Mr. Speaker, it is my distinct pleasure to honor Mr. Christensen and his achievements here today, and wish him all the best in his future endeavors.

THE CASE OF VALERIU PASAT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 2006

Mr. SMITH of New Jersey. Mr. Speaker, following the collapse of the Soviet Union when there were virtual open-air arms bazaars taking place across the territory of the former USSR, the United States Government purchased twenty-one fighter aircraft from the newly independent Republic of Moldova. The Moldovan official who negotiated this sale was then Defense Minister, Valeriu Pasat. This purchase was intended to keep these aircraft out of the hands of potentially hostile regimes.

Just last year, Mr. Pasat was charged with malfeasance in connection with this transaction that occurred nearly a decade ago. Allegedly, the planes were worth more than the Moldovan Government received for them in the deal approved by Chisinau. In January of this year, Mr. Pasat was convicted by a secret tribunal and received a 10-year labor camp sentence. His sentence is now awaiting appeal. Mr. Pasat maintains that the charges against him are political and linked to his work with those who oppose Moldova's current communist government. To further complicate matters, he is reportedly in poor health and is rumored to be suffering from hepatitis—a potentially life-threatening condition. Last month, a team of Ukrainian doctors was reportedly denied permission to examine him.

In response to the Pasat verdict, the U.S. Embassy in Chisinau issued a statement expressing disappointment and regret over the non-transparent manner in which his trial was conducted, as well as the judge's refusal to admit sworn statements from former U.S. officials directly involved in the matter. Additionally, Mr. Speaker, the European Union recently passed a resolution calling upon the Moldovan authorities to ''ensure that the appeals process [in the Pasat case] will be allowed to proceed in a transparent fashion in accordance with international legal norms.'' While I make no presumption of Mr. Pasat's innocence or guilt, I share the concerns voiced by our Embassy and by the EU.

As Vice Chairman of the House Committee on International Relations and Co-Chairman of the U.S. Helsinki Commission, I am well aware of the difficulties Moldova has experienced on its path to democracy. I would also like to note the positive progress Moldova has made toward shedding its Soviet legacy and integration into the Euro-Atlantic community. This is why I am so troubled by the retrograde manner in which the Pasat trial has been conducted. It is critical that the Moldovan judicial system afford its citizens the basic legal protections common throughout the civilized world, such as due process, procedural transparency, and hearing the testimony of relevant witnesses. Moreover, Mr. Speaker, it is especial and urgent that the Moldovan authorities take all the necessary steps to protect the life and health of Mr. Pasat or any other prisoner of the state.

''POWER GRAB,'' BY ELIZABETH DREW

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 2006

Mr. CONYERS. Mr. Speaker, as Benjamin Franklin left the Constitutional Convention, which had been closed to the public, a citizen asked: ''What kind of Government have you given us, Mr. Franklin?'' Franklin replied, ''A Republic, Madam, if you can keep it.''

In last week's New York Review of Books, Elizabeth Drew, one of our most distinguished political analysts, discusses President Bush's ''Power Grab.'' She forcefully reminds us that, to paraphrase Franklin, the Constitution gives Congress power co-equal with the President, but only if Congress can keep it.

Drew illustrates in painful but accurate detail how Congress repreatedly has stood by and allowed Bush to erode our constitutional powers, one bit at a time.

Drew's particular focus is on President Bush's drastically expanded use of so-called ''signing statements,'' in which he asserts a statute's version he plans to follow, his own version. President Bush tries to claim the power to ''make all laws,'' as well as his constitutionally assigned role to ensure the ''laws be faithfully executed.'' He did not originate the practice, but his use of it is unprecedented in frequency, scope, and defiance of clear legislative intent. This is not a partisan issue. When President Bush reluctantly signed the recent statute banning torture, but then insisted that he would authorize non-existent exceptions, members of both parties disputed the practice.

As Drew explains, Bush's claim of ''inherent authority'' to ignore the law knows no bounds, no time frame or limiting principle. The genius of our system of government is its separation of powers and its structure of checks and balances. That structure is at risk today.

