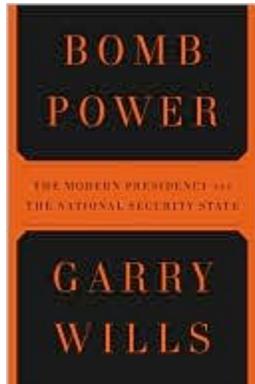




Bomb Power: The Modern Presidency and the National Security State

Garry Wills , Joanne J. Myers

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Introduction

JOANNE MYERS: I'm Joanne Myers, Director of Public Affairs Programs, and on behalf of the Carnegie Council I'd like to thank you for joining us.

Today we welcome a speaker whose reputation for being a fascinating writer of considerable erudition precedes him. Garry Wills is one of America's leading public intellectuals. He is a prolific author of many widely acclaimed and best-selling works, including [Lincoln at Gettysburg: The Words that Remade America](#), for which he won the Pulitzer Prize in 1993. Since then he has written several other books, including [Head and Heart](#), in which he examined the relationship of church and state in America. This was discussed at the Carnegie Council in 2007 and the [transcript](#) can be found by visiting our website at www.carnegiecouncil.org.

Today he is here to talk about an entirely different subject, which is how the atomic bomb transformed our nation. [In Bomb Power: The Modern Presidency and the National Security State](#), Professor Wills weaves a fascinating narrative. It is a story that grows out of the [Manhattan Project](#) and the secrecy surrounding it. As told by the skillful historian, it is very compelling, and in many ways it is a continuum of some of Professor Wills' earlier work, in that it gives perspective on the enduring story that is America by finding deeper meaning in original text. In this case it is the U.S. Constitution.

It is Professor Wills' thesis that acquisition of the bomb gave the president vast power—not only to use the bomb, but it also became the model for the covert activity and overt authority of the government we now have. And this, writes our speaker, upsets the balance of powers as set forth in the Constitution by giving the president more authority than originally intended by the Founding Fathers. He argues that, whatever the justification for its manufacture and use, the bomb was built unconstitutionally and the precedent which this set endures to the present day.

In the last few years, increasing battles against centralized power have erupted from many quarters. [George W. Bush](#) left the White House unpopular because of what many saw as his abuse of power. And although [Barack Obama](#) has promised change, the momentum of an expanded executive bureaucracy is not easily reversed.

The powers given to the president since World War II, followed by the needs of the Cold War and the war on terror, all make a vast and intricate structure that may not be easy to dismantle.

For the historical explanation, please join me on this very cold morning giving a very warm welcome to our very distinguished guest, Garry Wills, who will account for it all.

Thank you for joining us.

Remarks

GARRY WILLS: Good morning. Thank you for coming.

Most wars in America have involved the temporary suspension of this or that part of the Constitution. In a time of emergency, it's considered important that you can do things like suspend *habeas corpus* or intern Japanese-Americans, et cetera. But after most wars there is a reversion to normal and people are anxious to demobilize and reconvert industry and that kind of thing.

That didn't happen in World War II. The emergency powers were extended because the emergency did not end. There was a new emergency beginning a new war, the Cold War, and President [Truman](#) declared emergency on all kinds of fronts. He wanted universal military training so the nation could be militarily prepared; he wanted to draft railroad workers; he wanted to seize steel mills; he went to war in Korea without Congress' declaring war. All of these powers had come to him as a result of the new emergency and the new source of that emergency, the great, great secret we now have, the atom bomb—a secret we had to protect, make sure people didn't learn how to make it, try to find out what they were doing about it, what they were learning about it. So surveillance, domestic and abroad, came in, and more classification of secrets than had occurred even during the war, stricter clearance procedures, stricter loyalty tests.

The model for all of this was what produced the bomb, the Manhattan Project. That was an unconstitutional procedure on many grounds, but justified, as all the suspensions of the Constitution are. It was not authorized by Congress; Congress knew nothing about it. Senator Truman, when he was investigating the use of funds during the war, never caught on to it, even though it was spending billions in current dollars, even though it operated in 80 locales, had three huge, sprawling, 1,000-person establishments at Hanford and Oak Ridge and Los Alamos.

