

Congress of the United States
Washington, DC 20515

January 31, 2012

President - Mitchell Reich
Editors
Gannet House
Harvard Law School
Cambridge, Massachusetts

Re: Escalating Constitutional Transgressions by the Office of the President of the United States

Dear Mr. President and Editors:

We, the undersigned, strongly urge the Harvard Law Review to invite President Barack Obama, a former President of the Law Review, to participate in a symposium organized by you to answer the contemporary constitutional crisis precipitated by the concentration of power in the Office of the President of the United States irrespective of party affiliation. The danger of an omnipotent president is institutional, not personal. Each president betters the instruction of the unconstitutional abuses and usurpations of his predecessor. The Office of the President is no longer under the law, but is the law. A true patriot, Thomas Paine sermonized, saves his country from his government.

Based on secret facts and secret law, the presidency assassinates American citizens on his say-so alone.

Based on secret evidence, the presidency detains American citizens for life without accusation or trial.

In the dark of night, the presidency employs extraordinary renditions to dispatch non-accused detainees to foreign countries for torture or worse.

Without warrants or probable cause, the presidency spies on American citizens, creating intimidating government dossiers (like the Soviet Union).

Invoking state secrets, foreign policy and executive privilege, the presidency blocks the victims of unconstitutional wrongdoing from judicial remedies, including extra-judicial killings.

Violating his constitutional duty to faithfully execute the laws, the presidency refuses to prosecute torture, illegal surveillance and other grave crimes motivated by political advantage.

The presidency usurps the war powers of Congress whom the Constitution's makers relied upon to prevent ill-conceived military adventures abroad that bankrupt the nation at a frightful cost in

human carnage. The presidential war against Libya marks the high water mark of the usurpation. It was initiated without congressional authority. It was continued in violation of the War Powers Resolution. It was fought without funds appropriated by Congress for the purpose. And the presidency claimed constitutional power to war unilaterally in the future whenever the President proclaims some national interest is at stake.

Behind closed doors, the presidency spends trillions of unaudited dollars on objectless military endeavors and bank bailouts.

The presidency issues “signing statements” to circumvent duly enacted legislation.

The presidency substitutes executive agreements for treaties to evade the Senate’s check on ill-conceived international military or economic obligations.

The presidency issues special interest regulations that enable K Street lobbyists to enrich their clients either by direct subsidy or by handicapping competitors.

In sum, the presidency of the United States commands vastly more power over Americans than did King George III whose tyranny provoked the American Revolution.

We are not alone in discerning a presidency claiming and exercising tyrannical powers. The American Bar Association, notorious for caution verging on timidity, has issued three reports on presidential excesses. See Task Force on Presidential Signing Statements and the Separation of Powers Doctrine (August, 2006);¹ Task Force on Domestic Surveillance in the Fight Against Terrorism (February 13, 2006);² and, Task Force on Treatment of Enemy Combatants (February, 2003).³

The House Judiciary Committee similarly issued a report that chronicles serial constitutional violations of the presidency. See REINING IN THE IMPERIAL PRESIDENCY: Lessons and Recommendations Relating to the Presidency of George W. Bush (Jan 13, 2009).⁴ George Washington University Law School Professor Jonathan Turley also delineated serial constitutional misconduct in a Washington Post Outlook article; 10 reasons the U.S. is no longer the land of the free (January 13, 2012).⁵

¹ http://www.abanow.org/wordpress/wp-content/files_flutter/1273179616signstatereport.pdf

² http://www.abanow.org/wordpress/wp-content/files_flutter/1268146114_20_1_1_7_Upload_File.pdf

³ <http://news.findlaw.com/hdocs/docs/aba/abatskforce103rpt.pdf>

⁴ <http://judiciary.house.gov/hearings/printers/110th/IPres090113.pdf>

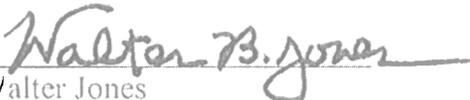
⁵ http://www.washingtonpost.com/opinions/is-the-united-states-still-the-land-of-the-free/2012/01/04/gtQAvcD1wP_story.html

The Harvard Law Review is endowed with the intellectual fuel to redress constitutional waywardness. To shy from a candid examination of the presidency at this time of chronic vandalizing of the Constitution because of preoccupation with other legal issues would seem irresponsible—first cousin to Nero’s fiddling while Rome burned. We are confident you will not shrink from your duty.

We believe your symposium should consider questioning President Obama by yourselves and a panel of renowned constitutional experts about the powers of the presidency enumerated in Article II. As Justice Louis D. Brandeis lectured, sunshine is the best disinfectant. And a more informed citizenry is the bulwark of our Republic.

We are eager to assist in any way you might request in planning and holding the symposium either in Washington, D.C. or Cambridge.

Sincerely,


Walter Jones

Member of Congress


Ralph Nader


Bruce Fein, Esq.