

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

I want to share one last thought before closing. In our markup of this bill, the gentleman from California (Mr. SWALWELL) had this to say about a recent experience in the Intelligence Committee:

"We had interviewed a witness just 2 weeks ago with respect to our Russia interference investigation. . . .

"After the interview, he gave a public statement . . . and said that he had withheld information from the committee because he was not under subpoena.

"And he also stated that he felt like he had certain privileges to assert that allowed him to withhold this information.

"And so I saw right there . . . that even under a subpoena, individuals believe—some individuals believe—that without necessarily having a judicial or legal basis for privilege that they could just assert it.

"And I believe that is because the public is starting to perceive that our subpoena power does not have the weight that it should."

Wherever the Intelligence Committee's investigation lands, Mr. Speaker, we have a great deal of work to do. Given some of our current challenges, it is more important than ever for the House to conduct substantive oversight of the executive branch. This bill contributes to that effort, and I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

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

Mr. Speaker, I, too, urge the House to pass this bill, move it to the Senate in a timely fashion, and create an equal standing between the House and the Senate as to enforcement of its subpoenas.

I join with my colleague, the gentleman from California (Mr. SWALWELL), in the frustration that individuals often feel that they have privileges in a vague sense that are not to be asserted, but simply not to occur.

In the last administration, we have even had individuals claim that they basically lied as little as they needed to, to protect some question of a classified nature. These kinds of claims, in addition to the law enforcement sensitive, confidential, and other security clearance claims, which are not codified in statute, yet often are the reason for delay or outright refusal to deliver documents, flies in the face of the ability—sometimes behind closed doors, sometimes in public—for Congress' ability to conduct oversight. I look forward to this legislation becoming law, and I think I will close with just one more item.

Mr. NADLER and I have served together as chairman and ranking member for a number of years. We share something which is the many years that we have been here in Congress, we have seen the frustration of both par-

ties trying to do their job against another branch that often takes advantage of the natural rivalry between two different parties.

This legislation is designed to reduce that, to reduce the ability for the executive branch or other outside groups to, if you will, take advantage of the natural division between the two of us. After so many years of being here, the one thing I have learned is that to diminish the House's and the Senate's ability to represent the American people is to diminish our Republic.

Mr. Speaker, I urge passage, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, although the power of Congress to investigate is not set forth in any particular clause in the Constitution, congressional investigations trace their roots back to the earliest days of our Republic. In fact, what is thought to be the first congressional investigation occurred in 1792, when the House appointed a select committee to investigate the massacre of American troops under the command of Major General Arthur St. Clair. The resolution authorizing that investigation stated that the committee shall "be empowered to call for such persons, papers, and records, as may be necessary to assist their inquiries."

Upon learning of the investigation, President Washington assembled his cabinet to seek their counsel. His cabinet, which included Thomas Jefferson and Alexander Hamilton, unanimously concluded that the House had every right to conduct its inquiry and request papers from the President. President Washington directed that the relevant papers be provided to the House and the War and Treasury Departments provided voluminous records to the committee.

Unfortunately, not all congressional investigations are met with the cooperation the first investigation received. Rather, sometimes Congress and its committees must rely on another inherent power derived from the Constitution to investigate effectively—the congressional subpoena power.

As the Supreme Court has observed, although "there is no [constitutional] provision expressly investing either house with the power to make investigations and exact testimony . . . the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function. . . . Experience has taught that mere requests for information often are unavailing . . . so some means of compulsion are essential to obtain what is needed."

That means of compulsion is often a subpoena issued by a congressional committee backstopped by a civil action filed in federal district court. In recent years, the House and its committees have pursued two such civil actions, including one filed by this Committee, to enforce compliance with congressional subpoenas.

The legislation we are considering today, the Congressional Subpoena Compliance and Enforcement Act, codifies and strengthens the existing civil enforcement mechanisms thereby reinforcing the powers granted Congress in Article I of the Constitution. This legislation creates a statutory framework for compliance with and enforcement of congressional subpoenas through a few targeted changes to federal law.

First, the bill puts in place a statutory requirement that recipients comply with congressional subpoenas. Second, the bill statutorily requires subpoena recipients to provide a congressional committee with a privilege log if they assert a legal privilege as a reason for withholding subpoenaed materials. Finally, the bill provides that congressional subpoena enforcement cases are to receive expedited review in the federal courts and that a congressional committee may request that a subpoena enforcement case be heard by a three-judge panel of the district court, with direct appeal to the Supreme Court.

While it is true that some of what is addressed by the bill is currently covered through negotiation with subpoena recipients and is recognized in the precedents of courts in the D.C. Circuit, the current statutory requirements related to compliance with and enforcement of a committee subpoena are limited. Indeed, the existing civil subpoena enforcement statute only covers the Senate and does not apply to Senate subpoenas issued to the Executive Branch. It is time that we put in place a statutorily created, expedited civil enforcement mechanism for congressional subpoenas. Relying on the existing framework to enforce congressional subpoenas has proved to be an inadequate means of protecting congressional prerogatives.

I thank Mr. ISSA for introducing this legislation and urge my colleagues on both sides of the aisle to support it. This bill is a necessary step to strengthen Congress's ability to exercise its Article I legislative powers.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 4010, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 29 minutes p.m.), the House stood in recess.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DONOVAN) at 6 o'clock and 30 minutes p.m.

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:

The motion to suspend the rules and pass H.R. 3551;