

Statement of
The Honorable Kit Bond

United States Senator
Missouri
April 24, 2007

Statement

Chairman Leahy, thank you very much for holding this important hearing today to discuss an ill conceived, unnecessary and downright dumb provision included in last Congress's Defense Authorization act.

Thank you to the distinguished panel for appearing before the committee today as well.

As all of you know very well, the Insurrection Act governs when the President can declare martial law.

When the Act is invoked, the military, including the National Guard, can carry out law enforcement functions without the consent of a Governor.

Under the old law, the President could invoke the Insurrection Act during violent and extraordinary situations that deprive a citizen of his or her rights.

But the provision we are examining here today instead makes it easier for the President to invoke the Insurrection Act and, in turn, to declare martial law.

ALL 50 of our nation's governors, their adjutants generals, and local law enforcement - all most ably represented here today - do not even know where this provision came from or why it even came about!

In fact, as is often the case when policies are made impacting the National Guard, they were not even consulted.

Under the provision, the President can invoke the act and declare martial law in cases where public order breaks down as a result of a natural disaster, epidemic, terrorist attack, or--very ambiguously--"other conditions."

This change creates triggers that make it virtually automatic that the Act will be invoked during such emergencies.

And why on Earth would anyone want to do this?

I would understand if, for example, during and in the aftermath of Hurricane Katrina the Guard failed to respond..

But as we all know, that certainly was not the case.

While Katrina was one of if not the nation's most devastating natural disasters in which many questioned the federal, state and local government's response, at no time did anyone question the Guard's response.

Their only real significant challenge was a shortfall in equipment.

And this provision is certainly not going to address that perilous problem.

Instead, it limits the Guard's flexibility to perform their unique support to civil authorities mission - a mission that allows them to integrate seamlessly with local, state and federal law enforcement and first responders.

As a former Governor who has called upon the National Guard in crisis, I called on the Guard numerous times and share our current Governors' and Adjutant Generals' concerns and opposition to these provisions..

These provisions reduce our nation's governors' control over their Guard units and provide the President with unnecessary and unprecedented power.

Lessening the governors' control over their National Guard units would diminish the Guard's ability to protect our communities.

It would prohibit the Guard from taking full advantage of the ties and relationships its citizen soldiers have with local first responders and authorities.

These established relationships and local ties facilitate effective responses.

If this Congress wants to improve our nation's ability to respond to future terrorist attacks or natural disasters I suggest it should enable, not restrict, the Guard .

We should be supporting measures like the National Guard Empowerment Act and making sure the Guard has the equipment it needs so they can unleash the full spectrum of response capability that they can provide.

I am proud to be cosponsoring S 513 with Sen. Leahy that will repeal this harmful provision.

And Mr. Chairman, I thank you again for holding this hearing..

We need to shed some much needed light on this provision that has the potential to be harmful to our nation's ability to respond to domestic disasters.