



“OUR FOUNDERS AND THE UNBALANCE OF POWER”

**REMARKS BY FORMER VICE PRESIDENT AL GORE TO THE
AMERICAN CONSTITUTION SOCIETY FOR LAW AND POLICY**

TOPIC:
INSTITUTIONALIZED DISHONESTY IN THE BUSH ADMINISTRATION

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(Applause.)

LISA BROWN: Great, and I'm not even the vice president. This is great.

I'm Lisa Brown, the executive director of the American Constitution Society, and on behalf of ACS I am thrilled to welcome you to this terrific event today. Many of you I know -- because I recognize a lot of your faces -- are already familiar with ACS. ACS is a non-partisan, non-profit educational organization dedicated to ensuring that the fundamental principles of human dignity, individual rights and liberties, genuine equality and access to justice are accorded their rightful, central place in American law.

ACS does not lobby or take specific positions on issues, cases, litigation, nominations or any candidate for public office, but we do work to ensure that moderate and progressive voices are heard in the critical policy and legal debates facing our country. The opinions expressed at ACS programs, as always, are those of program participants and not of ACS.

There is no more important issue facing us today than how we protect our great nation's security in the war on terror and simultaneously safeguard the fundamental principles of our -- excuse me -- democratic republic: liberty and justice under law and our constitutional structure of checks and balances.

I can think of no person better able to help focus our nation's attentions on these critical questions than one of the best bosses I ever had and one of the greatest leaders this nation has ever seen, Al Gore.

In addition to serving alongside the vice president in the White House, I had the pleasure and honor of also working with the man who is going to introduce Vice President Gore today, Eric Holder. Eric is currently a partner at Covington & Burling and a member of the ACS board of directors. He is one of America's best lawyers and most honorable public servants. Whether as U.S. attorney for the District of Columbia or deputy attorney general of the United States, Eric brought his sharp mind and steady hand to bear on almost every important domestic and international legal issue facing America, including questions of national security.

It may surprise some of you to know that in addition to serving in the Clinton-Gore administration, Eric actually served as acting attorney general during the early days of the Bush administration and attended the first cabinet meeting chaired by President Bush.

Ladies and gentlemen, please welcome my bipartisan friend and a true advocate of the rule of law, Eric Holder.

(Applause.)

ERIC HOLDER: Thank you.

This is a non-partisan event, but let me be very clear. Given the last thing that Lisa said, I'm a good Democrat. (Laughter, applause.)

There is a growing concern in our nation that though we have made military progress, we may have lost our way in this fight against those who have sworn to destroy us. In conducting this global war, we must do all that we can to be successful as quickly as we can. But we must fight in only those places where the enemy is truly located and where we can most directly impact those who have demonstrated a real capacity to harm American interests around the world. And we must also be mindful of the tactics we employ because the contemporary world, and ultimately history, will judge us only – not only by the magnitude of our inevitable victory, but also by the manner in which it was won.

Ours is a great nation, founded on what are supposed to be bedrock principles. When we stray from those ideals, when we ignore or try to circumvent our foundation documents, we put at risk the very things for which brave young men and women are today risking their lives.

Now there are those who claim that there is a tension between our history of respect for civil liberties and the need to fight a new, unprecedented kind of war. This is simply not true. Military success and respect for individual liberties can – and in fact, they must – coexist. In achieving victory, we must not lose our nation's soul.

At a time when there has been much discordant discussion about the conduct of the war in Iraq, about the nature of treatment prisoners should receive, and about the quality of our relationship with long-time allies, one voice has been consistent. Six months before the war in Iraq began, that voice was heard to say, and I quote, "The resulting chaos in the aftermath of a military victory in Iraq could pose a far greater danger to the United States than we presently face." Unquote. He went on to state – and again, I quote – "At this fateful juncture in our history, it is vital that we see clearly who our enemies are and that we deal with them. But it is also important that in the process we preserve not only ourselves as individuals, but our nature as a people, dedicated to the rule of law." Unquote.

This is, for so many reasons, a crucial time for our nation. Now more than ever, his voice and those like it must be heard above those who reflexively and stridently support every policy, no matter how negative the long-term consequence – support every policy that flows out of Washington, D.C.

Now I had the great honor to serve with our speaker for eight years in the Clinton-Gore administration. I got to know him and have great respect for his insight and for his intellect. Throughout his long and distinguished career in public service, he has been a voice for reason and for adherence to our nation's guiding principles.

It is with a great deal of pleasure and pride that I introduce to you today my colleague, my mentor, my friend, my vice president, Al Gore.

(Applause.)

MR. GORE: Thank you. Thank you very much. (Applause continues.) Thank you. Thank you very much, my friends.

