can ask any American whether or not that is a reasonable approach. If they study the question, I think they would understand that no intelligence and no opportunity to secure or to capture a terrorist has been intervened with while we have been having these debates, because we had the security of the bill that has been in place, the Protect America Act, for over a year.

Authorities still exist, even through the recess that we will take, to provide the intelligence community with any tools that they will need. But it is a sad state of affairs in America if we allow the terrorists to terrorize us and to, in essence, tear up the Constitution.

That is what we did today. We protected the Constitution, and we ensured that those who are concerned, the telecommunications company, many of them, we know their names, are, in fact, protected.

One, we protect them going forward. Two, we give them a cure for the litigation that is going on today, because we don't prohibit the review of top secret documents in camera. The cases that are going on now, those telecommunications companies will be protected because they will have the ability to review the evidence so that they can convince the court that they were operating within the law.

Going forward, we will get a certified letter from the Attorney General or the Director of Intelligence to say we need information from you. We will tell them that they are not breaking the law. We will also tell them that they will be in compliance with all laws. Out of that they will get absolute immunity to provide our Central Intelligence Agency and others the necessary information that we would have.

I think it is important that debate, sometimes looking as if they are accusatory, and one side looking like they have the upper hand, suggesting that we are in crisis, leaving in a recess, that America is unprotected, needs to be clarified. America will be protected. We do have authority in place that could provide the Central Intelligence or other national intelligence agencies any information that they need.

God knows after 9/11 all of us are committed to the war on terror, but we are all recognizing that a Constitution survives no matter what condition America is in. The Constitution survived the Civil War. It survived World War I. It survived World War II, the Vietnam War. It survived the Korean War, the Gulf War and now the Iraq war.

I would ask America, can we not secure ourselves and keep the civil liberties of Americans and the Constitution intact? Today, in voting for this bill, I proudly supported both concepts. I am grateful to be an American, grateful that we have a Constitution that always lives and never dies.

God bless the soldiers in Iraq and Afghanistan and on the front lines. I look forward to visiting with those soldiers in the next couple of days in Iraq.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. WELLER) is recognized for 5 minutes.

(Mr. WELLER of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

(Mr. ROHRABACHER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

RESTRICT EARMARKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, I just want to say a few things about earmarks this week.

Yesterday was not a banner day for Congress. In the House, we approved a budget that had no restrictions on the contemporary practice of earmarking.

In the Senate, they turned down an amendment which would have placed a moratorium on earmarks. It went down bad. It went down 71–29.

There will come a day, and I think it will come soon, when we get rid of the contemporary practice of earmarking.

Now, many in the other body and in this body have tried to defend earmarking by saying that this is a constitutional prerogative, and somehow suggesting and even, some have said, that the Founding Fathers would be rolling over in their graves if they knew we were contemplating a moratorium on earmarks, as if to equate all Federal spending or Congress' power of the purse with earmarking.

There is a place for earmarking. There is a place for Congress to say to an administration, you are not adequately addressing this area; therefore, we are going to go through the process of authorization, appropriation, and oversight and tell you how we want money spent.

But that's not the contemporary practice of earmarking. The contemporary practice of earmarking is all about hiding your spending, not going through the process of authorization, appropriation and oversight, but rather to circumvent it. That's what it's all about.

When you have a bill that comes to the floor, as we did last year and the year before and the year before, several years with up to 2,500 or 3,000 earmarks in them placed just hours before the bill comes to the floor, that is not the appropriate role of Congress; that is not power of the purse that should be exercised.

That's an attempt to hide spending and to spend in a way that will benefit you politically. That is simply wrong, and I would suggest that the contemporary practice of earmarking, everybody knows it when they see it.

The difference between the proper use of an earmark and an improper use is whether or not you are attempting to hide funding, attempting to have funding slip through the cracks that nobody sees, rather than saying that we are going to authorize, then we are going to appropriate, and then we are going to have oversight.

Another myth that is often put forward is that we have to earmark because that's how we maintain control or oversight on the administration when, in truth, the contemporary practice of earmarking means that we do far less oversight. You can look at it empirically. Over the past decade, decade and a half, as we have seen a ramp-up in the area of earmarking, we have actually seen far fewer oversight hearings in the Appropriations Committee. Believe me, when you have 26,000 earmark requests a year for the Appropriations Committee in the House to deal with, you don't have time or resources or the inclination to do the proper oversight on the rest of the budget.

By earmarking, we are basically giving up our power of the purse. We are giving up our prerogative just to be able to earmark what amounts to about 1 percent of the Federal budget. We are effectively giving up control of the rest of the Federal budget. When you hear people say that we have to keep earmarking the way we are doing in order to control the Federal bureaucracy, that simply doesn't square with reality.

The contemporary practice of earmarking, as we have seen it over the past several years under Republicans and under Democrats, has been a way to hide spending for individual Members' benefits. It has led to corruption, it has led to scandal and will continue to do so until we end it.

I would encourage Members of the House and say that we are going to get