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## **The Empire Has No Clothes: U.S. Foreign Policy Exposed**

by Ivan Eland

*The following is a transcript of a speech given at The Future of Freedom Foundation's June 2007 conference, "Restoring the Republic: Foreign Policy & Civil Liberties" held in Reston, Virginia.*

**Jacob Hornberger:** Our next speaker, Ivan Eland, is Senior Fellow of the Center on Peace and Liberty at the Independent Institute, which is one of the foundations that have stood four-square and steadfast in favor of individual liberty and limited government, especially since 9/11. Has been one of those ones that has just been the real champions of the Libertarian organizations. He is also the assistant editor of the *Independent Review*, which is published by the Independent Institute. He's a graduate of Iowa State University and received an MBA in applied economics and a PhD in national security policy from George Washington University. He has been director of defense policy studies at the Cato Institute, principal defense analyst at the Congressional Budget Office, and an investigator for the House Foreign Affairs Committee. The title of Ivan's talk is "The Empire has no Clothes: U.S. Foreign Policy Exposed." Ivan Eland.

**Ivan Eland:** Thanks a lot. Well, it's a delight to be here today, to talk to everybody on this subject. The title of the talk is just basically my book. However, I am going to talk a bit about that, but I'm also going to talk about another project that I'm working on, and the working title is "Recarving Rushmore: Presidential Greatness Reconsidered." And yesterday, somebody mentioned that perhaps Rushmore ought to be changed. And I was delighted with that, because I think that we should probably remove three of the people on that. And you might be surprised which one I would keep, actually. But anyway, I'll get into that later.

The first part of the talk, I am going to talk about the things in my book, because it's very applicable to this. And then I'm going to go into a specialized area, which is also very applicable, but it's more towards my current area of research. My book basically is a history of

foreign policy, which Ralph Raico already gave yesterday, history of U.S. foreign policy, in the first chapter. But then I have other chapters saying why conservatives should be against empire, why liberals should be against empire, and why everyone else should be against empire. And it's written, not for Libertarians per se, it's written for a wider audience, obviously. I had erroneously assumed that Libertarians would naturally eschew empire, but of course, the Iraq war has brought out the fact that some Libertarians don't. So perhaps I should have included a chapter for Libertarians as well.

And I'll just basically go into some of the things that I say in the chapters, and then I'll move on to the second part of the talk. To conservatives, I say well obviously empire overseas causes big government at home. And I don't just mean increased defense spending, increase in foreign aid. But also, you find over history that getting into foreign wars actually increases domestic spending. And the classic case is right now. George Bush, as we all know, has just turned on the spigots domestically as well as in defense spending. And most of the defense spending of course has nothing to do with fighting the War on Terror.

So conservatives should be concerned about big government at home increasing when we have these foreign adventures. The second thing, and I think many conservatives don't focus on this, and that is that any war is not necessarily good. In fact, over time, empires have declined either because they lost wars, such as Nazi Germany or Imperial Japan. But many times empires have declined after they won wars and became so depleted in resources, because as we all know, the economic engine is really the driver of national power. And of course, Britain is a classic case in point. After becoming involved in two world wars, it was sapped of all its energy and declined, and the French as well. So I think this overextension could lead to a decline in power.

Now, of course, we're more friends of liberty than power, but many conservatives, national greatness conservatives of course, are into national greatness, national power. And they should be a little bit more cognizant of the fact that unnecessary wars can sap your power and lead to decline. And I think we see the overstretch now in Iraq. I mean, this is a small country, and it's really stretching our military beyond belief, when in combination with the other intervention in Afghanistan. So our armed forces, as they get more complex and the military keeps buying more and more expensive items, the forces get smaller. And the military just procures things like that because they never want to make a cheap anything. So there's less and less forces to fight more and more of these brushfire wars.

And of course for liberals, I usually use the civil liberties saying-- and the theme of this conference is very important because it really-- we always think of all the casualties in Iraq. We've got thirty-five hundred dead, or almost that, in Americans. And of course, we don't even bother to keep track of how many Iraqis have been killed. So all these people have been killed, and people rightly focus on that. But they don't focus also on the war's effect on the civil

liberties and the closing down of liberty here at home. And that's probably the most severe effect, even above the casualties for the long term. And of course, we all know that, and I'm not going to dwell on that. But there's a rich history of many foreign wars resulting in civil liberties erosion at home. World War I was probably the worst. The Civil War was really bad as well. World War II was less so, except if you were a Japanese American, then of course it was bad, but it was still severe. And of course, we have civil liberties violations even today with the War on Terror. And I'll get into that a little bit later.

