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CBS News

FACE THE NATION

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**GUESTS: Senator ARLEN SPECTER, (R-PA)
Chairman, Judiciary Committee**

**Senator DIANNE FEINSTEIN, (D-CA)
Judiciary Committee**

**Former Representative NEWT GINGRICH, (R-GA)
Former House Speaker**

MODERATOR: BOB SCHIEFFER - CBS News

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**FACE THE NATION - CBS NEWS
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BOB SCHIEFFER, host:

Today on FACE THE NATION, more problems with the Harriet Miers nomination, possible charges in the CIA leak investigation, and allegations of corruption against Congressman Tom DeLay. Harriet Miers made another round of courtesy calls on Capitol Hill last week, visits that one senator described as chaotic. And her Judiciary Committee questionnaire was sent back to her for more information. How much trouble is this nomination in, and what can we expect at the confirmation hearings? We'll ask the Senate Judiciary Committee chairman, Arlen Specter, and Democratic Senator Dianne Feinstein.

We'll also get the latest on the CIA leak investigation, and we'll talk with former House Speaker Newt Gingrich about how the leak probe, the Miers nomination and the scandal surrounding former Majority Leader Tom DeLay are affecting the White House and the Republican Party.

I'll have a final word on seeing Saddam. But first, the Harriet Miers nomination on FACE THE NATION.

Announcer: FACE THE NATION with CBS News chief Washington correspondent, Bob Schieffer. And now from CBS News in Washington, Bob Schieffer.

SCHIEFFER: Good morning again. And we're going to start with this Harriet Miers nomination. Joining us from Philadelphia, the Senate Judiciary Committee chairman, Arlen Specter. And with us here, Senator Dianne Feinstein of California, of course.

Well, Senator Specter, you are the chairman of the Judiciary Committee. Let me just put it to you. How much trouble do you think this nomination is in right now?

Senator ARLEN SPECTER (Republican, Pennsylvania; Chairman, Judiciary Committee; Republican, Pennsylvania): I don't think the nomination is in trouble. I believe that the critical part's going to be when she testifies before the committee. We have a Constitution. People ought to follow it. Instead of having all of this prejudgment, even if you're charged with a crime, you have a right to be heard, and the Constitution leaves it up to the Senate, and we're going to have hearings, and Ms. Miers will have a full and fair opportunity to present herself.

She has a very, very strong record as a civil lawyer, as a woman who fought up through the ranks, couldn't get a job right out of law school, but then was the president of a 450-person firm, became head of the Texas Bar Association. I have read her cases in the civil field, and she's intelligent, and I think she has the capacity to handle constitutional law. But let me tell you this, Bob. It's a complex subject. And it's going to depend upon how well she does. And she's going to have 18 senators very well-prepared and it's sort of like a relay interrogation.

SCHIEFFER: All right.

Sen. SPECTER: But if she makes her case, she can be confirmed.

SCHIEFFER: But she's got to make the case. I think that's what you're saying. And one of the things I wanted to ask you about is something you just said, and you reminded me of it in your answer today. After she visited you, you said she needs a crash course in constitutional law.

Sen. SPECTER: Well...

SCHIEFFER: So she's got a lot of boning up to do. Is that what you're telling us?

Sen. SPECTER: Well, that's exactly right. But listen, Bob, in preparation for the Roberts hearings, I consulted with about a dozen professors. Roberts and everybody who comes before the committee goes through--well, they call on the murder boards at the White House, which is sort of a crash course. She may have a little more work to do, but from the way she's adapted herself in her civil practice, I think she can do it. But, listen, it's up to her, but let's give her a chance.

SCHIEFFER: All right. Well, let's give Senator Feinstein a chance.

Senator, she met with you, I believe, and you really haven't said very much about the meeting. What do you think about her? Do you think she's got the kind of mind and the grasp for the Constitution and the great issues of our on time to be on the Supreme Court?

Senator DIANNE FEINSTEIN (Democrat, California; Judiciary Committee): I think for many of us, Bob, the hearings are going to be dispositive. I think that's where she has to make her case. That's where she has to share her views. To the best of my recollection, this is the first time a president has appointed someone from within the White House, and how well and broad and deep the vetting was, I don't know. But I am particularly concerned on issues of executive power. I think there will be issues coming up before the Supreme Court involving some of this administration's decisions, certainly with respect to the war on terror, detainees, Americans detained, how long can you keep them, the Geneva Convention, whether a president is bound by internationally ratified treaties by the United States. And...

SCHIEFFER: Did you talk to her about that?