I urge my colleagues to ponder Elizabeth Drew's timely warning.

[From the New York Review of Books, June 22, 2006]

POWER GRAB

(By Elizabeth Drew)

During the presidency of George W. Bush, the White House has made an unprecedented reach for power. It has systematically attempted to defy, control, or threaten the institutions that could challenge it: Congress, the courts, and the press. It has attempted to upset the balance of power among the three branches of government provided for in the Constitution; but its most aggressive and consistent assaults have been against the legislative branch: Bush has time and again said that he feels free to carry out a law as he sees fit, not as Congress wrote it. Through secrecy and contemptuous treatment of Congress, the Bush White House has made the executive branch less accountable than at any time in modem American history. And because of the complaisance of Congress, it has largely succeeded in its efforts.

This power grab has received little attention because it has been carried out largely in obscurity. The press took little notice until Bush, on January 5 of this year, after signing a bill containing the McCain amendment, which placed prohibitions on torture, quietly filed a separate pronouncement, a ''signing statement,'' that he would interpret the bill as he wished. In fact Bush had been issuing such signing statements since the outset of his administration. The Constitution distinguishes between the power of the Congress and that of the president by stating that Congress shall ''make all laws'' and the president shall ''take care that the laws be faithfully executed.'' Bush claims the power to execute the laws as he interprets them, ignoring congressional intent.

Grover Norquist, a principal organizer of the conservative movement who is close to the Bush White House and usually supports its policies, says, ''If you interpret the Constitution's saying that the president is commander in chief to mean that the president can do anything he wants and can ignore the laws you don't have a constitution: you have a king.'' He adds, ''They're not trying to change the law; they're saying that they're above the law and in the case of the NSA wiretaps they break it.'' A few members of Congress recognize the implications of what Bush is doing and are willing to speak openly about it. Dianne Feinstein, Democratic senator from California, talks of a ''very broad effort'' being made ''to increase the power of the executive.'' Chuck Hagel, Republican senator from Nebraska, says: ''There's a very clear pattern of aggressively asserting executive power, and the Congress has essentially been complicit in letting him do it. The key is that Bush has a Republican Congress; of course if it was a Clinton presidency we'd be holding hearings.''

The public scenes of the President surrounded by smiling legislators whom he praises for their wonderful work as he hands out the pens he has used to sign the bill are often utterly misleading. The elected officials aren't informed at that time of the President's real intentions concerning the law. After they leave, the President's signing statements—which he does not issue verbally at the time of signing—are placed in the Federal Register, a compendium of U.S. laws, which members of Congress rarely read. And they are often so technical, referring as they do to this subsection and that statute, that they are difficult to understand.

For five years, Bush has been issuing a series of signing statements which amount to a systematic attempt to take power from the legislative branch. Though Ronald Reagan started issuing signing statements to set forth his own position on a piece of legislation, he did it essentially to guide possible court rulings, and he only occasionally objected to a particular provision of a bill. Though subsequent presidents also issued such statements, they came nowhere near to making the extraordinary claims that Bush has; nor did they make such statements nearly so often.

According to an article in The Boston Globe, Bush has claimed the right to ignore more than 750 laws enacted since he became president. He has unilaterally overruled Congress on a broad range of matters, refusing, for example, to accept a requirement for more diversity in awarding government science scholarships. He has overruled numerous provisions of congressional appropriations bills that he felt impinged on his executive power. He has also overruled Congress's requirement that he report back to it on how he has implemented a number of laws. Moreover, he has refused to enforce laws protecting whistle-blowers and providing safeguards against political interference in federally funded research. Bush has also used signing statements to place severe limits on the inspectors general created by Congress to oversee federal activities, including two officials who were supposed to inspect and report to Congress on the US occupation of Iraq.

The President could of course veto a bill he doesn't like and publicly argue his objections to it. He would then run the risk that Congress would override his veto. Instead, Bush has chosen a method that is largely hidden and is difficult to challenge. As of this writing, Bush has never vetoed a bill (though he has threatened to do so in the case of a spending bill now pending in Congress). Some of the bills Bush has decided to sign and then ignore or subvert were passed over his objections; others were the result of compromises between Congress and the White House. Arlen Specter, the Republican senator from Pennsylvania and chairman of the Senate Judiciary Committee, told me, ''Under the Constitution if the president doesn't like a bill he vetoes it. You don't cherry-pick the legislation.''