The chapter for everyone else, I basically go into that we're getting blowback from our own foreign policy, the terrorism on 9/11. Now, lots of people don't like to talk about this in the mainstream media. And as you saw the other night when Ron Paul mentioned it, he was regarded as a kook for mentioning it. And Rudy Giuliani made fun of him. But of course, Ron Paul was right on target. And this type of blowback is liable to get worse now, with the Iraq fiasco. So that's yet another reason why we don't want to do these things. I'm really going into the practical aspects of this. And I think now, from a geostrategic point of view, people say "Well, we have this interventionist foreign policy and it's left over from the Cold War and we can't get rid of it." Well, I think we should really reassess that.

And of course, we have all sorts of institutional factors that are pushing this. You know, weapons sales, we have a military industrial complex that Eisenhower warned about. And of course, that's a real factor in trying to get rid of some of this stuff. And then if you have the military forces you'll get people like Madeleine Albright saying, "Well, we have this big, beautiful military, why don't we use it?" The U.S. is the only country on the globe that can do these things, so we have an obligation. I get told that by Europeans all the time, "Well, you have the obligations of a superpower." And they're stunned when I say, "Well maybe we should be less of a superpower and let you be more of a superpower." So, you know, they don't hear that from Americans very often, because most Americans are content, apparently, to pay for this type of national greatness. Except, as I say, it may not turn out that the-- it shortens the national greatness.

But now that the Cold War is over, even if you make an argument, as many did during the Cold War, that you needed this interventionist foreign policy to combat the Soviet Union, of course there's one significant factor and that's the Soviet Union's not there anymore. But of course, we've expanded the empire with the expansion of NATO, new bases in Central America, tightening up our alliances in East Asia, etc. So the cost benefits though, I think have changed. In the Cold War you could make some argument for that. I'm not an advocate of that, because I think there was an alternative way that we could have conducted ourselves with the Soviets, at least the U.S. government could have conducted itself with the Soviets, that would have cost a lot less money and probably would have had a better effect in collapsing the Soviet Union faster. But after the Cold War was over, there was absolutely no reason for so many foreign interventions. And of course, the number of foreign interventions went up after the Cold War,

which tells you that the U.S. is really an imperial power. It's an informal empire, which I go into in my book, which is different than a formal empire that the Romans and the British had, but it's an empire nonetheless.

And so we have an increase in these interventions after the major enemy has gone away. In fact, we've moved into the sphere of the enemy. We've now incorporated many of the old Warsaw Pact countries and some parts of the Soviet Union into NATO. So we're filling this void. If anything, we're going towards more interventionism. But the advantages of that have declined, because we don't really need to do it because of this overarching enemy. And I think the costs have increased dramatically for the people here at home when we get the blowback, like 9/11.

In 1998, I did a study when I was working at Cato and I documented over 60 instances of where U.S. foreign policy resulted in blowback terrorist attacks. I then warned of a catastrophic terrorist attack if we didn't stop this. And that was three years before 9/11. Now, I didn't predict the method of attack or anything like that. But I do think if it's obvious to me, it's probably obvious to other people that this is a very poor policy. And in fact, empire does not equal security, in fact just the opposite. And I think the costs and benefits of doing this have changed, and we really ought to reconsider the policy.

Now of course in response, when I give this argument-- and I live here in Washington, when I give this argument, either overseas or here in Washington, you get platitudes in response. People will say, "Well, the world's become more interdependent, we can't be like ostriches and stick our head in the sand, because we could have another Hitler pop up, and we've got to be vigilant and all that." And I say, "Well, yes, the world has become more interdependent." We have increased trade, increased investment, increased financial transactions. We have increased cultural interactions. And of course, transportation has become much better, so people can get everywhere more easily and more cheaply. So we have more people traveling to other places.

But there's one area that the interdependence hasn't increased, in fact it's decreased. Cross-border aggression has dramatically decreased after World War II. And part of the reason for that, I think, is because there is more international law than there was before. But the major reason is nuclear weapons. Now that's unfortunate, but it does tend to make countries more hesitant about getting into each other's business. You'll notice that we're treating North Korea much differently than we did Iraq. And I asked Don Rumsfeld one time at a meeting, before the war, I asked him about that. And I got a long rambling answer. But the real reason for that is that North Koreans have nuclear weapons. That's not a good thing, but it does tend to moderate cross-border aggression. So if people are less likely to attack us here at home, then our government should be less interventionist overseas. Because we have our own arsenal of nuclear weapons which is-- really, no one's even close to our arsenal.

