

## Congressional Closeup by Carl Osgood

### Durbin Slams Bush's Nuclear Weapons Policy

Sen. Richard Durbin (R-Ill.) used a March 5 Senate debate on a new treaty between the United States and Russia to reduce nuclear weapons stockpiles, to slam the Bush Administration's new nuclear weapons policy. "I am particularly concerned this administration's policy of pre-emption," he said, "combined with a new policy of first use of nuclear weapons, is an incentive, an invitation to proliferation of weapons of mass destruction, especially nuclear weapons."

After reviewing the recent history of Bush Administration policy pronouncements, including the 2001 Nuclear Posture Review; the statement, last February, by Undersecretary of State John Bolton abandoning the no-first-use pledge; National Security Directive 17; and so forth, he said, "What we have here is an escalation of rhetoric, where we have moved beyond 'no first use of nuclear weapons' to the point where this Administration is saying, we can use nuclear weapons against those who do not have them." Furthermore, "we have a new policy of pre-emption where the use of those weapons does not even require an imminent danger, imminent threat against the United States." He further warned that the Bush Administration's efforts to develop so-called bunker-buster bombs, threaten to make nuclear weapons appear to be useful, legitimate, offensive first-strike weapons, rather than a force for deterrence, undermining an essential tenet of non-proliferation. He concluded, "I am afraid the President has created an incentive for proliferation of nuclear weapons, exactly the opposite of what this world needs."

At about the same time as the treaty debate was taking place, the Bush Administration sent up to Capitol Hill its proposed language to repeal

the legal prohibition against the development of low-yield nuclear warheads of 5 kilotons or less. The Pentagon is arguing that the prohibition "has negatively affected U.S. government efforts to support the national strategy to counter WMD and undercuts efforts" to counter new or emerging threats. The Pentagon also says, however, that actually developing such weapons would require authorization and appropriation by Congress.

### Ashcroft Grilled On Civil Liberties

Attorney General John Ashcroft was greeted skeptically by Democratic members of the House Commerce, Justice, State, and Judiciary Appropriations Subcommittee, when he appeared there to testify on the Department of Justice's Fiscal 2004 budget request on March 6. Rep. José Serrano (D-N.Y.), in particular, grilled Ashcroft on detentions related to investigations of the Sept. 11, 2001 attacks. As a result of Serrano's questions, Ashcroft admitted that most of the people who have been investigated, have been charged with immigration violations or criminal charges not related to terrorism, though "these are individuals that we believe were related to terrorism."

From there, Serrano took the discussion into the subject of the so-called "unlawful combatants," being held without charges or access to lawyers. Ashcroft argued that such individuals "are traditionally not the subject of specific charges, are not the subject of judicial proceedings," because they are taken on the battlefield. When Serrano pointed out that one of them, Jose Padilla, was arrested in Chicago, Ashcroft replied, "I think the battlefield is a non-traditional battlefield in the war against terror." Serrano

responded that "in a non-traditional situation, we have to be careful that we don't commit non-traditional civil liberties and civil rights violations." He added that "the idea of being detained without charges and not being able to see a lawyer scares the hell out of me." Subcommittee chairman Frank Wolf (R-Va.) added that he thought such individuals ought to be prosecuted through the judicial system, not held without charge.

### Byrd: North Korea Crisis More Dangerous Than Iraq

Sen. Robert Byrd (D-W.V.), one of the Senate's most impassioned opponents of war against Iraq, delivered a blistering speech to the Senate on March 5, on the Bush Administration's North Korea policy. "It is ironic," he said, "that the President has made it clear that a military response to the crisis in North Korea would be considered only as a last resort, at the same time that he is massing forces in the Persian Gulf region to launch a pre-emptive military strike, possibly within a matter of weeks, if not days, against a much less potent threat to the United States."

He attributed the crisis on the Korean Peninsula to the negligence of the Bush Administration, saying that the situation could have been kept under control, "had President Bush taken a different tack with respect to North Korea when he came into office." Instead of taking the same approach that President Clinton did in 1994 to defuse that earlier crisis, "Bush put relations with North Korea in the deep freeze by heaping suspicion and disdain on the North Korean government, branding Kim Jong-il a 'pygmy,' and including North Korea in the 'axis of evil.'" He warned that the situation has reached the point that it could "rapidly disintegrate from a war of words and gestures

into a war of bullets and bombs, perhaps even nuclear bombs.” He called on the Administration to “start talking to the North Koreans.”

