

TEA PARTY PATRIOTS ACTION

WEEKLY REPORT FROM WASHINGTON

May 18, 2020

CALENDAR:

The Senate will return Monday, May 18. The House will not be in session this week, but may come back on May 27 and 28, though I have no idea why.

LAST WEEK ON THE HOUSE FLOOR:

The House came back into session on Friday, May 15, to vote on two items – H.Res. 965, a change to House rules that would allow for remote voting and committee activity by proxy, and H.R. 6800, the so-called “HEROES” Act, otherwise known as Speaker Pelosi’s \$3 trillion pipe dream.

In the lead up to the vote, there was a great deal of consternation on the Democrat side of the aisle. The Progressive Caucus was unhappy with the bill, because it did not contain the Paycheck Guarantee Act, a piece of legislation they very much wanted. The Paycheck Guarantee Act would have created a government guarantee to cover all the payroll costs of workers at financially troubled companies, up to a value of \$100,000 per worker per year, to keep them off unemployment. By one estimate, it would have cost \$600 billion for its first year. But no legislative text was written, and Speaker Pelosi did not want to wait any longer to push the big bill, so the progressive bill was left on the cutting room floor.

That led to a question – would progressives in the House Democratic Caucus be so determined to get their way that they would tank the bill, or tank the Rule?

Pelosi and House Majority Leader Steny Hoyer twisted arms all week, and in the end, they won. On the key vote – the vote on the Rule – they prevailed, with 207 votes in favor against 199 votes against. Fourteen Democrats voted against the Rule.

Then the House took up the resolution to change the House rules to allow for remote voting by proxy. We’ll talk more about that in a moment. For now, suffice it to say the resolution passed by a vote of 217-189. Only 3 Democrats voted against it. No Republicans voted for it.

Then the House considered H.R. 6800, the Health and Economic Recovery Omnibus Emergency Solutions Act, or the HEROES Act.

The first vote was a vote on the Republican motion to recommit. This, you may recall, is a traditional sop that the majority offers to the minority. The Republicans have been clever in the 116th Congress at using the Motion To Recommit as a means to force Democrats to take hard votes on things they would rather not vote on, and the Republicans were clever this time, too. Virginia Republican Denver Riggleman offered the MTR. The motion would have excised a portion of the HEROES Act to prevent illegal immigrants from retroactively receiving stimulus checks from the federal government. Thirteen Democrats recognized the danger of being seen voting to spend taxpayer dollars on illegal immigrants, and voted for the motion. Nevertheless, the vast majority of Democrats voted against the motion to recommit, and it failed by a vote of 198-209.

And then it was time for final passage on the \$3 trillion spending package. Pelosi and Hoyer prevailed, losing just 14 Democrat votes, so the final tally was 208-199.

And then they were done.

LAST TWO WEEKS ON THE SENATE FLOOR:

The Senate returned to work on Monday, May 4, and immediately voted to confirm Robert J. Feitel to be Inspector General of the Nuclear Regulatory Commission.

On Wednesday, May 6, the Senate voted to invoke cloture on the nomination of, and then voted to confirm, William R. Evanina to be Director of the National Counterintelligence and Security Center.

On Thursday, May 7, the Senate failed to override President Trump's veto of S.J.Res. 68, a joint resolution to direct the removal of U.S. Armed Forces from hostilities against the Islamic Republic of Iran that have not been authorized by Congress. Then the Senate went home for the weekend.

On Monday, May 11, the Senate returned. First up was a cloture motion on the nomination of Brian D. Montgomery to be Deputy Secretary of Housing and Urban Development. Cloture was agreed to.

On Tuesday, May 12, the Senate voted to confirm Brian D. Montgomery to serve as Deputy Secretary of Housing and Urban Development. Then the Senate voted to invoke cloture on the nomination of, and then voted to confirm, Troy D. Edgar to be Chief Financial Officer at the Department of Homeland Security.