And plus, we have the traditional things that George Washington mentioned, you know, we're away from the centers of conflict. We have two large moats of oceans. And it's very hard to run amphibious assaults, as some of you are probably aware. It's probably one of the most difficult military operations, simply because even over a small body of water-- the invasion of Normandy almost didn't work, and think about doing it across the Atlantic or Pacific Oceans. Now, you have long-range air power, but we do have our own long-range air power, and we also have nuclear weapons, which will deter anyone from attacking the United States. We also have weak and friendly neighbors of Mexico and Canada. So we have a very advantageous security position here, and we ought to take advantage of it, I think. And with the drop in cross-border aggression, I think the world has become less interdependent in that sense, and that's a positive development.

Now, I think within that we need to reduce our nuclear arsenal and get other countries to do so. But certainly we should be taking these factors into account and saying, "Is this interventionist foreign policy?" We just rely on platitudes, and that's what you hear in Washington. We have to be a leader, we have to get involved in the world, we can't be isolationists. And of course, somebody mentioned yesterday that isolationists, the use of that term is a one-word killer for anybody who's arguing for military restraint. And it was developed as that by Alfred Thayer Mahan, who was a famous U.S. Naval strategist in the late 1800s, and who coined this phrase to promote his own view by knocking other people's down. But of course, we need to think rationally about the costs and benefits and what we ought to be doing. And we ought to be pressuring our government to restrain itself.

Now, the one other thing that I think that this interventionist foreign policy has done is create the imperial presidency. And I'm going to discuss that, because that segues into my other work on the presidents. The problem that we have is that the President is now more powerful than the founders ever wanted to him to be, and the Executive Branch along with him. And the real problem that we have here is that war has distorted and contributed to this over time. Now, the checks and balances are very important for our republic because governments, I think, behave much the same whether they're in America, Germany, Russia. It's just that our system is supposed to have checks and balances built in so that we have countervailing pressures of the Congress, the Supreme Court, the state governments, that sort of thing, to dilute the power of the federal government.

Now, Libertarians often rail against federal power, and that's very appropriate. But I think we ought to be more specific. What we really have a problem with here is executive power. True, Congress doesn't do the right thing, they pass bad laws, they pass pork. We all make fun of politicians. But the real problem is with the Executive Branch. Its exponential growth, and it's really, as I say, usurped all the other branches of government. I think we're slowly headed down the road of the Roman Empire, where power passed from the assembly to the senate to the dictator, to the emperor. And it did so largely because the Roman Empire became militarized.

And all these generals with their armies came home, they had civil wars, liberty was eroded. And of course, the same problem is happening here, only very slowly. And I think that's very insidious, because if you're in the bathtub and you keep turning the water up, you don't feel it as it goes up. And then all of a sudden, you know, you're scalded. And I think it's the same problem.

Now, as I mentioned, war is a major problem with this, and has caused this expansion of executive power. The first three presidents, Washington, Adams, and Jefferson, they actually made the presidency more powerful than the founders had intended. In the Constitution, if you look at the Constitution, Article One is the Congress, not the Executive Branch. And the Congress has all these enumerated powers, and the president has very few enumerated powers. Well, of course the founders, their conception was that the federal government wouldn't do all that much unless it was specifically mentioned. Well of course over time we got around to that, we got away from that. And now we're having a commander-in-chief who is saying "Well, we've got all these inherent powers in my role as commander-in-chief. And therefore it's not really written in the Constitution, but it doesn't really say I can't do it." So they've flipped the decision rule, saying that "if it's not there, I can do it," rather than, "it has to be there or I can't do it."

Now, after these three presidents, after Jefferson, the Congress asserted its power. And for most of the 1800s, with the exception of the presidency of Jackson and Lincoln, we had a congressionally dominated system. Presidents kept with the constitutional design of having a weak president, an administrator. And Richard Ebeling just said that the 19th Century was a century of liberty overseas, of a lot of different countries, and that explains the peace. And I agree with him. But I also think here at home, congressional government explains some of that as well. If you have congressional government and war, the arrow goes both ways, it's a double-headed arrow. Because I think congressional government tends to lead to more peaceful times. But also, more peaceful times lead to congressional government because you don't have the need for an executive with a lot of power to run a war. And wars are not run well by legislators, because there's a lot of different people, there's 535 in our legislature, and you can't have 535 generals. So naturally, warfare centralizes power. And that's what happened in American history. And so we really have this concentration of power, and it's become an imperial presidency.

Now I'd like to chart that for a little bit through history, and I'll look particularly at foreign policy. We have this conception, and you'll hear it on the news, that the president is the sole voice of foreign policy, or the sole organ of foreign policy for the U.S. Government. Well, the founders would just pass out if they saw that. The Constitution gives the president the power of being the commander-in-chief, to nominate ambassadors for overseas, and to receive ambassadors here. It gives the Congress the power to regulate international commerce, declare war, raise armies and maintain a navy, make the regulations for the armed forces, call up the

militia, suspend habeas corpus in times of rebellion and invasion. So it would seem to me that it would be quite the reverse, that Congress has a lot of power intrinsically in the Constitution in foreign policy. And of course, the founders meant this commander-in-chief role for the president to be very narrowly focused on the battlefield. And of course, this has expanded, and I'll talk about it a little bit more later.

