

SENATE ACHIEVES CRAVEN PUNT ON INDEFINITE DETENTION

Update: The vote on 1126—which would exempt Americans from indefinite detention—was defeated 45-55. Democrats voting for indefinite detention include Begich, Blumenthal, Inouye, Klobuchar, Landrieu, Lieberman, Levin, Manchin, Bad Nelson, Pryor, Reed, Stabenow, Whitehouse. Republicans voting against indefinite detention include Collins, Kirk, Lee, Moran, and Paul.

Update 2: The craven compromise vote won 99-1. Kyl was the lone opponent.

Update 3: Here's the roll call for the entire package, which passed 93-7. The no votes were Coburn, Harkin, Lee, Merkley, Paul, Sanders, Wyden.

So now we know why there was a 2 hour delay in the vote on Dianne Feinstein's amendment exempting American citizens from the detainee provision language authorizing indefinite detention: the Senate was busy crafting a craven "compromise."

Effectively, they're holding votes on 2 DiFi amendments: the one that would exempt Americans (which will almost certainly fall narrowly short). And one that would say, "Nothing in this section shall be construed to affect existing authorities rel detention of US citizens, resident aliens." (which will have big majorities in support).

Now, DiFi says that's achieves her goal—not changing the status quo. But of course, we've spent the last two weeks talking about how current law, under Hamdi and Padilla decisions, authorizes indefinite detention of American citizens. So, while, the amendment doesn't do much, it also doesn't prevent Americans from being detained.

The compromise does do one thing: continue the state of confusion among Americans on whether their most fundamental rights still apply. I think they had to include such language if for no other reason than to appease the Tea Party, which knows well enough to worry about such things. But it also means some Republicans who might otherwise have supported DiFi's original language can now vote for the compromise instead.

One more interesting tidbit: DiFi claims this is a victory because of an agreement Carl Levin and John McCain made with her to keep the compromise language in the bill in conference. They told her point blank that the language protecting Americans would be taken out in conference. So this vote on guarding the Constitutional rights of Americans? It's all for show anyway, because the undemocratic conference would take it out in any case.

It's probably just as well. They took just 16 minutes total to hold this debate.