

Dick Cheney Still Threatens Our Democracy

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In his new book, [Daybreak](#), Swanson warns that Cheney radically transformed the role of the vice president into an unaccountable, dangerous seat of power.

The following is an excerpt from David Swanson's new book, [Daybreak: Undoing the Imperial Presidency and Forming a More Perfect Union](#) (Seven Stories, 2009), drawn from Chapter 8: "The Cheney Branch" on Dick Cheney's power grab and radical transformation of the vice presidency during Bush's presidency.

What was once a position to stand as back-up should the president die or become unable to serve is now, it would seem, a branch of government all of its own. On June 22, 2007, *Time* magazine ran an article with the headline "The Cheney Branch of Government," that began thus:

On the same day that the CIA announced it will soon release hundreds of pages of once-classified documents that detail some of the agency's most closely guarded — and controversial — secrets of old, it was revealed that Vice President Dick Cheney has been resisting even his own Executive Branch's efforts to find out what kind of secret material his office has been stashing away over the last four years.

Cheney's office, according to a story first reported by the Chicago Tribune, has resisted attempts by a tiny federal agency to compile information — in accordance with an executive order signed by George Bush himself — on the classified documents being held by the Vice President's operation. Cheney's office argued that the Vice President's office, because it has both executive and legislative branch duties, is exempt from the order. Cheney's dustup with the normally non-controversial National Archives and Records Administration is the latest reminder that Cheney believes he can play by his own rules. And it probably secures for Cheney a place alongside Richard Nixon in the Washington pantheon of secret-keepers.

Actually, Nixon doesn't even come close. Nixon never kept as much of our government secret as Bush-Cheney did, and when push came to shove, he gave up some of his secrets and left town. Nixon's former legal counsel John Dean agrees that the Cheney-Bush gang far surpassed Nixonian levels of secrecy and abuse of power. Not to mention lawyerly deviousness. Cheney claimed privileges supposedly belonging to the executive branch when it suited him. For example, he refused to comply with subpoenas because "the president and the vice president are constitutional officers and don't appear before the Congress." At other times, Cheney claimed to be part of Congress in order to avoid complying with rules governing the executive branch. Hence the conclusion that if Cheney belonged to any branch it had to be the hitherto unheard of Dick Cheney Branch, which perhaps existed in

Cheney's well-known "undisclosed location." Speaking of which, the fact that there's not a snowball's chance in hell that Vice President Joe Biden will reveal the nature of the bunker Cheney created at the vice presidential residence makes a nice analogy for how power accumulates from one ruler to the next. It's much easier to create and pass down than it is to refuse. Still, the first few months of the Obama-Biden administration gave every indication that Biden would not exercise the sort of power that Cheney had.

All in all, Dick Cheney dramatically enlarged the powers of the vice presidency, claiming for it authority that rightfully belongs to other sections of the government, or to no section of government at all. These powers will lie around like a loaded weapon on the vice presidential estate and in the White House. These powers may be abused by any new *duumvirate* in the near or distant future.

In the Constitution the vice president is given the succession to power should the president be removed from office, but he or she is also made the president of the Senate and given the power to break a tie there. Had Dick Cheney gone out of his way to comply with the rules governing both the executive and the legislative branches, probably nobody would have complained (although some of us might have fainted from shock). There wasn't any actual conflict between the vice president's two roles of breaking ties and sitting around until the president died. Cheney didn't need to keep his executive activities secret in order to properly preside over the Senate. He simply latched onto an excuse, regardless of how nonsensical, and proceeded to do as he chose. The legislative duties of the vice president were also expanded under Cheney from hanging around in case he needed to break a tie vote to participating in Republican caucus meetings, often bringing presidential advisor Karl Rove with him. Senator Patrick Leahy said he believed this new involvement was meant to encourage Republicans to put party loyalty ahead of institutional loyalty. In addition to this legislative power, executive branch duties of the vice president in the case of Cheney expanded to include presidential power.

The executive branch role of the vice president has become more widely recognized than the legislative. So it is easy to suppose that the best way to eliminate the Cheney branch would be to eliminate the vice president's legislative duties or give precedence in cases of conflict to the rules governing the executive branch. We could amend the Constitution to require the vice president to comply with all laws and rules applying to both branches, and to give priority to rules governing the executive branch should some actual conflict arise.

I think there might be a better solution than that one.

When vice presidential candidate Sarah Palin declared that the vice president was in charge of the Senate, she was mocked and ridiculed. Of course she also foresaw a large role for herself on a President McCain team, but it's possible that her widely criticized comment about the Senate actually came closer to an appropriate description of the proper and desirable role of a vice president. It might be more useful to restrict the veep to his or her legislative role than to focus on the executive role or permit the combination of the two. Glenn Harlan Reynolds proposes that Congress solve the Cheney Branch dilemma by prohibiting the vice president from exercising any executive power. This would keep the spare president untainted by involvement in abuses committed by the president, whereas the current system makes it difficult to impeach either the president or vice president without impeaching the other one as well.

