

Congressional Closeup by Carl Osgood

Senate Panel Passes Specter Wiretap Bill

On Sept. 13, the Senate Judiciary Committee voted 10 to 8 along partisan lines for a bill sponsored by committee chairman Arlen Specter (R-Pa.) that would give the Foreign Intelligence Surveillance Act Court the jurisdiction to decide whether or not the National Security Agency domestic wiretapping program is Constitutional, but doesn't require the President to submit the program to the court for review. Specter went ahead with the bill, however, on the basis of a promise from President Bush that he would do that.

The committee otherwise rejected, along partisan lines, all Democratic amendments, all of which sought to increase Congressional oversight in other ways. As Sen. Russ Feingold (D-Wisc.) noted early during the committee debate, "None of us have enough information to legislate on this."

The committee also acted on three other bills related to the NSA surveillance program. The committee passed, on a 10-8 vote, a bill sponsored by Sen. Mike Dewine (R-Ohio) that would authorize the President to establish a terrorist surveillance program if it meets certain criteria. The committee rejected, on a split 9-9 vote, a bill by Sen. Charles Schumer (D-N.Y.) that would give standing to anybody who feared that his telephone calls were being monitored.

Finally, the committee passed, 10 to 8, a bill co-sponsored by Specter and Sen. Dianne Feinstein (D-Calif.) that reinforces FISA as the exclusive authority over NSA wiretapping, after rejecting, by an 8 to 10 vote, an amendment by Sen. Jon Kyl (R-Ariz.) that would've gutted that provision of Feinstein's bill.

A week earlier, Specter had pulled his bill from committee consideration

partly because of Feingold's opposition. Feingold had mocked the plan as equivalent to Bush saying: "I'll agree to let the court decide if I'm breaking the law if you pass a law first that says I'm not breaking the law." The main factor behind Specter's withdrawal of the bill was that three Republicans, Senators Larry Craig (Id.), John Sununu (N.H.), and Lisa Murkowski (Ak.), none of whom is a member of the committee, signed a letter with Sen. Patrick Leahy (D-Vt.) and other Democrats, demanding further hearings before a vote.

Bond, Leahy Warn Against Martial Law Provision

Senators Kit Bond (R-Mo.) and Patrick Leahy (D-Vt.), co-chairmen of the Senate National Guard Caucus, wrote to the chairmen and ranking members of the Armed Services Committees of both houses urging them to reject provisions in the defense authorization bill that would make it easier for the President to declare martial law. The provisions at issue amend current law so that the President can call up the National Guard or reserve forces to respond to a natural disaster.

Bond and Leahy said that adding such a specification makes it easier for the President to declare martial law, "which goes against one of the central tenets of our society." They write that the President already has authority to use the military to restore civil order under the Insurrection Act, an authority which has only been used sparingly in American history. The proposed legislation, however, "changes the presumption against invoking martial law to a presumption for the domestic use of the military in our states and communities."

Bond and Leahy also warn that the

provisions undermine the time-tested principle that the executive closest to the disaster, a mayor or governor, has responsibility to handle it, and other assets are deployed in support of that executive. However, the provisions in the House and Senate bills would make it more likely that the President would be in charge by virtue of his control of the military. They also note that no hearings have been held on either the House or Senate provisions. "It does not make sense to give the President more authority to invoke the Insurrection Act and to call martial law without understanding the consequences of any change."

Hearings Become Debate on Rumsfeld

Senate Democrats turned the debate on the defense appropriations bill, which the Senate had not completed prior to the Summer recess, into a debate on the competence of Secretary of Defense Donald Rumsfeld. On Sept. 6, Senate Minority Leader Harry Reid (D-Nev.) sponsored an amendment that called on President Bush "to change course in Iraq to provide a strategy for success." An indication of such a strategy would be the replacement of Rumsfeld as Secretary of Defense.

Reid said that the amendment was "bigger than Donald Rumsfeld": "This is about changing course in Iraq and the President demonstrating to the American people he understands America cannot stay the course when the present course is taking our country in the wrong direction."