Thank you, Eric Holder, for that wonderful introduction and for your friendship and the privilege I had working with you.

And Lisa Brown, thank you for all the work that we've had a chance to do together and for your wonderful leadership of the American Constitution Society.

Tipper and I are honored to be here today, and we're grateful, as I know we all are, to Georgetown Law Center for the hospitality in this magnificent facility. I feel very strongly about the subject of the remarks I'm making here today, and I appreciate each one of you being a part of this group.

When we Americans first began, our biggest danger was clearly in view. We knew from the bitter experience with King George III that the most serious threat to democracy is usually the accumulation of too much power in the hands of an executive, whether he be a king or a president. Our ingrained American distrust of concentrated power has very little to do with the character or persona of the individual who wields that power; it is the power itself that must be constrained, checked, dispersed and carefully balanced in order to ensure the survival of freedom.

In addition, our founders taught us that public fear is the most dangerous enemy of democracy, because under the right circumstances, it can trigger the temptation of those who govern themselves to surrender that power to someone who promises strength and offers safety, security and freedom from fear.

It truly is an extraordinary blessing to live in a nation so carefully designed to protect individual liberty and safeguard self- governance and free communication. But if George Washington could see the current state of his generation's handiwork and assess the quality of our generation's stewardship now, at the beginning of this 21st century, what do you suppose he would think about the proposition that our current president claims the unilateral right to arrest and imprison American citizens indefinitely, without giving them the right to see a lawyer or inform their families of their whereabouts, and without the necessity of even charging them with any crime?

All that is necessary, according to our president, is that he, the president, label any citizen an unlawful enemy combatant and that will be sufficient to justify taking away that citizen's liberty without due process, even for the rest of his life if the president so chooses. There's no appeal.

What would Thomas Jefferson think of the curious and discredited argument from our current Justice Department that the president may authorize what plainly amounts to the torture or prisoners, and that any law or treaty which attempts to constrain his treatment of prisoners in time of war would itself be a violation of the Constitution our founders put together?

What would Benjamin Franklin think of President Bush's assertion that he has the inherent power, even without a declaration of war by the Congress, to launch an invasion of any nation on Earth at any time he chooses for any reason he wishes, even if that nation poses no imminent threat to the United States?

How long would it take James Madison to dispose of our current president's recent claim in Department of Justice legal opinions that he is no longer subject to the rule of law, so long as he is acting in his role as commander in chief?

I think that it is safe to say that our founders would be genuinely concerned about these recent developments in American democracy, and that they would feel that we, here, now, are facing a clear and present danger with the potential to threaten the future of the American experiment. Shouldn't we be equally concerned, and shouldn't we ask ourselves how it is that we have come to this point?

Even though we are now attuned to orange alerts and the potential for terrorist attacks, a potential that is all too real, our founders would almost certainly caution us that the biggest threat to the future of the America we love is still the endemic challenge that democracies have always faced whenever they have appeared in history, a challenge rooted in the inherent difficulty of self-governance and the vulnerability to fear that is part of human nature. Again, specifically, the biggest threat to America is that we Americans will acquiesce in the slow and steady accumulation of too much power in the hands of one person.

Having painstakingly created the intricate design of America, our founders knew intimately both its strengths and its weaknesses. And during their debate, they not only identified the accumulation of power in the hands of the executive as the long-term threat which they considered to be the most serious one, but they also worried aloud about one specific scenario in which this threat might become particularly potent: that is, when war transformed America's president into our commander in chief. They worried that his suddenly increased power might somehow spill over its normal constitutional boundary and upset the delicate checks and balances which they deemed so crucial to the maintenance of liberty. That is precisely why they took extra care to parse the war powers in the Constitution, assigning the conduct of war and command of the troops to the president but retaining for the Congress the crucial power of deciding whether or not and when our nation might decide to go to war.

Indeed, that limitation on the power of the executive to make war was seen as crucially important. James Madison wrote in a letter to Thomas Jefferson these words: "The Constitution supposes what the history of all governments demonstrates, that the executive is the branch of power most interested in war and most prone to it. It has accordingly with studied care vested the question of war in the legislature," end quote.

Now of course, in more recent decades the emergence of new, modern weapons that virtually eliminate the period of time between the decision to go to war or the declaration to war and the actual waging of war have naturally led to a reconsideration of the exact nature of the executive's war-making power. But the practicalities of modern warfare, which do necessarily increase the war

powers of the president at the expense of Congress, do not thereby render moot the concerns our founders had so long ago that the making of war by the president, when added to his other powers, carries with it the potential for unbalancing the careful design of our constitution and, in the process, actually threatening our liberties.

