this issue. I think we need to find a permanent solution or at least a longer term solution than we've found to date, and I wouldn't want to see the law lapse.

I think we want to look at the circumstances at the time, what we were dealing with with legislation, and hopefully a conference of some kind and look at it at the time.

Mr. HOYER. If the gentleman would yield?

Mr. BLUNT. I'd yield.

Mr. HOYER. I think you raise an important concern. I think we all agree on the concern. I think also there are concerns about what the Congress did

in creating the FISA court, the purpose of the FISA court. The concern with respect to executive action on intercepting communications, certainly domestically, should be overseen by the court, and to the extent that there may be spillover from foreign interceptions to domestic interceptions, that ought to be of concern to us as well.

You are correct, these are very serious matters, and I would hope that they would be addressed as such from all perspectives.

What the 30-day extension does is, if the Senate, and I would suggest the Senate has not acted in a timely manner. You're going on your retreat. I'd like to get a better word than "retreat," but in any event, you're going on your retreat this week. We're doing the same next week. So essentially we have two legislative days left, and one of those, of course, is a 6:30 day, and the Senate says they're going to take this bill up Thursday. Let's assume they pass it on Thursday, which I don't assume. That gives us 1 day. The Senate knows our schedule. That is not fair to the Members of this House. It's not fair to the country. It's not fair to the Constitution.

And so I would hope that if we find ourselves in that position, as I think we do, that we could agree to preclude the fear that you have and give another 30 days for the process to work, for us to go to conference if the Senate has passed a bill, to go to conference, and hopefully the Senate will go to conference. The Senate hasn't been very inclined to go to conference. We're not pleased with that. I don't think you're pleased with that.

Mr. BLUNT. We're not pleased either.

Mr. HOYER. We share that in common, and I think we're in that position, that a 30-day extension is a reasonable time in which to give the Congress of the United States, Senate and the House, to try to come together, resolve some very serious issues on which there are differences of opinion, and I thank the gentleman for the time.

Mr. BLUNT. I thank the gentleman for that, and I don't intend to spend any time defending the time of the working schedule of the Senate.

PROVIDING FOR A JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT

Mr. HOYER. Mr. Speaker, I send to the desk a privileged concurrent resolution and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 282

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Monday, January 28, 2008, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.