The Democrats' determination to debate Rumsfeld's tenure followed a series of speeches he made in August, comparing those who disagree with the Bush Administration's policy to

the appeasers of Adolf Hitler and Nazism during World War II. "These assertions were offensive and indicative of a Secretary of Defense who has lost his way, who is not capable of overseeing America's defense or certainly a new direction in Iraq; who is more concerned, it seems, with the Bush Administration's political fortunes than the safety and security of the American people, and who must be replaced," Reid said.

Reid's amendment was ultimately ruled "non-germane" with respect to the appropriations bill, on a point of order made by Sen. Ted Stevens (R-Ak.), the chairman of the Defense Appropriations Subcommittee, but not before it touched off lengthy and often passionate statements from both sides of the aisle.

Pentagon Officials Grilled on Iraq

Rep. Chris Shays (R-Conn.), the chairman of the National Security Subcommittee of the House Government Reform Committee, began three days of hearings on security in Iraq, focussed on the question of when U.S. troops can be withdrawn. Both Shays, who, last month, began to call for a withdrawal timetable, and Rep. Dennis Kucinich (D-Ohio), the ranking Democrat on the panel, agreed, in their questioning of the witnesses, that conditions in Iraq have only been getting worse, and that U.S. policy in Iraq is part of the reason. Shays said he was in Iraq in April of 2003, and "If we had made progress at that point, I think we probably wouldn't be there in any great number, today." He cited, among other things, the disbanding of the Iraqi army and police after the fall of Baghdad, a decision which, he said, "to this day boggles my mind."

Kucinich seized on an article that appeared in the *Washington Post*, that morning, on a report by a Marine Corps intelligence officer who concluded that the prospects for securing Iraq's Anbar province "are dim and that there is almost nothing the U.S. military can do to improve the political and social situation there." Kucinich grilled Undersecretary of Defense Eric Edelman on the significance of the report, but grew increasingly frustrated because Edelman would not quote from the report because it is classified. "Wouldn't it be of interest to the parents of American soldiers who are being sent to fight that they would know that a report existed that said that a province was beyond repair and the thing couldn't be won militarily?" Kucinich demanded. Edelman replied that "We've taken it very seriously," but described it as a "snapshot in time" that does not represent the entire country.

Murtha Slams Rumsfeld On Military Readiness

On Sept. 13, Rep. John Murtha (D-Pa.) released a report documenting the collapse of Army readiness. Army brigades are turning around between deployments in less than a year, and are unable to fully retrain because they lack the equipment, especially armored vehicles and trucks, which have been worn out in Iraq and Afghanistan, causing them to be redeployed at less than full combat readiness. "In effect," Murtha says, "the Army has become a 'hand-to-mouth' organization. Its inability to get ahead of the deployment and training curves is rooted in the Administration's miscalculations and blind optimism about troop and industrial surge requirements for the U.S. occupation of Iraq."

Murtha also reported that while the Army is meeting its recruiting and retention goals, the measures it is taking to do so may be resulting in a lower quality force. He says that company commanders are reporting that disciplinary actions resulting from drug and alcohol abuse have skyrocketed in the past year. "To suggest that the Global War on Terror will last for years, yet fail to even acknowledge—let alone take steps to address—the Army's readiness, equipment, and personnel shortfalls, is viewed as short-sighted at best. At worst, the future security and deterrent power of the United States is dangerously at risk," Murtha concluded.

In conjunction with the report, Murtha also introduced a resolution in the House, calling for Rumsfeld's resignation "for the good of the country," and to "restore credibility both at home and abroad."

The resolution says: "The first step in restoring that credibility must be to demonstrate accountability for the mistakes that have been made in prosecuting the wars in Afghanistan and Iraq"; to "reconstitute our military readiness, and refocus on the threats to national security posed by diffuse and proliferating terrorist cells as well as belligerent states."

The resolution blames Rumsfeld for the failure to capture Osama bin Laden during the battle for Tora Bora in December 2001, by failing to commit sufficient troops; failure to ensure adequate body armor and protective gear for troops in Iraq; failure to anticipate the troop strength required; failure of training and supervision, which led to abuses at Abu Ghraib; failure to address flagging readiness of U.S. ground forces; and failure to ensure adequate accounting of billions of dollars of Coalition Provisional Authority expenditures.