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## **Missing the Point on Government Power**

**by Scott McPherson**

Opposition to the USA PATRIOT Act has spread throughout this country. Around the nation, Americans are joining together to send a clear message to Washington that expanding federal powers at the expense of personal liberty in the name of security in the post-9/11 world is not only unnecessary, but a direct threat to our way of life.

This was the topic of discussion at the second Spring Political Issues Forum held at City Hall, in Falls Church, Virginia, on March 25, hosted by the Falls Church *News-Press*. The guest speaker at this forum was David Cole, author of *Enemy Aliens* and coauthor of *Terrorism and the Constitution*, professor at the Georgetown Law Center, volunteer staff attorney for the Center for Constitutional Rights, legal affairs correspondent for *The Nation* magazine, and a frequent commentator for National Public Radio.

I had the pleasure of attending this event, and found Cole's presentation, entitled "Enemy Aliens and American Freedoms: How the War on Terrorism Has Undermined Our Freedom and Our Security," both valuable and insightful.

The focus of the talk was the U.S. government's use of immigration law to single out a specific group of people, namely Arabs and people of Middle Eastern descent, for persecution and harassment. Cole provided an excellent overview of the way in which federal officials have used these laws to arrest and detain thousands of innocent foreign residents, denying them access to attorneys or any other semblance of due process, all in the name of fighting terrorism.

In Cole's view, the provisions of the PATRIOT Act giving federal agents the power to pry into Americans' library records or "sneak and peak" into their homes and personal computers were not the worst aspects of that law. Rather, it was the many arrests, deportations, and general harassment of certain immigrants and their communities that should most shock the conscience of freedom-loving Americans.

The current environment, noted Cole, provides Americans with a worrisome tradeoff. Americans are being asked not to decide which freedoms they will sacrifice for greater security —

they're being told that by sacrificing the freedoms of foreigners, they will have greater security. The end result, he indicated, will be a government with the ability to use its new powers against citizens as well.

But for all the sense he made, I couldn't help but feel that Cole failed to see the larger picture. He did a wonderful job of showing how the Bush administration has eroded constitutional protections of privacy and due process and used the awesome powers of the federal government to engage in ethnic profiling and harassment and imprisonment of immigrants.

But his approach betrayed his politics. It quickly became obvious that Cole is a leftist of the ACLU variety, and his talk a means to bash President Bush and his cronies rather than show the true threat to freedom posed by a powerful central government that views individual liberty as an obstacle to national security.

This first point became obvious by Cole's use of language. Not once, speaking for more than an hour, did he ever refer to individual rights as being threatened by the PATRIOT Act, "PATRIOT II," TIPS, or the government's Total Information Awareness proposals. He was more concerned that few Americans were outraged over the way the federal government was treating foreigners. "We're not respecting basic human rights," was his constant refrain.

He even felt the need to say that in America we have "moved away" from a "natural rights" approach to liberty in favor of a "human rights" approach, which is left-speak for saying that we should take our cue on rights from organizations such as the ACLU, Amnesty International, and the United Nations, rather than from such "archaic" documents as the U.S. Constitution, Declaration of Independence, and Bill of Rights. Cole did not give the impression that he was bothered by this development, making his view on the issue suspect.

During the question-and-answer session, he even said that he did not oppose a national identification card, and, like Nadine Strossen of the ACLU, said that he was not bothered by the government's stop and search powers — so long as they weren't used discriminatorily. Apparently, tyrannical measures aren't so bad — if applied equally.

While discussing the fact that anti-Americanism has reached a peak never before seen in the world, Cole suggested that it was America's "unilateral" actions that had prompted such bitter resentment. "We're a law unto ourselves," was his complaint. In other words, interfering in the affairs of foreign countries isn't so bad if it is done under the auspices of the United Nations. Again, the UN becomes the great measuring stick of objective truth and justice. That the Founding Fathers spoke warningly and at great length about foreign entanglements was omitted from the discussion.

In fact, not once did Cole ever mention our nation's founding ideals until, in the last 30 seconds of the evening, he referred to the PATRIOT Act and other anti-terror legislation as a danger to "the principles this country was based on." To hear him tell it, the only real threat to freedom has come since the terrorist attacks of September 11, 2001.

And that is where Cole, like so many in this country, and particularly those who are so riled about the PATRIOT Act and its ilk, fail to draw the proper parallels about the threats posed by the “war on terror” and the dangers to a free society inherent in any expansion of government power.

It’s not that the Bush administration’s actions are not a threat to freedom — they certainly are. Likewise, the targeting of immigrants for political expediency reminds one of the internments of Japanese-Americans during World War II (carried out under a Democratic president with bipartisan support) and the embarrassing marks left by such events on our nation’s history.

The real point that needs to be understood, however, is that oppressive government is a nonpartisan issue. Republicans and Democrats alike are more than happy to use force and coercion to stamp out the “evildoers” of the day, and always at the expense of the “principles this country was based on.” It’s ludicrous to talk so ominously about the menace of Big Brother without simultaneously acknowledging the peril to freedom that is posed any time government exerts greater power over the citizenry.

Consider just two examples. First, there’s the individual income tax. In direct contradiction to the very idea of a limited government, every single American is required each year to open, under penalty of law, his entire financial life to the prying eyes of government bureaucrats and pay up, on demand, whatever the Internal Revenue Service claims he owes, with little meaningful recourse to the law. The IRS enjoys powers that would make the KGB blush, including the “right” to extract information from “suspects” without a warrant and to seize property without due process — and this has been going on for decades.

In 1984, IRS agents actually kept parents from taking their children out of the Engleworld Learning Center in Allen Park, Michigan, until they agreed to pay to the IRS their outstanding debt to the day-care center — to cover taxes owed, not by the parents (that would have been bad enough), but by the center. Outrageous acts by IRS agents such as this could be recounted at length, without so much as a peep about “human rights” from the political Left.

Then of course there’s the “war on drugs.” In its zeal to persecute (certain) drug users and suppliers, the federal government has been attacking individual liberty for a quarter-century to a far greater extent than any “anti-terror” measures introduced in the last two and a half years. Asset forfeiture, paramilitary-style police raids, militarization of the police, expanded wiretap authority, the use of paid informants, and imprisonment of hundreds of thousands of American citizens for what amounts to nothing more than a political crime — yet they elicit no outrage from folks at the ACLU or the Center for Constitutional Rights.

The Left’s mounting resistance to the PATRIOT Act and its offspring is certainly welcome, but this growing popular movement should be about much more than scoring political points against a Republican president and promoting a social agenda. What is needed in this country is a fundamental rethinking about the meaning of freedom and the role of government in the lives of

free people. Much more is at stake than just the effects of the USA PATRIOT Act and threat to liberty posed by a government trying to provide greater security. A government powerful enough to take away one person's rights is truly powerful enough to take away everyone's rights, which is precisely why we should always distrust powerful government.

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