So really, what we have here is this congressional government, except in the 19th Century, except for the presidency of Jackson and Lincoln. Now Jackson had the little problem-- they both had the same problem. In the case of Andrew Jackson, South Carolina was nullifying a federal tariff, and Jackson used a lot of coercive techniques to bring South Carolina back into the fold. He threatened to hang all the people in South Carolina who were advocating that. And he readied the nation for war by mobilizing the military to take a military action. And of course, South Carolina backed down. Of course, we have the Lincoln example, which our next speaker will get into much more than I. But Lincoln was a virtual dictator, using censorship, closing newspapers, throwing opposition people in jail, suspending habeas corpus in non-combat areas without congressional approval. And of course, he accepted that the Congress during that period instituted the income tax. And then Lincoln, of course, expanded the army unilaterally and called it the militia, without congressional authority, which of course caused the northern tier of southern states to secede.

So many of these aggregations of power, in these two instances, they set bad precedents. And these precedents will be dredged up in future American history. For instance, the income tax keeps coming back later on. But much of this aggrandizement of executive power kind of withered away after the Civil War. Now, it didn't totally wither away, and it's latently sitting there, these precedents, to be dredged up later. In 1860, before the Civil War, that may have been the nadir of the federal government. It was very small and very weak before the Civil War. And of course, the Civil War had this, you know, they had to raise massive armies and that sort of thing. And so we had this problem. But it wasn't like later on, when the government tended to stay around in massive proportions after a war.

So the congressional government resumed again from the Civil War until the Spanish-American War. And the Spanish-American War was a very small war, but it had really large implications. First of all, it was the first, well citizens of Hawaii might argue this, but it was really the first colonial war. And we got an overseas empire from it, that was the first problem. The second thing was that it created a much more powerful presidency. Many historians call Teddy Roosevelt the first modern president because he used the bully pulpit, etc., and his charisma to get what he wanted. But actually, McKinley, who was a much more soft-spoken president, I think is a much more important president than Teddy Roosevelt because he really institutionalized a more powerful presidency, which then Teddy Roosevelt combined with his charisma to publicize.

For instance, McKinley, he was the first president to go on a speaking tour. Previous to that, it was considered unseemly for presidents to address the public unless it was a ceremonial thing like the Gettysburg address or that sort of thing. But McKinley went out, and he went on a speaking tour. He really invented the bully pulpit for the U.S. president to promote his policies. And as I mentioned, Teddy Roosevelt copied him in that. McKinley also strengthened the presidential bureaucracy, and he was the first president to court the press in a major way. He created a press office in the White House especially designed to do this. So we have this ending of the era of congressional government with the Spanish-American War. And of course, then after the Spanish-American War we got Teddy Roosevelt, and he was a very activist president.

Of course, the big change though came when Woodrow Wilson mobilized the American economy for World War I. This was the first time that the American economy had been mobilized totally for a war, because warfare had reached such a large scale. This didn't even happen during the Civil War. And of course, Wilson was able to get a lot of power on war production, almost anything was controlled by him. The civil liberties crackdown-- Wilson had written this book as a professor that said that we had an era of congressional government and he wanted to move away from that. He thought the president should take more power. And of course, he did just that. But no one could say that he didn't advertise what he was going to. So World War I further strengthened the presidency. Though Wilson was very careful, you see this moving up in increments. Wilson was very careful to get congressional approval for everything he did. And of course, during the war, Congress abdicated its authority over interstate commerce and everything else to the president.

And we see this over history. The president's not the only one at fault here. Congress willingly gives up its power, and there are several reasons why Congress does that. I'll not go into them too much here because I'm time limited. But I think the key thing is that the president still wasn't acting without restraint. But certainly, the government is getting bigger, and World War I is really the advent of a permanent big government. Because government really didn't go away after World War I, and in fact, they brought a lot of the wartime programs back during the Great Depression and had some of the same people operating them. So this was a very bad precedent.

There are two areas that the Executive Branch has really usurped the Congress's power, two main areas. There are many more, but the two big ones are the war power and the budget. And I will speak to both of those. But first I want to deal with the budget. During the Mexican War, James Polk took advantage of this to create a unified, consolidated budget. And I know budgeting is really boring. You know, even the newspapers nowadays are really-- they're bored with budgeting. But budgeting is very vital because you can't do anything in the government without money for it. So if you'll just bear with me for one second while I talk about this, then I'll get on to something else.



