

THE UNRESTRAINED PRESIDENT

BY TOM ENGELHARDT

As 2006 begins, we seem to be at a not-completely unfamiliar crossroads in the long history of the American imperial Presidency. It grew up, shedding presidential constraints, in the post-World War 2 years as part of the rise of the national security state and the military-industrial complex. It reached its constraintless apogee with Richard Nixon's presidency and what became known as the Watergate scandal — an event marked by Nixon's attempt to create his own private national security apparatus which he directed to secretly commit various high crimes and misdemeanors for him. It was as close as we came — until now — to a presidential *coup d'état* that might functionally have abrogated the Constitution. In those years, the potential dangers of an unfettered presidency (so apparent to the nation's founding fathers) became obvious to a great many Americans. As now, a failed war helped drag the President's plans down, and in the case of Nixon, ended in personal disgrace and resignation, as well as in a brief resurgence of congressional oversight activity. All this mitigated, and modestly deflected, the growth trajectory of the imperial presidency — for a time.

The "cabal," as Lawrence Wilkerson, Colin Powell's chief of staff at the State Department, has called Dick Cheney, Donald Rumsfeld, and various other neoconish pals, stewed over this for years, along with a group of lawyers who were prepared, once the moment came, to give a sheen of legality to any presidential act. The group of them used the post-9/11 moment to launch a wholesale campaign to recapture the "lost" powers of the imperial presidency, attempting not, as in the case of Nixon, to create an alternate national security apparatus but to purge and capture the existing one for their private purposes. Under George Bush, Dick Cheney, and their assorted advisers, acolytes and zealots, a virtual cult of unconstrained presidential power has been constructed, centered around the figure of G. W. Bush himself. While much has been made of feverish Christian fundamentalist support for the President, the real religious fervor in this administration has been almost singularly focused on the quite un-Christian attribute of total earthly power. Typical of the fierce ideologues and cultists now in the White House is Cheney's new Chief of Staff David Addington. The *Washington Post's* Dana Milbank described him this way back in 2004 (when he was still Cheney's "top lawyer"):

"[A] principle author of the White House memo justifying torture of terrorism suspects... a prime advocate of arguments supporting the holding of terrorism suspects without access to courts... Addington also led the fight with Congress and environmentalists over access to information about corporations that advised the White House on energy policy. He was instrumental in the series of fights with the September 11 commission and its requests for information... Even in a White House known for its dedication to conservative philosophy, Addington is known as an ideologue, an adherent of an obscure philosophy called the unitary executive theory that favors an extraordinarily powerful President."

For these cultists of an all-powerful presidency, the holy war, the "crusade" to be embarked upon was, above all, aimed at creating a President accountable to no one, overseen by no one, and restricted by no other force or power in his will to act as he saw fit. And so, in this White House, all roads have led back to one issue: How to press ever harder at the weakening boundaries of presidential power. This is why, when critics concentrate on any specific issue or set of administration acts, no matter how egregious or significant, they invariably miss the point. The issue, it turns out, is never primarily — to take just two areas of potent-



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ially illegal administration activity—torture or warrantless surveillance. Though each of them had value and importance to top administration officials, they were nonetheless primarily means to an end.

This is why the announcement of (and definition of) the "global war on terror" almost immediately after the 9/11 attacks was so important. It was to be a "war" without end. No one ever attempted to define what "victory" might actually consist of, though we were assured that the war itself would, like the Cold War, last generations. Even the recent sudden presidential announcement that we will now settle only for "complete victory" in Iraq is, in this context, a distinctly limited goal because Iraq has already been defined as but a single "theater" (though a

"central" one) in a larger war on terror. A war without end, of course, left the President as a commander-in-chief-without-end, and it was in such a guise that the acolytes of that "obscure philosophy" of total presidential power planned to claim their "inherent" constitutional right to do essentially anything. (Imagine what might have happened if their invasion of Iraq had been a success!)

Having established their global war on terror, and so their "war powers," in the fall of 2001, top administration officials then moved remarkably quickly to the outer limits of power — by plunging into the issue of torture. After all, if you can establish a presidential right to order torture (no matter how you manage to *redefine* it) as well as to hold captives under a category of warfare dredged up from the legal dustbin of history in prisons especially established to be beyond the reach of the law or the oversight of anyone but those under your command, you've established a presidential right to do just about anything imaginable. While the get-tough aura of torture may indeed have appealed to some of these worshippers of power, what undoubtedly appealed to them was the moving of the presidential goalposts, the changing of the rules. From Abu Ghraib on, the results of all this have been obvious enough, but one crucial aspect of such unfettered presidential power goes regularly unnoticed.

As you push the limits, wherever they may be, to create a situation in which all control rests in your hands, the odds are that you will create an uncontrollable situation as well. From torture to spying, such acts, however contained they may initially appear to be, involve a deep plunge into a dark and perverse pool of human emotions. Torture in particular, but also unlimited forms of surveillance and any other acts which invest individuals secretly with something like the power of gods, invariably lead to humanity's darkest side. The permission to commit such acts, once released into the world, mutates and spreads like wildfire from top to bottom in any command structure and across all boundaries. You may start out with a relatively small program of secret imprisonment, torture, spying or whatever, meant to achieve limited goals while establishing certain prerogatives of power, but in no case is the situation likely to remain that way for long. This was, perhaps, the true genius of the American system as imagined by its founders — the understanding that any form of state power left unchecked in the hands of a single person or group of people was likely to degenerate into despotism (or worse), whatever the initial desires of the individuals involved.

