PRESS CONFERENCE WITH MAJORITY LEADER,

STENY H. HOYER

***

Wednesday, February 13, 2008

11:07 a.m.

Mr. Hoyer. All right, today. We are doing motions to adjourn today.

Q We wanted to know how you were voting.

Q Why don't you call their bluff and vote for it?

Mr. Hoyer. Are they voting for it? A lot of them are voting no. I went up there.

We will meet at 10:00 a.m. We are going to consider the FISA extension, which is now on the floor, as you know. We had suspensions that were going to go first, but it is obvious that the Republicans are trying to delay consideration of the extension.

We may also consider the public housing asset management bill, although, given the present activities on the floor, that may be doubtful.

It is possible tomorrow, as well, that we will consider the contempt resolution out of the Judiciary Committee, which was passed about 6 months ago.

Q I'm sorry, the what resolution?

Mr. Hoyer. Contempt resolution.

On Thursday, as you know, there will be a memorial services for Chairman Lantos. All of us were very sad and shocked, really.

Tom Lantos has really been one of the giants of this institution, in many ways. An extraordinary individual, survivor of the Holocaust, the only survivor to serve in the Congress. I

referred to him last night on the floor as having a backbone of steel and a heart of compassion, commitment and courage, all of which I think is true. He was an extraordinarily principled voice on behalf of human rights and an articulate spokesperson on behalf of sound foreign policy in this country.

After recess, we will take up the energy bill, the week of March 25th [NOTE: Mr. Hoyer misspoke, he meant the week of February 25th], that was introduced yesterday. There was some talk about doing it this week, as you know. The judgment was made that the Lantos memorial service is going to go for some period of time, we think, and so we will do that when we get back.

Today we will have a brief respite from partisanship, and we will go down and sign the stimulus package. The stimulus package is something that we all worked on together. And we all hope that it will have the stimulus effect that we hoped for and that we will stem the slide of the economy which is putting so many working people and families in distress.

We are pleased that the stimulus package was fashioned as it was to add 35 million plus the seniors and the disabled veterans and their widows to its provisions, so that I'm not sure exactly how many people but 35 million-plus who would not have gotten it under the President's proposal are going to get some assistance.

We're also going to continue to address, obviously, a number of things that possibly would be in the stimulus. Housing, health care, education drives future stimulus. The infrastructure issue

was raised, as you know. All of those will be discussed.

I already mentioned the energy bill. This is essential, the energy bill, a continuation of the energy legislation that we passed.

Now, let me, before I go to questions, talk about FISA and what is on the floor today.

The President's presentation this morning was, I think, basically dishonest. I know that's a pretty strong word, but let me quote Richard Clarke, the former chief of the National Security Council's counterterrorism unit. "Let me be clear, our ability to track and monitor terrorists overseas would not cease should the Protect America Act expire. If this were true, the President would not threaten to terminate any temporary extension with his veto pen. All surveillance currently occurring would continue even after legislative provisions lapse because authorizations under the act are in effect up to a full year."

I have said on the floor numerous times and we believe strongly that the authority under the provisions of FISA as it existed will give the administration the opportunity to continue to surveil and intercept those communications it believes show promise of protecting us.

In addition, of course, the Protect America Act provided for authority which would last a year, so that, as has been pointed out by a member of the administration, Kenneth Wainstein, who is Assistant Attorney General for National Security, said in an

interview that if the August bill was allowed to expire in 10 days, intelligence officials would still be able to continue eavesdropping on already-approved targets for another year under the law.

Now, to the extent that it would require going to the FISA court, let me quote from former counsel of the Justice Department's Office of Intelligence Policy and Review under President Bush. He said this: "It could happen" -- that is, the approval of the FISA court -- "extremely quickly. We've done it in a very short time, minutes sometimes." James Baker said that.

The point I make is that we want to see an extension passed. This is on the floor now. It is a 21-day extension. The bill passed the Senate last night. It is substantially different and includes matters that were not in the House bill.

