

So as far as the rest of us—we are flying blind. And in that state of blindness, we can only offer one kind of oversight. The President's favorite kind: the token kind. And here, in the dark, we are expected to grant President Bush's wish. Because, of course, he knows best. Does that sound familiar to any of my colleagues?

In 2002, we took the President's word and faulty intelligence on weapons of mass destruction, and we mistakenly approved what has become the disaster in Iraq.

Is history repeating itself in a small way today? Are we about to blindly legalize gravely serious crimes?

If we have learned anything—if we have learned anything at all—it must be this: Great decisions must be built on equally strong foundations of fact. Of course, we are not voting to go to war today. Today's issue is not nearly as immense, I would argue. But one thing is as huge as it was in 2002; and that is, the yawning gap between what we know and what we are asked to do.

So I stand again and oppose this immunity—wrong in itself, grievously wrong, I would add, in what it represents: contempt for debate, contempt for the courts, and contempt for the rule of law. As I did in December, I will speak against that contempt as strongly as I can.

So I will reserve further debate and discussion for tomorrow, as we go forward with this. I say this respectfully to my colleagues. I do not know if a cloture motion will be filed or not, but I hope there will be enough people who will join me.

This bill can go forward without this immunity in it. And it ought to go forward. There are some amendments that will be offered, some of which I will support. There are ideas to improve on the FISA provisions of the bill to see to it that the Foreign Intelligence Surveillance Act will do exactly what we want it to do: to allow us to get that surveillance on those who would do us harm and simultaneously make sure that basic liberties are going to be protected.

But I will do everything in my power, to the extent that any one Member of this body can, to see to it we do not go forward in the provision of this bill that grants retroactive immunity for the egregious misbehavior, to put it mildly, that went on here.

The courts may prove otherwise. I do not know. Maybe someone will prove what they did turned out to be legally correct. But we are never going to know that if we, as a body—Democrats and Republicans—walk away from the rule of law and deny the courts of this land which have the ability to do this. The argument that you cannot rely on the courts to engage in a deliberation involving information that should be held secret is wrong. We have done it on thousands of cases over the years, and we can do it here.

So I hope there will be those who will join me in saying to the President: If

you want to veto this bill, go ahead. You veto it because you did not get your corporations' immunity. You explain that to the American public, why we did not have the tools available that kept America safe from those who would do us harm—because a handful of corporations decided to violate the law, in my view, and did so because the Bush administration asked them to do that. You are going to veto this bill to deny us those tools that our intelligence communities ought to have to protect American citizens at a dangerous time. You make that decision.

So when this debate continues tomorrow, I will offer some additional thoughts in support of the Leahy amendment. I will be offering my own amendment, to strike retroactive immunity, and I will be considering other amendments along the way.

If all of that fails, then I will engage in the historic rights reserved in this body for individual Members to talk for a while, to talk about the rule of law, and to talk about the importance of it. I do not think I have ever done this before. I have been here a long time, and I rarely engage in such activities. I respect those who have.

The Founders of this wonderful institution granted the rights of individual Senators to be significant, including the power of one Senator to be able to hold the floor on an important matter about which they care deeply. I care deeply about this issue. I think all of my colleagues do. I just hope they will care enough about it to see to it this bill does not go forward with the precedent-setting nature of granting immunity in this case. It is not warranted. It is not deserved. It was not a minor mistake over a brief period of time.

There is a pattern of behavior, and it went on for too long, and it would still go on if it had not been for a report done by a newspaper and a whistleblower who stood up within the phone company, who had the courage to say this was wrong, or we would still be engaged in these practices today.

I think we as a body—Democrats and Republicans—need to say to this administration, and all future administrations, that you are not going to step all over the liberties and rights of American citizens in the name of security. That is a false choice, and we are not going to tolerate that and set the precedent tonight or tomorrow by agreeing to such a grant of immunity in this bill.

Mr. President, I appreciate the patience of the Chair and yield the floor.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:39 p.m., adjourned until Thursday, January 24, 2008, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### DEPARTMENT OF DEFENSE

ANITA K. BLAIR, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE WILLIAM A. NAVAS, JR., RESIGNED.

##### DEPARTMENT OF STATE

MARGARET SCOBEY, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ARAB REPUBLIC OF EGYPT.  
D. KATHLEEN STEPHENS, OF MONTANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

##### DEPARTMENT OF JUSTICE

STEVEN G. BRADBURY, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE JACK LANDMAN GOLDSMITH III, RESIGNED.

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be major general

BRIG. GEN. CECIL R. RICHARDSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be brigadier general

COL. ROBERT G. KENNY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be brigadier general

COL. DANIEL P. GILLEN, 0000  
COL. MICHAEL J. YASZEMSKI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be major general

BRIGADIER GENERAL ROBERT B. BARTLETT, 0000  
BRIGADIER GENERAL THOMAS R. COON, 0000  
BRIGADIER GENERAL JAMES F. JACKSON, 0000  
BRIGADIER GENERAL BRIAN P. MEENAN, 0000  
BRIGADIER GENERAL CHARLES E. REED, JR., 0000  
BRIGADIER GENERAL JAMES T. RUBEOR, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be brigadier general

COLONEL ROBERT S. ARTHUR, 0000  
COLONEL GARY M. BATINICH, 0000  
COLONEL RICHARD S. HADDAD, 0000  
COLONEL KEITH D. KRIES, 0000  
COLONEL MURIEL R. MCCARTHY, 0000  
COLONEL DAVID S. POST, 0000  
COLONEL PATRICIA A. QUISENBERRY, 0000  
COLONEL ROBERT D. REGO, 0000  
COLONEL PAUL L. SAMPSON, 0000

##### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### To be major general

BRIGADIER GENERAL RANDOLPH D. ALLES, 0000  
BRIGADIER GENERAL JOSEPH F. DUNFORD, JR., 0000  
BRIGADIER GENERAL ANTHONY L. JACKSON, 0000  
BRIGADIER GENERAL PAUL E. LEFEBVRE, 0000  
BRIGADIER GENERAL RICHARD P. MILLS, 0000  
BRIGADIER GENERAL ROBERT E. MILSTEAD, JR., 0000  
BRIGADIER GENERAL MARTIN POST, 0000  
BRIGADIER GENERAL MICHAEL R. REGNER, 0000  
BRIGADIER GENERAL MELVIN G. SPIESE, 0000

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DIRECTOR OF ADMISSIONS AT THE UNITED STATES AIR FORCE ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 9333 (C) AND 9336 (B):

##### To be colonel

CHEVALIER P. CLEAVES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

JAWN M. SISCHO, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

JOAQUIN SARRIEGO, 0000