The head of it, General [Leslie Groves](#), had dictatorial power. He was outside the chain of military command. All of his funds were unaccountable for, were not authorized by Congress. He spied on people at home and abroad. He had his own little Air Force. He had an assassination team that he sent to Europe to try to kill [Werner Heisenberg](#). He set up his own successor. He figured that if he got sick or was killed or disabled in any way, no one else had this huge project in his head except his own designated successor, which was again outside all constitutional procedures.

Well, at the end of the war, much of that power went straight to the president, because, for the first time in our history, the president was solely authorized to use the bomb in a military way, without any consultation, without any check, without any review process, without asking anything from Congress.

The justification for that was that if now our foe, Russia, should either attack or be on the verge of attacking with an atomic weapon, there wouldn't be time to consult people. You have to turn it all over to the judgment of one man. He would have to either anticipate or retaliate. No one else could do it because no one would have time to.

Well, once that power was given him, many other things flowed from it. You have to protect the power; you have to protect the bomb. You have to set up a whole series of moves to deploy it. You have to be able to deliver it all around the world. So first we have the Strategic Air Command, with bombs flying around the world secretly all the time; then you have the atomic submarines; then you have intercontinental missiles; all of these needing bases and refueling and radar stations and radiation-monitoring stations—the vast, vast empire, largely secret, which has grown ever since. We have over 800 military bases around the world now which are the progeny of all this.

And not only that. When the opportunity to fight the Korean War came up, Congress would have authorized that in a second. It was extremely popular in Congress. But Secretary of State [Dean Acheson](#) said to Truman, "Don't you dare ask them for permission. It would cut down your own authority to act in an instant." So even though it was not a nuclear war, the nuclear justification was used for conventional war.

When this started, it made the president take on an aura, a military aura, that he had not had before. He became the commander in chief. "Commander in chief" was a British term that meant when you have several admirals out in the same part of the ocean, one has to be able to coordinate the others, so he will be the commander in chief. It was a temporary term and a theater term. So you could have a number of commanders in chief, according to the theater. In fact, that was true of us until recently. CINCPAC [Commander in Chief, [Pacific Command](#)] was commander in chief of the Pacific. CINEUR was commander in chief of Europe.

But in the recent Bush Administration the Pentagon said: "No. Take that title away from them. It delimits the great title of the president. The president is the commander in chief."

Now, he's not, of course. He's not my commander in chief, not yours. The Constitution says he's the commander in chief of the military and of the militia when called in to national service—which, by the way, Congress is supposed to do.

But now he's become the commander in chief of everybody. We often say, "We're electing our commander in chief." Remember in the [Saturday Night Massacre](#) General [Haig](#) wanted to have [Archibald Cox](#)—well, [Nixon](#) wanted Archibald Cox to be fired from the Watergate investigation. So Haig called the Justice Department and said, "Fire Cox."

They said, "No."

So it devolved then to [William Ruckelshaus](#), and he said, "Fire Cox."

They said, "No, that's not what Congress wanted when they set up this counsel, independent counsel."

He said, "Your commander in chief has given you an order." Well, of course he was not Ruckelshaus' commander in chief. But now that's the way he's talked about. [*Editor's note: Ruckelshaus and his boss, Eliot Richardson, both resigned their positions rather than obey Nixon's order to fire Cox.*]

I wrote an op-ed in *The New York Times* saying whatever else he is, the president is not constitutionally my commander in chief. I got the most extraordinary mail, saying, "If he's not your commander in chief, you're not an American. Get the hell out of this country." [Laughter]

It's now the definition of citizenship that we're obedient to a commander in chief. In a republic, you know, he's supposed to be responsible to us. In a military organization, we're responsible to him.

You see the results of this in a very recent practice. When the president gets off a plane or a helicopter, he's now saluted and returns the salute. That started with [Ronald Reagan](#). Salutes are supposed to be to the uniform. The president wears no uniform. In fact, the president is not in the military at all. That was established by the Court when the president's estate tried to get tax breaks for military service, pensions and things like that. The Court said: "The president is not in the military. He doesn't draw military pay. He can't be court-martialed. He's a civilian. He's not a military person."

