

staff that responds to his or her demands and gives the President unvarnished advice, pointing out problems, honestly and openly, without any expectation it is going to be on the front page of the New York Times the next day, for heaven's sake.

So I just want to say, I am sorry and disappointed our chairman, Chairman LEAHY, has utilized the power the committee gave him to decide whether to issue a subpoena or not, to actually issue subpoenas.

So now what has happened? The President said: These subpoenas go too far. Even so, I am not afraid to have my people talk. The President has offered that Harriet Miers come to the Hill and be interviewed by the Judiciary Committee. But in preserving the historic integrity and confidentiality of a President and their own staff, the President does not want to produce confidential communications made to him by his staff. I think it would erode any President's legitimate prerogative, for time immemorial, if Congress were able to do that.

I would suggest we in this Senate can understand that. Who of us would want our chief of staff to be hauled in to some committee when there is no suggestion of a criminal offense having occurred and then being cross-examined on everything our chiefs of staff told us? I just met with my chief counsel, Cindy Hayden, and we talked about these issues. She is an excellent lawyer. We have recently met and talked about the immigration bill that the Senate was debating.

Maybe the White House, which took a different view than mine on immigration, would like to embarrass me by issuing subpoenas to see if they could find out something in memos or documents or conversations we had about the bill and the flawed legislative process that brought it to the floor.

The executive branch has the power of subpoena also. Would our Members over here on the Senate Judiciary Committee be happy if the White House issued subpoenas to find out if any of our Members may have delayed the confirmation process in order to impact the outcome of some case that might be pending before a court of appeals at a given time in a given State?

Would we want to have all that happen to us? If these are criminal things, you get to do that. If they are not criminal things, comity, respect between our branches would suggest that any leader have certain rights to have candid, confidential communications with their own staff about matters of great importance to our Nation. The courts have it. Congress has it. The executive branch has it. There is case law that has addressed this type of privilege. Executive privilege is not something that is made up; it is something that is very real.

Now, I am not one who would want to come in and predict how cases would come out, but based on the openness the President has shown with regard to

providing to the Congress his staff people for interviews, I am not sure there is a legal basis for this.

Yes, in the meantime, it will look good politically. Those who issued the subpoenas—and are proud of themselves, knowing the President probably will never be able to accept this and would have to resist and have to object—can accuse him of hiding. They can accuse him of stonewalling. They can say he is in denial, that he will not cooperate with the Congress, that he is operating in secrecy. These baseless accusations will just further fuel the charges people have made about this good man who is trying to serve the country the best he can. I certainly believe that.

So here we are. Chairman LEAHY issued the subpoenas. Now the President has objected, which he has a perfect right to do. What happens now? There are several options, one of which is to litigate. If that path is chosen, a court will have decide it. It will go to the courts, and there will be an argument whether there is a legitimate evoking of executive privilege.

I wish it had not happened. That is all I am saying. We, I believe, have overreached in this instance. I cannot imagine we would want to demand that the President's own lawyer, Harriet Miers, be required to produce every memo she gave to the President and every conversation she had about any matter in the White House unless it amounted, as I said, to some criminal offense, which nobody is suggesting has occurred here. It is just not good policy, and we have to be bigger than short-term politics in this Senate. We have to be bigger than that.

I want to say, in my best judgment, we should not have shoved it this far. We have overreached. The President does have a legitimate claim of executive privilege. Over 8,500 documents and e-mails that went from the White House to the Cabinet Department, the Department of Justice, have been produced. It is only those conversations and communications between the President's closest advisers and the President himself which the White House feels should not be produced because of the historical implications of it for Presidents in the future. In this instance, I think the President is within his rights.

My best judgment, based on what I know today, is that this is not legitimate under our current law, and it is absolutely not justified under our discretion as Members of Congress. We ought to have more respect for the other branch than to push this request beyond the limits to the point we have today.

