

THE PAUL FILIBUSTER

As some of you were live-commenting yesterday, Rand Paul conducted a 10.5 hour filibuster of the USA F-ReDux last night.

A lot of journalists are calling it meaningless. But it may not be. As Sunlight Foundation explains, by occupying the floor for the balance of yesterday, Paul may have prevented Mitch McConnell from invoking cloture on his short-term reauthorization, leaving only USA F-ReDux as the only legislation that might possibly get through the Senate before House members start leaving for recess tonight.

What does the currently ongoing filibuster have to do with this? It's not just that it stalls the vote in the Senate and wedges it up closer to Section 215's expiration. If Paul and his allies get to midnight tonight, as far as we can tell, it stops the Senate from considering any bill other than the House-passed USA FREEDOM Act, or, by default, sunset before Saturday. Without this filibuster, McConnell could have moved today to proceed on from the trade vote to USA FREEDOM or the 2-month reauthorization (though the Senate will have a cloture vote on trade tomorrow no matter what), and in turn begun the cloture process, which would have matured Friday. While the House is supposed to be out on Friday, keeping the House for another day, versus through the weekend and into Memorial Day, is a bit different.

Tomorrow, two things start to kick in: NSA has to start detasking from collection, and the deadline to apply for a new FISC order passes (the latter of which I first noted months ago).

All that said, I suspect there was an underlying deal here.

That's true because the 9 or so people who supported Paul in this filibuster were all USA F-ReDux supporters (and of them, only Ron Wyden has called for significant amendment process, which is what Paul said he was fighting for with his filibuster).

More telling, Paul stopped 11 minutes short of midnight. And McConnell seemed to expect that – he had Bill Cassidy come on the floor to submit the highways bill for cloture.

In other words, McConnell could have, but didn't, file cloture on his short-term reauthorization last night.

It's quite possible that the Senators from KY made an agreement to get themselves out of holes they had created for themselves, Paul, in pushing against the bill, and McConnell, in leveraging such that sunset of Section 215 became a real possibility. By appearing to be left with no choice but USAF, McConnell could then whip it, and ensure it passes, to be quickly sent to Obama for signature. If McConnell really whipped it, Paul could even cast a symbolic vote against it.

If that ends up happening, Paul's filibuster will not be a waste. It would have prevented – or been the tactic that allowed all sides to accept the prevention – of the bill getting worse in the Senate, which was always a real possibility.

But no one should be breaking out tequila to celebrate a PATRIOT Sunset yet.

Update: McConnell apparently just filed cloture on his short-term reauthorization. That would put the vote on Saturday, with the House having to come back to deal with it.