Dick Thornburgh's Message
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by Dr. G. Terry Madonna and Dr. Michael Young

It was a riveting moment. Pennsylvania’s 43rd governor, Republican stalwart, and former U.S. attorney, General Dick Thornburgh, facing down the country’s 43rd president, Republican George Bush, and his Justice Department. Thornburgh, 75, is defense counsel for Dr. Cyril Wecht, former Pittsburgh coroner, now fighting an 84-count federal corruption indictment brought by western Pennsylvania’s Republican U.S. attorney. In an extraordinary hearing, Thornburgh appeared this week before a joint session of two U.S. House Judiciary subcommittees to denounce political prosecutions in the U.S. Justice Department.

In his testimony and an earlier affidavit, he outlined multiple charges against Bush’s Justice Department warning about "the significant dangers and serious harm that can be caused by politicizing federal criminal investigations and prosecutions by the Justice Department." Thornburgh alleges a policy of selective prosecutions against Democrats, the firing of U.S. attorneys who would not bring politically inspired prosecutions, and the pervasive overreach of U.S. attorneys in pursuit of political targets.

Politics, according to Thornburgh, does not belong in law enforcement. Citizens must have confidence that the Justice Department operated without political influence or the appearance of political influence which "has no place in the decision making process of whether or not to charge citizens of the United States with any crime, federal or otherwise…The citizens of the United States must have confidence that the department is conducting itself in a fair and impartial matter without actual political influence or the appearance of political influence. Unfortunately, that may no longer be the case."

What Thornburgh actually said was not entirely new, or even shocking, after months of news coverage of controversy in the Justice Department. But what mattered was who said it and that it was said in the most public of forums. That is because Thornburgh is the embodiment of the traditional Republican moderate, a man who has remained publicly steadfast to the Bush administration and its policies—until now. As we approach the 2008 election, he, as much as any contemporary figure, represents the moderate wing of the Republican Party.

Widely respected both in office and in private practice, Thornburgh has often been turned to for balanced, fair, and impartial advice. He was appointed examiner in the World Com Bankruptcy in 2002, and two years later served on an independent panel reviewing CBS’s controversial campaign stories about President Bush’s military service. Throughout his career, Thornburgh has been known as an outspoken supporter of civil rights and a defender of the constitutional rights of individuals.

But, neither has he been a namby-pamby Republican. Indeed, Thornburgh in his day was the scourge of liberals. He began his political career in the early 1970s as a crime fighting U.S. attorney in western Pennsylvania, going after "mob bosses" in a manner never attempted before in Pennsylvania’s history. He was a vigorous supporter of using court ordered wire tapping, especially in the first use of electronic wiretapping in the 1970s which he viewed as an essential tool in getting convictions.
Running on an anti-corruption platform and elected Pennsylvania governor in 1978, he served two terms before becoming attorney general, first briefly under Reagan and then remaining in office under George H.W. Bush. As attorney general, Thornburgh oversaw high profile cases against drug trafficking, public corruption, and white collar crime. As earlier in his career, he remained a hard-nosed prosecutor, and, in fact, engendered controversy with the notorious "Thornburgh Memo" that argued federal prosecutors did not need to meet the same ethical standards as state prosecutors.

So, Thornburgh is, in many respects, the Bush administration’s worst nightmare. A tough prosecutor, an iconic moderate centrist, and a seasoned politician, Thornburgh is exactly the guy you want to avoid a fight with.

It is true that Thornburgh’s charges of serious wrongdoing at high levels in the Justice Department are yet unproven. Indeed, this is a story that may only be just developing. But what we know so far about the so-called "politics of prosecution" shocks the American political sensibility.

If, as charged, prosecutorial decisions have been made on the basis of partisan politics, and if Bush’s Justice Department has prosecuted politically prominent Democrats but absolved politically connected Republicans, and if the White House has tacitly or explicitly approved these actions, these are fundamental and egregious breaches of society’s most basic beliefs about justice. In the American civic religion, there is no greater sin than to use the magisterial power of governmental prosecution to lay low a political foe.

To the extent such conduct has characterized the Bush administration (and the accumulating evidence is troubling), Bush’s Justice Department has stepped far outside national norms and values.

Bush himself wasn’t in the room when Thornburgh testified, but his presence was almost palpable. In fact, one Judiciary committee member, Rep. Ric Keller, in an awkward attempt to exonerate the president of politicizing the Justice Department, expressed exactly that point saying to Thornburgh, "Do you, sir, have any personal knowledge of any conversation between U.S. Attorney Buchanan and the president in which they discuss that Dr. Wecht should be prosecuted because he is a Democrat?" Thornburgh didn't, but the cat was out of the bag. Bush’s Justice Department may have been Thornburgh’s subject, but Bush’s policies were his real object.

In tackling Bush policies, Thornburgh now stands as the token moderate in a party where moderates have been described as an endangered species. Ultimately this makes him a paradoxical figure; one of a large majority in a nation now tacking to the center, but also one of a distinct minority in a party whose presidential candidates are veering to the right.

But Thornburgh, out of step with his party, is in lock-step with the country. And he reminds what the GOP no longer seems to remember: to win elections, Republicans must inevitably move to the center or risk a rendezvous with electoral disaster it will rue for a political generation.

To the political historian, this is familiar territory. Each administration, given time and opportunity, seeds the conditions that bring about its own demise, and each administration produces a succeeding administration that turns away from its excesses. Put more plainly: Americans often want the next administration to be as different from the present administration as possible.
That was the real message in Dick Thornburgh’s testimony. If that is not exactly what he said, it is exactly what he meant.

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