So, Madam President, I want to be on record to say that I understand why the President would object to making these disclosures of internal communications between the President and his own personal, closest staff, after, of course, having produced communications between he and his staff and the

Department of Justice that have been produced and making those staff members available for private inquiry among the leadership of the Congress. I think that was a real strong gesture of openness, but that was promptly rejected because I think some in the Congress—Senate and House—would rather have a fight and try to make a political point than actually get to the truth of those matters.

Madam President, I thank the Chair and yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. REID. Madam President, this Sunday is the halfway mark of the year 2007. It is also the 2-month mark since President Bush vetoed the supplemental appropriations bill we sent to him which would have set a responsible path to reduce our combat operations, save lives, and finally change course in Iraq. President Bush called our bill a "recipe for chaos."

Now that 2 months have passed, here is what has happened under the President's escalation plan. It is clearly chaos: 126 brave Americans died in May alone, and more than 100 in June. This quarter has been the deadliest in the entire war. Sectarian killings have not declined. Yesterday, more than 20 Iraqis were beheaded. There is little evidence the Iraqi Government will meet any of the political benchmarks they have set for themselves. The surge was supposed to create the space for Iraq's political leaders to make the difficult decisions to unite their country. That has not occurred.

I have said from the beginning that as long as President Bush remains obstinate and the Republicans in Congress continue to toe his line, this tragic war will continue. There is no sign of President Bush awakening to the devastating reality of this intractable war. But this week, there is new reason for optimism in that my Republican colleagues in the Senate are finally willing to join in calling for a new direction.

A couple of days ago, on Tuesday, I congratulated the ranking member of the Foreign Relations Committee, Senator RICHARD LUGAR, for courageously breaking ranks with President Bush and calling for the war to end. Senator LUGAR said, among other things:

Persisting indefinitely with the surge strategy will delay policy adjustments that have a better chance of protecting our vital interests over the long term.

I agree with those words.

The day after Senator LUGAR's comments, another distinguished Republican on the Foreign Relations Committee, GEORGE VOINOVICH, wrote a letter to the President. In the letter, Senator VOINOVICH urged the President to wake up to the truth that so many of us already know: that the war cannot be won militarily.

It can only be won politically. Yet another distinguished member of the Armed Services Committee, Senator WARNER, then said he expects the number of Republican defections with the President to rise.

I am encouraged by what we are hearing now from Republican Senators, even though it is only a handful. But when you join these three Senators with Senators SMITH and HAGEL, we are up to five. We still have 44 to go.

I said earlier this week that this could and should be a turning point. After the recess, we will turn to the Department of Defense authorization bill, which is our next chance to force the President to change course.

But we are still a long way from reaching our goal. More Republicans are saying the right things, but now we badly need for them to put their words into action by voting the right way also.

The current handful of Republicans isn't enough. We would not be able to get any legislation passed without 60 votes, but we are getting closer. We are not where we need to be yet.

In May, as I said, the President called our plan a "recipe for chaos." Each day that goes by we sink further and further into the President's escalation, and it becomes even clearer that the best way to ensure chaos, death, devastation, and destruction is to stick with the President's failed policy. Let's go with our plan, which is not chaos but stability and the saving of people's lives.

As we leave for the celebration of our Nation's birthday, the Fourth of July, I ask my colleagues to listen to the call of the American people. Choose the path that honors our troops, makes our country safer at home, and stronger abroad.

When we return next week, let's get to work on a responsible new direction that Americans demand and deserve and, in fact, is long overdue.

INDEPENDENCE DAY

Mr. BYRD. Madam President, next Wednesday is July 4, Independence Day, the grand national celebration of our Nation's beginning. The Senate and the House of Representatives will be quiet, in recess so that Members can join in Independence Day celebrations around the country with constituents, families, and friends.

On July 4, summer is approaching its zenith. The days are hot and sunny. Water in all forms lures children into the heat—in the country, shady streams offer relief; in urban areas, fountains or even fire hydrants answer

the call, while across the country, swimming pools offer watery fun with an accompanying musical soundtrack of splashing and laughter. Even summer thunderstorms do their bit to cool things down while displaying nature's power and majesty as the lightning cracks and the thunder booms.