They, our founders, were greatly influenced far more than we can imagine by a careful reading of the history and human drama surrounding the democracies of ancient Greece and the Roman Republic.

They knew, for example, that democracy disappeared in Rome when Caesar crossed the Rubicon in violation of the Roman Senate's long prohibition against a returning general entering the city while still in command of military forces. Though the senate lingered in form and was humored for decades, when Caesar impolitically combined his military commander role with his chief of state role, the Roman Senate, and with it the Roman Republic and the dream of democracy, withered away; and for all intents and purposes democracy disappeared from the face of the Earth for 17 centuries, until its rebirth in our land.

Symbolically, President Bush has been attempting to conflate his commander in chief role and his head of government role as a means of maximizing the power that people are naturally eager to give those who promise to defend them against active threats. But as he does so, we are now witnessing some serious erosion of the checks and balances that have always maintained a healthy democracy in America.

In Justice Jackson's famous concurring opinion in the Youngstown Steel case back in the 1950s, the single most important Supreme Court case ever on the subject of what powers are inherent to the commander in chief in a time of war, Justice Jackson wrote:

The example of such unlimited executive power that must have most impressed the forefathers was the prerogative exercise by George III, and the description of its evils in the Declaration of Independence leads me to doubt that they created their new executive in their image. And if we seek instruction from our own times -- he, again, writing in the 1950s, continued, we can match it only from the executive governments we disparagingly describe as totalitarian.

I am convinced that our founders would counsel us today that the greatest challenge facing our republic is not terrorism, as serious a threat as that is, but how we react to terrorism; and not war, but how we manage our fears and achieve security without losing our freedom. I am also convinced that they would warn us that democracy itself is in grave danger if we allow any president to use his role as commander in chief to rupture the careful balance between the executive, legislative and judicial branches of government.

Our current president has gone to war and has crossed back into the city and declared that our nation is now in a permanent state of war, which he says justifies his reinterpretation of the Constitution in ways that increase his personal power as president at the expense of Congress, the courts and every individual citizen. We must surrender some of our traditional American freedoms, he tells us, so that he may have sufficient power to protect us against those who would do us harm.

Public fear remains at an unusually high level almost three years after we were viciously attacked on September 11th, 2001.

In response to those devastating attacks, the president properly and skillfully assumed his role as commander in chief and directed a military invasion of the land in which our attackers built their training camps, were harbored, and planned their assault, but then just as the tide of battle was shifting decisively in our favor, the commander in chief made a controversial decision to divert a major portion of our army to invade another country, a country that, according to the best evidence now compiled in a new, exhaustive, bipartisan study, posed no imminent threat to us and had nothing to do with the attack against us.

As the main body of our troops were deployed for the new invasion, those who had organized the attack against us escaped, and many of them are still at large. Indeed, their overall numbers seem to have grown considerably because our invasion of the country that did not pose any imminent threat to us was perceived in their part of the world as a gross injustice. And then the way in which we have conducted that war further fueled a sense of rage against the United States in those lands, and, according to several studies, has stimulated a wave of new recruits for the terrorist group that attacked us and still wishes us harm.

A little over a year ago, when we launched this war against the second country, Iraq, President Bush repeatedly gave our people the clear impression that Iraq was an ally and partner to the terrorist group that attacked us, al Qaeda, and that Iraq not only provided a geographic base for them but was also close to providing them with weapons of mass destruction, including even nuclear bombs.

But now the extensive independent investigation by this bipartisan commission formed to study the 9/11 attack has just reported that there was no meaningful relationship between Iraq and al Qaeda of any kind; and of course, over the past year we had previously found out that there were no weapons of mass destruction in Iraq.

So now the president and the vice president are arguing with this commission and they are insisting that the commission is wrong and they are right and that there actually was a working, cooperative relationship between Iraq and al Qaeda. Now, the problem for President Bush is that he does not have any credible evidence to support this claim, and yet in spite of that, he persists in making that claim repeatedly and vigorously.

And so I would like to pause here for a moment today to address the curious question of why President Bush continues to make this claim that most people who have investigated it know is wrong. And I think it's a particularly important question because it is closely connected to the questions of constitutional power with which I began this speech; and the way we answer it will profoundly affect how that power is distributed among our three branches of government.

To begin with, our founders would not be the least bit surprised at what the modern public opinion polls all tell us about why it's so important politically for President Bush to keep the American people from discovering that what he told them about the linkage between Iraq and al Qaeda just isn't true. Among those Americans who still believe that there is a linkage, there

remains very strong support for the president's decision to invade Iraq, but among those who accept the commission's new detailed finding that there is no connection, support for the war in Iraq and the decision to launch it dries up pretty quickly.