Bush has cited two grounds for flouting the will of Congress, or of unilaterally expanding presidential powers. One is the claim of the ''inherent'' power of the commander in chief.

Second is a heretofore obscure doctrine called the unitary executive, which gives the president power over Congress and the courts. The concept of a unitary executive holds that the executive branch can overrule the courts and Congress on the basis of the president's own interpretations of the Constitution, in effect overturning Marbury v. Madison (1803), which established the principle of judicial review, and the constitutional concept of checks and balances.

The term ''unitary government'' has two different meanings: one simply refers to the president's control of the executive branch, including the supposedly independent regulatory agencies such as the SEC and the FDA. The other, much broader concept, which is used by Bush, gives the executive power superior to that of Congress and the courts. Previous presidents have asserted the right not to carry out parts of a bill, arguing that it impinged on their constitutional authority; but they were specific both in their objections and in the ways they proposed to execute the law. Clinton, for example, objected to provisions in a bill establishing a semi-autonomous National Nuclear Security Administration, which set out the reasons for removing the director. Clinton objected that that impinged on his presidential prerogatives. Bush asserts broad powers without being specific in his objections or saying how he plans to implement the law. His interpretations of the law, as in his ''signing statement'' on the McCain amendment, often construe the bill to mean something different from—and at times almost the opposite of—what everyone knows it means.

The concept of the unitary executive, which has been put forward in conservative circles for several years, has been advocated mainly by the Federalist Society, a group of conservative lawyers who also campaign for the nomination of conservative judges. The idea was seriously considered in the Reagan administration's Justice Department. One of its major supporters was Samuel Alito, then a lawyer in the Justice Department. In his confirmation hearing, Alito said that the memorandum he wrote saying that the president's interpretation of a bill ''should be just as important as that of Congress'' was ''theoretical.'' But no president until Bush explicitly claimed that the concept of a unitary executive was a basis for overruling a bill.

The theory was formulated by John Yoo, a mid-level but highly influential attorney in the Justice Department between 2001 and 2003, who took the view that the president had the power to do pretty much whatever he wanted to do. (He also wrote the infamous memorandum defending what amounted to torture.) As White House counsel, Alberto Gonzales, now attorney general, also publicly supported the theory of the unitary executive.

The theory rests on the Oath of Office, in which, according to the Constitution, the newly elected president promises to ''faithfully execute the office of President,'' and also on the section of Article II that states that the president ''shall take care that the laws be faithfully executed.'' The administration has put forward unprecedented interpretations of both clauses, claiming that they give the president independent authority, unchecked by the other branches of government, to decide what the law means. This theory overlooks the fact that the framers were particularly wary of executive power. A number of constitutional scholars I have spoken with describe the administration's theory of the unitary executive as no more than a convenient fig leaf for enlarging presidential power.

Bush's claims of extraordinary power as commander in chief have been mainly invoked since September 11, 2001. He was able to exploit the anxieties the attacks had stirred, causing people to look to the President to defend them. Senator Jack Reed, Democrat of Rhode Island, recalled that everyone ''looked to the presidency, not to the 535 senators and congressmen, to protect them from a further crippling attack and suspended their mistrust of government. So they [the administration] took great power, which has to be handled wisely, but they didn't.''

It is under the authority of his powers as commander in chief that Bush asserted the right to keep nearly five hundred ''enemy combatants'' in detention in Guantanamo, of whom only ten were charged with a crime. Most were handed over by Afghan bounty hunters who were paid by the U.S. to turn in Arabs. Bush has also asserted the same authority in dealing with numerous bills passed by Congress, most spectacularly in his treatment of the McCain amendment banning ''cruel, inhuman or degraded treatment'' of POWs. In his signing statement, Bush said: ''The executive branch shall construe [the torture provision] in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief and consistent with the constitutional limitations on the judiciary * * *''

This general formula had by then become a standard part of Bush's signing statements, though few noticed. What Bush said about the torture bill was particularly egregious since Vice President Cheney, Bush's liaison with Congress, had tried to negotiate with the Senate a provision watering down McCain's amendment, and failed. The Senate passed it by a vote of 90 to 9, and the House endorsed it by a vote of 308 to 122. It had been an open, well-publicized fight and the President lost.