On Wednesday, May 13, the Senate began its debate on surveillance reauthorization. You may remember back in March, the House passed a bill reauthorizing three expiring surveillance provisions that were part of the USA FREEDOM Act. The Senate chose not to pass the House bill, and instead passed a 77-day extension of the current law, and said it would revisit the issue

more fully in early May. The House never took up the Senate's 77-day extension of the current law, so the law lapsed, and with it went the authorization for the three expiring surveillance provisions. I would note parenthetically that we have not suffered any major terror attack since the surveillance authorities expired.

First up was an amendment offered by Sen. Ron Wyden of OR. The amendment would have removed internet website browsing information and search histories from the scope of authority to access certain business records for foreign intelligence and international terrorism investigations. The amendment came up one vote short, failing by 59-37 because it needed 60 votes to pass.

Then came an amendment offered by UT Sen. Mike Lee. The Lee Amendment would strengthen third-party oversight of the FISA process by requiring the FISA court judges to appoint what's called an "amicus curae," a "friend of the court," to act as a neutral third-party observer in any case involving a "sensitive intelligence matter," so long as the court does not believe it to be inappropriate. That amendment passed, by a vote of 77-19.

Then, on Thursday, May 14, the Senate took up an amendment offered by KY Sen. Rand Paul to prohibit the use of authorities under the Foreign Intelligence Surveillance Act of 1978 to surveil U.S. citizens and to prohibit the use of information acquired under the Act in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation. That amendment failed by a vote of 11-85.

Then the Senate took up the underlying bill, H.R. 6172, as amended, and voted to pass it. The vote was 80-16. The amended bill now goes back to the House.

And then they were done.

THIS WEEK ON THE SENATE FLOOR:

The Senate will return Monday, with the first vote set for 5:30 PM. During the course of the week, the Senate will vote on the following confirmations:

- Scott Rash as a U.S. District Judge for the District of Arizona
- James Trainor III as a Member of the Federal Election Commission
- Anna Manasco as a U.S. District Judge for the District of Alabama
- John Heil III as a U.S. District Judge for the Northern, Eastern, and Western Districts of Oklahoma
- John Leonard Badalamenti as a U.S. District Judge for the Middle District of Florida

FLYNN SETUP FOLLOW UP:

When last we talked, we talked about the revelations about the FBI's notes on their interview with former National Security Adviser Gen. Michael Flynn, and how it certainly appeared senior

officials had set him up. We weren't the only ones who thought that – on Thursday, May 7, the Department of Justice announced it was dropping its case against Flynn.

"A review of the facts and circumstances of this case, including newly discovered and disclosed information, indicates that Mr. Flynn's statements were never 'material' to any FBI investigation," read the filing from the Department of Justice.

So, with Flynn having filed a motion to withdraw his guilty plea, and DOJ having announced its intention to withdraw its prosecution, the case was over, and his nightmare had ended, right?

Not so fast. For some reason, Judge Emmet Sullivan decided he wanted to hear more – specifically, he wanted to hear whether or not he should charge Flynn with perjury. So six days after the DOJ decided to drop its case against Flynn, Judge Sullivan appointed John Gleeson, a retired judge, to act as a "friend of the court" and present arguments to Sullivan "in opposition to the government's Motion to Dismiss" and on "whether the Court should issue an Order to Show Cause why Mr. Flynn should not be held in criminal contempt for perjury." Gleeson was appointed to the bench by President Bill Clinton, and served for 22 years before retiring.

Sullivan's question, of course, comes from the fact that earlier in the case, Gen. Flynn had filed paperwork acknowledging under oath that he had lied to the FBI. He later filed paperwork declaring under oath that he had NOT lied to the FBI. The judge thinks at least one of those statements may have been untrue, and he wants to be briefed on the implications.

The Wall Street Journal editorial board wrote about this, and cited a 2016 case before the D.C. Circuit Court of Appeals:

"[D]ecisions to dismiss pending criminal charges—no less than decisions to initiate charges and to identify which charges to bring—lie squarely within the ken of prosecutorial discretion," said the court. It quoted the court's 1967 precedent, *Newman v. U.S.*: "[f]ew subjects are less adapted to judicial review than the exercise by the Executive of his discretion in deciding when and whether to institute criminal proceedings, or what precise charge shall be made, or whether to dismiss a proceeding once brought."