Now, the Constitution makes him, for purposes of war, the commander in chief of the military, but only of the military. You don't even salute a general when he's out of uniform, but now they salute the president and he salutes back. [Eisenhower](#), who was a real general, didn't do that. President [Clinton](#), who was a draft dodger, did. [Laughter] And now, once those practices start, you can't stop them. Obama does it. If he stopped, I presume they would say he was not an American, that shows his Kenyan origins coming

out.

So all of this immense apparatus is out there, and it's very difficult for a new president to come in and change it in a deep way.

Candidate Obama talked about getting rid of some of the constitutional flaws—renditions and detention without representation and things like that. But the minute he came in, his CIA chief said, "Well, you know, we'll have to consider it. We might need renditions down the road. And we probably do need military tribunals. We won't try everybody in them, but we've got to keep them around. It's going to be hard to close Guantanamo in a year."

We can't really release pictures of torture. In fact, Secretary of State [Clinton](#) told the British they couldn't release torture pictures in a procedure in their courts.

The president said, "Let's not investigate torture in the past. We shouldn't look at the past. We should look forward."

What happens to a president? He comes in and he finds out things he didn't know, what this huge apparatus is that he controls, and how his hands are tied in many ways.

They come to him—the CIA, the [NSC](#) [National Security Council], the [NSA](#) [National Security Agency], and others—and say: "Wait a minute. It took us a long time to build this up. You're probably going to need it at some point. Don't destroy it. And don't destroy the morale of the people who have to stay loyal to you, because if you do that they'll start telling secrets, they'll start talking about the operations they've been involved in which cut the corners of the law."

And it's not only that this vast government apparatus is there. When we do things like invade Cuba, topple Iran, we normally use agents that are not part of the CIA or the military or anything of that sort. They're soldiers of fortune often, they're kind of loose cannons, and they're around after we use them. You notice the Watergate break-in was done by Cubans who had been involved in the [Bay of Pigs invasion](#). Once these people are formed, they're going to be a nuisance.

We now have more contractors in Iraq and Afghanistan than military people. This was all part of the "do the war on the cheap" attitude: "We'll only have a certain amount of people on the books, actual military people, but then we'll have all of these contracting companies." They were originally outside the law. Blackwater could not be prosecuted under international law or American law or any law because they were the agents of the coalition government, that semi-fictional entity.

So it's very difficult for a president to get out of what we have let him get into. All of this comes, really, from the procedures that work so well.

One of the baneful legacies of the Manhattan Project is that it worked and it justified in many people's eyes all of the constitutional aberrations that were necessary to make it work—the secrecy, the surveillance, the concentration of authority, the unaccountable moneys. We've got that constantly now.

In the Indian Ocean there is an island, [Diego Garcia](#), and one of the things we did when we had to have these bases around the world so that we could deploy the bomb anywhere, anytime, is that we needed friendly governments. When we didn't get friendly governments, we toppled those governments. But there was always a problem, that the indigenous peoples might resist us, might overthrow our puppet government, as they did in Iran and other places. So they said in the 1960s: "Well, let's get someplace where nobody can topple the government because there won't be any government."

So they took Diego Garcia and they exiled thousands of people who lived there, confiscated their property, shot their livestock, and they have been in permanent exile.

It's a place that's located strategically close to the Mideast, and so it has been a staging area for the Kuwait war and the Iraq war and other wars. Nobody quite knows what resources are there, nuclear and otherwise, supply, etc., because no journalist is allowed to enter it.

That's just one of the many secrets that a president learns when he comes into office. It ties his hand and it makes us outside the process entirely.

When the [first President Bush](#) wanted to invade Kuwait, he did ask permission from Congress, or approval from Congress—not to declare war (they never do that anymore) but to allow him to start the process. Under the [War Powers Act](#) he's supposed to report back in a certain amount of time. They never do.

But anyway, Admiral [Crowe](#), who had been the chairman of the Joint Chiefs of Staff, testified to the Congress, to the Senate Foreign Relations Committee, that he thought sanctions should be used for a longer time before actually going to war.

The next day Secretary of State [Jim Baker](#) came before the same committee and said: "Well, Admiral Crowe no longer has clearance. He can't read the cables. So his opinion is worthless."

Well, so's yours, so's mine, so's everybody's whose not reading the cables. Once this secrecy system is set up, only the ones who are in on the secret have an opinion worth listening to.

