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THE WEEKEND INTERVIEW

A Strong Executive

Does Watergate's legacy hinder the war on terror?

BY JAMES TARANTO

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WASHINGTON--In the vice president's office in the West Wing of the White House hang portraits of John Adams and Thomas Jefferson--or "No. 1 and No. 2," as the current occupant of the office calls them. No. 46, Richard B. Cheney, sat at his desk Tuesday morning for an interview with Paul Gigot, editor of this page, and me.

A day earlier, the vice president had attended a farewell dinner for Alan Greenspan, who steps down next week after more than 18 years at the Federal Reserve. Our conversation began with Mr. Cheney reminiscing about when, as a 30-year-old appointee in the Nixon administration, he first met Mr. Greenspan, then an economist consulting for the government. "I was the assistant director of the Cost of Living Council in charge of operations"--that is, of administering wage and price controls. "I had about 3,000 IRS agents trying to enforce those damn things," Mr. Cheney recalls with rueful humor. "I don't put [it] on my résumé."

Not that Mr. Cheney, who turns 65 on Monday, has any need to pad his résumé. In 1975 he became President Ford's chief of staff, at 34 the youngest man ever to hold that job. Three years later he ran successfully for Wyoming's House seat. He served just over a decade in Congress, and in January 1989 he became minority whip, the No. 2 Republican. Two months later, George H.W. Bush tapped him as defense secretary. After spending the Clinton years in the private sector, Mr. Cheney returned to government with the help of another George Bush.

This career path gives Mr. Cheney a unique perspective on today's debate over executive vs. legislative power. He formed his views on the subject during the Ford administration, a time when presidential authority was ebbing. "In the aftermath of Vietnam and Watergate . . . there was a concerted effort to place limits and restrictions on presidential authority--everything from the War Powers Act to the Hughes-Ryan Act on intelligence to stripping the president of his ability to impound funds--a series of decisions that were aimed at the time at trying to avoid a repeat of things like Vietnam or . . . Watergate.

Ismael Roldan



"I thought they were misguided then, and have believed that given the world that we live in, that the president needs to have unimpaired executive authority. It doesn't mean, obviously, that there shouldn't be restraints. There clearly are with respect to the Constitution, and he's bound by those, as he should be. . . . But I do think the pendulum from time to time throughout history has swung from side to side--Congress was pre-eminent, or the executive was pre-eminent--and as I say, I believe in this day and age it's important that we have a strong presidency."

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That lesson was reinforced for then-Rep. Cheney in 1987, when he was the ranking Republican on the congressional committee investigating the Iran-Contra scandal. Democrats accused President Reagan of violating the Boland amendment, intended to prevent aid from reaching Nicaragua's anticommunist guerrillas. "If you go back and look at the minority views that were filed with the Iran-Contra report, you'll see a strong statement about the president's prerogatives and responsibilities in the foreign policy/national security area in particular."

Today some argue that the Bush administration finds itself in a roughly analogous position. Critics of the National Security Agency's surveillance of terrorists claim that the administration is violating a statute, the Foreign Intelligence Surveillance Act of 1978, that purports to limit the president's power to act in the interest of national security. That power, Mr. Cheney counters, is inherent in the office: "The combination of the president's constitutional authority under Article II as commander in chief, the resolution Congress passed after 9/11 [authorizing the use of force against al Qaeda], as well as the historical precedent that all presidents have claimed in terms of their authority with respect to intercepting enemy communications" all establish "ample justification for the NSA program."

Does this mean the vice president endorses the argument made in the 1970s by former Deputy Attorney General Laurence Silberman that FISA may itself be unconstitutional because it empowers judges to overrule presidential decisions on national security? "That's an interesting issue," Mr. Cheney says. "There are a number of propositions . . . that never really get tested, like the War Powers Act. Everybody sort of walks around the edges of it, but we never really have a confrontation over it."

After 9/11, surveillance of terrorists would seem an odd subject for a confrontation. Mr. Cheney explains that the program in question is quite modest: "This notion [is] peddled out there by some that this is, quote, 'domestic surveillance' or 'domestic spying.' No, it's not. It is the interception of communications, one end of which is outside the United States, and one end of which, either outside the U.S. or inside, we have reason to believe is al-Qaeda-connected. Those are two pretty clear requirements, both of which need to be met."

Mr. Cheney says key members of Congress--the chairmen and ranking members of the House and Senate intelligence committees, and sometimes both parties' top leaders from each chamber--were fully informed. "These sessions with Congress, most of which I presided over . . . answered every question that they wanted to ask. We've always said, look, if there's anything else you need to know, just let us know."

The lawmakers, Mr. Cheney says, shared the administration's view that secrecy was essential. "Public debate and discussion about the program would have done--in our view and in the view of members of Congress who were consulted--damage to our capabilities in this respect. We'd rather not have *this* conversation about this program, except for the fact that the New York Times went public with it."

Yet after the Times broke the story, Democratic members of Congress changed their tune from the one Mr. Cheney says they had sung in private. Sen. Jay Rockefeller, the top Intelligence Committee Democrat, released a handwritten July 2003 letter to Mr. Cheney in which he said he was "writing to reiterate my concern regarding the sensitive intelligence issues we discussed." We asked Mr. Cheney if he remembered Mr. Rockefeller iterating his concern in the first place. "No, I recall the letter just sort of arriving, and it was never followed up on."

Meanwhile Rep. Jane Harman, Mr. Rockefeller's House counterpart, has opined that the administration broke the law by failing to brief every member of the intelligence committees. Says Mr. Cheney, "If we had done that since the beginning of the program back in '01--I ran the numbers yesterday--if we did the full House and Senate committees, as well as the elected leadership, we'd have had to read 70 people into this program" instead of eight or nine. Expecting that many congressmen to keep a secret