Who wrote that opinion? None other than Sri Srinivasan, a Barack Obama appointee and now chief judge of the D.C. Circuit. He was joined by conservative giants Laurence Silberman and David Sentelle. The court didn't dismiss Judge Leon from the case, but it did overrule his objections to the deal and remanded the case back to him with those instructions.

Here's the kicker: If the Justice Department files a writ of mandamus to remove Judge Sullivan from the case, it would go to the D.C. Circuit. A different panel might get the case but the judges would have to consider Judge Srinivasan's precedent. It's true the Flynn case is politically charged, but on the legal merits Judge Sullivan would be wise to stand down before he does further harm to his reputation.

Stay tuned. We'll be hearing more about this.

HOUSE RULES:

Friday afternoon, the House took up and passed H.Res. 965, allowing remote voting by proxy in committee meetings and on the floor of the House of Representatives. The resolution “authorizes the Speaker, in consultation with the Minority Leader, to temporarily implement remote committee proceedings and remote voting in the House when she has been notified by the Sergeant-at-Arms, in consultation with the Attending Physician, of a public health emergency due to the coronavirus. The authority lasts for 45 days and can be extended or renewed if the public health emergency persists or there is a resurgence.”

This rule “authorizes remote committee proceedings during the pandemic. It implements remote voting on the House floor during the pandemic. All members voting remotely will count toward a quorum. After sending a letter to the Clerk to designate a proxy, Members are permitted to vote remotely on any vote. Members voting remotely will be given 24-hours’ notice before any final passage vote to ensure they can secure a proxy if they have not yet designated one. This is not a general proxy. Proxies must receive exact written instruction from the member voting by proxy on each vote, and are required to follow that instruction precisely ... Members could not serve as a designated proxy for more than ten Members.”

MUELLER PROBE:

On Thursday, May 7, the House Intelligence Committee released 6,000 pages of transcripts of the 50-odd interviews it conducted during its probe of so-called “Russian collusion.” The same day, the Department of Justice released former Deputy Attorney General Rod Rosenstein’s so-called “scope memo” to former Special Counsel Robert Mueller, outlining the parameters of what Mueller was supposed to investigate.

As is often the case, it was Wall Street Journal columnist Kim Strassel who provided the proper context for the revelations:

In hindsight, the FBI’s Russia-collusion scandal always had two parts: the bureau’s indefensible probe of the Trump campaign and the coverup—the investigation by special counsel Robert Mueller.

That the latter probe was a coverup came into sharp relief this week with the Justice Department’s belated withdrawal of its case against former national security adviser Mike Flynn and the release of former Deputy Attorney General Rod Rosenstein’s “scope” memo. Both demonstrate that Mr. Mueller was named not to get to the bottom of Russia-related crimes but to legitimize the illegitimate decisions the FBI and Justice had made to that point, to squeeze “something” out of its disastrous escapade.

Mr. Rosenstein initially didn't limit Mr. Mueller's investigation to real crimes. His original May 2017 appointment letter gave the special counsel carte blanche to look into "any links and/or coordination between the Russian government and individuals associated with the campaign of President Donald Trump." When he detailed the "scope" of Mr. Mueller's duties in an Aug. 2, 2017, memo, the government guarded the document like Fort Knox—refusing to let even Congress view it. We now know why. The memo authorized the Mueller team to investigate a series of already debunked theories and noncrimes.

Take the section that allows Mr. Mueller to investigate former Trump campaign members Carter Page and Paul Manafort for "a crime or crimes by colluding with Russian government officials." Every "collusion" allegation the FBI had about these two men came directly from the Steele dossier, paid for by the Hillary Clinton campaign. By August 2017, the FBI knew that dossier was bunk.