And that's understandable, because if Iraq had nothing to do with the attack or the organization that launched the attack against us, then that means the president took us to war when he didn't have to, a war in which almost 900 of our soldiers have been killed and almost 5,000 have been wounded and many thousands of Iraqis have been killed and wounded.

Thus, for all of these reasons, President Bush and Vice President Cheney have evidently decided to fight to the rhetorical death over whether or not there is and was a meaningful connection between Iraq and al Qaeda. They think that if they lose that argument and people see the truth, then they will not only lose support for that controversial decision to go to war against Iraq, but also lose some of the new power they have picked up from the Congress and the courts, and face harsh political consequences at the hands of the American people. As a result, President Bush is now intentionally misleading the American people by continuing to aggressively and brazenly assert a linkage between al Qaeda and Saddam Hussein.

If he actually believed in the linkage that he asserts, that would by itself, in light of the available evidence, make him genuinely unfit to lead our nation's struggle against al Qaeda. (Laughter, applause, cheers.) If they believe these flimsy scraps, then who would want them in charge of anything? (Laughter.) Are they too dishonest or too gullible? Take your pick. (Laughter.)

But the truth is gradually emerging in spite of the president's determined dissembling. Listen, for example, to the words of this editorial this week from the Financial Times, and I quote: "There was nothing intrinsically absurd about the WMD fear" -- the weapons of mass destruction fear -- "nothing ignoble about the opposition to Saddam's tyranny, however late Washington developed this. But the purported link between Baghdad and al Qaeda, by contrast, was never believed by anyone who knows Iraq and the region. It was and is nonsense." End quote.

Now of course the first rationale presented for the war was to destroy Iraq's weapons of mass destruction, which turned out not to exist.

Then the rationale was to liberate Iraqis and the Middle East from tyranny. And it has been a positive good to remove Saddam Hussein from power, but our troops were not greeted with the promised garlands of flowers and are now viewed as an occupying force by 92 percent of Iraqis, while only 2 percent see them as liberators, according to a careful poll by the Coalition Provisional Authority.

But alongside those two rationales, right from the start, beginning very soon after the attacks of 9/11, President Bush made a decision to start mentioning Osama bin Laden and Saddam Hussein in the same breath, in a cynical mantra designed to fuse them together as one in the public's mind. He repeatedly used this device in a highly disciplined manner to create a false impression in the minds of the American people that Saddam Hussein was responsible for 9/11.

Usually he was pretty tricky in his exact wording. Indeed, President Bush's consistent and careful artifice is itself evidence that he knew full well that he was telling an artful and important lie, visibly circumnavigating the truth, over and over again, as if he had practiced how to avoid encountering the truth.

But as I will document in a few moments, he and Vice President Cheney also sometimes slipped away from their usual tricky wording and in careless moments resorted to statements that were clearly outright falsehoods on their face.

In any case, by the time he was done, public opinion polls showed that fully 70 percent of the people had gotten the message that he wanted them to get and had been convinced that Saddam Hussein was responsible for the 9/11 attacks.

The myth that Iraq and al Qaeda were working together was no accident. The president and vice president deliberately ignored warnings before the war from international intelligence services, from the CIA and from their own Pentagon that the claim was false.

Europe's top terrorism investigators said in 2002, and I quote, "We have found no evidence of any links between Iraq and al Qaeda. If there were such links, we would have found them, but we have found no serious connections whatsoever." End quote. A classified October 2002 CIA report given to the White House directly undercut the Iraq-al Qaeda claim. Top officials in the Pentagon told newspaper reporters in 2002 that the rhetoric being used by President Bush and Vice President Cheney was an exaggeration, in their words.

And at least some honest voices within the president's own party admitted the same thing. Senator Chuck Hagel, a decorated war hero who sits on the Foreign Relations Committee, said point blank, and I quote, "Saddam is not in league with al Qaeda. I have not seen any intelligence that would lead me to connect Saddam Hussein with al Qaeda." Period, end quote.

But these voices and others did not stop the deliberate campaign to mislead America. Over the course of a year, the president and vice president used their carefully crafted language to scare Americans into believing there was an imminent threat from al Qaeda that was going to be armed by Iraq.

In the fall of 2002, President Bush actually told the country, and I quote, "You cannot distinguish between al Qaeda and Saddam," end quote. He also said, and I quote, "The true threat facing our country is an al Qaeda-type network trained and armed by Saddam," end quote. At the same time, Vice President Cheney was repeating his claim that -- and I quote -- "there is overwhelming evidence there was a connection between al Qaeda and the Iraqi government," end quote. By the spring, Secretary of State Powell was in front of the United Nations, in an appearance he now says he regrets, claiming a -- and I quote -- "sinister nexus between Iraq and the al Qaeda terrorist network," end quote.

