

# KIT BOND SINGS A DIFFERENT SONG ON HOLDER

Here's a liveblog of what Kit Bond had to say about any "promises" Holder made him about prosecution. You'll note several areas of difference from the Moonie Times article:

Most notably I've been concerned about some of the comments related to intelligence activities that Holder made in hearings. I wanted to make sure the intelligence community has the tools it needs to protect the country. I wanted to make sure we had an AG who would keep the country safe. Discussed TSP, FISA Amendments, interrogation program, Gitmo, interrogation legislative proposals, media leak investigations. A second meeting.

Carrier liability provisions, and propriety of investigating intelligence officials.

Confusing press reports and statements from Senators who were not in attendance.

**Neither Holder nor I made promises with respect to prosecutions.** Holder provided additional insight that assures me he will keep the country safe. Assurance given to Kyl concerning investigation of **intelligence officials** on interrogation.

Holder expanded on these remarks and explained how he reached this conclusion. His public emphasis on those who followed DOJ guidance, **I told him and I believe he understood** that trying to prosecute **political leaders** would generate a political firestorm.

Carrier liability. He believed he would unless circumstances changed. I asked if he could explain changed circumstances. It would be difficult for circumstances to change since all this happened in the past. Didn't give me specific idea of changed circumstances. Given that those certifications are based on simple legal facts, I'm confident he'll reach the same conclusion as Mukasey. I can't emphasize enough the importance of the carrier liability.

Mr. Holder is not read in, or given access, to the TSP or the other programs, it would not be advisable to make statements about either program without the facts. I enjoyed his willingness to withhold judgement until he had the fact. I believe he will take good ideas from wherever they come.[my emphasis]

Here's the relevant passage from the Moonie Times:

President Obama's choice to run the Justice Department has assured senior Republican senators that he won't prosecute **intelligence officers** or **political appointees** who were involved in the Bush administration's policy of "enhanced interrogations."

Sen. Christopher "Kit" Bond, a Republican from Missouri and the vice chairman of the Senate Select Committee on Intelligence, said in an interview with The Washington Times that he will support Eric H. Holder Jr.'s nomination for Attorney General because Mr. Holder assured him privately that Mr. Obama's Justice Department will not prosecute former Bush officials involved in the interrogations program.

Mr. Holder's promise apparently was key

to moving his nomination forward. Today, the Senate Judiciary Committee voted 17-2 to favorably recommend Holder for the post. He is likely to be confirmed by the Senate soon.

Sen. Bond also said that Mr. Holder told him in a private meeting Tuesday that he will not strip the telecommunications companies that cooperated with the National Security Agency after the Sept. 11, 2001, attacks of retroactive legal immunity from civil lawsuits—removing another potential sticking point among GOP senators.

In the interview Wednesday, Mr. Bond said, "I made it clear that trying to prosecute **political leaders** would generate a political firestorm the Obama administration doesn't need." [my emphasis]

The differences are this:

- By Bond's telling, Holder didn't make any "promises"—certainly not beyond the language he used in his answer to John Kyl regarding those who relied on OLC opinions.
- Bond's statements on the floor make it much clearer that Holder was speaking only of intelligence officers. It is Bond who ascribed Holder's statements more generally to political appointees or political officials.

Also note, that as Bond described it, Holder's

support for retroactive immunity—what Bond calls liability protection—is even weaker than it was when he was asked about it in his hearing. He maintains that he hasn't been read in yet, so he doesn't know what he'll find. (FWIW, I do think he will support Mukasey's certification that the program was legal—but hopefully he'll surprise me.)