

RESOLUTION 06-02-2007

DIGEST

U.S. Constitutional Violations: Investigation of Bush Administration

Recommends that the California congressional delegation commence an investigation of President Bush, Vice President Cheney and other administration personnel for possible Constitutional violations.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

Similar to Resolutions 05-07-2006 and 11-01-2004, which were approved as amended.

Reasons:

This resolution recommends that the California congressional delegation commence an investigation of President Bush, Vice President Cheney and other administration personnel for possible Constitutional violations. This resolution should be approved in principle because there is mounting evidence of constitutional irregularities in matters concerning the war in Iraq, including assertions about the existence of weapons of mass destruction, which served as the major impetus for the war.

There is growing evidence, brought out in the media and especially during the trial of Lewis “Scooter” Libby, that members of the Bush administration, including President George W. Bush and Vice President Dick Cheney, knowingly offered up false information as justification for launching and sustaining the war against Iraq. This information, too lengthy to detail here, has been made public through testimony of Administration appointees and employees, and has been substantiated by investigations reported by hundreds of news outlets in print, television, cable and the Internet.

Whatever its ultimate conclusion may be, a congressional investigation has merit. If any constitutional malfeasance is discovered to, such injury shines a bright light on our sworn duty, as officers of the court, to protect and uphold the Constitution of the United States. The Conference of Delegates has twice passed resolutions calling for our congressional delegation to launch investigations into possible constitutional violations by members of the Bush administration. The growing body of information and testimonial incrimination, the number of sources involved, the increasingly bipartisan concern for these issues, and the magnitude of such violations calls on our profession to exercise our sworn duty. Accordingly, the Conference should call for a congressional investigation.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations urges the California Congressional Delegation to support an investigation by the House of Representatives Judiciary Committee of the Executive Branch's possible violations of Constitutional law, including whether or not there have been attempts to disable habeas corpus or otherwise deny prisoners' or detainees' rights, with a view towards taking all necessary steps to defend and uphold the Constitution of the United States of America.

PROPONENT: National Lawyers Guild, San Francisco Chapter

STATEMENT OF REASONS

Existing Law: Power to declare war belongs to Congress. Art. I, Sec. 8. The President of the United States, the Vice-President, and all civil and executive officers, Senators, and Congress members must swear or affirm that they will support the Constitution of the United States. Art. II, Sec. I, Cl. 8; Article V.

All treaties made under the authority of the U.S. (shall be part of) "the Supreme Law of the Land...." The U.N. Charter, the Geneva Conventions, and other treaties and charters are thus part of the Supreme Law of the Land. Article VI, Cl. 3.

This Resolution: Upholds and defends the Constitution and laws of the U.S., promotes respect for the rule of law, and contributes to the education of the legal profession, the science of jurisprudence, and professional excellence.

The Problem: Congress and public are entitled to a thorough, independent investigation to determine whether Bush, Cheney, and officers of the Bush administration have led the U.S. into preemptive war against Afghanistan and Iraq in violation of the "Supreme Law of the Land," thereby violating their oath. The Bush administration, contrary to findings by U.S. and U.N. investigators, has made and continues to make false statements to Congress, the U.N., and the U.S. public accusing Afghanistan of responsibility for the 9/11 attack; accusing Iraq of supporting Osama Bin Ladin in accomplishing the 9/11 attack; accusing Iraq of possessing weapons of mass destruction that constitute imminent threat to the safety of the United States, its peoples, and property, and its interests at home and elsewhere in the world, which alleged threat they knew to be false or for which they knew they had no reliable evidence; through procuring enactment of PATRIOT Act I and parts of PATRIOT Act II, to deprive U. S. citizens and legal residents of their constitutional rights; authorizing direct attacks in Iraq on civilians,ⁱ civilian facilities, and locations where civilian casualties were unavoidable,ⁱⁱ including the use of cluster bombs, designed to spread small explosive devices at substantial distances from the putative target.ⁱⁱⁱ The administration's acts cause needless U.S., British, Iraqi, Afghan and U.N. casualties.^{iv} The administration sent former Ambassador Joseph Wilson to Niger to investigate claims that Niger sold yellowcake uranium to Iraq. After Wilson announced absence of evidence to support the claim, a senior administration official feloniously disclosed that Wilson's wife was an undercover CIA operative.^v Scooter Libby is currently on trial for perjuring himself regarding the disclosure of Mrs. Wilson's identity.

Attorney General Alberto Gonzales has told the Senate that habeas corpus is not a right. Gonzales has also replaced US Attorneys for unlimited appointment without the advice and consent of the Senate, which has been required for all previous permanent appointments to that position. The Attorney General was enabled to take these actions because of an obscure provision of the PATRIOT Act.

Furthermore, the Bush administration is currently pursuing an escalation of the illegal war in Iraq, despite clear indications from a majority of Americans that they want this war to end.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

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ⁱ See e.g. Robert Fisk. U.S. Troops Turn Botched Saddam Raid into Massacre. *Z Magazine*. <http://www.zmag.org/content/showarticle.cfm?SectionID=15&ItemID=3966>

ⁱⁱ Michel Guerin. Embedded Photographer: I Saw Marines Kill Civilians *Counterpunch Magazine* website. <http://www.counterpunch.org/guerrin04162003.html>

ⁱⁱⁱ U.S. Using Cluster Munitions in Iraq. *Human Rights Watch* website. April 1, 2003. <http://www.hrw.org/press/2003/04/us040103.htm>

Peter Ford. Surveys Pointing to High Civilian Death Toll in Iraq. *Christian Science Monitor* website. <http://www.csmonitor.com/2003/0522/p01s02-woiq.html>. The Iraq Bodycount website. www.iraqbodycount.org
Peter Spang Goodrich. The Surgical Precision Myth: After the Bomb Explodes -- (CCDP) Cumulative Collateral Damage Probability Version 11 June 2003 <http://www.providence.edu/mba/goodrich/war/surgical/>,

Nico Price. First Tally Puts Iraqi Deaths at 3, 240. *Atlanta Journal-Constitution* <http://www.ajc.com/news/content/news/0603/10iraqdead.html>

^{iv} *CNN News*. Forces: U.S. & Coalition/Casualties. <http://www.cnn.com/SPECIALS/2003/iraq/forces/casualties/>

^v Former Ambassador Joseph Wilson was sent to investigate claims that Niger had sold yellowcake uranium to Iraq, and was unable to substantiate that information.

http://story.news.yahoo.com/news?tmpl=story&cid=519&e=10&u=/ap/wilson_profile

David Stout, Inquiry Into Leak About C.I.A. Officer Is Said to Widen. *New York Times*. 10/2/03

<http://www.nytimes.com/2003/10/02/national/02CND-LEAK.html>. The White House is pursuing an agenda of denial and smear tactics against Wilson rather than making serious attempts to find the senior administration official who Novak stated supplied the information. White House political operatives are attempting to keep Republican legislators from calling for special counsel to investigate this felony charge. Richard Stevenson and Eric Lichtblau. White House Looks to Manage Fallout Over C.I.A. Leak Inquiry. *New York Times*. 10/2/2003. <http://www.nytimes.com/2003/10/02/national/02LEAK.html>