Polk had this unified executive budget, because previously the congressional committees would work with individual government agencies and set their budget, and the president would stand idly by, which is actually a good thing. But if you have to have government, you need to have it in a diffused manner. Well what happened was, Warren Harding, after World War I-- well first, before World War I, this is an example of how warfare affects the political milieu--before World War I William Howard Taft tried to get Congress to grant him this consolidated federal budget. So the president could have control and take in the agencies' budgetary requests, massage it, do whatever he wanted, and then send it to Congress. But Congress would not let him do that. After World War I, Harding tried the same thing, and he was given this power.

So we have this consolidated budget. And so now what we have is that the president really does the budget work, sends it to the Congress, and they make incremental changes to it. And of course, the Executive Branch has vast amounts of staff. The Congress staff has grown, but certainly nowhere near the Executive Branch staff. So Congress tweaks the budget at the margins, throws in a few pork programs, and then passes it usually. Now occasionally, you'll have a fight over some big issue like Iraq or something else. But most of the time, what the executive budget creates is the amount of money that the programs get. And what is funded, many times, is what the executive wants. Originally, presidents really didn't get involved too much in legislation, out of custom. And also, they really didn't propose a unified budget, as I say. So this was a big development.

Now we go on to FDR. Now FDR has either gotten much credit or much blame for increasing the size of government. And of course in this audience it would be blame. But I think Woodrow Wilson is a bigger culprit because he set the precedent. Of course, FDR ran with it and created all these agencies. And he really made the Executive Branch first among equals. Now, we're still not to an imperial presidency. Because Franklin Roosevelt was very charismatic, and contrary to popular belief, he really wasn't very good at passing legislation. Most of the New Deal was generated in Congress, and he relied on his charisma to get it passed. And he also, of course, attempted to pack the Supreme Court and lost. But of course, he intimidated the court so they decided to pass the rest of his program after having, early on, rejected the New Deal.

So we get to Truman. And Truman is the real creator of the imperial presidency. And the reason that he is, is because he institutionalized the power that Roosevelt had grabbed. Roosevelt relied on charisma, whereas Truman wasn't as charismatic, so he set up the National Security Council, the Council on Economic Advisors. He created the Department of Defense, previously you had the Department of the Navy, the Department of War. And he also, of course, the CIA was created for covert operations, which evaded public and congressional scrutiny.

Now, traditionally in American history, wars have lasted only a short time. And that's a good thing, both for casualties and because you don't have the opportunity for the government to just

keep getting bigger. Unfortunately, after World War II, we went into the Cold War. And the Cold War was much worse for the aggregation of executive power than the other wars, because it's perpetual. And the problem at the time was, well, we had these nuclear weapons now, the government. So it was perceived that the president has to have this power because, you know, 30 minutes we could be incinerated.

Well of course, that was kind of an erroneous belief, because at the Constitutional Convention, the founders had permitted, by substituting language. It was originally "the Congress will make war," they changed it to "declare war." And the debates I think bear this out, that the president does have the right, if the country is under direct military attack, to respond, because the legislature may not be in session or whatever. Now the legislature is expected to ratify the president's decision after he does that. But of course, we haven't fought a defensive war in many, many years. And what I mean by defensive is, most of our wars have been overseas. We haven't been attacked, per se, in a long time. Now, you can say 9/11 was an attack, but the response was overseas, we weren't defending against invading hordes on our shores.

So the problem that we have is that this idea that nuclear warfare was somehow different. If the Soviet Union went on alert and was going to attack us with nuclear weapons, of course the president has a constitutional responsibility to do something, and it doesn't require any aggregation of power to do that. Now, that's not a good thing if he does that, but nonetheless, we don't need a more powerful presidency. Because if we're going to have a nuclear war, the president does have the power under the framers' original conception to do that. But nevertheless, they used this excuse during the Cold War. "Well, war is so rapid fire now, we really have to have a stronger president."

So we have this perpetual war in peacetime. And Truman was a big violator of this. I mean, he created all these things that really created the imperial presidency. After the Korean War, we had a permanent, large standing army. And that was the first time in U.S. history that we had a permanent, large standing army. We had a permanent draft to staff it. Now we'd had the draft on and off, but it became permanent until the Vietnam War. And he also tried to expand the commander-in-chief role. He tried to nationalize the steel and other industries during the Korean War, saying that "Well, we need the steel to fight the war." And the Supreme Court said, "Well, you're the Commander-in-Chief of the armed forces, not the country." And I think that's a very good statement. And they beat him back on that one point. But unfortunately, this, over time, has also eroded. So it's kind of a minor accomplishment at the time for the Supreme Court to knock this down.