In late February, shortly after Bush's signing statement on the McCain amendment, the Constitution Project, a bipartisan, nonprofit organization in Washington, issued a protest signed by former government officials of both parties, prominent conservatives, and scholars, saying that they ''are deeply concerned about the risk of permanent and unchecked presidential power, and the accompanying failure of Congress to exercise its responsibility as a separate and independent branch of government.'' They objected to Bush's assertions that he ''may not be bound'' by statutes enacted by Congress, such as the McCain amendment, and that he can ignore ''long-standing treaty commitments and statutes that prohibit the torture of prisoners.'' It concluded that ''we agree that we face a constitutional crisis.''

Another egregious use of the signing statements occurred when Bush said in March that, in interpreting the bill reauthorizing the Patriot Act, he would ignore the requirement that the president report to Congress on the steps taken to implement the law, thus denying that the executive should be accountable to Congress. Patrick Leahy, the ranking Democrat on the Senate Judiciary Committee, issued an angry protest calling Bush's use of signing statements ''nothing short of a radical effort to re-shape the constitutional separation of powers and evade accountability and responsibility for following the law.'' Leahy added, ''The President's signing statements are not the law, and we [the Congress] should not allow them to become the last word.''

Bush went still further in his extraordinary claim of supreme power on December 17, 2005, when he acknowledged that, as revealed in The New York Times the day before, the government was conducting warrantless wiretapping of domestic calls. He claimed that he had the power to order such taps ''to save lives,'' regardless of what the existing law said.

His claim rested on two contradictory arguments. First, he said that warrantless wiretaps were authorized in the resolution enacted three days after September 11, which said that the president could ''use all necessary and appropriate force'' to combat al-Qaeda. But the administration also argued that it didn't need authorization because of the inherent powers of the commander in chief. Former Senate Majority Leader Tom Daschle wrote that the administration had asked for a much broader resolution on the use of force than the one Congress approved. At the last minute the White House sought to have the resolution also include actions ''in the United States'' but was turned down.

One problem with the President's claims of extraordinary powers as commander in chief is that the ''war on terror'' is by definition an open-ended one, with no time limit on the president's powers, as Bush interprets them, to do virtually whatever he wants in order to conduct that war. There are undefined limits on how far the legislature can go in instructing the president on how to conduct a war; clearly it cannot tell him how to deploy combat troops. But during the Vietnam War, Congress used the power of the purse, voting to cut off funds. The Nixon administration didn't argue that Congress had no power to do so.

There is no way of knowing how many other laws already on the books are being reinterpreted by Bush, as he's done in the case of the NSA wiretapping program. The Foreign Intelligence Surveillance Act, or FISA, passed in 1978 after the Supreme Court had unanimously rejected as illegal Richard Nixon's domestic wiretapping, set forth what it said were the ''exclusive means'' by which an administration could conduct surveillance on Americans. The FISA law set up a special, secret court that could grant the government permission to wiretap American citizens after a showing of probable cause. One of the administration's justifications for initiating a wiretapping program outside the FISA law is that taps on potential terrorists must be initiated speedily; but the FISA law gives the executive three days to conduct a warrantless tap in an emergency and fifteen days if there's been a declaration of war. Gonzales complains that the law is too burdensome, since the attorney general still has to sign off on emergency taps and that they have to meet FISA standards. (A Republican senator, upon being told these complaints, said, ''So what's the problem?'') But the FISA law has been amended twice since it was enacted and the administration has never specifically and clearly asked Congress to revise the law to take account of changed circumstances.

