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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, December 5, 2006, at 10 a.m.

Senate

MONDAY, DECEMBER 4, 2006

NOTICE

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By order of the Joint Committee on Printing.

TRENT LOTT, *Chairman*.

NOTICE

If the 109th Congress, 2d Session, adjourns sine die on or before December 15, 2006, a final issue of the *Congressional Record* for the 109th Congress, 2d Session, will be published on Wednesday, December 27, 2006, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 27. The final issue will be dated Wednesday, December 27, 2006, and will be delivered on Thursday, December 28, 2006.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

TRENT LOTT, *Chairman*.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S11107

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord God Almighty, who has given us this good land for our heritage, make us wise stewards of Your bounty. Help us to use honorable industry and sound learning to protect our Nation's resources. Give us wisdom to conserve today the assets our children will need tomorrow.

Use our Senators for Your glory. Empower them to defend our liberties and to bring unity and healing to our country. Do not allow their trust in You to fail. Unite them to seek moral objectives so that You will bless America.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF CONFEREES— H.R. 5682

The PRESIDENT pro tempore. Under the previous order, the Chair appoints the following as conferees on the part of the Senate on the disagreeing votes of the two Houses on H.R. 5682.

The PRESIDENT pro tempore appointed Mr. LUGAR, Mr. HAGEL, Mr. ALLEN, Mr. FRIST, Mr. BIDEN, and Mr. DODD conferees on the part of the Senate.

ADDITIONAL STATEMENTS

TEXT OF S. 4051

• Mr. SPECTER. Mr. President, I ask that the full text of S. 4051, the "Foreign Intelligence Surveillance Oversight and Resource Enhancement Act of 2006," be printed in the RECORD.

The text of the bill follows.

S. 4051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Intelligence Surveillance Oversight and Resource Enhancement Act of 2006".

TITLE I—ENHANCEMENT OF RESOURCES AND PERSONNEL FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 101. FOREIGN INTELLIGENCE SURVEILLANCE COURT MATTERS.

(a) AUTHORITY FOR ADDITIONAL JUDGES.—Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in paragraph (1), as so designated, by inserting "at least" before "seven of the United States judicial circuits";

(3) by designating the second sentence as paragraph (4) and indenting such paragraph, as so designated, accordingly; and

(4) by inserting after paragraph (1), as so designated, the following new paragraph:

"(2) In addition to the judges designated under paragraph (1), the Chief Justice of the United States may designate as judges of the court established by paragraph (1) such judges appointed under Article III of the Constitution of the United States as the Chief Justice determines appropriate in order to provide for the prompt and timely consideration under section 105 of applications under section 104 for electronic surveillance under this title. Any judge designated under this paragraph shall be designated publicly."

(b) CONSIDERATION OF EMERGENCY APPLICATIONS.—Such section is further amended by inserting after paragraph (2), as added by subsection (a) of this section, the following new paragraph:

"(3) A judge of the court established by paragraph (1) shall make a determination to approve, deny, or seek modification of an application submitted under section subsection (f) or (g) of section 105 not later than 24 hours after the receipt of such application by the court."

SEC. 102. ADDITIONAL PERSONNEL FOR PREPARATION AND CONSIDERATION OF APPLICATIONS FOR ORDERS APPROVING ELECTRONIC SURVEILLANCE.

(a) OFFICE OF INTELLIGENCE POLICY AND REVIEW.—

(1) ADDITIONAL PERSONNEL.—The Office of Intelligence Policy and Review of the Department of Justice is authorized such additional personnel, including not fewer than 21 full-time attorneys, as may be necessary to carry out the prompt and timely preparation, modification, and review of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) for orders under section 105 of that Act (50 U.S.C. 1805) approving electronic surveillance for foreign intelligence purposes.

(2) ASSIGNMENT.—The Attorney General shall assign personnel authorized by paragraph (1) to and among appropriate offices of the National Security Agency in order that such personnel may directly assist personnel of the Agency in preparing applications described in that paragraph.

(b) FEDERAL BUREAU OF INVESTIGATION.—

(1) ADDITIONAL LEGAL AND OTHER PERSONNEL.—The National Security Branch of the Federal Bureau of Investigation is authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 for orders under section 105 of that Act approving electronic surveillance for foreign intelligence purposes.

(2) ASSIGNMENT.—The Director of the Federal Bureau of Investigation shall assign personnel authorized by paragraph (1) to and among the field offices of the Federal Bureau of Investigation in order that such personnel may directly assist personnel of the Bureau in such field offices in preparing applications described in that paragraph.

(c) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR NATIONAL SECURITY AGENCY.—The National Security Agency is authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 for orders under section 105 of that Act approving electronic surveillance for foreign intelligence purposes.