But, you know, the aggregation of executive power continued after that. Truman also pioneered large undeclared wars. Korean War, he didn't get a declaration of war, simply because he wanted to expand the president's authority in foreign policy. So he relied on the UN resolution. And of

course, other presidents have followed, saying “Well, we’ve got to get this international approval, but we don’t have to get the approval of our domestic legislature,” which was of course, much more important. And of course, Truman set this precedent, and we haven’t had a declared war since World War II.

So all the presidents are now saying, “Well, I have the inherent authority as commander-in-chief to take us to war. Well of course, the founders, who were concerned about kings taking their countries to war on the backs of the people, would have turned over in their graves at that, because the war power is very important. And the war power has shifted from the Congress to the president. That’s the other area in addition to the budget. So we have this idea now that the president maintains his authority of the commander-in-chief, and he has expanded it.

And we’ve seen this in several instances, and I’m going to talk specifically about the war power. The two Bushes, first one Desert Storm and the second one recently, have asked for congressional approval. Not a declaration of war, but approval for their wars. But they did so, they said, we don’t really need to do this. I have the inherent authority as commander-in-chief to do this war. But I’m just doing this as a courtesy. Now, they both said that. Other examples that we have here, as I mentioned, some presidents will try to get the UN approval, and they don’t care about the congressional approval. They say, “Got the UN, that’s all we need.” Clinton, in the case of Kosovo, he didn’t do either. He knew he couldn’t get a UN resolution to bomb Serbia and Kosovo, and he wasn’t going to get a congressional approval, any sort of approval, because of the Republican Congress. So he just went ahead and did it anyway. He had no UN approval and he had no congressional approval. That’s probably the ultimate abuse of power.

Now, of course, we have a commander-in-chief who believes that in time of an emergency he doesn’t have to follow congressionally passed laws. Now that’s the road to dictatorship there, if you ask me, because the Congress is supposed to pass laws, and the president is not supposed to ignore them. And of course, the Constitution, and we’ve had the Supreme Court saying this, the Constitution is not abrogated during time of war or emergency. In fact, that’s when you really need it. But of course Bush’s-- and I think other people have discussed this, this FISA law, where he is not getting warrants for domestic wiretaps. To me, that’s more dangerous than the Iraq war, I think because this affects the Republic here at home. And of course, he has done other things. He has virtually suspended habeas corpus, and then he got congressional approval for it. Now of course, Lincoln did the same thing. But the Congress, according to the Constitution, the Congress is supposed to suspend habeas corpus if it gets suspended, and then only in times of invasion or rebellion, which we haven’t had either of those.

Now of the two wars, the War on Terror or the war on Iraq, the War on Terror is much scarier. Number one, it’s more legitimate in the public eyes, but also, it’s permanent. The war on Iraq is going to go away. And in fact, the Republicans are so scared behind the scenes here in

Washington, D.C., that I think you will see the troops-- their toleration is waning for this war. They're all scared that they're not going to be reelected. So I think you'll see Republicans peel off from this. So that doesn't mean that the President won't try to keep troops there, but I think the public is souring on Iraq, and I think it will go away.

Unfortunately, the War on Terror is going to be with us for a while. And it's just going to be exactly like the Cold War, a permanent war against-- and in fact, it's worse than the Cold War. Because we knew the Cold War was over when the Soviet Union fell apart. It was a big nation state. These terrorists, they could be around forever. And if Al-Qaeda gets killed, there'll be other groups, you know. We had the Palestinian Liberation Organization, before that we had the Red Army, the Red Brigades in the '70s, etc. So there's always going to be some groups out there that are attacking for whatever reason. And usually, they're attacking other countries, because most of the terrorist groups on the U.S. terrorism list don't attack the U.S., including the groups that Saddam Hussein supported.

But anyway, so this enemy can be recycled and new groups can be found to fight. So we have this progression of increases in executive power. And I'll just take you through a few presidents. Eisenhower, although more restrained from an overt military standpoint, he pioneered fighting the Cold War with the CIA. He did a lot of covert operations. He tried to overthrow a lot of governments. And Truman, although creating the CIA, he used it mainly for intelligence. But Ike shifted it to the covert operations, where it had its heyday during the Eisenhower period. Nixon, of course, ran secret full-scale wars in Cambodia and Laos without congressional or public knowledge or approval. Now, after that, the Congress approved the War Powers Resolution. And the War Powers Resolution simply states that the president has to consult with Congress 48 hours before he sends troops. And the Congress can vote-- he has to bring the troops home within 90 days if the Congress doesn't approve it.