Sen. FEINSTEIN: I did. And I asked her if she would recuse herself if any issue connected with this president came before the court, and she wouldn't answer that question. Now, for me, that's a very important question. The only answer, in my view, is yes, because she has been so closely associated as White House counsel. And this is what we need to know: What did come across her desk with respect to torture, with respect to detainees, with respect to following the Geneva Convention or what gradation of it this administration decided to follow. So I think these are very important questions.

I think because so little is known about her views that she has an obligation to really discuss those views fully. And I think in the private meetings and in talking with some of my colleagues about them, very little came back. This was very different from John Roberts. He--you could ask a question and he could talk for 15 minutes on the subject, involving cases, issues, you know, breadth and depth, that kind of thing. So the hearings are going to be dispositive.

SCHIEFFER: You're a woman. She's a woman. Many people, including the president's wife, were hoping that he would appoint a woman. Should that be a part of this? And is she the right woman?

Sen. FEINSTEIN: Well, I think this: I think that women are always underestimated, and so I take some of the things that are said about her with a grain of salt. I mean, clearly, this has been a resolute woman. I like a lot of things that she has done. Familywise, you know, she takes care of her mother. Professionally, she'd had to smash through the glass ceiling to work her way up from having great difficulty getting a legal position to becoming the head of her law firm. This shows a resoluteness, I think, a firmness of character, a determination, and certainly staying power, drive and motivation. And these are all important components. What I don't know a lot about are her views, because she has always been an attorney and, of late, an attorney for the president. So it makes it difficult to really ascertain what she agrees with and what she doesn't.

SCHIEFFER: Let me just ask--and I'll ask both of you, but I'll go back to Senator Specter. Senator Specter, would you think that, at this point, she has the votes to be confirmed?

Sen. SPECTER: There are votes one way or another. I think that the uniform reaction among the senators has been, 'Let's give her a chance and let's see what she says.' Listen, she has been criticized more--it's sort of hard to realize that it's less than three weeks--it'll three weeks tomorrow since the president put her name in nomination. And she has been the subject of more vilification and more attacking. But I think in the Senate, we understand that we're going to have a hearing. We're going to listen to her. So people haven't made up their minds. I haven't made up my mind. And as I talk to--no senator that I've talked to has come down and made up his or her mind.

SCHIEFFER: All right. I'm going to ask you about something that you talked about after she came to visit with you, Senator Specter, and that was this case of Griswold vs. Connecticut, which basically establishes that the Constitution ensures a right to privacy. And, of course, it is that decision that later Roe v. Wade came out of. You came out and said that she supported that, and then, if I understand it correctly, she called you and said, 'No, that's not what I said.' What was that all about?

Sen. SPECTER: Well, you pretty well summarized it, and when she called me, I made a decision to accept what she said. I think that she deserves every opportunity to present her views at the hearing.

SCHIEFFER: But you really don't know what she feels about that now.

Sen. SPECTER: Well, no. She's got to answer that question. But I didn't want to--with a difference in view, I wanted to give her the benefit of the doubt, to accept her version, and then, as I said, we will take it up at the hearing and make a full inquiry. That's a very, very important question.

SCHIEFFER: Is that important to you, Senator Feinstein?

Sen. FEINSTEIN: Oh, yes. It's very important. I think being familiar with these cases, being able to discuss the issues in the cases, having knowledge of all of the great Supreme Court cases, going back decades, is important.

SCHIEFFER: It would also give you some hint as to how she felt about Roe v. Wade, would it not?

Sen. FEINSTEIN: Well, that's right. I mean, I think the privacy issues, which are so sensitive in this nation and everybody tries to hedge--the American people, I believe, have a right to know her general views with respect to that. Now when she ran for office in 1989, she did fill out a questionnaire, and that questionnaire pretty much aligns her in a camp that is very negative with respect to a woman's right to choose. Whether she still holds these views or not, I think she should have an opportunity to respond to...

SCHIEFFER: Would you...

Sen. FEINSTEIN: ...and I hope she will.

SCHIEFFER: Would you vote against her just for that reason, Senator Feinstein, if she came before the committee and said, 'Look, I just do not believe that a woman has a right to choose. I'm anti-abortion'?

Sen. FEINSTEIN: Well, there are many gradations of that. One of the things that is coming before the court very shortly is whether the health of the mother can be considered. In 1989 she said the only way she felt she could support this was if the death of the mother were involved. So think that is a very legitimate part of this for questioning. I have said from the very beginning that I would find it difficult to vote for somebody that I knew would overturn Roe, and because she steps into Sandra Day O'Connor's shoes and because Sandra Day O'Connor was such an important vote in this area, this issue becomes joined in this hearing.

Now--and there are other issues, too, but out of 193 five-to-four decisions, I think Sandra Day O'Connor was the deciding vote in something like 143 of them.