But after the invasion, no ties were found, no evidence emerged. In June of 2003, the United Nations Security Council's al Qaeda-monitoring agency told reporters his extensive investigation had found no evidence linking the Iraqi regime to al Qaeda.

By August 3, former Bush administration national security and intelligence officials admitted that the evidence that had been used to make this Iraq-al Qaeda claim was, in their words, "tenuous, exaggerated, and often at odds with the conclusion of key intelligence agencies," end quote.

And earlier this year, Knight Ridder newspapers reported, and again I quote, "Senior U.S. officials now say there never was any evidence of a connection."

So when the bipartisan 9/11 commission issued its report last week finding no credible evidence of an Iraqi-al Qaeda connection, it should not have caught the White House off guard. (Laughter.) Yet, instead of the candor that Americans need and deserve from their leaders, there have been more denials and more insistence without evidence.

Vice President Cheney, for example, said even this week, and I quote, "There clearly was a relationship" and there was "overwhelming evidence." Even more shockingly, Cheney put forward this question. Quote, "Was Iraq involved with al Qaeda in the attack on 9/11? We don't know." (Laughter.) And then he claimed that he probably had more information than the commission had, but has so far refused to provide anything to the commission other than more insults.

The president was even more brazen. He dismissed all questions about his statements by saying, and I quote, "The reason I keep insisting that there was a relationship between Iraq and Saddam and al Qaeda was because there was a relationship between Iraq and al Qaeda." (Laughter.) And he provided no evidence whatsoever.

Friends of the administration have tried mightily to rehabilitate their cherished by now shattered linkage. John Lehman, one of the Republicans on the 9/11 commission, offered up what sounded at first like new evidence that a Saddam henchman had attended an al Qaeda meeting. But within hours, the commission's files yielded definitive evidence that no, that was another man with a similar name -- (laughter) -- ironically capturing the near-miss quality of Bush's entire symbolic argument. (Applause.)

They have such an overwhelming political interest in sustaining the belief in the minds of the American people that Hussein was in partnership with bin Laden that they dare not admit the truth, lest they look like complete fools for launching our country into a reckless totally discretionary war against a nation that posed no immediate threat to us whatsoever.

But the damage they have done to our country is not limited to the misallocation of military and economic and political resources, not limited even to the loss of blood and treasure, because whenever a chief executive -- whenever a president spends prodigious amounts of energy in an effort to convince the American people of a falsehood, he damages the fabric of democracy and the belief in the fundamental integrity of our self-government.

And that creates a need for -- that they feel for control over the flood of bad news and bad policies and bad decisions, and that also explains their striking attempts to influence and control news coverage.

To take the most recent example, Vice President Cheney was clearly eager and ready to do battle with the news media when he went out on CNBC earlier this week to attack news coverage of the 9/11 commission's conclusion that Iraq did not have a relationship with al Qaeda. He lashed out at The New York Times for having the nerve to print a headline saying the 9/11 commission finds no Qaeda-Iraq tie, a clear statement of the obvious. (Laughter.) And he then said that there is no, quote, "fundamental split here and now between what the president said and what the commission said." End quote. He tried to deny that he had ever personally been responsible for helping to create the false impression that there was linkage between al Qaeda and Iraq.

Ironically, his interview ended up being fodder for "The Daily Show" with Jon Stewart. (Laughter, applause.) And Stewart played Cheney's outright denial that he had ever said that representatives of al Qaeda and Iraqi intelligence met in Prague, and then Stewart froze Cheney's image and played the exact video clip when Cheney had indeed said exactly that in exactly the words he had denied, catching him on videotape in a lie. And at that point, Stewart said, addressing himself to Cheney's frozen image on the television screen, "It's my duty to inform you that your pants are on fire." (Laughter, applause.)

It's not unusual in the news-gathering environment of the kind that exists in our country today for comedians to be able to say things that others feel like they can't. Dan Rather, for example, said that the post-9/11 patriotism stifled journalism -- has stifled journalists from asking government officials, quote, "the toughest of the tough questions." Rather went -- (chuckles) -- so far as to reach for a metaphor and compare administration efforts to intimidate the press to necklacing in apartheid South Africa. While acknowledging it as a, in his phrase, "an obscene comparison," here's the point he made, and I use his words. "The fear is that you will be necklaced; you will have a flaming tire of lack of patriotism put around your neck," Rather explained.

It was his network, CBS, remember that withheld the Abu Ghraib photographs from the American people for two weeks at the request of the Bush administration.