Meanwhile, there is a growing unease among Democrats about war with Iraq, though still not a strong consensus. Sen. Carl Levin (D-Mich.) told CNN’s Late Edition on March 9, “We ought to make our case with the UN and then we ought to stick with the UN.” House Minority Leader Nancy Pelosi (D-Calif.) received a standing ovation from members of the Communications Workers of America, on March 10, when she spoke about her opposition to the war. She had told the Council on Foreign Relations on March 7, that if Congress had done its job five months ago, in debating the war policy, then the United States would not be in the fix it is in today. Two resolutions in the Senate—one sponsored by Byrd, and the other by Sen. Edward M. Kennedy (D-Mass.)—to revisit the Iraq war debate, remain bottled up in committee. On March 6, Pelosi said that re-opening the debate was not necessary, and on March 11, Senate Minority Leader Tom Daschle (D-S.D.) indicated that he thought the vote would be “approximately the same as before” were another resolution to be debated.

## **G**arner ‘Not Available’ To Testify on Post-War Iraq

The Pentagon’s appointed viceroy for Iraq, retired Gen. Jay Garner, along with USAID administrator Andrew Natsios, were supposed to testify to the Senate Foreign Relations Committee on March 11, on the Bush Administration’s plans for post-war Iraq. However, committee chairman Richard Lugar (R-Ind.) announced, “We have been notified by the Pentagon that neither Garner nor his deputy were avail-

able to the committee.” He called it a “missed opportunity” for the Administration to explain its policies and plans.

Sen. Chris Dodd (D-Conn.) complained that the administration has been “extremely vague” about its plans. He said that the use-of-force resolution, passed last October, “does not mean that the Administration doesn’t need to keep the Senate apprised” of its intentions and plans regarding Iraq. He noted newspaper reports that Natsios has already put out proposals for bids on a \$900 million reconstruction contract to five companies and that Garner has been involved in discussions with UN officials about wartime humanitarian relief needs. “I’m uneasy,” Dodd said, “with the manner in which the Administration has approached this.” Even Lugar said he was “startled” at the reports of Natsios’ contract offer.

Meanwhile, a “senior defense official” was giving a background briefing at the Pentagon on the Office for Reconstruction and Humanitarian Assistance, the office headed by Garner. While reporters at background briefings are not permitted to identify the briefer, a reading of the transcript would suggest that the briefer was Garner himself. The briefer handed out an organizational charter and boasted, “That’s me at the top,” and “I have a deputy. I have a chief of staff . . .”; and then later said that once he is in Iraq, “General Franks will be my boss.”

## **F**rist Offers Deal On Estrada Nomination

On March 11, Senate Majority Leader Bill Frist (R-Tenn.) offered the Democrats a deal to bring to an end the stand-off on the nomination of Miguel Es-

trada to the U.S. Court of Appeals for the District of Columbia.

Frist said he would arrange a second hearing on Estrada, in the Judiciary Committee, if the Democrats would agree to allow an up-or-down vote on the nomination afterwards. After five weeks of debate, and offers by the White House to make Estrada available to individual Senators, “It is time for an up-or-down vote, Frist said.

Democrats’ opposition stems from suspicion that the President is putting forward ideologically conservative nominations, and from Estrada’s refusal to answer certain questions at his confirmation hearing.

Senate Minority Leader Tom Daschle (D-S.D.) said that he was encouraged that Frist had made the offer, but it is only the first part of a two-part request, the second part being the provision of memos authored by Estrada in the Solicitor General’s office, where Estrada serves as deputy. “I think both parts have to be complied with,” Daschle said, “and we expect that to be part of any agreement that would allow his nomination to go forward.”

Earlier in the day, President Bush had proposed that the Senate enact permanent rules “to ensure timely up-or-down votes on judicial nominees.” Sen. Rick Santorum (R-Pa.) indicated that there was some support for the idea, but stopped just short of endorsing it, saying, “That’s something I hope we’d be able to work out.” Daschle, when asked about the proposal, said, “I just wonder where our Republican friends were when the Clinton Administration urged the Congress to consider their nominees.” As for Estrada, “All he has to do is to comply with what all of his predecessors have done: Answer the questions, provide the information, he gets a vote.”