(d) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR FOREIGN INTELLIGENCE SURVEIL-

LANCE COURT.—There is authorized for the Foreign Intelligence Surveillance Court such additional personnel (other than judges) as may be necessary to facilitate the prompt and timely consideration by that Court of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 for orders under section 105 of that Act approving electronic surveillance for foreign intelligence purposes. Personnel authorized by this paragraph shall perform such duties relating to the consideration of such applications as that Court shall direct.

(e) SUPPLEMENT NOT SUPPLANT.—The personnel authorized by this section are in addition to any other personnel authorized by law.

SEC. 103. TRAINING OF FEDERAL BUREAU OF INVESTIGATION AND NATIONAL SECURITY AGENCY PERSONNEL IN FOREIGN INTELLIGENCE SURVEILLANCE MATTERS.

The Director of the Federal Bureau of Investigation and the Director of the National Security Agency shall each, in consultation with the Attorney General—

(1) develop regulations establishing procedures for conducting and seeking approval of electronic surveillance on an emergency basis, and for preparing and properly submitting and receiving applications and orders, under sections 104 and 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804 and 1805); and

(2) prescribe related training for the personnel of the applicable agency.

TITLE II—IMPROVEMENT OF FOREIGN INTELLIGENCE SURVEILLANCE AUTHORITY

SEC. 201. EXTENSION OF PERIOD FOR APPLICATIONS FOR ORDERS FOR EMERGENCY ELECTRONIC SURVEILLANCE.

Section 105(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(f)) is amended by striking "72 hours" both places it appears and inserting "168 hours".

SEC. 202. ACQUISITION OF FOREIGN-FOREIGN COMMUNICATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), no court order shall be required for the acquisition through electronic surveillance of the contents of any communication between one person who is not located within the United States and another person who is not located within the United States for the purpose of collecting foreign intelligence information even if such communication passes through, or the surveillance device is located within, the United States.

(b) TREATMENT OF INTERCEPTED COMMUNICATIONS INVOLVING DOMESTIC PARTY.—If surveillance conducted, as described in subsection (a), inadvertently collects a communication in which at least one party is within the United States, the contents of such communications shall be handled in accordance with the minimization procedures set forth in section 101(h)(4) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(h)(4)).

(c) DEFINITIONS.—In this section, the terms "contents", "electronic surveillance", and "foreign intelligence information" have the meaning given such terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

SEC. 203. INDIVIDUALIZED FISA APPLICATIONS.

The contents of any wire or radio communication sent by a person who is reasonably believed to be inside the United States to a person outside the United States may not be retained or used unless a court order authorized under the Foreign Intelligence Surveillance Act is obtained.

SEC. 204. ISSUES RESERVED FOR THE COURTS.

Nothing in this Act shall be deemed to amend those provisions of FISA concerning any wire or radio communication sent from outside the United States to a person inside the United States. The constitutionality of such interceptions shall be determined by the courts, including the President's claim that his article II authority supersedes FISA.

TITLE III—ENHANCED CONGRESSIONAL OVERSIGHT AND SUPREME COURT REVIEW OF THE TERRORIST SURVEILLANCE PROGRAM**SEC. 301. CONGRESSIONAL OVERSIGHT.**

(a) **ELECTRONIC SURVEILLANCE UNDER FISA.**—Section 108 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808) is amended—

- (1) in subsection (a)(2)—
- (A) in subparagraph (B), by striking “and” at the end;
- (B) in subparagraph (C), by striking the period and inserting “; and”; and
- (C) by adding at the end the following:

“(D) the authority under which the electronic surveillance is conducted.”; and
- (2) by striking subsection (b) and inserting the following:

“(b) On a semiannual basis, the Attorney General additionally shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on electronic surveillance conducted without a court order.”.

(b) **INTELLIGENCE ACTIVITIES.**—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

- (1) in section 501 (50 U.S.C. 413)—
- (A) by redesignating subsection (f) as subsection (g); and
- (B) by inserting after subsection (e) the following new subsection:

“(f) The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform, on a bipartisan basis, all members or any individual members of such committee of a report submitted under subsection (a)(1) or subsection (b) as such Chair considers necessary.”; and
- (2) in section 502 (50 U.S.C. 414), by adding at the end the following new subsection:

“(d) **INFORMING OF COMMITTEE MEMBERS.**—The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform, on a bipartisan basis, all members or any individual members of such committee of a report submitted under subsection (a) as such Chair considers necessary.”.

SEC. 302. SUPREME COURT REVIEW OF THE TERRORIST SURVEILLANCE PROGRAM.

(a) **IN GENERAL.**—Upon appeal by the United States or any party to the underlying proceedings, the Supreme Court of the United States shall review the final decision of any United States court of appeal concerning the legality of the Terrorist Surveillance Program.