SCHIEFFER: All right. Let me shift it just a little bit. There has been a lot of talk here in Washington and elsewhere about kind of the chaos that has surrounded all of this, and does it go back to a White House that is distracted by this current leak investigation that's going on? Do you find it difficult or harder to deal with the White House these days, Senator Specter, because of this, or is that a factor in any of that?

Sen. SPECTER: No, I don't believe it's the White House responsibility. I think what has happened is that there is such intensity on the issue of a woman's right to choose that you have one individual coming up and saying 'I was told things I probably shouldn't have been told.' Well, now the Judiciary Committee has to be engaged in a collateral investigation. Two state Supreme Court justices made a comment that Ms. Miers would overrule Roe, but not really attributable to her. But there is such intensity on this issue, and look, Bob, people do not have a right to know, the Judiciary Committee doesn't have a right to know, the Senate doesn't have a right to know how she's going to rule on Roe. The backbone of judicial independence is not to say when a case is going to come before the court. But one of the strongest anti-abortion advocates says 'We want a guarantee.'

SCHIEFFER: All right. Let me just interrupt that just for a second 'cause I want to ask--and we have to close here. We're about out of time. Senator Feinstein, do you think and will the Judiciary Committee bring some of these people who said they were told things that perhaps they shouldn't have been told like Senator-- I mean, like Mr. Dobson of the Focus on the Family group, all of these--this kind of background noise we're hearing about what people were told that didn't come out. Should they be brought before the committee?

Sen. FEINSTEIN: In my view, very strongly yes.

SCHIEFFER: OK. And, Senator Specter, how about you?

Sen. SPECTER: We have the 30 witnesses lined up, 50-50. First time any chairman who's done that and my instinct is that they'll be called...

SCHIEFFER: OK.

Sen. SPECTER: ...and the American people are entitled to clarification.

SCHIEFFER: All right. Well, I want to thank both of you for a very...

Sen. FEINSTEIN: Thank you.

Sen. SPECTER: Thank you, Bob.

SCHIEFFER: ...interesting discussion.

We'll be back in a minute with the former speaker of the House, Newt Gingrich.

(Announcements)

SCHIEFFER: Well, joining us now, the former House Speaker Newt Gingrich.

Mr. Gingrich, thank you for coming.

I want to start at the end. How much trouble is the Republican Party in right now?

Mr. NEWT GINGRICH (Former House Speaker): Well, I think it's at the biggest intersection since the nomination of Ronald Reagan in 1980. I think we need to go back to focusing on a balanced budget. We need to offer real solutions on border security and immigration. We need to understand how big the challenge of health is for the country both in cost and in effectiveness particularly with the avian flu down the road as a potential threat. So my advice to all of my former colleagues is that doing more of where we are right now isn't going to work, but the country really does want the Republican Party to capture a new sense of governing and to be the party of real change. Otherwise, I think people are going to be very disappointed.

SCHIEFFER: Well, when you say doing what we're doing right now isn't going to work, what do you mean?

Mr. GINGRICH: Well, I think having large pork barrel bills, not having a focus on cutting the deficit, not having solved the challenge of the borders of illegal immigration, not having moved bills which the president proposed, very solid bills, on health reform and on electronic health records and on modernizing the health system. I think there has to be a focus that we're either going to be the part of real change or I think we're going to be, you know, defending the indefensible.

I mean, the performance in New Orleans, for example, was the failure of the government. It was a failure of the city of New Orleans, the failure of the state of Louisiana and the failure of the United States government. Unless you start from that background, that this was a failure and we need to, therefore, as the party that's currently in charge of the House, Senate and White House, we need to really take charge of what do you have to fix and how bold does the fix have to be for people to feel comfortable.

SCHIEFFER: Well, let me just ask you this. Some people say the White House seems to be falling apart. It just kind of can't get anything right.

Mr. GINGRICH: Well...

SCHIEFFER: Obviously, the president's not responsible for bringing down a hurricane upon the nation. But what's happened over there?

Mr. GINGRICH: Look, I think every once in a while, every system that governs for any length of time goes through a cycle like this. I mean, Ronald Reagan certainly went through a period in '86-'87 that was like this, and frankly, they bounced back out of it. In my experience, when I was speaker, I had some really great weeks and some not very good weeks, and I think what the White House has to do is simply focus calmly on where do they want to be in 60 or 90 days? What is the state of the union going to look like? They need to finish out the Miers nomination and get her approved. And I agree--I think Senator Specter put his finger on it. If she does well in the hearings, she is a slam dunk for the nomination--to be approved as a justice. And so the challenge there is pretty narrow and pretty focused. Get her prepared for the hearings. Don't worry about all the noise in between. Get her prepared for the hearings.