I have a close friend whose young son was staying with a family in Barcelona, Spain, for the spring quarter. And he called his father in anguish during that two-week period and said the Spanish family with whom he was living was telling him, in the Spanish he had not yet perfected, that America had been found to be torturing Iraqi prisoners, stripping their clothes off and making them do all the things we saw in the pictures. "And Dad, it's not true, is it?" And his father said, "No, son, it's not true. Of course it's not true. You tell them that I don't know what they have on their television there, but this is not true. This is not America."

His son relayed the response from his Spanish host family, who said, "Tell your father that they don't show you these pictures in the United States now, but we see them."

Three days later, this father called his son back, embarrassed and chagrined, and said it was us. "I can't believe it." And that's kind of the reaction most all of us had.

But the fact that others around the world saw these pictures before we did is itself an issue that runs to the core of important concerns about the course of our democracy.

Secretary of Defense Donald Rumsfeld has said that current criticisms of the administration's policy in Iraq, and I quote, "makes it complicated and more difficult to fight the war."

CNN's Christiane Amanpour said on another network last September, and I quote, "I think the press was muzzled, and I think the press self-muzzled. I'm sorry to say, but certainly television -- and perhaps, to a certain extent, my station -- was intimidated by the administration." End quote.

The administration works closely with a network of rapid responders, a group of digital brownshirts who work to pressure reporters and their editors and publishers and advertisers, and are quick to accuse them of undermining support for our troops.

Paul Krugman, the New York Times columnist, was one of the first journalists to regularly expose the president's consistent distortion of the facts. Krugman writes, and I quote, "Let's not overlook the role of intimidation. After 9/11, if you were thinking of saying anything negative about the president, you had to expect right wing pundits and publications to do all they could to ruin your reputation." Bush and Cheney are spreading purposeful confusion, while attempting to punish in any way they can any reporters who stand in the way of the confusion.

It is understandably difficult for reporters and journalistic institutions to resist that kind of pressure, which in the case of individual journalists can threaten their livelihoods, and in the case of the broadcasters can lead to other forms of economic retribution. But resist they must, because without a press able to report without fear or favor, our democracy will disappear.

Recently the media has engaged in some healthy self-criticism of the way it allowed the White House to mislead the public into war under false pretenses. We are dependent on the media, especially the broadcast media, which is so dominant in America, to never let this happen again. We must help them resist this pressure for everyone's sake or else we risk other wrongheaded decisions being based upon false and misleading impressions.

So now we are left with an ongoing, unprecedented, high-intensity conflict every single day between the ideological illusions upon which this administration's policies have been based and the reality of the world in which the American people live their lives.

When you boil it all down to precisely what went wrong with the Bush Iraq policy, it's actually fairly simple: He adopted an ideologically driven view of Iraq that was tragically at odds with reality. Everything that has gone wrong is in one way or another the result of this spectacular and violent clash between the bundle of misconceptions that he gullibly consumed and the all too painful reality that our troops and contractors and diplomats and taxpayers have encountered.

Of course, there have been several other collisions between President Bush's ideology and America's reality. To take the most prominent example, the transformation of a \$5 trillion surplus into a \$4 trillion deficit is in its own way just as spectacular a miscalculation as the Iraq war.

But there has been no more bizarre or troubling manifestation of how seriously off track this president's policies have taken America than the two profound shocks to our nation's conscience over the last month. First came those extremely disturbing pictures that document the strange

forms of physical and sexual abuse and even torture and even murder by some of our soldiers against people they captured as prisoners in Iraq, an estimated 90 percent of them innocent of any charge.

And then the second shock to our conscience came just this past week with the strange and perverted legal memoranda from inside the administration which actually sought to justify torture and to somehow provide a legal rationale for the sadistic activities conducted in the name of the American people; activities which, according to any reasonable person, would be recognized as war crimes.

In making their analysis, the administration lawyers concluded that the president, whenever he is acting in his role as commander in chief, is above and immune from the rule of law. At least we don't have to guess what our founders would have to say about that bizarre and un-American theory.

And by the middle of this week, the uproar caused by the disclosure of this legal analysis had forced the administration to claim they were throwing the memo out and it was, in their words, irrelevant and over-broad. But no one in the administration has said that the reasoning was wrong, and in fact, a Department of Justice spokesman today confirmed that they stand by the tortured definition of torture.

In addition, the broad analysis regarding the commander in chief powers that they had asserted has explicitly not been disavowed. And the view of the memo -- that it was within the commander in chief's power to order any interrogation techniques necessary to extract information -- most certainly contributed to the atmosphere that led to the atrocities committed against the Iraqis at Abu Ghraib.

