

DICK WANTS HIS IMMUNITY, AND HE WANTS IT NOW

What wizard of political strategy decided that Dick Cheney was the appropriate person to harangue Congress about approving immunity for ~~himself and all the other Admin folks who pushed illegal wiretapping~~ the telecoms?

The unfortunate aspect of the Protect America Act is a sunset provision, which makes the law expire on the first of February -- just 10 days from now. That leaves Congress only nine days in which to act to keep the intelligence gap closed. And with **the day of reckoning** so close at hand, we're reminding Congress that they must act now to modernize FISA.

First, our administration feels strongly that an updated FISA law should be made permanent, not merely extended again with another sunset provision. We can always revisit a law that's on the books -- that's part of the job of the elected branches of government. But there is no sound reason to pass critical legislation like the Protect American Act and slap an expiration date on it. Fighting the war on terror is a long-term enterprise that requires long-term, institutional changes. The challenge to the country has not expired over the last six months. It won't expire any time soon -- and we should not write laws that pretend otherwise.

Second, the law should uphold an important principle: that those who assist the government in tracking terrorists should not be punished with lawsuits. We're asking Congress to update FISA and especially to extend

this protection to communications providers alleged to have given such assistance any time after September 11th, 2001. This is an important consideration, because **some providers are facing dozens of lawsuits right now. Why? Because they are believed to have aided the U.S. government in the effort to intercept international communications of al Qaeda-related individuals.**

We're dealing here with matters of the utmost sensitivity. It's not even proper to confirm whether any given company provided assistance. But we can speak in general terms. The fact is, the intelligence community doesn't have the facilities to carry out the kind of international surveillance needed to defend this country since 9/11. In some situations there is no alternative to seeking assistance from the private sector. This is entirely appropriate. Indeed, the Protect America Act and other laws allow directives to be issued to private parties for intelligence-gathering purposes.

[snip]

Actions by Congress sometimes have unexpected consequences. But a failure to enact a permanent FISA update with liability protections would have predictable and serious consequences.

Our ability to monitor al Qaeda terrorists will begin to degrade -- and that, we simply cannot tolerate. So I'm confident that my colleagues on Capitol Hill will join together to make sure this nation has every tool it needs to fight and to win the war on terror.

[snip]

This cause is bigger than the quarrels of party and the agendas of politicians.

And if we in Washington, all of us, can only see our way clear to work together, then the outcome should not be in doubt. We will do our part to keep this nation safe. We will press on despite any difficulty. And we will prevail. [my emphasis]

If I can think of one person from whom an appeal to bipartisanship should be dismissed as farcical, it's Dick Cheney, particularly as he mobilizes all this fear-mongering as a tactic to exert partisan political pressure on people in Congress. Further, this Administration's history of lying about details of the FISA program—and of refusing to share key documents with Congress—further mocks Dick's appeal to bipartisanship and cooperation with Congress.

More importantly, as we have discussed repeatedly, immunity isn't going to do shit for the telecoms (particularly since they're cutting off wiretaps anyway, since the FBI isn't paying its bills). They will be indemnified for anything that they've done with AG approval (though there is that tricky bit about the period following the hospital incident, when then-White House Counsel Alberto Gonzales approved it, but never mind). Rather, any immunity is immunity for those who decided it was a swell idea to illegally wiretap Americans. And that list of people begins with Dick Cheney.

Plus, Dick Cheney has a way to eliminate the problem he says the telecoms have: *Stop declaring State Secrets every time someone sneezes in a court room.* The entire logic to Administration (and, sadly, Jello Jay's) claims that the telecoms need immunity is that they can't defend themselves in Court. Well, that's Dick Cheney's fault, because he and the Administration have declared State Secrets even in the face of abundant public evidence that the telecoms did what they're accused of doing.

So someone decided that they would get the person least willing to cooperate with

Democrats, the person who single-handedly could eliminate the legal problem they allege the telecoms have, and the person who stands to benefit most from an immunity provision for telecoms, to head out to pressure Congress? And they thought this would work to persuade Democrats to put aside all the troubling legal issues to grant immunity?

And if that's not pathetic enough, consider this: rather than laughing at Dick's little harangue, as the Democrats should do, they'll probably cow to him and pass immunity.