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The New York Times

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Some Compromise (1 Letter)

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To the Editor:

"The Real Agenda" (editorial, July 16) rightly criticizes the so-called compromise surveillance legislation worked out by Senator Arlen Specter and the White House, but just glances over some of the reasons critics are calling it a "sellout" and an "abdication of Congress's role."

A secret proceeding to evaluate the constitutionality of the surveillance programs, in which only the administration's views are heard; there is no adversary to advocate for constitutional safeguards; and even the decision may be kept secret undermines the legitimacy of any ruling by that court and may well fall outside the jurisdiction of the courts conferred by the Constitution.

Furthermore, the proposed legislation not only makes it optional for the president to seek court approval of the program, as the editorial notes, but also makes explicit that the president may circumvent the Foreign Intelligence Surveillance Act altogether and conduct foreign surveillance activities based on his supposed inherent constitutional powers, a dangerous and totally unwarranted concession to unbridled presidential power.

We hope that Congress will reject this approach and exercise its constitutionally granted regulatory powers. Barry M. Kamins

Sidney S. Rosdeitcher

New York, July 17, 2006

The writers are, respectively, president of the New York City Bar Association and chairman of its Committee on Civil Rights.

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