It is irrational and contrary to sound legislative policy that the President of the United States would say the Senate passed a bill; you pass the bill as they have passed it. We passed a bill over 2 1/2 months ago. They just passed a bill last night.

We believe that responsible people in the Congress of the United States on both sides of the Capitol want to have an opportunity to see if they can bridge the differences that exist between them. That cannot be done in the next 48 hours.

We would very much hope that, A, the extension would pass, that the Senate would pass it and the President would sign it.

Notwithstanding the fact that we think that if that does not occur -- as I have said, as Richard Clarke has said, as Ken Wainstein has said -- that the administration will have the tools necessary to protect our country and intercept communications which may pose a danger to us. But we think that if the administration believes that, it would be irresponsible on behalf of the American public not to sign an extension.

Questions?

Q On the contempt resolution against the White House that you mentioned, like you said, it passed the committee 6 months ago. Why bring it up now? Is there a particular impetus this week?

Mr. Hoyer. Well, we're not going to do the energy bill. We have space on the calendar. Mr. Conyers has been working very, very hard to get some agreement with the administration and has had some nine to 12 different efforts to try to get some cooperation from the White House, and they have not been willing to do that.

So Mr. Conyers believes correctly that the matter here is not about Josh Bolton or Harriet Miers; it is about whether or not the Congress of the United States, acting pursuant to its Article 1 authority, has the ability to get information that it needs from the executive to legislate properly. And we think that is a very important issue. It's not a partisan issue, although it may be perceived as partisan. It is an issue of the Congress of the

United States having the ability, as I say, to do its job properly under Article 1.

Q But that's not decided yet? It may come tomorrow, but you're not sure? Is that correct?

Q Mr. Hoyer, Chairman Waxman, Chairman of the Oversight and Government Reform Committee, has decided to forgo earmarks. Did he discuss that decision with you before announcing it?

And what sort of pressure do you think that brings on Democrats to maybe pass further reform, enact further reform of the earmark process or perhaps do away with them all together?

Mr. Hoyer. Well, the answer to your first question is no, I didn't discuss it with him before he made that announcement. That's a decision he made. That's a decision that others have made.

As Jeff Flake said, and you have heard me quote him, the Democrats have done much better than the Republicans did, in terms of reforming the process of adding congressional initiatives to legislation. Bob Barr of the New York Times wrote an excellent article about the so-called earmarks that the administration has added and salted all of its bills with. The concept that, again, under Article 1, the Congress somehow is not able to include initiatives that it believes are concordant is one that I reject.

Now, as it relates to reform, we have made earmarks transparent. We have required Members to file affidavits of no personal interest in earmarks. We've adopted a rule which said

that a point of order would lie against an earmark that came back from conference that had not been considered in either house. So we have taken some very substantial steps.

In addition, of course, we reduced the number of earmarks very substantially, both in terms of numbers and in terms of dollars. As the Committee on Government Waste indicated, essentially halved the number from about 29 billion -- their count. The reason I say "their count," there are a lot of ways to count earmarks. There are as many figures as there are analysts of that issue. But the Citizens Against Government Waste, 29 billion down to 14.8 billion. That's essentially halving the numbers.

So we think we have made some very substantial progress. I personally am not for saying that the Congress should not -- in fact, in my opinion, it should continue to have the ability to add items that it believes are important for communities and for the country.

Q Is reform done, or are there further initiatives that the Democrats may undertake?

Mr. Hoyer. Well, I don't know that we have further initiatives on the table. But let me also remind you that we did, on our watch, eight of the bills that the Republicans did not do, and we dropped all the earmarks from those bills when we passed them last year. So there were no earmarks.

So not only have we talked about it, but we did it. But

again, I'm of the view that the Congress ought not to abrogate to the administration the sole authority to invest in items that the Congress believes are important.