SCHIEFFER: Well, this whole business of the leak investigation--do you think it is--has, in fact, caused distractions that has led to some bad decisions at the White House?

Mr. GINGRICH: Well, I don't know if it's led to bad decisions. But no one who's ever been through this kind of a pressure cooker could--would say to you it doesn't drain energy, it doesn't drain time and effort. You know, it is--you know, and I think--let me say that I think that both Karl Rove and Scooter Libby have

already indicated that should anything happen, they're going to do exactly what's right for the country. They've taken the right position in my judgment. But of co...

SCHIEFFER: And that is?

Mr. GINGRICH: That they would--if anything happened, they would step down, that they would not, in any way, weaken the government by having this go on. But I think any time you have something on this scale, it has to be a drain of energy and a drain of resources. But I don't think that's what happened with Harriet Miers. I think what happened with Harriet Miers was the president believes in her so deeply, he is so convinced she's the right person that I don't think it ever occurred to him to go through the kind of normal opposition research and normal vetting, and now they're going to pay a couple weeks of, you know, price for having to catch up with that. But I thi--my prediction is that by the State of the Union, the president will be back in his--in the form that he governed for five years, and my hope is that by the State of the Union, you'll see a very reform and change-oriented Republican Party offering some very bold proposals.

SCHIEFFER: What about Tom DeLay? Let's get to that.

Mr. GINGRICH: Well, again, he did the right thing in stepping down when he was indicted, and I think the Republican Party in the House was right. That rule didn't used to exist. I mean, we created that rule that says clearly, leaders owe it to the country to step aside if they get in this kind of a legal situation. Obviously, everybody on our side certainly hopes that Tom is going to be exonerated and cleared and that that whole thing's going to go away. But I think the House Republican Party has an obligation to move forward, and my guess is that if it's not cleared up by January or February, that they will select a new majority leader to keep moving forward, not as a indication of anything about Tom, but about the simple reality that you have to run the House every single day, and that requires having people who are focused full-time on running the House.

SCHIEFFER: And you would advocate that?

Mr. GINGRICH: I think they have to focus on getting things done. I think they should wait and see if DeLay's lawyers can get this thing cleared up through the Christmas break, but I think sometime early next year in January or February, they have to have a team that's focused on running the House.

SCHIEFFER: I've got about 30 seconds left. You came to power, the Republicans took over because you said the Democrats had become arrogant, they had been there so long. Do you see or sense that some of that may be happening to Republicans right now and that's why they're in this trouble?

Mr. GINGRICH: Absolutely. And that's why I said we have to change. We shouldn't think that doing slightly better what we're already doing is going to work. There are some places where we got off-track. The size of the deficit is one. The failure on illegal immigration is one. The failure to tackle health is another. We need to go back and be the party of reform and the party of real change. Otherwise, the American voter is going to look for somebody who will get the job done.

SCHIEFFER: Now a lot of people say you're thinking about running for president yourself. Do you want to make that announcement this morning?

Mr. GINGRICH: No, I'm thinking about how do we get through the party of real change and what are the solutions we really need?

SCHIEFFER: All right. Mr. Speaker, always good to have you.

Mr. GINGRICH: Bob, good to be with you.

SCHIEFFER: Thank you very much.

Back with a final word in just a minute.

(Announcements)

SCHIEFFER: Finally today, if we had forgotten what a charmer he is, we were all reminded last week when we saw an unrepentant Saddam Hussein arguing with the judge, insulting the prosecutor and getting into a shoving match with a guard in that Iraqi courtroom. That the trial is being held in an Iraqi courtroom bothered some people, including some human-rights groups that I admire. Can he get a fair trial in Iraq, they ask? If he tried--if he is tried there, isn't it a foregone conclusion that he will get the death penalty?

My answer is yes. I expect he will. But that is no reason to move the trial. A fair trial does not mean structuring it in such a way that he might get off if he says he's sorry. It means laying out the evidence in a truthful, accurate way. Since the evidence is overwhelming, it's difficult to see how he could beat the rap wherever he is tried.

Defining fairness is a lot like defining objectivity in a news story. Objectivity does not mean that when you write a story about Hitler's evils, you are required to say, 'On the other hand, he really did do a lot of good for the German economy.' Objectivity means getting to the overriding truth, and sometimes it has no good side, except that it's true. Moving Saddam's trial won't change the facts in this case or Saddam. The officials in Baghdad should just get on with this, and then get on to something else. Saddam does deserve fairness, but so, too, do his victims and their families.

That's it for us. We'll see you right here next week on FACE THE NATION.