According to Justice Department Inspector General Michael Horowitz, the FBI knew by January 2017 that the dossier's primary Russian source had disavowed the allegations and the FBI had failed to validate a single claim. Colleagues of author Christopher Steele had warned the FBI of his poor judgment. As was revealed only last month, the FBI had also been warned several times that the dossier might itself be Russian disinformation.

The FBI obtained a surveillance warrant on Mr. Page in October 2016 and renewed it three times. The Justice Department earlier this year admitted to the Foreign Intelligence Surveillance Court that the last two of those applications—which spanned Mr. Mueller's appointment and the scoping memo—should never have been filed, since the government lacked "probable cause." That's an admission the government had nothing on Mr. Page even as Mr. Rosenstein was telling Mr. Mueller to go at him.

Mr. Mueller was meanwhile authorized to dive deep into unrelated "crimes": Manafort financial activities that took place years before the Trump campaign, Mr. Flynn's supposed lies, Mr. Flynn's and George Papadopoulos's ties with, respectively, Turkey and Israel. Russia, anyone?

Most revealing is Mr. Mueller's authority to investigate abuses of ancient or rarely enforced laws. He was authorized to probe the potential "crime" of Mr. Flynn "engaging in conversations with Russian government officials during the period of the Trump transition." This is a reference to the Logan Act of 1799, a law that has never been used to convict an American. He was also tasked with investigating whether that foreign work by Messrs. Flynn and Papadopoulos violated the rarely enforced Foreign Agents Registration Act.

Prosecutors admitted in the Flynn withdrawal filing that the department concluded in early 2017 that a Logan Act claim would be too "difficult to prosecute." The FBI had moved to close its counterintelligence investigation into Mr. Flynn by January 2017, having found *nothing* on "collusion." And the filing

notes FBI interviewing agents felt Mr. Flynn hadn't lied or didn't think he was lying. So why on earth was Mr. Mueller allowed to go to town on Logan Act and lying charges?

The tip-off is the FARA references. No one in the Beltway had thought about that statute until Mr. Mueller's investigators resurrected it. The inclusion leads one to suspect it wasn't Mr. Rosenstein writing this memo. It was the Mueller team dictating—demanding wider scope and new authority in order to get something, *anything*, out of this endeavor.

They weren't getting any Russia "collusion" charges. That was clear by the spring of 2017, and former FBI Director James Comey knew it would soon emerge that his bureau had made egregious errors. So he leaked his memo of conversations with Mr. Trump with the specific goal of getting a special counsel appointed. The Mueller probe—led by the very people who'd made those errors—then spent more than two years "investigating" bogus or derivative claims, keeping secrets, and giving the escapade a fiction of legitimacy.

Mr. Flynn got justice on Thursday, but there will be no broader reckoning until we see the full record. That means not only FBI and Justice Department documents but full transparency and a review of the Mueller probe itself. The nation got taken for a ride, and it continued with the special counsel behind the wheel.

CORONAVIRUS RESPONSE:

Speaker Pelosi's "HEROES Act" is dead on arrival in the U.S. Senate. Majority Leader Mitch McConnell has said so. He's also said he sees no urgency to passing any new legislation, at least not until the SBA's Paycheck Protection Program gets close to running out of money again.

The Trump Administration, at least for now, appears to be following Leader McConnell's direction. The president's Twitter feed is always in play, and no one has any idea what he might tweet on any given day, but so far he hasn't crossed McConnell to side with Speaker Pelosi on any major subject. At least not yet, he hasn't.

PERSONNEL:

The White House announced last week that Brooke Rollins, who headed the Texas Public Policy Foundation before leaving to join the White House staff, would replace Domestic Policy Council chief Joe Grogan.

2020 DEMOCRATS:

When last we left former Vice President Joe Biden, he was asking the Secretary of the Senate for any personnel records in its possession regarding his former staffer, Tara Reade, who alleges that while she was in his employ, Biden sexually assaulted her.

The Secretary of the Senate's office replied that even if it had such records, it could not release them to the public, or to Mr. Biden. So Biden is stuck.

