

# Liberty's Easy Slide into Tyranny

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*The best-laid schemes o' mice an' men  
Gang aft agley,  
An' lea'e us nought but grief an' pain,  
For promis'd joy!*

Robert Burns - 1785

No matter how hard we try, no one can control the future, and we cannot assume the future will be like the present.

Woodrow Wilson signed the law that established the Federal Reserve. He later rightly lamented having done so. He writes, "I am a most unhappy man. I have unwittingly ruined my country. A great industrial nation is controlled by its system of credit. Our system of credit is concentrated. The growth of the nation, therefore, and all our activities are in the hands of a few men. We have come to be one of the worst ruled, one of the most completely controlled and dominated Governments in the civilized world no longer a Government by free opinion, no longer a Government by conviction and the vote of the majority, but a Government by the opinion and duress of a small group of dominant men." Oh, how right he is, and oh, the mischief the FED has wrought! But establishing the FED must have seemed right to Wilson when he signed the law.

Harry [Truman](#) had similar qualms about the CIA.

[I]t has become necessary to take another look at the purpose and operations of our Central Intelligence Agency. . . .

assuming the President himself possesses a knowledge of our history, a sensitive understanding of our institutions, and an insight into the needs and aspirations of the people, he needs . . . the most accurate and up-to-the-minute information on what is going on everywhere in the world, and particularly of the trends and developments in all the danger spots. . . .

every President has available to him all the information gathered by the many intelligence agencies already in existence. . . .

But their collective information reached the President all too frequently in conflicting conclusions. At times, the intelligence reports tended to be slanted to conform to established positions of a given department. . . .

Therefore, I decided to set up a special organization charged with the collection of all intelligence reports from every available source, and to have those reports reach me as

President without department “treatment” or interpretations.

I wanted and needed the information in its “natural raw” state and in as comprehensive a volume as it was practical. . . . But the most important thing about this move was to guard against the chance of intelligence being used to influence or to lead the President into unwise decisions—and I thought it was necessary that the President do his own thinking and evaluating. . . .

For some time I have been disturbed by the way CIA has been diverted from its original assignment. It has become an operational and at times a policy-making arm of the Government. This has led to trouble and may have compounded our difficulties in several explosive areas.

I never had any thought that when I set up the CIA that it would be injected into peacetime cloak and dagger operations. Some of the complications and embarrassment I think we have experienced are in part attributable to the fact that this quiet intelligence arm of the President has been so removed from its intended role that it is being interpreted as a symbol of sinister and mysterious foreign intrigue. . . .

I, therefore, would like to see the CIA be restored to its original assignment . . . and that its operational duties be terminated. . . .

We have grown up as a nation, respected for our free institutions and for our ability to maintain a free and open society. There is something about the way the CIA has been functioning that is casting a shadow over our historic position and I feel that we need to correct it.

Of course, nobody paid any attention. And oh, the mischief the CIA has wrought!

The problem is that what seems like a good idea to someone with pristine motives turns into something horrid when placed in the hands of someone else. Those pristine motives *Gang aft agley.*” So it is with what has come to be known as executive privilege.

Executive privilege is the claim made by members of the executive branch that they can refuse to comply with certain subpoenas and other requests from the legislature and courts, but executive privilege is not mentioned in the Constitution. Some claim the privilege is a form of the common-law principle of deliberative process privilege whose roots are often traced to English Crown Privilege. Viewed that way, it is clearly a monarchical attribute that is distinctly antidemocratic. But the Supreme Court has validated it.

In *US v. Nixon*, Chief Justice Burger writes: “Whatever the nature of the privilege of confidentiality of Presidential communications in the exercise of Art. II powers, the privilege *can be said to* [emphasis mine] derive from the supremacy of each branch within its own assigned area of constitutional duties. Certain powers and privileges flow from the nature of enumerated powers; the protection of the confidentiality of Presidential communications has similar constitutional underpinnings.” No one, it seems, noticed that “can be said to” is not synonymous with “is.”