[Daniel Patrick Moynihan](#) wrote a wonderful book, called [Secrecy](#), in which he said the whole premise of the Bay of Pigs was false. The premise was that if we send in this little team of Cubans, they will provoke a rebellion against [Fidel Castro](#). Moynihan said everybody who wrote about Cuba at the time—academics, journalists, pollsters—said: "Fidel Castro is exceedingly popular at the moment. There is not going to be any rebellion." He said: Why didn't President [Kennedy](#) pay attention to them? Because it wasn't classified. The people who went to him said, "Don't pay any attention to that. We're the ones in the know. Only we know."

It was the [Lyndon Johnson](#) refrain during Vietnam, that "If you only knew what I know, you'd see how wise and prudent I've been in the Vietnamese war." Well, [Daniel Ellsberg](#), who helped draw up the Pentagon Papers, released them to prove that they didn't know anything. The big secret of the Pentagon Papers was that there was no secret. They didn't have the kind of knowledge they were pretending. But the only way you could find that out was by Daniel Ellsberg breaking the law, taking it to court, and having an extraordinarily brave *New York Times* publish the papers.

So we're all on the outside now, and only the insiders can tell us what they're going to do with our lives. That's the legacy of the atom bomb.

Thanks.

Questions and Answers

QUESTION: What does the Constitution really say about a state of war? In other words, was the [Gulf of Tonkin Resolution](#) the equivalent of declaring a state of war? The wars that we are now engaged in in four countries, have there been any constitutional challenges to that state of war?

GARRY WILLS: Not really. It's very difficult to do that because Congress has for decades and decades been supine. The Constitution says, "Congress shall have power to declare war." As I pointed out, Acheson told Truman, "You can ignore that now under the new dispensation in which only you can go to war fast enough to make it effective." And so the defiance of Congress began then, and Congress didn't kick back.

And then all of our wars were wars that Congress did not declare. Finally, they decided: "Well, we'd like a

little bit of the action anyway, so we'll pass the War Powers Act. We'll share the power to go to war with the president."

There's no constitutional justification for that. It was considered an intrusion, a usurpation, of the president's power at that time. [Cheney](#) wrote angrily for years and years and years that "how dare they take away the president's power?"

So they set up the War Powers Act, and it has been ignored ever since. It has never been adhered to in all of its provisos. It's considered unpatriotic for you to challenge the president in a wartime situation or in an impending war.

So then we have Mr. [John Yoo](#) come along and tell Cheney and [Addington](#) that not only can the president begin a war, *only* the president can begin a war.

They say: "Well, why does the Constitution say Congress can declare war?"

He said: "Oh, 'declare' doesn't mean authorize; it means publicize, declare that the war is going on." His proof of that was a single citation from an 18th-century dictionary, [Samuel Johnson's](#), that said "declare" means publicize. Well, it can mean that. But legal documents—many, many of them—completely ignored by John Yoo, say that "declare war" means authorize war, which is what you would expect "declare" to mean.

When a minister says, "I declare you man and wife," he's not saying, "I'm publicizing the fact that you've been bedding her down for a long time." [Laughter]

So the Constitution is very clear on this. But we've got to the point where the identification of the president and war and patriotism is almost unbreakable.

QUESTION: It sounds to me as though you were saying that the Manhattan Project itself was an unconstitutional endeavor.

GARRY WILLS: It was.

QUESTIONER: My question is: What provision of the Constitution was violated by inaugurating the Manhattan Project?

GARRY WILLS: The Constitution says only Congress can authorize the use of governmental funds. It didn't authorize a single penny for the Manhattan Project.

It said that the Congress has the right of oversight over the executive. Naturally, it can impeach the executive. It can't impeach unless it can investigate what's going on. They were lied to and deceived so they couldn't investigate what was going on in the Manhattan Project.

As I say, there was an attempt to assassinate Werner Heisenberg. That's illegal by both domestic and international law, not only unconstitutional.

He was outside the chain of military command. There was no authorized military person who said, "Drop the bomb." It was the president who okayed it and it was his little select group of directors of this project, outside all normal procedures, that allowed Groves to decide when and where to drop the bomb. There were some limits; he was told where he couldn't drop it. But it really depended on the logistics and the weather and all those things.