Sooner or later, the hubris of taking all such powers up as your own is likely to prove overwhelming and then many things begin to slip out of control. Consider the developing scandal over the National Security Agency's wiretapping and surveillance on presidential order and without the necessary (and easily obtained) FISA court warrants. In this case, the President has proudly admitted to everything. He has essentially said: I did it. I did it many times over. We are continuing to do it now. I would do it again. ("I've reauthorized this program more than 30 times since the September 11 attacks, and I intend to do so for as long as our nation is — for so long as the nation faces the continuing threat of an enemy that wants to kill American citizens.") In the process, however, he has been caught in a curious, potentially devastating presidential lie, now being used against him by Democratic pols and other critics.

While in Buffalo, New York, for his reelection campaign in April 2004, in one of those chatty "conversations" — this one about the Patriot Act — that he had with various well-vetted groups, the President said the following:

"There are such things as roving wiretaps. Now, by the way, any time you hear the United States government talking about wiretaps, it requires — a wiretap requires a court order. Nothing has changed, by the way. When we're talking about chasing down terrorists, we're talking about getting a court order

BIG BROTHER IS WATCHING

It took 21 years longer than expected, but the future has finally arrived.

And we don't like it. Not one bit.

We are fighting a war with no end to create a peace with no defined victory.

We occupy a foreign land that doesn't want us, while at home our civil liberties are discounted.

We are told that it's better not to know what our government is doing in our name, for security purposes. Meanwhile, our government is becoming omnipresent, spying on us whenever it deems it necessary.

War is peace. Freedom is slavery. Ignorance is strength. George Orwell was right after all.

In 1948, Orwell penned *1984*, a dark, futuristic satire in which a totalitarian government used indoctrination, propaganda and fear to enforce order and conformity.

Orwell wrote this book as a cautionary tale to underscore the insidious danger of slowly eroded individual liberties. His Thought Police may not yet be on the march, but it's not hyperbole to point out the eerie parallels with today's America.

In America today, Big Brother is watching.

He's watching because President Bush told him to.

Shortly after 9/11, Bush secretly authorized warrantless wiretaps on U.S. citizens making or receiving international phone calls and e-mails.

When it comes to fighting terror, Bush is totalitarian — remember, you're either with us or against us. Trust me to get it right, he says. Debate on the law is not only *not* needed, it's evil.

"An open debate about the law would say to the enemy, 'Here's what we're going to do.'" Bush said recently. "The fact that we're discussing this program is helping the enemy."

Then there's the Patriot Act, also created in the days immediately after September 11, 2001. The Senate and House of Representatives have voted to extend the law by a month. President Bush and Attorney General Alberto Gonzales insist it's an indispensable tool in the war on terror and want it extended permanently.

"I'm as concerned about the privacy of American citizens as anyone, but we cannot allow libraries to become safe havens for terrorists," Gonzales said in July, defending one of the act's most controversial provisions.

Remember, too, that we invaded Iraq primarily because we were told Saddam Hussein was an immediate threat with his weapons of mass destruction. Now the Bush administration acknowledges that wasn't so, but insists there were (are?) other reasons to invade. History is malleable.

Orwell wrote of war without end: we're told the war on terror will last decades at least. Orwell wrote of a dumbed-down "Newspeak," and who could argue that our national discourse hasn't slumped? Orwell's "Ministry of Love" tortured dissidents real or imagined; our government decries Iraq's secret torture prisons while arguing over whether to ban torture. Meanwhile, we maintain our own secret CIA prisons.

Bush is unapologetic. The President believes he has the legal authority to spy on American citizens without a warrant, and he plans to continue to reauthorize the program "as long as the nation faces the continuing threat of an enemy that wants to kill American citizens." But when the enemy is poorly defined, who determines when the threat is over? In this case, the same government that secretly taps our phones.

Turns out the truth is no stranger than fiction.

We think it's time for Congress to heed the warning of George Orwell.

To that end, we're asking for your help: Mail us or drop off your tattered copies of *1984*. When we get 537 of them, we'll send them to every member of the House of Representatives and Senate and to President Bush and Vice President Dick Cheney.

Feel free to inscribe the book with a note, reminding these fine people that we Americans take the threat to our liberties seriously. Remind Congress that it makes no sense to fight a war for democracy in a foreign land while allowing our democratic principles to erode at home.

Remind President Bush that ours is a country of checks and balances, not unbridled power.

Perhaps our nation's leaders can find some truth in this fiction and more carefully ponder the road we're traveling.

Bring or mail your books to the *Oakland Tribune*, 401 13th Street, Oakland, California 94612. Doors are open from 8 a.m. to 5 p.m.

~EDITORIAL, THE OAKLAND TRIBUNE (12/30/05)

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