The administration's wiretapping program appears to violate the Fourth Amendment's

guarantee that ''the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause. . . .'' The original impetus for the Bush program reportedly came from General Michael V. Hayden, then head of the National Security Agency, which collects information in the name of national security, and Bush's nominee to head the CIA. Hayden told a receptive White House that the NSA counsel had said the program was legal. The government claims that if a member of al-Qaeda, or of a group ''supportive of'' al-Qaeda, calls or e-mails someone in the United States, or if someone in the U.S. initiates the conversation, the government, which could already tap the suspected terrorist, can now tap the U.S. resident as well. This raised the question whether that U.S. citizen's other calls would be tapped.

In a press briefing given at the White House by Gonzales and Hayden on January 19 this year, Gonzales emphasized that ''one party to the communication has to be outside the United States'' and insisted there has to be ''a reasonable basis'' for concluding that one party to the communication is affiliated with or ''supportive of'' al-Qaeda, an extremely vague standard. And the administration is now making that decision, not the FISA court. Gonzales, moreover, has told congressional committees that he couldn't rule out that the President has the authority to wiretap purely domestic calls. Asked why the administration didn't go to Congress for authorization to wiretap domestic calls in terrorism cases without seeking a warrant, Gonzales replied: ''We have had discussions with Congress in the past—certain members of Congress—as to whether or not FISA could be amended to allow us to adequately deal with this kind of threat, and we were advised that that would be difficult, if not impossible.'' In other words, having been told that Congress was unlikely to authorize the warrantless wiretaps of domestic calls, the administration went ahead and did the tapping.

The Bush administration's reaction to the revelations about the wiretapping program has been to attack the leaks. In his statement acknowledging the wiretapping program, Bush said, ''The fact that we're discussing this program is helping the enemy.'' In an attempt to limit congressional oversight, the administration tried to restrict the number of members of Congress it would brief on such matters.According to a presidential directive issued quietly after September 11, officials were to discuss highly classified information with only the Republican chairman and the ranking Democrat on the Senate and House Intelligence Committees—committees that were established to conduct oversight on intelligence activities following the CIA scandals in the mid-Seventies—as well as the Republican and Democratic leaders of each chamber (a total of eight people) and not with the full intelligence committees.

Under the new rules, the members of this small group of people weren't permitted to discuss the program with other members of the intelligence committees, or with their own staffs. It was for the administration to decide which intelligence matters were too sensitive to discuss with the entire intelligence committees. One problem with this White House-imposed arrangement was that just as members of other congressional committees become cozy with the government agencies they are supposed to oversee, the intelligence committee heads—with the notable exception of Democratic Senator Jay Rockefeller, of West Virginia—are known to be close to the intelligence agencies. In July 2003, Rockefeller sent Cheney a handwritten letter saying that the restrictions on briefings ''raise profound oversight issues.''

Rockefeller also wrote that the wiretapping program recalled the highly intrusive Pentagon Total Information Awareness program headed by John Poindexter, which Congress voted to abolish. The resemblance, he wrote, ''exacerbat[ed] my concern regarding the direction the administration is moving with regard to security, technology, and surveillance.'' (Rockefeller released the statement following the Times's disclosure.) Earlier this year, Chuck Hagel and Olympia Snowe, Republican of Maine, threatened to vote with the Democrats for an investigation of the wiretapping program unless the full committee was briefed on it. In early March, on the eve of a scheduled vote on the matter, Cheney was called to a meeting with some committee Republicans in S207, the committee's highly secured room in the Capitol. The Republicans, including Snowe, sharply criticized Cheney for the administration's attempts to prevent other committee members from being briefed about the program.

Cheney had to report to the White House that its plan to shut out all but the top committee members was no longer feasible. But, working with Pat Roberts, chairman of the Senate Intelligence Committee, and Senate Majority Leader Bill Frist, the administration was able to limit the additional committee members to be briefed to four Republicans and three Democrats, still leaving most of the intelligence committee members, not to mention other elected officials, in the dark. On the eve of Hayden's confirmation hearings, Roberts, facing a public revolt by committee members of both parties, agreed that all of the committee members should be briefed on the surveillance programs. This was also a way of preventing committee members who hadn't been briefed from asking awkward questions in public. (This led to the tepid questioning of Hayden in his public confirmation hearings.) Despite the briefing, in the public hearing Snowe said, ''the Congress was really never really consulted or informed in the manner that we could truly perform our oversight role as coequal branches of government, not to mention—I happen to believe—required by law.''