In order to deliver the bomb, he had the forerunner of Strategic Air Command. He had a whole series of bombers requisitioned, outside of congressional authorization, reconfigured to carry the bomb, trained by pilots who were not told what they were doing. They made practice runs on Japan without the bombs in

them but with dummies weighing the same amount. He set up the Tinian Island base to send the planes off. In that way he controlled the whole operation. It was the most extraordinary authority, totally outside constitutional procedures.

And as I say, that's what happens in war. That's when you do get presidents suspending *habeas corpus* or imprisoning Japanese-Americans, et cetera. But usually it ends when the war ends, when the emergency ends. But the emergency never ended. It's still with us.

QUESTION: Regarding your interpretation of secrecy, in the past—well, the Manhattan Project was a secret project and nobody knew about it, and obviously that was one of the most important things about it, although it was unconstitutional. I wonder if nowadays the government is outsourcing those secret projects because it's not possible anymore to maintain a secret with the politics and in D.C.

GARRY WILLS: Well, it's possible to keep a secret for its real purpose, at least for a while.

One of my favorite Doonesbury strips, the original of which hangs on my wall, is a person going to a Cambodian couple standing in front of their leveled home and saying, "This is a historic site. This is the site of the secret bombing of Cambodia."

The Cambodian man says: "No, it wasn't any secret. I said to Martha, 'Look, there are the bombs falling on us.'" [Laughter]

The point was that Congress was kept out of the secret. See, the original justification of secrecy is that the enemy shouldn't know what you're up to. If you're going to invade Europe, they shouldn't know when D-Day is going to occur. You have to keep it secret. But once it occurs, of course, there's no reason to keep it secret.

But now things are kept secret, not from the enemy, but from the Congress or the public. For instance, Fidel Castro knew very well about the Bay of Pigs. The CIA had all these Cubans in Miami just leaking like crazy.

So, of course, *The New York Times* got onto it, if Fidel did, and they went to Kennedy and said: "We know about this. We don't think it's a very good idea."

He said: "No, you can't publish it. We've got to keep it secret"—not from Fidel, but from the Americans.

The same with the attempts to assassinate Castro and to sabotage his crops and his ports. He knew all that. We didn't know it.

The use of secrecy—there's a very key important Supreme Court case which has been used as a precedent over and over and over to protect state secrets, [Reynolds v. United States](#). An Air Force airplane went down. It was flying some experimental electronic equipment. Some of the people perished; some didn't. The families of the people who perished heard from the ones who survived that there were things that were odd about the plane: It had a very bad repair record; it didn't tell the civilians aboard where the exits were and what the procedures were in case they had to bail out. So they sued the government for negligence.

The Air Force said: "No, no, you can't do that because our secret electronic experiments would be revealed."

And so in two courts the judge said: "Well, if that's the case, show"—there was an investigation, an official investigation, by the Air Force, and that's what they wanted—"show me the investigation *in camera* and I'll decide if there's something that has to be withheld."

The Air Force said: "Oh no, we can't do that."

The judgment went against the Air Force in both the inferior courts, and so it went to the Supreme Court, the [Vinson](#) Court. It was during the Korean War. The Chief Justice said: "Well, we can't demoralize the Air Force in the midst of a war, so I won't even look at the investigation *in camera*. If you give it to me, I won't look at it."

That has now been used as a precedent for the government pleading state secret in dozens of cases.

Later on, accidentally, by the normal declassification process, that investigation was released. It turns out there was no state secret involved, but there was a great deal of evidence of criminal neglect on the part of the Air Force. That's what they were hiding, not state secrets, their own blunder, and that's the justification for much of the secrecy.

Now, the interesting thing is that, even though that has come out in the interval, when "state secret" has been applied to a court and people have said, "Wait a minute, the whole thing is based on a lie"—[Ted Olson](#), arguing before the Court, said: "Well, there was not a direct state secret, but there were things that could be put together with other things in what is called the mosaic theory: If you have one pebble, you can maybe deduce the whole mosaic from it."

The Court went along with that. So the lie is now entrenched and it protects the government from having to reveal its blunders.

The very man who argued the Supreme Court case against releasing the [Pentagon Papers](#) later on said: "The whole reason for keeping the Pentagon Papers secret was to cover up government blunders. It wasn't because of any state secret."

