

NINE MEMBERS OF CONGRESS VOTE TO POSTPONE THE FOURTH AMENDMENT

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John Conyers, Jim Sensenbrenner, Darrell Issa, Steve Cohen, Jerry Nadler, Sheila Jackson Lee, Trey Gowdy, John Ratcliffe, Bob Goodlatte all voted to postpone the Fourth Amendment today.

At issue was Ted Poe's amendment to the USA Freedom Act (USA F-ReDux; see the debate starting around 1:15), which prohibited warrantless back door searches and requiring companies from inserting technical back doors.

One after another House Judiciary Committee member claimed to support the amendment and, it seems, agreed that back door searches violate the Fourth Amendment. Though the claims of support from John Ratcliffe, who confessed to using back door searches as a US Attorney, and Bob Goodlatte, who voted against the Massie-Lofgren amendment last year, are suspect. But all of them claimed they needed to vote against the amendment to ensure the USA Freedom Act itself passed.

That judgment may or may not be correct, but it's a fairly remarkable claim. Not because – in the case of people like Jerry Nader and John Conyers – there's any question about their support for the Fourth Amendment. But because the committee in charge of guarding the Constitution could not do so because the Intelligence Committee had the sway to override their influence. That was a point made, at length, by both Jim Jordan and Ted Poe, with the latter introducing the point that those in support of the amendment but voting against it had basically agreed to postpone the Fourth

Amendment until Section 702 reauthorization in 2017.

(1:37) Jordan: A vote for this amendment is not a vote to kill the bill. It's not a vote for a poison pill. It's not a vote to blow up the deal. It's a vote for the Fourth Amendment. Plain and simple. All the Gentleman says in his amendment is, if you're going to get information from an American citizen, you need a warrant. Imagine that? Consistent with the Fourth Amendment. And if this committee, the Judiciary Committee, the committee most responsible for protecting the Bill of Rights and the Constitution and fundamental liberties, if we can't support this amendment, I just don't see I it. I get all the arguments that you're making, and they're all good and the process and everything else but only in Congress does that trump – I mean, that should never trump the Fourth Amendment.

(1:49) Poe; We are it. The Judiciary Committee is it. We are the ones that are protecting or are supposed to protect, and I think we do, that Constitution that we have. And we're not talking about postponing an Appropriations amount of money. We're not talking about postponing building a bridge. We're talking about postponing the Fourth Amendment – and letting it apply to American citizens – for at least two years. This is our opportunity. If the politics says that the Intel Committee – this amendment may be so important to them that they don't like it they'll kill the deal then maybe we need to reevaluate our position in that we ought to push forward for this amendment. Because it's a constitutional protection that we demand occur for American citizens and we want it now.

Not postpone it down the road to live to fight another day. I've heard that phrase so long in this Congress, for the last 10 years, live to fight another day, let's kick the can down the road. You know? I think we have to do what we are supposed to do as a Committee. And most of the members of the Committee support this idea, they agree with the Fourth Amendment, that it ought to apply to American citizens under these circumstances. The Federal government is intrusive and abusive, trying to tell companies that they want to get information and the back door comments that Ms. Lofgren has talked about. We can prevent that. I think we should support the amendment and then we should fight to keep this in the legislation and bring the legislation to the floor and let the Intel Committee vote against the Fourth Amendment if that's what they really want to do. And as far as leadership goes I think we ought to just bring it to the floor. Politely make sure that the law, the Constitution, trumps politics. Or we can let politics trump the Constitution. That's really the decision.

Nevertheless, only Louie Gohmert, Raul Labrador, Zoe Lofgren, Suzan DelBene, Hakeem Jeffries, David Cicilline, and one other Congressman—possibly Farenthold—supported the amendment.

The committee purportedly overseeing the Intelligence Community and ensuring it doesn't violate the Constitution has instead dictated to the committee that guards the Constitution it won't be permitted to do its job.