

PAT LEAHY CALLS FOR TRUTH COMMISSION

I want prosecutions. But seeing as how it looks increasingly likely we won't get that, I want some accounting for the crimes of the Bush Administration. Today, Pat Leahy joined his counter-part in the House, John Conyers, as well as the Chair of the Senate Armed Services Committee, Carl Levin, in calling for a committee to examine the wrong-doing of the Bush Administration.

The President is right that we need to focus on fixing the problems that exist and improving the future for hardworking Americans. I wholeheartedly agree and expect the Judiciary Committee and the Senate to act accordingly. But that does not mean that we should abandon seeking ways to provide accountability for what has been a dangerous and disastrous diversion from American law and values. Many Americans feel we need to get to the bottom of what went wrong. We need to be able to read the page before we turn it.

We will work with the Obama administration to fix those parts of our government that went off course. The Office of Legal Counsel at the Justice Department is one of those institutions that was hijacked and must be restored. There must be review and revision of that office's legal work of the last eight years, when so much of that work was kept secret.

We have succeeded over the last two years in revitalizing our Committee's oversight capabilities. The periodic oversight hearings with the Attorney General, the FBI Director, the Secretary of Homeland Security, and others will continue. The past can be prologue

unless we set things right.

As to the best course of action for bringing a reckoning for the actions of the past eight years, there has been heated disagreement. There are some who resist any effort to investigate the misdeeds of the recent past. Indeed, some Republican Senators tried to extract a devil's bargain from the Attorney General nominee in exchange for their votes, a commitment that he would not prosecute for anything that happened on President Bush's watch. That is a pledge no prosecutor should give, and Eric Holder did not, but because he did not, it accounts for many of the partisan votes against him.

There are others who say that, even if it takes all of the next eight years, divides this country, and distracts from the necessary priority of fixing the economy, we must prosecute Bush administration officials to lay down a marker. Of course, the courts are already considering congressional subpoenas that have been issued and claims of privilege and legal immunities – and they will be for some time.

There is another option that we might also consider, a middle ground. A middle ground to find the truth. We need to get to the bottom of what happened – and why – so we make sure it never happens again.

One path to that goal would be a reconciliation process and truth commission. We could develop and authorize a person or group of people universally recognized as fair minded, and without axes to grind. Their straightforward mission would be to find the truth. People would be invited to come forward and share their knowledge and experiences, not for purposes of

constructing criminal indictments, but to assemble the facts. If needed, such a process could involve subpoena powers, and even the authority to obtain immunity from prosecutions in order to get to the whole truth. Congress has already granted immunity, over my objection, to those who facilitated warrantless wiretaps and those who conducted cruel interrogations. It would be far better to use that authority to learn the truth.

During the past several years, this country has been divided as deeply as it has been at any time in our history since the Civil War. It has made our government less productive and our society less civil. President Obama is right that we cannot afford extreme partisanship and debilitating divisions. In this week when we begin commemorating the Lincoln bicentennial, there is need, again, "to bind up the nation's wounds." President Lincoln urged that course in his second inaugural address some seven score and four years ago.

Rather than vengeance, we need a fair-minded pursuit of what actually happened. Sometimes the best way to move forward is getting to the truth, finding out what happened, so we can make sure it does not happen again. When I came to the Senate, the Church Committee was working to expose the excesses of an earlier era. Its work helped ensure that in years to come, we did not repeat the mistakes of the past. We need to think about whether we have arrived at such a time, again. We need to come to a shared understanding of the failures of the recent past.

It is something to be considered. It is something Professor Bernstein, for whom this lecture series is named, might have

found worth studying. We need to see whether there is interest in Congress and the new administration. We would need to work through concerns about classified information and claims of executive privilege. Most of all, we need to see whether the American people are ready to take this path.

Edmund Burke said that law and arbitrary power are eternal enemies. Arbitrary power is a powerful, corrosive force in a democracy. Two years ago I described the scandals at the Bush-Cheney-Gonzales Justice Department as the worst since Watergate. They were. We are still digging out from the debris they left behind. Now we face the worst economic crisis since the Great Depression while still contending with national security threats around the world. This extraordinary time cries out for the American people to come together, as we did after 9/11, and as we have done before when we faced difficult challenges.

That is no more improbable than the truth that came to light and laid the foundation for reconciliation in South Africa, or in Greensboro, North Carolina; no more improbable than the founding of this Nation; and certainly no more improbable than the journey the people of this Nation took over the last year with a young man whose mother was from Kansas and whose father was from an African village half a world away. [my emphasis]

Chairman Pat Leahy, Chairman John Conyers, and Chairman Carl Levin, all calling for the truth. Conyers' bill calling for a Truth Commission has 18 co-sponsors, people like Barney Frank (another powerful Chairman), Jerrold Nadler, and Maurice Hinchey. Senator Whitehouse has issued a statement in support of Leahy's statements:

Chairman Leahy today summed up a belief shared by millions of Americans: that we need to 'get the truth out' about the damage done to this country under the Bush Administration, and what we now must do to repair it.

He understands that the trust we hold for future generations can be safeguarded only when honesty, freedom, justice and compassion guide our institutions of government; that where that trust has been violated, the cost is incalculable; and that the path to recovery leads through disclosure.

2 Senate Chairmen, 2 House Chairmen, 19 total Congressmen and women, and one more Senator. Arguably, Harry Reid has even expressed support (though I suspect that's really an attempt to shift the energy for investigations into existing committees, rather than something with more expansive scope). That's not enough, but it's a start toward getting widespread support—particularly among senior Democrats—for exposing the things the Bush Administration did.