The arguments they used were things like: "Well, you can find out about the deployment of troops from the Pentagon Papers." Now, remember, the Pentagon Papers ended during the Johnson Administration and this was now the Nixon Administration. That deployment occurred 20 years ago, 15 years ago. There's no point in keeping it secret anymore.

But, again, they say: "Well, they might deduce our practices in deploying troops."

So the excuses go on and on and on. But, in effect, it's a way of saying: "Get out of our turf. We're going to protect our turf, our secrets, no matter what."

QUESTION: What do you make of the fact that there is all this anger against executive power, for perhaps proposing, for example, raising taxes by less than 1 percent on people who make more than \$400,000 a year, and that you received all those letters, possibly from many of the same people, accusing you of being unpatriotic for saying, "The president is not my commander in chief"?

GARRY WILLS: Well, there is a resentment of government endemic in American politics, and especially, of course, the foundation of republicanism that government is too big, taxes too much, spends too much, etc. But that stops when it comes to national security. Then the more the better, the more money we can spend on defense, on the military establishment, the better. That shows up in all kinds of ways. The constituents who don't want to spend taxes on other things are quite willing to spend it on even useless military stuff.

I forget. What was the name of the plane—722 was it?—the one that recently was killed. The Air Force kept trying to kill it and trying to kill it. The Congress people, who had contracted parts of the construction of the plane—and they spread that around, by the way, so that you will involve as many districts as possible in order to protect the project—just kept saying: "No, no, no. You've got to have it. National security calls for it." And there was no outcry on the populace's part against that, only on the military's part.

So there is this big demarcation. So the Republican administrations, who are all against taxes, had Dick Cheney saying, "It's unpatriotic if you criticize the president on any of his war measures. They're wonderful."

QUESTION: I'm wondering what your option is here, because it seems to me by implication you'd like to get rid of all the keepers of our secrets. When I worked in England many years ago, we were constrained from saying anything bad about anybody in public office by something called the [Official Secrets Act](#), and that in the home of parliamentary democracy. So I must say I was deeply impressed by how the Brits keep their secrets. Nobody at that time knew who the head of M16 even was, at the time when everybody, of course, knew who the CIA director was. So what's your option here if we're going to keep anything secret?

GARRY WILLS: Well, Britain does have the Official Secrets Act. What it doesn't have is a First Amendment. America at least professes freedom of speech, freedom of opinion, which is constantly entrenched upon by the secrecy provisions, clearance provisions, of our government.

No, I don't want to get rid of all secrets. Some secrets are justified. As I say, if you're hiding it from the enemy, that's one thing; if you're hiding it from the American people, that's an entirely different thing.

Nixon wanted to hide the Cambodian bombing effort so Congress wouldn't stop him, wouldn't cut off funds. And it worked. He kept it secret from them—not at all a secret to the Cambodians.

Once this kind of secrecy starts, people want to protect it for many reasons. They want the cachet that comes from having clearance themselves. They want to say, "Even an unjustifiable secret should be kept so that you can protect other secrets that are justifiable." They make a cult of the clearance system—you're not really important unless you have clearance.

So in the [Oppenheimer case](#), President Eisenhower had said, "Put a silent wall between him and all secrets." So he was no longer a threat to national security. They were not letting him have anything. But that was not enough. They wanted to destroy his reputation because other physicists looked on him with respect and they wanted to take that away from him. So they held the hearings to officially take away his clearance. At that point, as I said, it had nothing to do with national security; it had to do with their own protection of their turf against this outsider who had to be branded, and in the process of the investigation he was of course subjected to all kinds of charges, some justified, some not.

But anyway, that's the cult of secrecy that has gone way out of hand.

Moynihan said the classification of secrets should have slacked off at the end of the Cold War. Instead, it increased, and it's increasing constantly.

One of the things about classification is it's very cumbersome. It's expensive and time-consuming to declassify anything. Now, when we have thousands and thousands and thousands of classified things, they're never going to be declassified.

Clinton tried a little bit. But if any of you got your FBI file, as I did, you see all these redactions, all these crossings-out. They had lawyers going over and doing all of that stuff, spending much more time on it than the FBI had spent collecting the material. Well, that's what happens.