Q Are the politics of this issue changing now that McCain is going to be their nominee and Boehner and the leadership endorsed him? He is further along on this issue than they are. They've called for a commission and 6-month moratorium. Is it going to increase pressure on the Democratic leadership in the House and Senate to do more about earmarks?

Mr. Hoyer. Well, I have not felt a lot of pressure, personally.

Q You what?

Mr. Hoyer. I have not felt a lot of pressure, personally. I think Mr. McCain has had his view. Mr. Boehner has had his view. Others have had their views. Mr. McCain's party, for the 6 years they were in control of everything -- the President, the Senate and the House -- substantially increased the use of earmarks. So, in my opinion, they come from a very checkered past and lack, in my opinion, substantive credibility on this issue because of their performance, not what they said but what they did over the last 6 years of three previous congresses.

Q Mr. Hoyer, yesterday Chairman Conyers demanded more information about the internal deliberation within the Bush administration about the terrorist surveillance program and a wider distribution of the information that Congress already has

among Members.

Will the House not consider the immunity question for telecom companies unless his demands are met? Or some of his demands?

Mr. Hoyer. Let me say that the immunity issue I have always said is something we will consider. I've also said that we need to know what we are giving immunity for.

Let me read to you from a public document. Judge Vaughn Walker, chief judge of the Northern District of California, who is a Republican appointee, who is hearing some of these cases: "AT&T cannot seriously contend that a reasonable entity in its position could have believed that the alleged domestic dragnet was legal." That is fairly straightforward, lacking any doubt as to its interpretation. And we need -- we have a responsibility, not we need -- we have a responsibility to come to the bottom of what was done. And Chairman Conyers is asking for such additional information.

My view is that one of the reasons the President is so interested in pursuing this issue so quickly without substantive consideration is because they are very nervous about what might be disclosed. To some degree, therefore, I think it is a cover-up.

Q Do you think he is playing a game of chicken with Congress? Would you subtribe to that description?

Mr. Hoyer. Are they playing a game of chicken? Well, certainly they think that we're not going to be able to pursue this. Both the Speaker and I want to go to conference on this

bill. We think this is an important bill. The Speaker and I, Democrats, Republicans I think, share the view.

We passed a bill which would have enabled the intelligence communities to intercept communications. It would have taken care of whatever technical problems there are with a U.S. switch, would have provided for a blanket authorization for groups and continued the accelerated consideration.

As a matter of fact, in the House bill, I think it provided 45 days -- 45 days in our House bill? Yes, they could act within 45 days -- the Senate bill is shorter, interesting enough -- 45 days and then get, in effect, after-the-fact approval. So we share the concern to ensure that our intelligence community and has every authority it needs to intercept communications.

In our bill, we also gave prospective immunity to the telecom companies. And in addition to that, of course, the telecom communities, under existing law -- I don't mean the Protect America Act, but under the old FISA -- were given immunity when they acted pursuant to a FISA order.

So this is not a game of gotcha. It is a game of we are dealing with very serious matters, very serious constitutional principles, and a very important objective of keeping America safe. We believe we can make those two objectives compatible.

Q When you say cover-up, what do you think is being covered up?

Mr. Hoyer. Let me read you the judge's -- did you hear what

the judge just said? If we give immunity right now, there will be no further disclosure as to what was done, whether it was done legally or not. So I think the administration would like to move on.

Q But is there something specific --

Mr. Hoyer. You understand, Ashcroft refused to sign the order that Gonzalez brought. Why? Because he thought it wasn't legal. And he was advised -- and they said if you go through with this, we are going to resign. It was only then that the administration had some second thoughts about the path they were pursuing. That's what I mean by cover-up.

Q To follow up, the threat here and the threat from the administration has been, if y'all don't behave, they are perfectly willing to see it go in the ditch.

Mr. Hoyer. It's an interesting position for the President of the United States to do. He says he will not sign an extension, notwithstanding the fact that if the law -- which we don't believe -- that if the law -- he's trying to foment fear. And what he's saying is that if the law goes out, the Protect America Act, out of effect, it will be dangerous.