We also know that President Bush rewarded the principal author of this legal monstrosity with a seat on the U.S. Court of Appeals. And the president himself meanwhile continues to place the blame for the horrific consequences of his morally obtuse policies on the young privates and corporals and sergeants, who may well be culpable as individuals for their actions, but who were certainly not responsible for the policies which set up the Bush gulag and led to America's strategic catastrophe in Iraq.

I call today on this administration to disclose all of its interrogation policies, including those used by the military in Iraq and Afghanistan, and those employed by the CIA at any detention centers operated outside the U.S., as well as all of the analyses related to the adoption of those policies.

We deserve to know what and why it's being done in our name. (Applause.)

Policies matter. The Bush administration's objective of establishing U.S. domination over any potential adversary was what led to the hubristic, tragic miscalculation of the Iraq war, a painful adventure marked by one disaster after another, based on one mistaken assumption after another. But the people who paid the price have been the U.S. soldiers trapped over there and the Iraqis in prison and out.

The top-heavy focus on dominance as a goal for the U.S. role in the world is exactly paralleled in their aspiration for the role of the president to be completely dominant within our constitutional system. Our founders understood even better than Lord Acton the inner meaning of his famous aphorism that power corrupts, and absolute power corrupts absolutely. The goal of dominance necessitates a focus on power, even absolute power.

Ironically, all of the administration's didactic messages about how democracies don't invade other nations fell on their own deaf ears. The pursuit of dominance in foreign and strategic policy led the Bush administration to ignore the United Nations, to do serious damage to our most important alliances in the world, to violate international law, and risk the hatred and contempt of many in the rest of the world. The seductive exercise of unilateral power has led this president to interpret his powers under the Constitution in a way what would have been the worst nightmare of our framers.

And the kind of unilateral power he imagines is fool's gold in any case. Just as its pursuit in Iraq has led to tragic consequences for our soldiers and the Iraqi people and everything we think is important, in the same way the pursuit of a new interpretation of the presidency that ends up weakening the Congress, the courts and civil society is not good for either the presidency or the rest of the nation. If the Congress becomes an enfeebled enabler to the executive and the courts become known for political calculations in their decisions, then the country suffers.

The kinds of unnatural, undemocratic activities in which this administration has engaged in order to aggrandize power have included censorship of scientific reports, manipulation of budgetary statistics, the silencing of dissent, the ignoring of intelligence. And although there have been other efforts by other presidents to encroach upon the legitimate prerogatives of Congress and the courts, there has never been this kind of persistent, systematic abuse of the truth and the institutionalization of dishonesty as a routine part of the policy process.

Two hundred and twenty years ago John Adams wrote, in describing one of America's most basic founding principles -- and I quote: "The executive shall never exercise the legislative and judicial powers, or either of them, to the end it may be a government of laws and not of men."

The last time we had a president who had the idea that he was above the law was when Richard Nixon told an interviewer, David Frost -- he said, and I quote, "When the president does it, that means it's not illegal." (Laughter.) He went on to elaborate: "If the president, for example, approves something, approves an action because of national security or, in this cases, because of a threat to internal peace and order of significant order, then the president's decision in this instance is one that enables those who carry it out to carry it out without violating the law," end quote.

Fortunately for our country, President Nixon was forced to resign before he could implement his outlandish interpretation of the Constitution, but not before his defiance of the Congress and the courts created a serious constitutional crisis. The two top Justice Department officials under President Nixon, Elliot Richardson and William French Smith, turned out to be men of great integrity. And even though they were loyal Republican partisans, they were more loyal to the Constitution, and they resigned on principle rather than implement what they saw as abuses of

power by Nixon. And then Congress, also on a bipartisan basis, bravely resisted Nixon's abuses of power and launched impeachment proceedings. Some of our Congress's proudest hours in recent decades came in that trial, in that struggle.

But you know, in some ways our current president is actually claiming more extra-constitutional power vis-a-vis Congress and the courts than Richard Nixon did.

For example, Nixon never claimed that he could imprison American citizens indefinitely with no charge of a crime, with no access to a lawyer and notification to their family.

And in this administration, this time the attorney general, John Ashcroft, is hardly the kind of man who would resign on principle to impede -- (laughter) -- an abuse of power. (Applause.) In fact, it seems like whenever there's an opportunity to abuse power in this administration -- (laughter) -- Ashcroft seems to be out there leading the charge. And he's the one, after all, who's responsible for picking those staff lawyers at the Justice Department, responsible for those embarrassing memos justifying and enabling torture.

Moreover, in contrast, in sharp contrast to the courageous 93rd Congress that helped to save our country from Richard Nixon's sinister abuses, the current Congress, controlled by the president's party, has virtually abdicated its constitutional role to serve as an independent and co-equal branch of government. Instead, this Republican-led Congress is content, for the most part, to take orders from the president on what to vote for and what to vote against. The Republican leaders of the House and Senate have even started blocking Democrats from attending conference committee meetings, where legislation takes its final form; and instead, they let the president's staff come to the meetings and write key parts of the laws for them.

