



Chris Dodd

Senate Floor Speech on the Foreign Intelligence Surveillance Act



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Mr. President, I have some comments I want to make about the FISA legislation, but before I do that I want to -- and before he leaves the floor -- to commend my colleague from North -- North Dakota. I've joined with him on so many occasions in the past and once again his eloquence and his passion about these issues is evident this morning.

I've worked together, we've sponsored legislation and on a number of matters, so I'm once again going to join him in these efforts he's raised here today and he's eloquently described -- a situation that most Americans find deplorable.

Again, the point he makes on the issue of supporting our troops -- I find it offensive that anyone would suggest because we disagree with the policy, we're somehow putting our soldiers and sailors and marines and airmen at risk. In fact, I think the contrary is true. I would strongly suggest, as my colleague from North Dakota does, that the continuing policy in Iraq has made us less safe, less secure, more vulnerable, more isolated in the world. And in fact the very soldiers and sailors and airmen and marines we admire for the work they're doing under the worst of circumstances are in greater jeopardy because of a continuation of this policy. And so I'll be joining with him and others as we try to bring this to a -- to a halt, not in 2009 or 2013 but hopefully this year. So I commend him for all his comments this morning.

Mr. President, for six years the President has demonstrated time and again that he doesn't respect the role of Congress nor does he respect the rule of law. And it's the latter that I want to address this morning if I can, because it's the rule of law which is what draw us all together here regardless of politics or ideology or party.



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It is the rule of law, not of men, which we swear to uphold when we take the Oath of Office in this Chamber, as Members do in the other Chamber, and certainly as the President of the United States does on January 20th -- every four years.

For six years this President has used scare tactics, in my view, to prevent the Congress from reining in his abuse of authority. A case and point is the current direction this body appears to be headed as we prepare to reform and extend the Foreign Intelligence Surveillance Act.

Many of the unprecedented rollbacks of the rule of law by this Administration have been made in the name of "national security." The Bush Administration has relentlessly focused our nation's resources and manpower on a war of choice in Iraq. The ill conceived war has broken our military, squandered our resources, and emboldened our enemies.

The President's wholesale disregard of the rule of law has compounded the damage done in Iraq and made our nation, I think, less secure, as I said a moment ago. And as a direct consequence of these acts, we are far less secure, far more vulnerable, and certainly far more isolated in the world today.

Consider, if you will, beginning with the scandal at Abu Ghraib, where Iraqi prisoners were subjected to inhumane and humiliating acts by U.S. personnel charged with guarding them.

Consider Guantanamo Bay. Rather than helping to protect the nation by aggressively prosecuting the prisoners in Guantanamo, these individuals have instead become the very symbol of our weakened moral standing in the world. Who would have ever imagined it?

Consider the secret prisons run by the Central Intelligence Agency and the practice of extraordinary rendition that allows them to evade U.S. law regarding torture.

Consider, if you will, the shameful actions of our outgoing Attorney General who politicized prosecutions in the U.S. Attorney's Office, who was more committed, I believe, to serving his President who appointed him than the laws he had sworn to uphold as Attorney General.

And consider, if you will Mr. President, of course, the Military Commissions Act -- the passage of which allows evidence obtained through torture to be admitted into evidence. It denies individuals the right to counsel. It denies them the right to invoke the Geneva Conventions. And it denies them the single most important and effective safeguard of liberty man has ever known -- the right of habeas corpus, permitting prisoners to be brought before a court to determine whether their detainment is lawful and what they've been charged with. Warrantless wiretapping, torture -- the list goes on.

Each of these policies share two things in common, Mr. President. First, I believe they've severely weakened our ability to prosecute the global war on terror -- if for no other reason than they've made it harder, if not impossible, to build the kind of international support that we obviously need in cooperation, if we are to succeed in our efforts against stateless terrorism.



And second, each has only been possible because the United States Congress has not been able to stop the President and his unprecedented expansion of Executive power, although, I might add, some in this body have certainly tried.

