

THE ATTORNEY GENERAL THINKS IT'S OKAY FOR THE VICE PRESIDENT TO HAVE ORDERED THE OUTING OF A SPY

Now we know why Attorney General Mukasey is willing to write such ridiculous letters in the service of hiding Vice President Cheney's role in the outing of CIA spy: he apparently thinks it's no big deal that the Vice President ordered the outing of a CIA spy.

At least that's the implication of this exchange between Mukasey and Arlen "Scottish Haggis" Specter (34:00 to 36:01):

Specter: Moving to reporters privilege in the limited time left. Attorney General Mukasey what was the justification for keeping reporter Judith Stern [sic] in jail for 85 days when the source of the leak was known to be Deputy Attorney General [sic] Richard Armitage?

Mukasey: As you know I was not on duty when that case came to the fore, and **it's my own view that that case may very well be a better argument against the Special Counsel than it is in favor of legislation of the sort that's been proposed.**

Specter: I'm not prepared to deal with the Special Counsel because he's not here. If I had Senator Leahy's gavel, I would have brought him in here a while ago, once the case was finished. But it's very germane in evaluating public policy on whether the Department of Justice ought to have the authority to issue a subpoena in the context and move for a contempt citation and hold a

reporter [sic] in jail under very unpleasant circumstances. I can attest to that first hand—I went to visit her.

Mukasey: There's no such thing as jail under pleasant circumstances. It is an inherent contradiction. It is something that therefore we use as a last resort, and we're gonna continue to use as a last resort.

Specter: Well, why'd you need a resort when you know the leak? When you know who the leaker is, why go after a reporter or keep her in jail?

Mukasey: As I said, that was not...

Specter: I know that would be better addressed to the Special Counsel.

Mukasey: It would.

Specter: Someday we may have an opportunity to do that. But right now, you're the one we've got, Attorney General Mukasey. You're the guy who's pushing a policy. So I think it's a fair question to say to you, why maintain a policy that gives whoever the prosecutor is the power to do that when you know who the leaker is.

Mukasey: We don't give that power to a prosecutor, for precisely that reason. We require a clearance up through and including the Attorney General of the United States.

Specter: Attorney General of the United States is a prosecutor. My time is up.
[my emphasis]

Mukasey implies that Fitzgerald should have had someone review his decision to subpoena Judy Miller. More troubling, he suggests that Fitzgerald was wrong, ultimately, for having done so.

Now, I can understand such a sentiment from Arlen Specter, who can't seem to get Richard Armitage out of his head, all the evidence notwithstanding that Armitage's testimony did not explain all the classified leaks in Novak's column. I can understand such a sentiment from First Amendment absolutists, who believe even designated shills for the White House, like Judy Miller, deserve an absolute reporter's privilege. I can understand such a sentiment from someone who doesn't really understand the case—even some folks here—who don't get that Judy Miller was the necessary proof that Vice President Cheney ordered Libby to out Valerie Plame.

But Mukasey made this statement in the middle of an argument against a legal reporter's privilege. And, more importantly, Mukasey is one of the few people who has access to all the materials in this case—both Bush and Cheney's interview reports and the unredacted affidavits supporting the journalist subpoenas.

Now, perhaps Mukasey hasn't peeked at those documents, in the same way he hasn't peeked at any of John Yoo's crappy OLC opinions, not wanting to know about crimes that he's preoccupied with hiding. So perhaps he's just as ignorant as Haggis in this discussion.

Or perhaps he saw something in non-public materials that made him believe that the reporter subpoenas were unnecessary. If Cheney just up and admitted, "Yeah, I orderd Scooter to out the bitch, so what? It's great to be a Barnacle," do you think Mukasey would have then found the subpoenas unnecessary? Do you think he would, then, find the appointment of a Special Counsel unnecessary, if he learned that the Barnacle had proudly exposed one of our spies out of political vengefulness? Really?

The most troubling—and most likely—possibility, though, is that Mukasey doesn't think it worth pursuing a bunch of circumstantial evidence that the Vice President of the United States ordered his Chief of Staff to out a spy—and then

conspired with his aide to cover up that order and that leak.

Now wonder Mukasey doesn't want to let Waxman see the Bush and Cheney interview reports. Mukasey appears to think covering up the embarrassing fact that the Barnacle outed a CIA spy is all well and good.