Come to think of it, the decline and lack of independence shown by this Congress would shock our founders more than anything else, because they believe that the power of the Congress was the single most important check and balance against the unhealthy exercise of too much power by the executive branch. I wish the Republican leaders of this Congress would show some backbone and discharge their constitutional responsibilities to the American people. (Applause.)

This administration has not been content simply to reduce the Congress to subservience. It has also engaged in unprecedented secrecy in order to deny the American people access to crucial information with which they might hold government officials accountable for their actions, and they have launched a systematic effort to manipulate and intimidate the media into presenting a more favorable image of the administration to the American people.

Listen to what U.S. News and World Report recently had to say about their secrecy, and I quote: "The Bush administration has quietly but efficiently dropped a shroud of secrecy across many critical operations of the federal government, cloaking its own affairs from scrutiny and removing from the public domain important information on health, safety and environmental matters." Here are just a few examples, and for each one you have to ask, what are they hiding and why are they hiding it?

First of all, more than 6,000 documents have been removed by the Bush administrations from governmental websites; to cite only one example, a document on the EPA website giving citizens crucial information on how to identify chemical hazards near to where their families live. Some have speculated that the principal threat to the Bush administration is a threat by the chemical hazards if the information remains available to American citizens.

To head off complaints from our nation's governors over how much they would receive under federal programs, the Bush administration simply stopped printing the primary state budget report.

To muddy the clear consensus of the scientific community on global warming, the White House directed major changes and deletions to an EPA report -- changes that were so egregious that the agency said it was too embarrassed to use the language insisted upon by the political employees at the White House.

And of course, they've kept hidden from view Vice President Cheney's ultra-secret energy task force. They've pitched a -- they fought a pitched battle in the courts for more than three years to continue denying the American people the ability to know which special interests and which lobbyists advised Vice President Cheney on the design of the new law.

We know that Ken Lay was in charge of vetting the Federal Energy Regulatory Commission, and we've recently seen some of the evidence of what Enron did to circumvent the regulators.

And another example. When mass layoffs became too embarrassing, this administration simply stopped publishing the regular layoff report that economists and others have been receiving for decades.

For this administration, the truth hurts; that is, when the truth is available to the American people. Instead, they often find bliss in the induced ignorance that comes when they deprive the American people of access to information that they have a right to. What are they hiding, and why are they hiding it?

In the end, for this administration it is all about power. This lie about the invented connection between al Qaeda and Iraq was and is the key to justifying the current ongoing constitutional power grab by the president. So long as their big, flamboyant lie remains an established fact in the public's mind, President Bush will be seen as justified in taking for himself the power to make war on his whim.

He will be seen as justified in acting to selectively suspend civil liberties, again on his personal discretion. He will continue to intimidate the press, and thereby distort the political reality experienced by the American people during his bid for reelection.

War is lawful violence, but even in its midst we acknowledge the need for rules. We know that in our wars there have been dissents from these standards, often the result of spontaneous anger arising out of the passion of battle. But we have never before, to my knowledge, had a situation in which the framework for this kind of violence has been created by the president. Nor have we had

a situation where these things were mandated by directives signed by the secretary of Defense, as it is alleged, and supported by the national security adviser.

Always before, we could look to the chief executive as the point from which redress would come and law would be upheld. That was one of the great prides of our country, humane leadership faithful to the law. What we have now, however, is the result of decisions taken by a president and an administration for whom the best law is no law, so long as law threatens to constrain their political will. And where the constraints of law cannot be prevented or eliminated, then they maneuver it to be weakened by evasion, by delay, by hair-splitting, by obstruction and by failure to enforce on the part of those sworn to uphold the law.

In these circumstances, we need investigation of the facts under oath, and in the face of penalties for evasion and perjury. We need investigation by an aroused Congress, whose bipartisan members know that they will stand before the judgment of history. We cannot depend upon a debased Department of Justice, given over to the hands of zealots. Congressional oversight and special prosecutor are words that should hang in the air. If our honor as a nation is to be restored, it is not by allowing the mighty to shield themselves by bringing the law to bear against their pawns; it is by bringing the law to bear against the mighty themselves.

Our dignity and honor as a nation never came from our perfection as a society or as a people; it came from the belief that, in the end, this was and is a country which should -- which would pursue justice as the compass pursues the pole. And that although we might deviate, we would return and find our path in the name of our founders for the sake of posterity. This is what we as Americans must now do. Thank you.

(Extended applause.)

(END OF EVENT.)