And of course, it's cumbersome even to get those files. You have to prove who you are. You have to make several submissions.

The Bush Administration tried to weaken the [Freedom of Information Act](#), sealed up presidential papers for longer times. You know, the secrecy is galloping and rampant, far beyond any of the original justifications.

QUESTION: Thank you very much for an excellent description of our system. Do you think this is irreversible, or do you think that citizens who are concerned about all of the things that you've talked about have any opportunity to take action that would maybe modify the system that we have?

GARRY WILLS: It would be very difficult.

There have been some attempts. I mentioned one, the War Powers Act; that was an attempt that failed. There was the Church Committee that investigated CIA assassinations and other crimes, LSD experiments and all that stuff, and they put in a number of restrictions on the CIA, which were routinely ignored, so that Moynihan had to resign from the Intelligence Committee because [Casey](#) of the CIA lied to him, said he was not attacking harbors when he was. So the attempts that have been made have by and large failed.

I don't know. Well, Obama promised to make some attempts and he seems to be backing off from that. So it's difficult to see what could happen.

Probably the only way to take away bomb power is to take away the bomb. I know that's considered idealistic. But [Paul Nitze](#), who was the great champion of the bomb, toward the end of his life said: "It's not protecting a thing. We need to get rid of it."

QUESTION: A question that comes to mind: when the Constitution was drafted in the 18th century, the declaration of war was probably thought of in the context of two armies face to face in a field of battle. Do you think that that provision extends to situations where the military intervenes against a non-state actor, where the enemy is not defined; or does it even extend to a situation where the president may order military intervention against pirates, for example, at the Gulf of Aden?

GARRY WILLS: Yes. Of course, that occurred right at the outset. President [Jefferson](#) did take action against the pirates. But he said, "This is a temporary measure because Congress is not in session. When it comes back in session, I will ask Congress whether they want me to continue this action against pirates." It wasn't a declaration of war he was asking for, but he was reporting to Congress and realized that he had a duty to do that.

So no, there are exceptions. But, you know, the Bush Administration tried to have it both ways. They said: "The Geneva Conventions don't apply because that only applies to nations and the terrorists are not part of a nation." "On the other hand," they said, "we have a war on terror." So he was having a war and not having a war, according to which suited him at that moment.

But the idea that a declaration of war is needed—[Madison](#), by the way, took action in Louisiana and again said, "Congress, the minute it comes back, I will report to Congress because they have the authority." And he did.

But now, of course, it's a matter of principle that the president does not hold himself accountable to Congress.

QUESTION: Thank you very much. What steps do you think President Obama ought to take that he's not taking, what steps should the American Congress take it is not taking, that would reduce this virtually unlimited power of the presidency that you've been describing?

GARRY WILLS: I think he should have said, "Torture is against the law, so enforce the law." He said something quite different: "Torture is against the law, but we're not going to enforce the law." That's not the way to do it.

QUESTION: Listening to you, another element of this occurs to me, which is that you're also talking about the flow of power between the Congress and the chief executive. My sense is that that's part of an even longer-term change, that you'd have to go back to the late 19th century probably to see the time

when that shift occurred in the balance of power. Essentially, the executive has been accruing power at the hands of Congress probably since the United States became a global power with a global foreign policy and military with a global reach. My impression is that now Congress doesn't want the power back. It actually wants to have, in general, a stronger executive.

So I wonder if, first of all, you think that historical analysis is right; and, if that's so, if the part of this that has to do with the kind of zero-sum relationship of these two branches makes the situation even less remedial, because it's even harder to foresee how the Congress can seek to take back the power that it long ago ceded to the executive.

GARRY WILLS: Well, the gilded-age accrual of power in the executive had to do with domestic affairs and a corrupt Congress. Congress was a bought entity then, even more that it is now.

But the situation changed when a whole series of instruments came in that the executive didn't have before—the CIA, the NSC, the NSA, the various classifications of clearance procedures. That's a whole different ballgame in a different arena, the arena of foreign policy and war.

So I don't think it's a continuity from the 19th century. I think it's somewhat a continuity in some areas but an extreme break in others.

JOANNE MYERS: I thank you very much for your remarks and for highlighting this issue.

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