(b) **EXPEDITED CONSIDERATION.**—It shall be the duty of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

(c) **DEFINITION.**—In this section, the term “Terrorist Surveillance Program” means the program identified by the President of the United States on December 17, 2005, to intercept international communications into and out of the United States of persons linked to al Qaeda or related terrorist organizations.

TITLE IV—OTHER MATTERS**SEC. 401. DEFINITION.**

In this Act, the term “Foreign Intelligence Surveillance Court” means the court established by section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act and the amendments made by this Act.

SEC. 403. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date that is 30 days after the date of the enactment of this Act.●

TRIBUTE TO COLONEL THOMAS V. COLELLA

● **Mr. ISAKSON.** Mr. President, I rise today to recognize in the RECORD COL Thomas V. Colella, who officially retired from the United States Marine Corps last month after 30 years of honorable service to this Nation.

Colonel Colella graduated from the United States Naval Academy in 1976 and was commissioned a Second Lieutenant in the Marine Corps. His first tour took him to Okinawa, Japan, where he was assigned to E Battery, 2nd Battalion, 12th Marine Regiment. While assigned to that battalion, he served as a battery officer, forward observer and liaison officer. Colonel Colella then served at the Landing Force Training Command, Atlantic area, as an Aide-de-Camp to the commanding general of the 4th Marine Amphibious Brigade. In 1981 he entered the Marine Corps Reserve where he held several line and staff positions including a role as commander of the 4th Battalion, 14th Marines and Executive Officer of the 4th Civil Affairs Group. Most recently, Colonel Colella was recalled to active duty in support of coalition operations in Afghanistan related to Operation Enduring Freedom, where he served as Chief of Staff to the U.S. Defense Representative in Pakistan.

In 1987, Tom joined Korn/Ferry in the firm's Washington, D.C. office conducting senior-level searches for a global client base in the industrial, aerospace and defense sectors. Tom was also called into civilian public service after accepting a position within the U.S. Department of Education in the former Bush administration, and most recently serving as the Principal Deputy Assistant Secretary of the Navy for Manpower and Reserve Affairs in the current Bush administration.

I have been fortunate to have Colonel Colella serve as the chairman of my academy review board since my election to the U.S. House of Representatives in 1999. I inherited him from former House Speaker Newt Gingrich who also sought out Tom's expertise in the important and extremely difficult academy selection process. His commitment to the young men and women who make up the future of our Nation does not go unrecognized.

I could go on for hours with Tom's biography, but his distinguished career can be summarized in one word: devotion. He is a devoted father; a devoted leader at Korn/Ferry International; a devoted public servant; and he has now finished his career as a devoted member of the U.S. Military. An important chapter in Tom's life is now finished, but I know there are many more chapters left to be written. I wish Tom Colella and his three kids, Nicholas, Andrew and Gregory, the very best, and convey to him my deepest gratitude on behalf of the people of Georgia and the United States.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on November 21, 2006, she had presented to the President of the United States the following enrolled bills:

S. 101. An act to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation.

S. 435. An act to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

S. 819. An act to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes.

S. 1131. An act to authorize the exchange of certain Federal land within the State of Idaho, and for other purposes.

S. 1140. An act to designate the State Route 2 Bridge in the State of Delaware as the “Senator William V. Roth, Jr., Bridge”.

S. 2464. An act to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

S. 3880. An act to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror.

S. 4001. An act to designate certain land in New England as wilderness for inclusion in the National Wilderness Preservation System and certain land as a National Recreation Area, and for other purposes.

ADDITIONAL COSPONSORS

S. 3910

At the request of Mrs. CLINTON, the names of the Senator from Connecticut

(Mr. LIEBERMAN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 3910, a bill to direct the Joint Committee on the Library to accept the donation of a bust depicting Sojourner Truth and to display the bust in a suitable location in the Capitol.

NOTICE OF HEARING

COMMITTEE ON SMALL BUSINESS AND
ENTREPRENEURSHIP

Ms. SNOWE. Mr. President, I would like to inform the members of the com-

mittee that the committee will hold a hearing on Wednesday, December 6, 2006 at 2:30 p.m. in Russell 428A on the Nomination of Jovita Carranza to be the Deputy Administrator of the U.S. Small Business Administration.

**ADJOURNMENT UNTIL TUESDAY,
DECEMBER 5, 2006**

The PRESIDENT pro tempore. Under the previous order, the Senate stands in adjournment until 12 noon on Tuesday, December 5, 2006.

Thereupon, the Senate, at 10:02 a.m., adjourned until Tuesday, December 5, 2006.

NOMINATIONS

Executive nomination received by the Senate December 4, 2006:

DEPARTMENT OF DEFENSE

Robert M. Gates, of Texas, to be Secretary of Defense, vice Donald Henry Rumsfeld, resigned.