Whether or not these policies were explicitly authorized is beside the point. In every instance, Congress has been unable to hold this Administration to account for violating the rule of law and the United States Constitution. In each instance, Republicans in the Congress have prevented this body from telling this Administration that "a state of war is not a blank check." And those aren't my words, Mr. President. Those are the words of Supreme Court Justice Sandra Day O'Connor, who was nominated by President Ronald Reagan.

And today, it appears that we are prepared to consider the proposed renewal of the Foreign Intelligence Surveillance Act -- a law that in whatever form it eventually takes will almost certainly permit the Bush Administration to broadly eavesdrop on American citizens. Legislation, as currently drafted, that would grant retroactive immunity to telecommunications companies that helped this Administration violate the civil liberties of Americans and the law of this nation.

Mr. President while it may be true that the proposed legislation is an improvement over existing law, it remains fundamentally flawed, in my view, because it fails to protect the privacy rights of Americans or hold the Executive or the private sector accountable if they choose to ignore the law.

That is why, Mr. President, I will not stand on the floor of the United States Senate and be silent about the direction we are about take. I think it's time to say "no more." No more trampling on our Constitution. No more excusing those who violate the rule of law. These are fundamental, basic, eternal principles. They've been around -- some of them, for as long as the Magna Carta. They're enduring. And what they're not is temporary. And what we do not do in a time where our country is at risk is to abandon them.

My father served as the Executive Trial Counsel at the Nuremberg trials of Nazi war criminals in 1945 and '46. What America accomplished at those historic trials wasn't a foregone conclusion. It took courage when Joseph Stalin and even a leader as great and noble as Winston Churchill wanted to simply execute the Nazi leaders, we didn't back down in this country from our belief that these men -- some of the worst violators in the history, recorded history of mankind -- ought to have a trial. We did not give in to vengeance. And then, the issue before us today, I would argue, is the same. Does America stand for all that is still right with our world? Or do we retreat in fear? Do we stand for justice that secures America? Or do we act out of vengeance that weakens us?

Mr. President, I am well aware that this issue has become political in some people's minds. I believe that Democrats were elected to help strengthen our nation -- elected to help restore our standing in the world. And I believe we were elected to ensure that this nation adheres to the rule of law and stop this Administration's assault on our Constitution.



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But the rule of law is not the province of any one political Party, or any candidate. It is the province of each and every one of us as American citizens on our watch and our generation to make sure that we are safer because of its inviolable provisions.

Mr. President, I know this bill hasn't been reported out of the Judiciary Committee yet. But I'm here today because if I have learned anything in my 26 years in this body, and particularly over the last seven, is that if you wait until the end to voice your concerns, you may have waited too long. That is why I have written the majority leader informing him that I will object to any effort to bring the legislation to the Senate floor for consideration. I hope that my colleague, and the chairman of the Senator of the Judiciary Committee, Senator Leahy, is able to remove this language from the FISA bill. Pat Leahy is as strong a defender of the Constitution as any Member of this body. But if he's unable to do so, I'm prepared to filibuster this bill.

President Bush is right about one thing: The debate is about security but not in the way he imagines it, Mr. President. He believes we have to give up certain rights to be safer. I believe the choice between moral authority and security is a false choice. I believe it is precisely when you stand up and protect your rights that you become stronger, not weaker, as a nation.

The damage that was done to our country on 9/11 was stunning. We all know it. It changed the world forever. But when you start diminishing our rights as a people, you compound that tragedy, in my view, when you cannot protect America in the long run if you fail to protect our Constitution. It's that simple. Mr. President, history will likely judge this President harshly for his war of choice and for fighting it with disregard for our most cherished principles.

But history is about tomorrow. We must act today and stand up for the Constitution and the rule of law. Mr. President, this is the moment. At long last, let us rise up to it.

I urge my colleagues to join me in this effort.