In March, after the Senate Intelligence Committee declined to hold hearings on the matter, Arlen Specter, Republican of Pennsylvania, convened four days of hearings before the Judiciary Committee. But Specter concluded that Gonzales's testimony was too vague to be informative. In late April he threatened to cut off NSA funds for the wiretapping program if the administration didn't reveal more about it. Asked by a reporter why he didn't call Gonzales back to appear before his committee, Specter replied, ''Because he won't tell us anything.'' The administration, apparently on the orders of the White House, shut down a Justice Department investigation into the wiretapping program.

Bush's nomination of Hayden to be the next CIA director set off an undoubtedly greater clamor than the White House expected over his role in the wiretapping program and his strenuous public defense of it, but the White House claimed it welcomed the fight. And then another clamor was set off by the revelation by USA Today that the NSA was collecting the phone records of tens of millions of Americans from major telephone companies. In a statement to the press, Bush said the NSA wasn't listening to the calls but was only tracing the pattern of contacts they revealed. But it would be easy for the NSA or another agency to correlate the numbers with the names of the callers. In any event, the program is quite possibly illegal. (Specter is to hold hearings.) These disclosures led some lawmakers to wonder what else they hadn't been told that the administration was doing in the name of national security.

A big congressional fight over the wiretapping program would fit neatly into Karl Rove's strategy, declared earlier this year to a meeting of the Republican National Committee, of cynically making the issue of national security central to the 2006 election, as he did in 2002. ''Republicans,'' he said, ''have a post–9/11 worldview and many Democrats have a pre–9/11 worldview.'' With its penchant for propagandistic titles (the ''Patriot Act''), the administration calls the warrantless wiretapping program the ''terrorist surveillance'' program, and it imputes to its opponents the view that terrorists should not be wiretapped. But of course that is not the issue: most of the critics on Capitol Hill are simply arguing that wiretapping programs should be subject to the law. Hagel says, ''You cannot have one branch of government make the decision on whose rights would be violated. That's the very basis of having three co-equal branches of government.''

As for the judicial branch, the Bush administration, like previous administrations, has tried to appoint judges compatible with the President's views. But Bush has been strikingly successful at putting extreme conservatives on the bench, and probably now has four votes on the Supreme Court for his ''unitary executive'' rationale for executive authority over what the other branches do. His administration has several times told the Supreme Court that it should not hear the cases of detainees. Also by his appointments and by exerting pressure Bush has bent the supposedly independent regulatory agencies (the EPA, SEC, FDA, etc.) closer to his political views—in his case, pro-deregulation—than any president before him. The explicit rationale for these agencies is that they were to be independent of both the executive and Congress. There have already been two federal court rulings charging the EPA with defying federal environmental law.

As for the press, Justice Department officials have threatened to prosecute not only officials who leak classified information, but also anyone else who simply receives classified information, whether they disclose it or not. Gonzales has suggested that journalists might be prosecuted for disclosing classified information (for example, The New York Times reporters for revealing the warrantless wiretapping program). On May 16, ABC News reported on its Web site that the FBI had stepped up government efforts to seek reporters' phone records in investigations of leaks. Many reporters and editors find it ominous that the administration prosecuted two lobbyists for AIPAC, the American Israel Public Affairs Committee, for receiving such information (as well as passing it on to Israel), and that, in early March, the FBI demanded the papers of the late investigative reporter Jack Anderson.

Cheney and his chief of staff, David Addington, formerly his counsel, are understood by most informed observers to be mainly responsible for the expansive interpretations of the president's powers, as well as the unprecedented secrecy with which the administration conducts public affairs. According to The New York Times, after September 11 Cheney and Addington pushed for the wiretapping of domestic calls. A Republican lobbyist I talked to told me that the administration's attitude on various issues is simple: ''It's we just want it our way and we don't want to be bothered by talking to other people about it.''

