

break, as they say in television, for the party lunches.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. BOND. Mr. President, I note only before we go into that break that the Senator from Pennsylvania has made a number of comments on time for the supporters of the bill that actually deserve a response.

One clear point that needs to be made in response to the Senator from Pennsylvania and the Senator from California is that Judge Walker's actions will not be dismissed if retroactive liability protection is accorded carriers. It is a case against the United States, not a case against the telephone companies.

Furthermore, I would say that the dictum in Judge Walker's opinion is contrary to higher, more authoritative courts. So Judge Walker was not correct, and I believe should his case go up on appeal, he will be found not to be accurate. But that does not go, as my colleague from West Virginia has said, to the issue of whether carriers deserve retroactive liability protection. So I will reserve my comments, and I will ask to be recognized when—when will the Senate return to session?

The ACTING PRESIDENT pro tempore. At 2:15 p.m.

Mr. BOND. Mr. President, I ask unanimous consent that I be recognized for what remains of time on this side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

FOREIGN INTELLIGENCE SURVEILLANCE AMENDMENTS ACT OF 2008—Continued

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized for 29 minutes.

Mr. BOND. Thank you, Mr. President. I appreciate the recognition.

To begin, to clarify for the floor and our colleagues the arrangement the chairman and I have on this bill, I ask unanimous consent that Senator ROCKEFELLER manage the time in opposition to the Specter amendment and that I manage the time in opposition to the Dodd and Bingaman amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BOND. Mr. President, as I mentioned earlier today, the Senate is poised to wrap up consideration of the

Foreign Intelligence Surveillance Amendments Act of 2008 in the form of H.R. 6304. Now, most of my colleagues know this legislation has had a way of hanging around for quite awhile, being caught up in the congressional process. Many, including myself, believe we should have passed it well before now, but it appears that we are on about the 5 yard line and ready to move it across into the end zone. As one who believes this badly needed update to FISA will enhance our Nation's security and advance and protect America's civil liberties and privacy rights, I certainly hope a strong majority of the Senate will pass this legislation unamended tomorrow.

Some of my colleagues have been intent on using Senate procedures to slow this legislation to a snail's pace. They have succeeded in doing so, first by choosing to ignore the Director of National Intelligence—and I will call him the DNI from now on—the DNI's pleas for modernization of the Foreign Intelligence Surveillance Act, or FISA, as we will call it, in April 2007, for over 3 months, until August of 2007, and back in December of 2007 when a Democratic Member filibustered us past the end of the year and into the recess, into 2008. It came to the floor in February when it took us several weeks to work out a way to move forward; then, once again, over the past few weeks, with another Democratic Member filibuster of sorts that pushed us past last week's recess. Up until now, we have been delayed, but one thing is sure in the Senate. Just as they say in military and basic training: No matter what you do, you can't stop the clock. Now that some of my colleagues are out of time in delaying any further, the Senate will move ahead this week, despite all of these delays.

I am very proud of the comprehensive compromise legislation before us today which passed out of the House with a strong bipartisan vote of 293 to 129. That was almost 3 weeks ago. As with the Senate's original FISA bill that passed several months ago, the compromise that is before us required a little give from all sides but, in essence, what we have before us today is basically the Senate bill all over again. Everyone who studied the language recognizes that. I have here a detailed legislative history that I will ask unanimous consent to be printed in the RECORD that explains the provisions of the bill. Chairman ROCKEFELLER submitted his own legislative history before the recess, and while we largely agree on the description of the legislation, we do have a few key differences. So as Vice Chairman of the Intelligence Committee, I believe it is important to make my views and those of several other Senators a part of the legislative history of this bill by including it in the RECORD. I therefore ask unanimous consent to have this

legislative description printed in the RECORD as part of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 6304, FISA AMENDMENTS ACT OF 2008 SECTION-BY-SECTION ANALYSIS AND EXPLANATION

This section-by-section analysis is based almost entirely upon the good work of Senator John D. Rockefeller IV, Chairman of the Select Committee on Intelligence. Time did not permit us to reach an agreement on text that may have been mutually agreeable to both of us, so I have modified his section-by-section analysis to reflect my own perspective as a co-manager on this important legislation. A careful comparison of these two versions will reveal that there are fewer areas in which our analyses diverge than in which they agree.

The consideration of legislation to amend the Foreign Intelligence Surveillance Act of 1978 ("FISA") in the 110th Congress began with the submission by the Director of National Intelligence ("DNI") on April 12, 2007 of a proposed Foreign Intelligence Surveillance Modernization Act of 2007, as Title IV of the Administration's proposed Intelligence Authorization Act for Fiscal Year 2008. The DNI's proposal was the subject of an open hearing on May 1, 2007 and subsequent closed hearings by the Senate Select Committee on Intelligence, but was not formally introduced. It is available on the Committee's website: <http://intelligence.senate.gov/070501/bill.pdf>.

In May 2007, a decision by the Foreign Intelligence Surveillance Court (FISA Court) led to the creation of significant gaps in our foreign intelligence collection. As a result of this decision, throughout the summer of 2007, the DNI asked Congress to consider his FISA modernization legislation. In response to the DNI's concerns, Congress passed the Protect America Act of 2007, Pub. L. 110-55 (August 5, 2007) ("Protect America Act"). As a result of the Protect America Act, the Intelligence Community was able to close immediately the intelligence gaps that had been created by the court's decision. While the Protect America Act provided important authorities for the collection of foreign intelligence, it did not contain any retroactive civil liability protections for those electronic communication service providers who had assisted with the President's Terrorist Surveillance Program following the September 11th terrorist attacks on our nation.

The Protect America Act included a sunset of February 1, 2008. After the passage of the Protect America Act, the Chairman and Vice Chairman began to draft permanent FISA legislation. S. 2248 was reported by the Select Committee on Intelligence on October 26, 2007 (S. Rep. No. 110-209 (2007)), and then sequentially reported by the Committee on the Judiciary on November 16, 2007 (S. Rep. No. 110-258 (2008)). In the House, the original legislative vehicle was H.R. 3773. It was reported by the Committee on the Judiciary and the Permanent Select Committee on Intelligence on October 12, 2007 (H. Rep. No. 110-373 (Parts 1 and 2) (2007)). H.R. 3773 passed the House on November 15, 2007. S. 2248 passed the Senate on February 12, 2008, and was sent to the House as an amendment to H.R. 3773. On March 14, 2008, the House returned H.R. 3773 to the Senate with an amendment.

No formal conference was convened to resolve the differences between the two Houses on H.R. 3773. Instead, following an agreement