

# THE CRAZY MAN ABOVE THE GARAGE

✘ Sorry for being so late on this, but I wanted to come back to this bizarre Barton Gellman article on Cheney. Amidst news including 1) *Cheney took notes*, exactly none of which were introduced at trial and, 2) Cheney apologists like John Hannah are out giving interviews, Gellman provides the following weird two paragraphs, which provide the great drama of the story.

The depths of Cheney's distress about another close friend, his former chief of staff and alter ego I. Lewis "Scooter" Libby, have only recently become clear. Bush refused a pardon after Libby's felony convictions in 2007 for perjury and obstruction of an investigation of the leak of a clandestine CIA officer's identity. Cheney tried mightily to prevent Libby's fall, scrawling in a note made public at trial that he would not let anyone "sacrifice the guy that was asked to stick his neck in the meat grinder." Cheney never explained the allusion, but grand jury transcripts – and independent counsel Patrick J. Fitzgerald – suggested that Libby's false statements aimed above all to protect the vice president.

Last month, an account in *Time* magazine, based on close access to Bush's personal lawyer and White House counsel, described Cheney's desperate end-of-term efforts to change Bush's mind about a pardon. Cheney, who has spent a professional lifetime ignoring unflattering stories, issued a quietly furious reply. In the most explicit terms, he accused Bush of abandoning "an innocent man" who had served the

president with honor and then become the "victim of a severe miscarriage of justice." Cheney now says privately that his memoir, expected to be published in spring 2011, will describe their heated arguments in full.

This bit—which is what stuck in my craw—deserves some really close unpacking.

Cheney tried mightily to prevent Libby's fall, scrawling in a note made public at trial that he would not let anyone "sacrifice the guy that was asked to stick his neck in the meat grinder." Cheney never explained the allusion, but grand jury transcripts – and independent counsel Patrick J. Fitzgerald – suggested that Libby's false statements aimed above all to protect the vice president.

Now, Gellman is ostensibly talking about Cheney's efforts to get Bush to pardon Libby, actions that started in 2007 (and which, at the earliest, he might have first contemplated in 2005, when Judy Miller testified to the grand jury). But as his proof that "Cheney tried mightily to prevent Libby's fall," Gellman raises the meat-grinder note. And that note—written around October 4, 2003—had absolutely nothing to do with preventing Libby's "fall" referred to here—his conviction for perjury and obstruction of justice. Hell, it was written before the perjury (and false statements) occurred!! Rather, the reference to "not going to protect one staffer and sacrifice the guy ~~the Pres~~ that was asked to stick his neck in the meat grinder," had to do with protecting Libby from speculation in the press about his involvement in leaking Plame's identity. Now, that is a sort of attempt to prevent Libby's fall, but it's not the one Gellman describes in this context.

Which makes the next sentence—"Cheney never

explained the allusion, but grand jury transcripts – and independent counsel Patrick J. Fitzgerald – suggested that Libby’s false statements aimed above all to protect the vice president”–utterly logically problematic. I agree that Libby’s lies and obstruction aimed to protect (at least) Cheney. But as I already noted, it would be impossible for that allusion to refer to Libby’s lies, because the allusion was made before them. Cheney was pressuring Bush to protect Libby from a different fall, one based on his primary actions in the Plame outing, not on his cover-up of those actions. It would have been nice, too, if Gellman had noted that Fitzgerald suggested in his closing statements that, on the very day Cheney wrote that note, Libby told him his cover story about where he learned of Plame’s name, and as Libby described did not object (so the obstruction began simultaneous with the meat-grinder note, but not the lies, yet).

And then there’s another weird bit. Gellman doesn’t even mention the reference to Bush–“the Pres”–in that note! If Libby’s outing of Plame (as distinct from his lies about it) were to protect Cheney alone, then why the reference to Bush?

So here’s what’s happening. For some reason, a really good reporter is confusing the four related actions:

Libby’s pushback against Wilson’s charges (June to July, 2003): Likely done at Bush’s request and–after certain directions from Cheney–ended in the outing of Valerie Plame. This was done to protect Bush and Cheney from pressure about their case for war.

Cheney’s successful pressure on Bush to exonerate Libby (October 2003): Possibly accomplished by invoking Bush’s role. This was done to protect Libby from speculation in the press about the first action.

Libby's lies to the FBI and Fitz (fall 2003 and March 2004): Allegedly done with Cheney's foreknowledge. This was done to protect (at least) Cheney from his role in the first action.

Bush's commutation, then refused pardon, of Libby's sentence (July 2007 and January 2009): In both Gellman's story and the earlier *Time* one, this is the sole source of Cheney's ire, which is in turn the point of the story. This was definitely an attempt to protect Libby; while the *Time* story speculates it was also an attempt to protect Cheney, it's not clear whether that's the whole story.

That is, Cheney's ire is, by some remarkably bad writing (for Gellman at least), divorced from its relationship to the earlier three events even as those events are invoked. Which is how Gellman gets to this passage.

In the most explicit terms, he accused Bush of abandoning "an innocent man" who had served the president with honor and then become the "victim of a severe miscarriage of justice." Cheney now says privately that his memoir, expected to be published in spring 2011, will describe their heated arguments in full.

The "innocent man" and "victim of a severe miscarriage of justice" blah blah blah repeats the argument of Cheney from *Time*, though it appears to have come fresh through people like Hannah and Liz BabyDick Cheney to Gellman.

All of which climaxes in the big takeaway of Gellman's story: Cheney's memoir, coming out just short of five years after the commutation, "will describe their heated arguments in full." With the suggestion that those "heated arguments" refer to Cheney's arguments about the commutation and pardon.

And then, in a separate section of the article, Gellman repeats a Cheney statement he made right after his failure to win Bush a pardon to the *Politico*.

Cheney himself has said, without explanation, that "the statute of limitations has expired" on many of his secrets.

It's unclear whether Cheney's minions offered that quote up anew to Gellman, or whether he simply asked about the reference in the earlier article. But in a related chat Gellman provides a confident answer as to what the reference means.

Shreveport, La.: What statute of limitations is he talking about?

Barton Gellman: Mostly a metaphorical one – the idea that it would do any harm to talk about old disputes. In a technical sense, there are secrets whose value has expired – future war plans, for instance, when the war has long been launched – and classified information that has since been declassified.

Now, I actually don't think the statute of limitations comment would refer (solely) to the Plame outing; there are plenty of crimes Cheney might have committed over the years on which the statutes of limitations have expired. When Cheney first made it, after all, it was just a month short of the expiration for any role he had in the hospital confrontation.

But I do think those arguments may be far more interesting—and far more threatening to Bush—than Gellman admits. At the very least, the whole sequence begins when Libby writes in his diary about Bush's concern about the Kristof article.

One more point. As I mentioned, John Hannah was one of the people who dumped this story in

Gellman's lap. And Hannah is, after all, the fourth person involved in the beginning of that sequence, after Bush expresses concern and then Libby and Cheney and Hannah go into overdrive doing oppo research on the Wilsons. So while Gellman may have conflated different parts of the sequence, Hannah is likely to be well aware of at least some of how they relate together—including, potentially, Bush's apparent role in setting off the sequence.

Now, these details don't change the big takeaway: Cheney's going after Bush in his memoirs. But between treating Cheney's minions all too credulously and confusing the key facts—at least on the issue of Plame—Gellman appears to misunderstand the complexity of Cheney's anger at Bush.