

OBSTRUCTION OF JUSTICE MERITS MORE PUNISHMENT THAN CENSURE

Let me say straight out. Punishing Bush's commutation of Libby's sentence with censure would be like punishing Libby's obstruction of justice with just 400 hours of community service. It would simply reinforce the notion that Bush's Administration is above the law. It would be a punishment wholly unfit for the crime that has been committed: Obstruction of Justice. Bush's obstruction of justice piled up on top of Libby's obstruction of justice, all to prevent the American justice system from holding this Administration accountable for its actions.

I love Swopa. But I am astounded that he misses this fact: in a post arguing against getting lost in the minutiae, he presents the issue as one of Bush "coddling criminals," and not as one of Bush using his pardon power to hide his own (and Cheney's) involvement in a crime. It was not Libby who came up with the idea of leaking Valerie Wilson's identity to Judy Miller, it was Cheney, and he did so with the authorization of Bush.

This is not a mistake Wexler makes. Indeed, his resolution defines in clear terms what Bush's commutation amounts to:

[Bush's] decision to reward the perjury of Mr. Libby ... effectively protected President Bush, Vice President Cheney, and other Administration officials from further scrutiny.

Given that Wexler has such a clear understanding of the issue here, it is unfortunate that he stops at censure. Sure, it'd make for bad press for the President. On Tuesday. But by Thursday, Bush could rest easy that he had ended all

scrutiny into his actions, once and for all. Censure would amount to a closing off of inquiry; it would provide a way for the Republicans to defeat any effort to get the grand jury materials that Fitzgerald and his team spent so much effort putting together. It would end this thing, at precisely the moment when the country is finally beginning to understand the magnitude of what Bush and Cheney did.

In fact, our forefathers gave us clear instructions what to do at a time like this, when a President uses his pardon authority to cover up his own crimes.

In the same convention George Mason argued that the President might use his pardoning power to "pardon crimes which were advised by himself" or, before indictment or conviction, "to stop inquiry and prevent detection."

James Madison responded: [I]f the President be connected, in any suspicious manner, with any person, and there be grounds to believe he will shelter him, the House of Representatives can impeach him; they can remove him if found guilty..

It doesn't take minutiae to prove that Bush has "sheltered" someone whose crime was "advised by himself." It takes Libby's notes and grand jury testimony.

The punishment for the abuse of the pardon power is clear: impeachment. Just as the punishment for Libby's obstruction was clearly 30 months. If we're going to complain about the commutation itself, we have no business letting Bush off with nothing more than censure.