Some Republican observers suggest that Cheney is living in a time warp, reacting to what he saw as congressional encroachment

(including FISA) on the president's powers during the time that he served in the Ford White House and as a minority member of a Democratic Congress. Despite rumors of a decline in his standing with Bush, Cheney remains the most powerful vice-president in American history, with an octopus-like reach into many parts of the government. He has placed his own people in each of the national security agencies—the Departments of Defense and State as well as the CIA and the National Security Council. (Until she recently took a maternity leave, his daughter Elizabeth was principal deputy assistant secretary of state for the Near East, a position that does not require Senate confirmation and from which people on Capitol Hill saw her as effectively in charge of the State Department's Middle East bureau.) Cheney installed Porter Goss in the CIA, with orders to root out people who leaked information inconvenient to the administration. It's difficult, however, to know much about what Cheney is doing because his office operates in such secrecy that a reporter friend of mine refers to it as a ''black hole.''

In Bush, Cheney has had a very receptive listener. Bush's own overweening attitude toward the presidency is clear from his behavior. He bristles at being challenged. He told Bob Woodward, ''I do not need to explain why I say things. That's the interesting thing about being the president. Maybe somebody needs to explain to me why they say something, but I don't feel I owe anybody an explanation.'' His comment, ''I'm the decider,'' about not firing Rumsfeld, is in fact a phrase he has used often.

Why have the members of Congress been so timorous in the face of the steady encroachment on their constitutional power by the executive branch? Conversations with many people in or close to Congress produced several reasons. Most members of Congress don't think in broad constitutional terms; their chief preoccupations are raising money and getting reelected. Their conversations with their constituents are about the more practical issues on voters' minds: the prices of gasoline, prescription drugs, and college tuition. Or about voters' increasing discontent with the Iraq war.

Republicans know that the President's deepening unpopularity might hurt them in the autumn elections; but, they point out, he's still a good fund-raiser and they need his help. Moreover, the Republicans are more hierarchical than the Democrats, more reverential toward their own party's president; it's unimaginable that Republicans would be as openly critical of Bush as the Democrats were of Jimmy Carter and Bill Clinton. Republicans are more disciplined about delivering their party's ''talking points'' to the public. Republican fund-raising is done more from the top than is the case with Democrats, and there's always the implicit threat that if a Republican isn't loyal to the president, the flow of money to their campaigns might be cut off. A Republican opponent can challenge an incumbent in a primary, in which not many people vote. Here Arlen Specter has shown unusual courage. He barely survived a conservative challenge in the primary election in 2004 (though Bush supported him), and then had to beat back a conservative attempt to remove him as chairman of the Senate Judiciary Committee because of his views in favor of abortion rights. He survived by promising not to let his pro-choice views hold up the judicial nominations before the committee. Specter told me, ''What I worry about most is the restrictions of Congress's constitutional authority, which the Congress doesn't resist.''

Bush's declining popularity can occasionally impel Republicans to try to seem independent of him—as, say, on the issue of Dubai being awarded a contract to administer U.S. ports; after all the administration's talk about security, this arrangement sounded outrageous in the American heartland, and members of Congress rushed to kill it. But the Republican legislators have also become convinced, in the words of one Republican senator, ''We've got to hang with the president because if you start splitting with him or say the president has been abusing power we'll all go down.'' Karl Rove has recently been arguing along these lines to congressional Republicans. In the end, a Republican lobbyist told me, Republican politicians feel that Bush is ''still their guy.'' The fierce partisanship on Capitol Hill also blocks serious discussion of the issue of unlimited executive power: many Republicans have concluded that the Democrats are exploiting such issues for partisan purposes and have dug in against them. On May 11, at a regular weekly luncheon of about twenty conservative senators, Senator Roberts denounced criticism of Bush's surveillance and data-collecting programs as ''dangerous'' and ''insulting'' to the President and charged the Democrats with treating national security as a political issue. Members of Congress who are protective of their institution and capable of looking beyond their parochial concerns—and who might have objected to Bush's encroachments on the legislative branch—are largely gone.

