

REMOVAL OF NAME OF MEMBER
AS COSPONSOR OF H.R. 4200

Mr. LEWIS of California. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4200.

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

There was no objection.

APPOINTMENT OF CONFEREES ON
H.R. 3199, USA PATRIOT AND
TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

□ 1515

The SPEAKER pro tempore (Mrs. CAPITO). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. BOUCHER

Mr. BOUCHER. Madam Speaker, I have a motion to instruct at the desk which I offer on behalf of myself, the gentleman from California (Mr. ROHRABACHER), and the gentleman from Florida (Mr. MACK).

The Clerk read as follows:

Mr. Boucher moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 3199 be instructed to recede from disagreement with the provisions contained in subsections (a) and (b) of section 9 of the Senate amendment (relating to the modification of the PATRIOT Act sunset provision and the extension of the sunset of the "Lone Wolf" provision).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Madam Speaker, I yield 10 minutes to the gentleman from California (Mr. ROHRABACHER), and I ask unanimous consent that he be allowed to control that time.

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

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Virginia (Mr. SCOTT).

(Mr. SCOTT of Virginia asked and was given permission to revise and extend his remarks.)

Mr. SCOTT of Virginia. Madam Speaker, I rise in support of the motion to instruct.

The current House bill provisions for 10 year sunsets on the 215 and 206 roving wiretap powers is not much better than no sunset at all. What we are talking about under the 215 provision is power to get access to your personal records from a business, including a public library, without you ever knowing about it, or what is done with the information. And the librarian or other business operator cannot tell you or anyone else other than the business's attorney or appropriate superiors, about the FBI's taking your records.

Under the roving wiretaps provision, after obtaining a roving wiretap from the secret FISA court, the FBI can follow the target around and tap any phone the target has access to, including yours if he or she happens to be a neighbor and comes to your house, without having to first determine that the phone is actually being used by the target before they start listening in.

The 4-year sunsets worked to make the Justice Department responsive to Congress in providing the information needed to properly perform its oversight responsibility for the extraordinary powers extended under the PATRIOT Act, but only in the last year of the sunset. For most of the 4-year period leading up to the sunsets, the Justice Department refused any meaningful oversight of their PATRIOT Act powers and other war on terror authorities. Even with Chairman SENSENBRENNER threatening a subpoena because he was not getting answers to his PATRIOT Act questions, it wasn't until the powers were set to expire that we got real answers—hard numbers and at least anecdotal evidence of their use.

Take, for example, the effort to try to get information about library record requests under the secretive Section 215 powers where the recipient of the order is gagged from disclosing any information about it: first we were told that information about even the number of these orders was secret, so it couldn't be disclosed. It was only in the last year of the sunset that we were finally told that there had been no 215 orders issued to libraries, then we learned that this was misleading because most libraries cooperated with FBI requests for information without requiring a 215 order, and with all the secrecy and gag orders in effect, we still don't know what the full story is. Perhaps some of the pending lawsuits will finally reveal what has been going on in this area.

The problem with a 10-year sunset is that it will have no impact on the current Administration, or the next one and only have an impact in the last year of the 3rd Administration from now. Moreover, with a 20-year retirement period for most career officials, in 10 years most of today's officials will have retired. So, that's really of little oversight value if we have to wait that long to get the kind of responsive information for oversight we were finally able to get in the last year of the current sunsets.

Accordingly, we should accede to the Senate sunset provisions which call for 4-year sunsets on the three most controversial and worrisome PATRIOT powers—secret acquisition of library and other business records, roving wiretaps, and the "lone wolf" provision for terrorism investigations, which allows a single individual to fall under the extraordinary, secretly administered foreign surveillance powers otherwise reserved for use against agents of foreign governments or organizations.

Mr. SENSENBRENNER. Madam Speaker, I do not intend to oppose the

motion to instruct, and I ask unanimous consent that I may control the 30 minutes that I have been allotted.

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

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield myself 4 minutes.

Madam Speaker, I rise today in support of the Boucher-Rohrabacher-Mack motion to instruct the conferees to recede to the Senate with respect to sunset in 4 years the libraries and book stores, roving wire taps and loan wolf provisions of the USA PATRIOT Act.

The most effective way for Congress to maintain oversight of the most controversial powers that the PATRIOT Act conveys is to sunset those provisions within a reasonable period of time. In past years, well before the December 2005 sunsets contained in the original PATRIOT Act, we asked the Department of Justice how it was using the authorities that had been granted to the Department by the original act. Some questions simply went unanswered. Other questions were rebuffed, and we were told that the information was classified. And still others were avoided by telling us that the information simply was not available.

All of that changed in April of this year when the Department of Justice realized that straight reauthorization of the PATRIOT Act would not happen without serious answers to our reasonable questions. Suddenly, numbers and examples were no longer unavailable. Suddenly, the information we had long been seeking was provided. I have no doubt that if 16 provisions of the original act were not scheduled to sunset at the end of this year, we would still have little information on how these new authorities were being used.

If we have learned one thing over the last 4 years, it is that we will not get answers to our questions unless the Justice Department is compelled to come before us and justify its use of the more dangerous and intrusive powers that the law confers. Remember, sunsets do not in any way hinder law enforcement's use of the powers the PATRIOT Act confers. They merely ensure accountability and oversight, which are particularly important with respect to the three controversial provisions that are at issue today.

Section 215 of the law puts personal records, including library, bookstore and medical records, up for grabs by law enforcement with no requirement that the person whose records are sought be suspected of involvement in a crime. All law enforcement has to say is that the information is relevant to an investigation. It could be an investigation of someone the person has never met and about whom the person has no knowledge.

Moreover, an organization may not tell someone they have turned over his private information. So people have no way of knowing when their privacy has