Meanwhile, a document filed in a 1996 court case by Reade's ex-husband shows that she told him in 1996 about the sexual harassment she says took place in 1993.

This allegation isn't going away. Stay tuned.

MISCELLANEOUS:

North Carolina Sen. Richard Burr – who has already announced he will not run for reelection when his current term expires – received a visit from the FBI last week. On Wednesday evening, FBI agents pursuing an investigation into his sales of stock served him with a warrant and confiscated his cell phone. He announced on Thursday afternoon that he would step down as chairman of the Senate Intelligence Committee until the investigation was over.

Next in line in seniority on the GOP side of the committee is Idaho Republican Jim Risch. But he's already serving as chairman of the Foreign Relations Committee, so he'll likely stay put there. That would leave the chairmanship, on a temporary basis at least, to Florida Republican Marco Rubio. Majority Leader McConnell has not yet made a decision on who will step into that slot. Stay tuned.

JENNY BETH MARTIN/TEA PARTY PATRIOTS:

[TH: Jenny Beth Martin: Flynn Scandal Foreshadowed by IRS Persecution of Grassroots Groups](#)

[Breitbart: Jenny Beth Martin: A Communication Strategy To Reopen the Country](#)

[WT: Jenny Beth Martin: China Is Now a Dangerous Adversary of the United States](#)

[WT: Tea Party Patriots' 20% Pay Cut for Congress a Grand Old COVID-19 Scheme](#)

[CHQ: Conservative Leaders: Get Rid of Facebook Censorship Committee](#)

[CHQ: Conservative Leaders to GOP: No State and Local Government Bailouts in COVID-19 Relief Legislation](#)

FLYNN SETUP FOLLOW UP:

[WE: Michael Flynn Was Railroaded by Comey's FBI](#)

[FOX: Wisenberg: Michael Flynn Case -- How FBI Officials, Step by Step, Abused Their Power](#)

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[AP: Flynn Dismissal a Surprise? AG Barr in Sync with Trump](#)

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[TH: Well, This Disturbing Statistic on False Guilty Please Shred Liberal 'Flynn Pleaded Guilty' Talking Point](#)

[GJ: Flynn Attorney: Whole Thing 'Set Up Within the FBI and in the Oval Office with President Obama](#)

[WSJ: Emmet Sullivan vs. the DC Circuit](#)

[WSJ: Strassel: Barr vs. the Beltway](#)

[Hill: GOP Seeks To Go on Offense Using Flynn Against Biden](#)

HOUSE RULES:

[Politico: Democrats Push Proxy Voting Amid Coronavirus Relief Battle](#)

[Congressional Emergency Remote Proceedings: A New Rule](#)

[Hill: House Adopts Historic Rules Changes To Allow Remote Voting](#)

MUELLER PROBE:

[WSJ: Strassel: The Mueller Coverup](#)

[CNN: House Releases Transcripts of Closed-Door Russia Probe Interviews](#)

[Hill: Graham To Stat Hearings on Russia Probe, Flynn in June](#)

[Politico: Trump Exults in His Mueller Revenge Play](#)

[JTN: Making of a Myth: Timeline of Media's Role in Selling 'Trump-Russia Collusion' Tale](#)

SURVEILLANCE REAUTHORIZATION:

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[Hill: Senate Votes To Reauthorize Intel Programs with Added Legal Protections](#)

[Politico: Senate Passes FISA Renewal Bill, Sends It Back to the House](#)

CHINA:

[Reuters: Exclusive: Internal Chinese Report Warns Beijing Faces Tiananmen-Like Global Backlash over Virus](#)

[FOX: Gordon Chang Says China's Leaders Fear 'Crime of the Century' Will Be 'Exposed' by Global Coronavirus Probe](#)

[SCMP: A US Move To Seek Coronavirus Pandemic Damages from China Might Well Trigger War](#)

[FED: Tom Cotton Is Right About Restricting Chinese Student Visas](#)

