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## Congress Votes to Immunize Lawbreaking Telecoms, Legalize Warrantless Eavesdropping

by Glenn Greenwald

The Democratic-led Congress this afternoon voted to put an end to the NSA spying scandal by approving a bill to immunize lawbreaking telecoms, terminate all pending lawsuits against them, and vest whole new warrantless eavesdropping powers in the President. The vote in favor of the new FISA bill was 69-28. Barack Obama joined every Senate Republican (and every House Republican other than one) by voting in favor of it, while his now-vanquished primary rival, Sen. Hillary Clinton, voted against it. The bill will now be sent to an extremely happy George Bush, who already announced that he enthusiastically supports it, and he will sign it into law very shortly.

Prior to final approval, the Senate, in the morning, rejected three separate amendments which would have improved the bill but which the White House had threatened would have prompted a presidential veto. With those amendments defeated, the Senate then passed the same bill passed last week by the House, which means it is that bill, in unchanged form, that will be sent to the White House — just as the White House demanded.

The first amendment, from Sens. Dodd, Feingold and Leahy, would have stripped from the bill the provision immunizing the telecoms. That amendment failed by a vote of 32-66, with all Republicans and 17 Democrats in favor (the roll call vote is [here](#)). The next amendment was offered by Sen. Arlen Specter, which would have merely required a court to determine the constitutionality of the NSA spying program and grant telecom immunity only upon a finding of constitutionality. Specter's amendment failed, 37-61 (roll call vote is [here](#)). The third amendment to fail was one sponsored by Sen. Jeff Bingaman, merely to require that the Senate waits until the Inspector General audits of the NSA program are complete before immunizing the telecoms. The Bingaman amendment failed by a vote of 42-56 (roll call vote [here](#)).

The Senators then voted for "cloture" on the underlying FISA bill — the procedure that allows the Senate to overcome any filibusters — and it passed by a vote of 72-26. **Obama voted along with all Republicans for cloture.** Hillary Clinton voted with 25 other Democrats against cloture. And with cloture approved, the bill itself then proceeded to pass by a vote of 69-28 (roll call vote [here](#)), thereby immunizing telecoms and legalizing warrantless eavesdropping. Again, while Obama voted with all Republicans to pass the bill, Sen. Clinton voted against it.



US Senator Russ Feingold(D-WI), seen here in 2006, was one of several opponents to the spy-powers bill charging the secret program was illegal because it ran afoul of the 1978 Foreign Intelligence Surveillance Act (FISA)'s requirement of a court order to spy on US citizens inside the United States. Today, as Senate Republicans and a large number of Democrats passed the bill legalizing warrantless spying and granting retroactive immunity to the telecoms who helped the Bush administration break the law, Feingold had the elegance to say this: "Wow." (AFP/Getty Images/File)

Obama's vote in favor of cloture, in particular, cemented the complete betrayal of the commitment he made back in October when seeking the Democratic nomination. Back then, Obama's spokesman — in response to [demands for a clear statement](#) of Obama's views on the spying controversy after he had issued a vague and noncommittal statement — issued [this emphatic vow](#):

To be clear: Barack will **support a filibuster of any bill** that includes retroactive immunity for telecommunications companies.

But the bill today **does** include retroactive immunity for telecommunications companies. Nonetheless, Obama voted for cloture on the bill — the exact opposition of supporting a filibuster — and then voted for the bill itself. A more complete abandonment of a clear campaign promise is difficult to imagine. I wrote extensively about Obama's support for the FISA bill, and what it means, [earlier today](#). With their vote today, the Democratic-led Congress has covered-up years of deliberate surveillance crimes by the Bush administration and the telecom industry, and has dramatically advanced a full-scale attack on the rule of law in this country. As I noted earlier today, Law Professor and Fourth Amendment expert Jonathan Turley was on MSNBC's Countdown with Rachel Maddow last night and gave as succinct an explanation for what Democrats — not the Bush administration, but Democrats — have done today. Anyone with any lingering doubts about what is taking place today in our country should watch this:

What is most striking is that when the Congress was controlled by the GOP — when the Senate was run by Bill Frist and the House by Denny Hastert — the Bush administration attempted to have a bill passed very similar to the one that just passed today. But they were unable to do so. The administration had to wait until Harry Reid, Nancy Pelosi and the Democrats took over Congress before being able to put a corrupt end to the scandal that began when, in December of 2005, the *New York Times* revealed that the President had been breaking the law for years by spying on Americans without the warrants required by law. Yet again, the Democratic Congress ignored the views of their own supporters in order to comply with the orders and wishes of the Bush administration. It is therefore hardly a surprise that, yesterday, Rasmussen Reports revealed [this rather humiliating finding](#):

**Congressional Approval Falls to Single Digits for First Time Ever** The percentage of voters who give Congress good or excellent ratings has **fallen to single digits for the first time** in Rasmussen Reports tracking history. This month, **just 9% say Congress is doing a good or excellent job**. Most voters (52%) say Congress is doing a poor job, which ties the record high in that dubious category.

The Congress, with a powerful cast of bipartisan lobbyists and the establishment media class lined up behind telecom immunity and warrantless eavesdropping, looked poised to pass this bill back last December, but a large-scale protest was organized — largely online — by huge numbers of Americans who were opposed to warrantless eavesdropping and telecom immunity, and that protest disrupted that plan. Today, Sen. Chris Dodd, the leader of the opposition effort along with Russ Feingold, said on the Senate floor:

Lastly, I want to thank the thousands who joined with us in this fight around the country — those who took to the blogs, gathered signatures for online petitions and created a movement behind this issue. Men and women, young and old, who stood up, spoke out and gave us the strength to carry on this fight. Not one of them had to be involved, but each choose to become

involved for one reason and one reason alone: Because they love their country. They remind us that the “silent encroachments of those in power” Madison spoke of can, in fact, be heard, if only we listen.

Today, the Democratic-led Senate ignored those protests, acted to protect the single most flagrant act of Bush lawbreaking of the last seven years, eviscerated the core Fourth Amendment prohibition of surveillance without warrants, and cemented the proposition that the rule of law [does not apply to the Washington Establishment](#).

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I was on the Brian Lehrer Show this morning debating the FISA bill with former Clinton National Security Advisor Nancy Soderberg (who [favors](#) the bill). Because of some technical difficulties, I wasn't on the show until roughly 7:30 in. That debate can be heard [here](#). Tomorrow, at 10:00 a.m. EST, I'll be on NPR's On Point to discuss Obama and the FISA vote. That can be heard [here](#).

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