We are saying, Mr. President, the Senate passed a bill last night. We are not a lap dog of the President or of the United States Senate any more than they are of us. The Founding Fathers designed two bodies to consider legislation. It is unreasonable -- as Harry Reid said, they have been rope-a-doping, they have

been slow-walking FISA in the Senate. Why? Because they wanted to present this situation that we are confronted with.

Now, confronted with that situation, responsible people would say we are going to leave the situation as it is so that there is no risk while we take, in this case, 21 days to try to figure out whether we can reach agreement between the Senate and the House on legislation that we can send to the President.

And for the President of the United States to take the position that, unless we do exactly what he tells us to do, he's going to put the country at risk and in danger is an irresponsible act of the President of the United States.

Q Will the House begin its President's Day recess with this matter unresolved? If you pass something here and the Senate doesn't pass it?

Mr. Hoyer. We hope not. I'm not going to go beyond that. I don't want to speculate what will happen. We hope that the Senate will send it to the President and the President will have second thoughts. And I hope the Senate will have second thoughts.

It's my understanding yesterday that Senator Reid asked for unanimous consent for 15 days additional and Senator McConnell said, "I object at this time." Now, "at this time" tells me that Senator McConnell clearly understands that it is a pretty unreasonable position to take, that you will not allow an extension of a statute that you believe is critically important to defend America while the House and the Senate have an opportunity

to resolve their differences.

Again, the Senate passed their bill last night. It's not like it has been sitting around. We passed our bill 2 1/2 months ago.

Q Why not go with the 15-day extension that Senator Reid was advocating?

Mr. Hoyer. We are taking a President's Day break, which is 10 days. The 21 days will provide us for the week of the 25th and the week of the 5th -- in other words, 2 weeks. I mean, this is a serious piece of legislation, and nobody is kidding themselves that we -- we will be working, staff will be work. But it's 21 days to give us 2 weeks essentially to try to work out our differences and pass a piece of legislation that the President can sign.

Q Last summer the Republicans effectively boxed Democrats in to get this first extension, and now you're faced with this situation now. Are you concerned at all about Republicans using this issue against Democratic candidates? About it becoming an issue in the campaign? McCain is clearly making national security a big issue to draw differences between Democrats.

Mr. Hoyer. The past 7 years of this administration have undermined the national security of the United States of America. Our ability to respond to crises, other than in Iraq, are substantially weakened. We are stretched in terms of our personnel. A war that was said to have ended hostilities in May

of '03 is ongoing. The objectives of stabilizing Iraq, bringing the parties together has not been achieved. The economy of Iraq is still in trouble.

I think the Republicans talking about national security, particularly when George Bush was so critical of nation-building, of investing overseas in terms of stabilizing troubled situations, he has done that more than any other person and has indebted us about a trillion dollars -- over $600 billion as of this time, projected to be a trillion.

Democrats care deeply about national security. The first bill we passed was 9/11. But more importantly, if one looks at the last century and the terrorists of the last century, it was Wilson who defeated the Kaiser, a Democratic President. It was Roosevelt and Truman who led the battle against fascism. It was Truman who contained communism. It was Kennedy who confronted Khrushchev. And, frankly, as recently as Bill Clinton, it was Bill Clinton, without the loss of one single American by hostile fire, that brought Milosevic to the dock and stopped the genocide in Bosnia.

So we Democrats, I think, have a very strong story to tell about our commitment to our national security. And I believe that our candidate for President, whoever that might be, will make that case and will make it effectively.

Q Why do you think the FISA will not turn out like it did last summer, though, in terms of the final outcome? Why do you

think y'all will not cave this time like you did last time? I apologize for the word "cave."

Mr. Hoyer. For one thing, we're not taking as much time off and we will have time to work this. And I hope we will.

[Whereupon, at 11:36 a.m., the press conference was concluded.]