The framers of the Constitution intentionally chose to have a single executive — not a pair, not a triumvirate, not a council. The main reason for this choice was in order to better control the executive and to be able to hold him responsible for everything done by himself and his subordinates, including the vice president — although the role of the vice president was generally considered to be that of waiting around in case the president died. Presidents and vice presidents did not originally run for election as a ticket from a party.

On December 20, 2005, on board Air Force Two, Cheney spoke to reporters about his creative notions of presidential power. “The President of the United States,” Cheney said, “needs to have his constitutional powers unimpaired, if you will, in terms of the conduct of national security policy. That’s my personal view.” So much for checks and balances. Unimpaired, if we will.

Cheney did not defend the secrecy of his energy task force on the grounds that it was about national security. He defended it on the grounds that the president can get more honest advice, presumably on any topic at all, if that advice is given secretly: “My belief [is] that the President is entitled to and needs to have unfiltered advice in formulating policy, that he ought to be able to seek the opinion of anybody he wants to, and that he should not have to reveal, for example, to a member of Congress who he talked to that morning.”

Of course, Congress had never asked to know who the president had talked to on some random morning. Congress wanted to know who the vice president had talked to in a meeting setting energy and military, and therefore financial and foreign relations, policies for the United States, for the next decade at minimum. But the vice president claimed that people are more honest behind closed doors and that the president needed honest advice — even though common sense might suggest that people are more honest in the light of day, and Cheney had carefully badgered “intelligence” analysts to secretly give the president dishonest advice about Iraq.

But that wasn’t all Cheney had to say. He also implied that even if the president’s claims might have been unjustified in normal times (perhaps some moment in the past with Russian nukes or Japanese planes aimed at the United States), the incredible dangers of today called for breaking the rules: “I believe in a strong, robust executive authority. And I think the world we live in demands it. And to some extent that we have an obligation as an administration to pass on the offices we hold to our successors in as good a shape as we found them.” Now there’s slick for you. We have to seize unconstitutional powers because the world is dangerous right now, and we have to pass those powers on to future presidents because . . . well, because I say we have that obligation.

Still cruising along on Air Force Two, Cheney was asked about the secret illegal warrantless spying programs that he and his sidekick had created. I will preface his answer with an oldie but goodie, straight from the father of the modern signing statement, former attorney general for President Ronald Reagan, Ed Meese: *USNews* had asked in 1985, “You criticize the Miranda ruling, which gives suspects the right to have a lawyer present before police questioning. Shouldn’t people, who may be innocent, have such protection?” Meese replied: “Suspects who are innocent of a crime should. But the thing is, you don’t have many suspects who are innocent of a crime. That’s contradictory. If a person is innocent of a crime, then he is not a suspect.” How’s that for an attitude to discover lurking in the brain of the top law enforcement officer in the country? Here’s what Cheney said: “It’s important that you be clear that we’re talking about individuals who are al-Qaeda or have an association with al-Qaeda, who we have reason to believe are part of that terrorist network.

... It's not just random conversations. If you're calling Aunt Sadie in Paris, we're probably not really interested.... [O]ur obligation and responsibility given our job is to do everything in our power to defeat the terrorists. And that's exactly what we're doing."

Cheney was out to "defeat the terrorists," and so, in all areas of governing, we were supposed to take his word that everything they were doing in secret was being done exactly right. Well, illegal spying and wiretapping was not all that Dick Cheney was doing. After having served as secretary of "defense" and having given Halliburton, now a well-known corporation, the contract to draw up a plan calling for giving more contracts to companies like Halliburton, Cheney revolved out the revolving door to spend five years as Halliburton's chief executive, during which period the company illegally conducted major oil and construction business with Iran, Iraq, and Indonesia and illegally sold nuclear technology to Libya. Cheney left his Halliburton job, taking a \$33.7 million parting gift, to return to government as vice president, in which position he directed the Pentagon to grant no-bid contracts worth many billions of dollars to Halliburton. For at least two years as vice president, Cheney received hundreds of thousands of dollars from Halliburton in "deferred compensation." Did Cheney do anything improper? Of course, but he doesn't think you'll mind. He continued his defense of illegal spying thus:

But if there's anything improper or inappropriate in that, my guess is that the vast majority of the American people support that, support what we're doing. They believe we ought to be doing it, and so if there's a backlash pending, I think the backlash is going to be against those who are suggesting somehow that we shouldn't take these steps in order to protect the country.

The backlash of the 2006 and 2008 elections proved Cheney wrong, but not wrong enough. We need a much larger and more sustained backlash against lying us into illegal wars, torturing human beings, recklessly exacerbating global warming, bribing and distorting the news media to mislead us, punishing whistleblowers, and profiting financially from the suffering inflicted on others. During the Cheney-Bush reign, the Pentagon and other departments displayed not only the traditional photo portraits of the president and the head of the department, but also a third: that of Dick Cheney. We need to take that picture down, and not replace it with Joe Biden's or anyone else's.

David Swanson is the author of the new book "Daybreak: Undoing the Imperial Presidency and Forming a More Perfect Union" by Seven Stories Press. You can order it and find out when tour will be in your town: <http://davidswanson.org/book>

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