Chief Justice Burger further writes,

“In *United States v. Reynolds* . . . the Court said:

It may be possible to satisfy the court, from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged. When this is the case, the occasion for the privilege is appropriate, and the court should not jeopardize the security which the privilege is meant to protect by insisting upon an examination of the evidence, even by the judge alone, in chambers.”

Mr. Burger seems not to have noticed that he gave the executive branch the combination to the safe in this passage. From this point on, all the executive branch has to do to sustain a claim of executive privilege is to say that complying with the subpoena or request would entail a reasonable danger that military matters would be exposed or the nation’s security would be impaired. These claims have now become standard practice.

Until the end of World War II, assertions of executive privilege were rare. In 1796, George Washington refused to comply with a request from the House of Representatives for documents related to the negotiation of the Jay Treaty. The Senate alone plays a role in the ratification of treaties, Washington reasoned, and therefore the House had no legitimate claim to the material. So Washington provided the documents to the Senate but not the House.

Thomas Jefferson asserted the privilege in the trial of Aaron Burr for treason. The Court denied it and he complied with the Court’s order.

But from 1947-49, several major security cases arose. A series of investigations followed, ending with the Hiss-Chambers case of 1948. At that point, the Truman Administration issued a sweeping secrecy order blocking congressional efforts from FBI and other executive data on security problems. Security files were moved to the White House and administration officials were banned from testifying before Congress on security issues.

During the Army-McCarthy hearings in 1954, Eisenhower used executive privilege to forbid the “provision of any data about internal conversations, meetings, or written communication among staffers, with no exception to topics or people.” Department of Defense employees were also instructed not to testify on any such conversations or produce any such documents. The reasoning behind the order was that there was a need for “candid” exchanges among executive employees in giving “advice” to one another. Eisenhower made the claim 44 times between 1955 and 1960. The Supreme Court has validated such claims saying there is a “valid need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties” and that “[h]uman experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process.”

In 1998, President Bill Clinton became the first President since Nixon to assert executive privilege and lose when a Federal judge ruled that Clinton aides could be called to testify in the Lewinsky scandal.

The George W. Bush administration invoked executive privilege on numerous occasions. So has the Obama administration. Executive privilege has now become a tool for not only protecting military secrets and other secrets the revelation of which would endanger the nation’s security, but a way of covering up executive branch wrongdoing.

Nixon tried to use executive privilege in an unsuccessful attempt to cover up his administration's complicity in the Watergate break in. Clinton attempted to use executive privilege to cover up his relationship with Monica Lewinsky. George W. Bush asserted executive privilege to deny disclosure of details about the scandal involving the FBI's misuse of organized-crime informants and Justice Department deliberations about President Bill Clinton's fundraising tactics, none of which had anything to do with national security or military secrets. And now it is [reported](#) that the Justice Department has in the last few months gotten protective orders from two federal judges keeping details of some software technology out of court because the details if revealed would threaten national security. But others involved in the case say that what the government is trying to avoid is public embarrassment over evidence that the software's designer bamboozled federal officials.

Huge conspiracies aren't what destroys people's freedom, they are too easy to undo. The accumulation of errors, failed policies, and little and big unfairnesses destroy it. It happens because *The best-laid schemes o' mice an' men/ Gang aft agley,/ An' lea'e us nought but grief an' pain.*

The FED, CIA, Executive Privilege, The Patriot Act, Homeland Security, and more, by themselves, are bad but not disastrous. Together, however, they are the tools of tyranny that are tyrannizing America, because they provide people who are not answerable to the people with powers that can be and often are abused. It happens because those who implement ideas that seem sound never ask what happens when the powers these ideas entail fall into the hands of the unscrupulous.

The insidiousness of these tyrannical tools is that they can exist amid the trappings of democracy, along with political parties and regular elections. The result is a tyrannical nation masquerading as a democracy.

All of these agencies as part of the executive branch act secretly. And we have forgotten that, "Secrecy, being an instrument of conspiracy, ought never to be the system of a regular government."—Jeremy Bentham

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