Fourth of July celebrations are a wonderful time to glory in all that is good about the United States. Flags and fireworks, picnics and parades, mellow afternoons and martial music—everything about Independence Day is grand. As we join together to remember the bravery that led our Founding Fathers to draft the Declaration of Independence, the long struggle to win our freedom, and the enlightened wisdom that resulted in our unique and wonderful Constitution, the love of our Nation that is the true spirit of patriotism is renewed. Surrounded by the happy faces of our diverse population enjoying their small town parades, music under the stars, family picnics and the grand finale of the fireworks displays, we can be sure that our Founding Fathers chose well when they gambled on a new nation in which "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness."

On Independence Day, when laughing children run with their sparklers to compete with the fireflies, we are also reminded of our own obligation to preserve for them all that is good about these United States. In this, we may also look to the Declaration of Independence, which ends with "a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."

For our Founding Fathers, this pledge was not mere rhetoric—their signatures on the declaration that hot summer in 1776 put at risk their families, their fortunes, their worldly possessions, and their lives. Some, like Edward Rutledge, age 26, were young men, with all of their life's promise ahead of them. Others, like Benjamin Franklin, age 70, were no longer so young, and the prospect of being hunted down for treason could not have been very appealing. Still, he did not shirk from signing and has even been quoted as saying that "We must all hang together, or assuredly we will all hang separately," his witty way of warning the signers that any failure to remain united could result in each of them being tried and executed for treason. History has shown that his warning was not needed.

Through the years of war, even as some of the signers lost their homes or put their fortunes into the war effort, not one of them backed down. For that, we may all be thankful.

Even as the years of war passed, the signers of the Declaration of Independence continued to serve their new Nation. They served as ambassadors for

the new United States, as Presidents and Vice Presidents, as Cabinet members, and as a source of inspiration and industry for the fledgling Nation into their old ages. It is fitting that Thomas Jefferson, author of the Declaration of Independence, third President of the United States, Vice President, Secretary of State, Minister to France, Governor of Virginia, colonial and State legislator, founder of the University of Virginia, farmer and philosopher, died at the age of 83 on the Fourth of July, 1826, on the 50th anniversary of the adoption of the Declaration of Independence. He worked and wrote prolifically until the very end of his life, always for the betterment of the Nation.

On the same day, July 4, 1826, John Adams passed away at the age of 91. President, Vice President, Member of the Continental Congress, farmer, and philosopher, Adams remains the longest lived person ever elected to both of the highest offices in the United States. Until his record was broken by Ronald Reagan in 2001, Adams was the nation's longest living President, at 90 years, 247 days. The record is currently held by former President Gerald Ford, who died December 26, 2006, at 93 years, 165 days. Adams and Jefferson's correspondence during their later years remains an invaluable historical record of the early days of our Republic, and their respect for each other was unmatched. Even as he died, Adams is said to have breathed, "Thomas Jefferson survives," in what may have been his final earthly comfort knowing that his friend remained to watch over the young Nation.

Madam President, it is a great privilege to be able to call oneself a citizen of these United States. It is my great privilege to serve the Senate and the people of West Virginia and the United States. I feel that privilege every day but especially on the Fourth of July. I am inspired by our Founding Fathers and by the great documents that are the Declaration of Independence and the Constitution. Like Jefferson and Adams, I am inspired to continue serving the land that I love to the very best of my abilities for the whole of my years.

Madam President, I close with a poem by Walter Taylor Field, entitled "Flag of the Free."

FLAG OF THE FREE

Look at the flag as it floats on high,
Streaming aloft in the clear, blue sky,
Rippling, leaping, tugging away,
Gay as the sunshine, bright as the day,
Throbbing with life, where the world may
see—Flag of our country, flag of the
free!

What do we see in the flag on high,
That we bare our heads as it passes by,
That we thrill with pride, our hearts beat
fast, And we cheer and cheer as the flag
goes past—The flag that waves for you
and me—Flag of our country, flag of
the free?

We see in the flag a nation's might,
The pledge of a safeguard day and night, Of
a watchful eye and a powerful arm