

Senate Democrats fail in slap against Bush attorney general

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Senate Democrats failed Monday to force a vote on a resolution expressing no-confidence in US Attorney General Alberto Gonzales. Six Republicans joined 46 Democrats and 1 independent in voting to bring the measure to the floor, leaving the Democratic leadership 7 votes short of the 60 needed to put the non-binding measure to a vote.

The 53-38 vote marked the first time that a sitting cabinet officer has received a majority vote of no-confidence from the Senate, but under the US constitutional system this has no effect. Presidential nominees to cabinet positions are confirmed by the Senate, but once in office can only be removed by the president himself or by impeachment and trial for “high crimes and misdemeanors.”

There is no question that Gonzales is guilty of such “high crimes”—as are Bush, Cheney, Condoleezza Rice, and the rest of the leadership of an administration that has violated both international law and the US Constitution with impunity. But the Senate Democrats have no stomach for a move to impeach Gonzales, since that would inevitably raise the question of impeaching his boss.

The White House reacted to the Senate move with scorn. Bush declared, during the last stop of his week-long visit to Europe, “They can have their votes of no confidence, but it’s not going to make the determination about who serves in my government.” Gonzales himself traveled to Miami for a conference on nuclear terrorism, where he told reporters, “I am not focusing on what the Senate is doing.”

It is a close call whether there was more hypocrisy from the Republican side or the Democratic side in the brief debate over whether to act on the Gonzales resolution. Neither Minority Leader Mitch McConnell nor Republican Whip Trent Lott actually defended

Gonzales’s tenure at the Justice Department, limiting their remarks to criticizing the Democratic tactic of voting no confidence, which Lott called “beneath the dignity of the Senate.”

Democrats like Senator Charles Schumer of New York, who introduced the no-confidence resolution, denounced Gonzales’ role in the politically motivated purge of US attorneys and in the Bush administration’s illegal and unconstitutional expansion of domestic spying, including NSA surveillance of billions of phone calls and e-mail messages. But he did not explain why an empty resolution with no legal force was the proper response to such government criminality.

The no-confidence resolution is a political fraud, aimed at giving the impression that the Democratic Party is opposing the right-wing, anti-democratic policies of the Bush administration, while evading any actual conflict. It is the domestic counterpart of the Democrats’ posturing on the war in Iraq, where they have approved toothless resolutions opposing Bush’s surge, and imposed restrictions on troop deployments they knew Bush would veto, but refused to carry out the one effective measure that is within their power—the cutoff of funds for the war.

The Democratic leaders of the House and Senate judiciary committees have stalled for months in delivering subpoenas to current and former White House aides known to have played central roles in the firings of nine US attorneys. The committees voted for subpoenas for chief White House political operative Karl Rove and former White House counsel Harriet Miers, but the committee chairmen, Senator Patrick Leahy of Vermont and Congressman John Conyers of Detroit, have delayed having the subpoenas actually served in an effort to avoid a constitutional confrontation.

White House officials have routinely testified under oath before Congress in previous administrations, with aides to Bill Clinton subpoenaed frequently by the Republican-controlled Congress during a series of investigations into bogus “scandals”—Whitewater, Travelgate, Filegate, the Monica Lewinsky affair.

The Bush administration has declared, however, that any forced testimony under oath would be a violation of the separation of powers. Current White House counsel Fred Fielding has offered to have Rove and Miers testify, but only in private, without a stenographic record, and without being sworn in. Leahy and Conyers have rejected those terms, which are a transparent effort to avoid legal liability for false statements and cover-ups, but they have declined so far to press the issue.

The White House announced over the weekend that nine new attorneys have been hired for Fielding’s office, an obvious declaration that any subpoenas will be litigated all the way to the Supreme Court, which could drag out the process well into 2008.

Even if the legal process were to culminate in an order to testify under oath, there is no reason to believe that Rove, Miers and their political patrons would obey. The result would be a constitutional standoff that would lay bare the essentially lawless and anti-democratic position of the Bush White House and discredit all the institutions of the capitalist state, something the Democrats are determined to avoid.

Meanwhile, more evidence has emerged of the Justice Department’s role in attacks on democratic and voting rights. On June 7, six former staff attorneys at the Justice Department’s Civil Rights Division, including two former chiefs, issued a statement documenting the systematic efforts of the Bush administration to suppress voter turnout in low-income and minority communities.

They focused on the role of Hans von Spakovsky, a Bush appointee who spearheaded an effort to transform federal enforcement of voting rights into federal efforts to deny voters access to the polls in the name of combating “vote fraud.” Spakovsky was responsible for the decision to override career staff and approve a Georgia law requiring photo identification to vote, a measure aimed at the poor and elderly, many of whom do not have or cannot afford such ID.

Spakovsky left the Justice Department for a position

on the Federal Election Commission, where he is charged with enforcing compliance with election and campaign finance laws. His interim appointment has now come up for Senate confirmation, with a hearing scheduled for June 13.

There was further testimony from former Deputy Attorney General James Comey about the White House role in pushing through Justice Department approval of the NSA wiretapping program in 2004, after department officials, all the way up to then-Attorney General John Ashcroft, had found that it was illegal.

In response to written questions from the Senate Judiciary Committee, Comey described a meeting in March 2004 at which Vice President Cheney pressured Justice Department officials to approve the warrantless wiretapping. Comey said that Cheney subsequently blocked the promotion of a senior Justice Department lawyer, Patrick Philbin, to the position of deputy solicitor general because he had voiced concerns about the legality of the wiretapping program.

A lengthy front-page article in the *Washington Post* Monday reported the results of an analysis of the Bush administration’s appointments of US immigration judges, who rule on deportations and appeals for refugee status. By law, these judges are civil servants to be appointed on a non-partisan basis, unlike judges in other federal courts.

The *Post* found that at least a third of those appointed by Bush from 2004 on were Republican Party activists, and that half had no previous experience in immigration law. The appointees included Garry D. Malphrus, former associate director of the White House Domestic Policy Council and a participant in the so-called “Brooks Brothers riot,” the mobilization of Republican congressional staffers after the 2000 presidential election to engage in physical provocations against the recounting of ballots in Miami.



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