

# JAY BYBEE SPEAKS QUAVERS

NYT has what might be billed as a blockbuster article: JAY BYBEE REVEALS ALL!!!

Except that the article appears to be nothing more than a legalistic CYA statement which I'm sure his hotshot lawyer Maureen Mahoney had a hand in:

Judge Bybee, who issued the memorandums as the head of the Office of Legal Counsel and was later nominated to the federal appeals court by President George W. Bush, said in a statement in response to questions from The New York Times that he continued to believe that the memorandums represented "a good-faith analysis of the law" that properly defined the thin line between harsh treatment and torture.

[snip]

"The central question for lawyers was a narrow one; locate, under the statutory definition, the thin line between harsh treatment of a high-ranking Al Qaeda terrorist that is not torture and harsh treatment that is. I believed at the time, and continue to believe today, that the conclusions were legally correct."

Other administration lawyers agreed with those conclusions, Judge Bybee said.

"The legal question was and is difficult," he said. "And the stakes for the country were significant no matter what our opinion. In that context, we gave our best, honest advice, based on our good-faith analysis of the law."

The article even reveals why Maureen Mahoney might have encouraged Judge Bybee to issue a

statement—to retract comments made by his friends that he regretted the memos.

Judge Bybee said he was issuing a statement following reports that he had regrets over his role in the memorandums, including an article in The Washington Post on Saturday to that effect.

Of course, Bybee has to claim a "good faith analysis of the law"—that's his only defense.

But if he's invoking the other lawyers in the Administration who agreed with the memo—undoubtedly including David Addington, John Yoo, Alberto Gonzales, Jim Haynes, and John Rizzo—that's not much of a defense. He's arguing, basically, that a set of lawyers called the "War Council" for the way they collaborated in private on institutionalizing torture, believe his (Yoo's) memos authorizing torture in spite of the the law and the bogus facts used in the memo was "legally correct." Most children, if you ask them if they like candy, will enthusiastically say they do, too.

And to suggest the stakes of this are important "no matter our opinion" is pretty disgusting, since it suggests Bybee still believes that issuing an opinion that forced the country to stick to proven methods at extracting the truth (rather than false information) would have been a sacrifice for our country. No, authorizing torture and ensuring we get false intelligence and sacrifice our moral standing in the world? That's significant. But insist that the government follow the law and in so doing, end up getting better intelligence quicker? Yeah, I guess that's significant, but only when you consider the disaster that Bybee could have averted.

I know John Yoo and Steven Bradbury are in trouble for their role in the torture memos. But this article makes it clear just how worried Bybee is—and how much trouble he believes he may

be in.