Well, the Executive Branch has never really followed this, because they say it's unconstitutional. And I agree it's unconstitutional, but for the opposite reason. It really erodes the congressional power to declare war up front. It's admitting that the president has this-- it was a very pernicious resolution, even though the intent was good on the part of Congress after Nixon's escapades, because basically it sort of codifies this inherent authority. All the president has to do is say, "Well, I'm sending these troops," you know, notify some member of Congress or whatever. And then the troops are on the ground. Well who doesn't want to support the troops when they're on the ground? We see the same problem today. So very rarely does the Congress vote to pull the troops out after 90 days. They usually let them stay in there. So we really need to get back to the Congress approving by a declaration of war, military action before it happens, not after it happens, because that never happens. They're always very chicken. Congress is a very timid bunch of people.

Now of course, Reagan invaded Grenada without congressional approval. And even worse, he illegally sold arms to Iran, a terrorist-sponsoring nation, to get money to circumvent the congressional ban on funding Nicaraguan Contras. Now, this was a very bad episode. It was worse than Watergate. Because in my mind, the congressional power of the purse, what's left of it, is really the only control that Congress has remaining on the Executive Branch. And Reagan went right to the center of that and ripped it out. Because he said, "Well, we're doing this anyway," you know, "we're going to get around this congressional ban." And so I think it was worse than Watergate in undermining congressional checks and balances on the Executive Branch.

So we have this system, and we now have a perverted version of the old system in which we have an imperial presidency. Well what happens now? Well, the president takes us unilaterally to war, he has great control over the federal budget, even though the Congress is supposed to have that control. We have signing statements-- it was ruled unconstitutional, the line-item veto, a few years back. And that means that a president gets a big bill and it has all this stuff in it. He has to veto the whole bill, he can't veto just one item. Because a lot of times they load stuff into these bills knowing that the president won't veto them. Anyway, that was ruled unconstitutional. But now what we have is, Bush is using these signing statements. And Bush hasn't been the first to use many of these things, but he's used them in a quantum leap higher than the other-- he does a signing statement, which is essentially saying that he's either nullifying or changing a law that Congress has passed. And he's changing usually one part of it. So he's got the line item veto essentially with the signing statement, only he's got a plus. The line-item veto, the Congress can override it. But they can't override a signing statement. And so this is a way to slide in and get the line item veto without having it.

We have now OMB, Office of Management and Budget. The budget agency not only controls the budget and consolidates it, it also consolidates all regulations and legislative initiatives, everything goes through the president. And as I said before, the old system wasn't that great, but at least there was diffusion of power between the committees and the agencies. So the unified Executive Branch theory that Cheney advocates is not, I don't think, a very good thing. But anyway, so we have this power accrual to the president, and the War on Terror is going to make it even worse, I think. And if we have another major terrorist attack, what's left of the checks and balances system and civil liberties may take even worse hits. And on that optimistic note, I guess I'll just take questions. So if anybody has a question, I'd be happy to answer it.

**Man 2:** Ivan, which era in the United States Government would you say we had the best U.S. foreign policy? And should we emulate it today or should we move forward then?

**Ivan Eland:** Well actually, our foreign policy for most of our Republic has been fairly good. I mean this interventionism is an aberration since the Cold War. Now I'm not advocating getting

into World War I or the Spanish-American War, but those tended to be blips on the screen. And I guess the golden age of foreign policy was probably in the late 1800s, you know, Grover Cleveland, some of those presidents in there. And it was good actually between the wars, with Harding and Coolidge reacting to-- in addition to World War I, Woodrow Wilson was probably the most interventionist president because he romped around Latin America. And when Harding got in office and Coolidge, they said "No more of that." And so they reduced drastically U.S. meddling in Latin America. And even Hoover and FDR followed that. FDR, of course, was scheming to get into bigger things. So between the wars it was pretty good. And probably in the late 1800s it was good. Yes, go ahead.

**Woman 1:** <inaudible>

**Ivan Eland:** Ah, well that's an interesting thing. She said, "Do you think we're going to attack Iran?" Well, I've been going up to Capitol Hill, I just went up Thursday and met with some offices. We're meeting with congressional offices trying to say putting sanctions on Iran or going to war with Iran is not the solution. It's very difficult to say, because a rational person would say, even a person in the Bush administration will say "God, we've got this ghastly Iraq thing. Iran could help us out there if they wanted to. But besides, Iran's got all the cards now. And also, we're a lame duck administration, we just got trounced in the congressional elections. The population of the United States, or most people, think we ought to get out of Iraq. So gee whiz, why would we attack somebody else?" Even a neoconservative looking at the facts rationally would say that.