From the time of the vote on the Iraq war, many Democrats have been reluctant to be caught on the ''wrong side'' of ''national security'' issues, even those blatantly cooked up by the White House. It usually requires a strong public reaction, as there was on the subject of torture, for Congress to make a move against the President's actions. A Republican senator told me, ''There's a feeling on the Hill that the public doesn't care about it, that it's willing to give up liberties in order to defeat the terrorists.'' Some of the proposals offered on Capitol Hill for regulating the NSA wiretaps amount to little regulation at all.

At the center of the current conflict over the Constitution is a president who surrounds himself with proven loyalists, who is not interested in complexities, and who is averse to debate and intolerant of dissenters within his administration and elsewhere. (A prominent Washington Republican who had raised a lot of money for Bush was dropped from the Christmas party list after he said something mildly critical of the President.) A Republican lobbyist close to the White House described to me what he called the Cult of Bush: ''This group is all about loyalty and the definition of loyalty extends to policy-making, politics, and to the execution of policy—and to the regulatory agencies.'' The result, this man said, is that the people in the agencies, including the regulatory agencies, ''become robotrons and just do what they're told. There's no dialogue.''

The President's recent political weakness hasn't caused the White House to back away from its claims of extraordinary presidential power. The Republican lobbyist Vin Weber says, ''I think they're keenly aware of the fact that they're politically weakened, but that's not the same thing as the institution of the presidency being damaged.'' People with very disparate political views, such as Grover Norquist and Dianne Feinstein, worry about the long-term implications of Bush's power grab. Norquist said, ''These are all the powers that you don't want Hillary Clinton to have.'' Feinstein says, ''I think it's very dangerous because other presidents will come along and this sets a precedent for them.'' Therefore, she says, ''it's very important that Congress grapple with and make decisions about what our policies should be on torture, rendition, detainees, and wiretapping lest Bush's claimed right to set the policies, or his policies themselves, become a precedent for future presidents.''

James Madison wrote in Federalist Paper No. 47: ''The accumulation of all powers legislative, executive and judiciary in the same hands, whether of one, a few or many . . . may justly be pronounced the very definition of tyranny.''

That extraordinary powers have, under Bush, been accumulated in the ''same hands'' is now undeniable. For the first time in more than thirty years, and to a greater extent than even then, our constitutional form of government is in jeopardy.

TRIBUTE TO LIZ COVENTRY

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 2006

Mr. GARRETT of New Jersey. Mr. Speaker, it is with a great sense of pride and with an overwhelming sense of sadness that I rise today to pay tribute to the lifelong career of public service of Liz Coventry.

Liz has been a loyal supporter, advisor, friend, and confidante for nearly a decade. Throughout my years in the New Jersey State Legislature and my tenure in Congress, Liz has been an integral part of the team that I depend upon and my constituents look to for assistance and guidance. There is no job too big for Liz's breadth of expertise and knowledge—she can accomplish any task before her. And, there is no job too small for Liz—she is a true team player, pitching in whenever she can and wherever she is needed.

In her capacity on my Congressional staff, Liz has been a great help to countless constituents. She truly takes each individual case to heart. No one who sits with Liz at her desk ever feels like a case number; she gives each person a real personal touch.

Liz has also been organizing a number of special projects for Fifth District residents, such as the art competition and a veterans history project. Her dedication to the art competition is worthy of the art patronage of the Medici Family during the Renaissance. She makes everyone of these young artists feel like Michelangelo or DaVinci. And, her commitment to the veterans history project is unparalleled. She is a one-woman USO, making every veteran she speaks with feel like the marines at Iwo Jima.

Liz has recently decided to take a well-deserved retirement after years in selfless public service. I know that my whole staff, my constituents, and I will miss her dearly, but we wish her the very best as she takes this grand step.

PAYING TRIBUTE TO RUEDY EDGINGTON

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 29, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Mr. Ruedy Edgington as he leaves the Nevada Department of Transportation (NDOT).

Ruedy has been at the NDOT for 26 years. He has accepted a position as Parson Transportation Group's Area Manager. In his new