

Democrats duck Senate hearing on Bush censure motion

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The empty chairs at Friday's Senate Judiciary Committee hearing on a motion to censure President Bush for repeatedly ordering illegal electronic surveillance by the National Security Agency aptly symbolize the attitude of both big-business parties to the defense of democratic rights. Ten of the panel's 18 members absented themselves during testimony and debate over the censure resolution submitted by Wisconsin Democrat Russell Feingold, including five of the eight Democrats.

The five included liberals like Edward Kennedy, Charles Schumer and Richard Durbin, the deputy party leader in the Senate, as well as Diane Feinstein of California and Joseph Biden, a prospective candidate for the Democratic presidential nomination. Another Democrat, Herbert Kohl of Wisconsin, apparently attended only out of courtesy to his state colleague. He said nothing and did not ask a single question of the witnesses who appeared to argue for or against the censure motion.

Only one committee Democrat, Patrick Leahy of Vermont, indicated any support for Feingold's resolution, saying, "We know the president broke the law. Now we need to know why."

This brings the total number of avowed supporters of the resolution to four, with Leahy joining Feingold, Tom Harkin of Iowa and Barbara Boxer of California. None of these four has suggested that the NSA spying program, which violates the 1978 Foreign Intelligence Surveillance Act, should be shut down, urging instead that it be retroactively legalized and brought under the jurisdiction of the Foreign Intelligence Surveillance Court, the secretive judicial body established by the 1978 law to review executive branch requests for such electronic spying.

The five Republicans who attended the hearing,

headed by Chairman Arlen Specter, opposed the censure resolution, although both Specter and Lindsey Graham of South Carolina admitted that the NSA spying was of dubious legality. The other three Republicans, John Cornyn of Texas, Jeff Sessions of Alabama and Orrin Hatch of Utah, were vocal defenders of the secret surveillance program, suggesting that those who leaked information about it to the press, not Bush, should be punished.

Several of the Republicans suggested that the censure resolution was a treasonable attack on a war-time president. Hatch denounced it as a "constitutionally suspect and, I believe, inflammatory attempt to punish the president for leading this war on terror." Sessions declared, "I would suggest we'd better spend our time investigating how a top-secret program such as this, a program fully shared with congressional leaders, was breached and provided to the media and revealed throughout the world."

The Republicans were particularly incensed over Feingold's calling John Dean, White House counsel in the Nixon administration, as a witness in support of the censure resolution. Dean's 1973 appearance before the panel chaired by Senator Sam Ervin was a turning point in the Watergate scandal, which culminated in Nixon's resignation. Dean told Friday's hearing that Bush's violations of the law were more flagrant than Nixon's, an assertion that reduced several of the Republican senators to apoplectic sputtering.

In response to several ignorant attacks by Graham, Dean said that Nixon had not known of the Watergate break-in beforehand, although he approved the cover-up. Bush, on the other hand, has boasted of signing executive orders for the illegal NSA spying—against targets that likely include thousands of domestic political opponents—every 45 days for the past four-and-

a-half years.

Prior to Dean's testimony, Senator Cornyn denounced Dean as "a convicted felon" who was appearing before the committee "to sell a book." He claimed that even to discuss censuring Bush would send "a perverse and false message" that would embolden terrorists and "make the jobs of our soldiers and diplomats harder and place them at greater risk." He then stormed out of the hearing without listening to the testimony of any of the witnesses, including the man he had excoriated.

While the Republicans fulminated in defense of the president's right to act as wiretapper-in-chief, the Democrats virtually boycotted the hearing, demonstrating not merely political cowardice, but their fundamental agreement with the Bush administration and its attacks on democratic rights.

Feingold's remarks at the hearing and in a subsequent television interview Sunday on the Fox network underscore the significance of the Bush administration's break with constitutional legality—and of the Democratic Party's acquiescence to this attack on democratic rights.

"What we have here," he told the hearing, "is one of the greatest attempts to dismantle our system of government that we have seen in the history of our country. Otherwise, I wouldn't be talking about censure." He added, "If we in the Congress don't stand up for ourselves and the American people, we have become complicit in the lawbreaking."

In the appearance on Fox News Sunday, Feingold elaborated on the Bush administration's rejection of all legal restraints. "When the president breaks the law and doesn't admit that he's broken the law, and then advances theories about being able to override the law on torture, and having a preemptive doctrine of war, what he's trying to do is change the nature of our government. He's trying to turn our presidency into an imperial presidency.... That's actually why it's more significant than the very serious events that occurred at Watergate."

When interviewer Chris Wallace pointed to the fact that congressional leaders in both the House and Senate, Democratic and Republican, had been briefed on the secret surveillance program, Feingold responded, "If you break the law and you go tell people you're breaking the law, that doesn't make it OK. If you're

breaking the law, you're breaking the law. In this case, the president does not have a legal leg to stand on."

In his legal argument ("the Bill of Rights and the Constitution were not repealed on 9/11"), Feingold was clearly echoing the critique of the Bush administration voiced by former vice president Al Gore in January. But like Gore, Feingold emphasized his agreement with the "war on terror" rationale advanced by the Bush administration as the pretext for its violations of democratic rights, only calling for that war to be waged constitutionally.

"We all support wiretapping terrorists," he declared, although no evidence has been made public to prove that "terrorists," rather than political opponents of the Bush administration and the war in Iraq, are being targeted by the illegal spying. Feingold reiterated his support for legalizing the electronic surveillance, declaring, "Of course it's essential to national security. All we have to do is bring it within the Foreign Intelligence Surveillance Act."

Most importantly, Feingold refrained from any criticism of his fellow Democrats who boycotted the censure hearing. Asked by Wallace, he did not repeat the comment he made after introducing the censure resolution and finding little support, when he said that his Democratic colleagues were "cowering" before the White House.

He made the absurd claim that five Democrats absented themselves not because they did not want to be associated with the censure resolution, but because Specter held the hearing on a Friday. He conceded that censure was itself a timid response to a massive constitutional violation, saying, "I'm not talking about impeachment, although this may be an impeachable offense."



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