But who knows with this administration? There is the possibility that-- back when Reagan was president he did a peacekeeping mission to Lebanon and 241 Americans got killed because our troops started, as we all do in all these interventions, we start out with some noble goal, and then we have mission creep, and we end up fighting on one side of a civil war. Happened in Lebanon with Reagan, happened in Somalia with Clinton. But in Reagan's case, he told the British, who were the former colonial power in Grenada, that he wasn't going to invade Grenada. But then this barracks blew up in Lebanon. He had to change the subject, so he invaded Grenada. So it could be possible that there's a distraction factor. But I'm not sure what they get from that. Because at the end of the day, the Lebanon thing was gone, Reagan decided to withdraw from that. They haven't decided to withdraw from Iraq. Now, it could be that if they attacked Iran they could use the cover to withdraw from Iraq, because you know, we're tough, that sort of thing. But attacking Iran is a really bad idea, because I assure you, they do not know where all those nuclear facilities are. The Iranians will merely redouble their efforts to get nuclear weapons. The population of Iran is very young, they hate this regime, and if you attack it in any way, either economically with sanctions or military power, you have a rally around the flag effect. It happens in any country. If this country were attacked, people would rally to George Bush even if they were liberal Democrats, probably. So it has this effect no matter where it's used. And you're going to keep that ugly regime in Iran in power for decades.

**Man 3:** So your answer is?

**Ivan Eland:** My answer is I don't know. But I think the possibility is diminishing, if you're a rational actor. The realists seem to be on the ascent in the administration, as opposed to the neoconservatives. And this administration is such a cowboy administration that they may very well do it. If you've seen some of the press, Cheney is trying to put a box around Bush and box him in so that he has to do it. But I don't know. The answer is I don't know. I think it's somewhat diminished chances, but it's still possible. And we all know what the administration is capable of, so it's hard to say. Okay, better go over here this time.

**Man 4:** Sam Bostaph, University of Dallas. I'm fascinated with this idea of the president's inherent authority. And I'm just wondering what are the arguments that are being made for the source of it? Inherent by reason of what? Or is it divine right of kings, "L'état c'est moi"? Or is it something else? The consent of the governed, that if we don't resist that we've given it to them?

**Ivan Eland:** Yeah. Well first of all, I think your question is very well taken because their reasoning is very vague. Some people go back to the Curtis-Wright Decision in the '30s of the Supreme Court that it was actually a dictum which didn't have the force of law, which said the president is the sole organ of foreign policy for the United States, which is absolutely ludicrous, as I mentioned in my talk, with all the powers. They hold the national security high, and this commander-in-chief, they think it does mean the commander-in-chief of the country. And the Supreme Court has said that, in the Truman steel case, said that it's the armed forces. But of course, the reasoning is very vague, and no one seems to challenge it. No one seems to get out. If you talk to any constitutional scholar, they'll be going well, it violates the spirit of the Tenth Amendment and the spirit of a lot of other American values to just have undefined powers for a leader of a country. And of course, I don't have to tell anybody in this room that. But the legal rationale-- you're right, usually there is some rationale when policy, even bad policies, are made. And sometimes they're being demagogues when they do it. But in this case, they just throw out this commander-in-chief thing. We're the commander-in-chief, they rely on the words itself. The founders maybe should have used a different title, but I don't know how you can get any more specific. The commander-in-chief is like a battlefield commander, right? But there is no clear rationale for it. I think this might have to be the last question. Okay.

**Man 5:** <inaudible>

**Ivan Eland:** Well, we do have a lot of arrogance in foreign policy, and you do see it because the U.S. Government regards itself as a superpower. And you see this at international meetings and conferences which I attend sometimes. Even U.S. academics that go to academic conferences throw their weight around because everyone wants to know what's happening in the imperial

capital. And so an example of U.S. arrogance, a couple weeks ago, and this happens from time to time, the Chinese will increase their defense budget. And the Chinese are expanding their economy and they want a greater sphere of influence around their country, as any great power throughout history has done. I don't know what the Chinese intentions are, I don't know if we can ascertain those yet. But the administration says, "Well, these increases in your defense budget seem to be more than you should have for your defense." And I'm just going, our expenditures are what the rest of the world spends combined on defense. We have tentacles everywhere, alliances everywhere, bases everywhere. And so for us to lecture the Chinese, the Chinese budget is probably 20% of our defense budget. And we're lecturing them on the fact that their budget seems to exceed what's necessary for defense. So I think we have a lot of arrogance in foreign policy. And it would be helpful if we took the other country's perspective once in a while, even if they have autocratic leaders. Autocratic leaders do head countries, and those countries do have security concerns, and some of them are legitimate. We don't like their autocratic leaders and we don't have to like their autocratic leaders, and we don't even have to say we like their autocratic leaders, but we really should take their perspective into account once in a while. Thank you.