[FOX: Gen. Jack Keane: US Has '10-Year Hole' To Dig Out Of in Dealing with China Threat](#)

[WSJ: Coronavirus Casts Deep Chill over U.S.-China Relations](#)

CORONAVIRUS RESPONSE:

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[Politico: Trump Team Plots Tax Cuts and Regulatory Suspensions To Boost a Coronavirus Recovery](#)

[Politico: Democrats Aim To Squeeze Republicans on Next Coronavirus Relief Package](#)

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[AP: Emerging Virus Aid Bill Aims To Help Cities, Postal Service](#)

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[CNS: Record 103,415,000 Not in Labor Force; Participation Rate Sinks to 47-Year Low](#)

[Reuters: US Jobless Rate Likely Much Higher than 14.7%, Labor Dept Says](#)

[Politico: Pelosi To Lay Down Multitrillion-Dollar Marker with New Coronavirus Package](#)

[Hill: House GOP Urge Trump Against Supporting Additional Funding for State and Local Governments](#)

[Politico: Democratic Senators Propose \\$2,000 Monthly Payments to Most Americans](#)

[WSJ: Formal Talks Paused on Next Stimulus Package, Trump Economic Adviser Larry Kudlow Says](#)

[Axios: Inside House Democrats' Whopping \\$1.2 Trillion+ Coronavirus Relief Proposal](#)

[Politico: McConnell Brushes Off Pelosi as She Finalizes Relief Package](#)

[Hill: The 8 Key Provisions Expected in Democrats' Next COVID-19 Bill](#)

[Hill: House Democrats Unveil \\$3 Trillion Coronavirus Relief Package](#)

[Politico: Pelosi Unveils \\$3 Trillion Coronavirus Relief Plan Amid Squeeze from Left and Right](#)

[Hill: Eight Surprises in House Democrats' \\$3T Coronavirus Relief Bill](#)

[Hill: Senate GOP Crafting Wishlist for Next Coronavirus Package](#)

[WaPo: White House Opens Door to State Aid Despite Opposition from Conservative Groups, Some GOP Lawmakers](#)

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[Politico: House Approves \\$3 Trillion Coronavirus Relief Package](#)

[Hill: House Defeats Effort To Prevent Stimulus Checks for Undocumented Immigrants](#)

[Forbes: HEROES Act Passes House; Omits \\$2,000 Recurring Stimulus Checks and Other Notable Items](#)

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[Telegraph: Exclusive: Government Scientist Neil Ferguson Resigns after Breaking Lockdown Rules To Meet His Married Lover](#)

[Insider: UK Epidemiologist Neil Ferguson Resigns as a Government Adviser after Admitting He Broke Coronavirus Lockdown To Meet His Married Lover](#)

[Hill: Don't Punish Our States for the Big Spenders](#)

[WSJ: Cuomo to Covid Volunteers: Pay Up](#)

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[BI: Nursing Home Residents and Workers Make Up a Third of Coronavirus Deaths. In Some States, They Account for Half.](#)

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[NYT: How To Reopen America Safely](#)

PERSONNEL:

[NYT: Trump Ally Sees Easier Path to Intelligence Post in Second Attempt](#)

[NYT: Trump To Name Brooke Rollins as Domestic Policy Adviser](#)

2020 DEMOCRATS:

[Politico: Secretary of the Senate Turns Down Biden's Request for a Tara Reade Document Search](#)

[NPR: Senate Office Tells Biden It Cannot Seek Tara Reade Records](#)

[SLOT: Exclusive: 1996 Court Document Confirms Tara Reade Told of Harassment in Biden's Office](#)

[NYT: Axelrod and Plouffe: What Joe Biden Needs To Do To Beat Trump](#)

[JTN: Impeachment Boomerang: Contacts Exposed Between US Embassy, Hunter Biden-Connected Ukraine Firm](#)

MISCELLANEOUS:

[RC: Burr Steps Aside as Intelligence Chairman as Stock Sale Scandal Grows](#)