

Obama's High Crimes and Misdemeanors: Completing Bush/Cheney's Fascist Coup

Special to EIR

Aug. 29—After cynically campaigning for office on a platform of transparency and open government, President Barack Obama is presiding over the biggest assault on the U.S. Constitution in American history, implementing outright treasonous programs that even the Bush/Cheney Administration failed to push through.

And the model that Obama and his minions at the White House and Justice Department are pursuing is that of a foreign power: Great Britain. If Obama has his way, his Administration will ram through a cowardly Congress an exact replica of Britain's tyrannical Official Secrets Act.

Under the British Act, there is no such thing as a right to free speech. Any citizen who dares to publish what government bureaucrats declare to be a "state secret" can be punished severely. And there is no defense permitted based on the truthfulness of the revelations.

Obama is committed to imposing Britain's most Kafkaesque police-state measures, and he is banking on Congressional bipartisan support to do it—led by Sens. Joe Lieberman (I-Ct.), John McCain (R-Ariz.), and Lindsey Graham (R-N.C.).

If none of President Obama's prior high crimes and misdemeanors against the Constitution—like the Libya War and the budget-cutting Super-Committee in Congress—are viewed as rising to the threshold of impeachment, this campaign to impose a British Official Secrets Act on America certainly does. The question is not whether Obama should be impeached, because the answer is a resounding "yes." The question is whether enough Members of Congress will take their oath to uphold the Constitution seriously enough to act—before they find themselves behind bars for daring to whimper protests, after the fact, against Obama's increasingly dictatorial rule.

Ironically, in launching this drive for an Official Secrets Act, Obama has again revealed his actual weakness. In this, as in all of his prior unconstitutional actions, he is exposing himself as a captive tool of the British. And his narcissism is reaching such proportions that his closest White House staff and advisors are des-

perate to bring it under control (see preceding article in this issue).

Treason Made in London

Columbia University Law School professor Scott Horton has been warning about the drive to impose a British Official Secrets Act on the United States since 2005, when the effort was launched by President George W. Bush's Attorney General, Alberto Gonzales. In an April 21, 2007 article in *Harpers* magazine, Horton recounted a Summer 2005 visit to London by Gonzales. On that trip, Gonzales met with the Home Secretary and with Lord Peter Goldsmith, Prime Minister Tony Blair's Attorney General. Lord Goldsmith would soon earn notoriety for ordering the shutdown of Britain's Serious Fraud Office probe into widespread corruption and bribery by BAE Systems, Britain's privatized arms cartel—on bogus "national security grounds."

According to eyewitness accounts, Gonzales grilled the British officials on the ins and outs of the Official Secrets Act and how to impose it on the United States.

Horton quoted an unnamed British civil servant who sat in on the Gonzales-Goldsmith session, in his 2007 *Harpers* account: "It was quite amazing, really. Gonzales was obsessed with the Official Secrets Act. In particular, he wanted to know exactly how it was used to block newspapers and broadcasters from running news stories derived from official secrets, and how it could be used to criminalise persons who had no formal duty to maintain secrets. He saw it as a panacea for his problems: silence the press. Then you can torture and abuse prisoners and what you will without fear of political repercussions. It was the easy route to dealing with the Guantanamo dilemma. Don't close down Guantanamo. Close down the press. We were appalled by it, but not surprised."

In a May 2006 interview on ABC TV's "This Week," Attorney General Gonzales was asked whether he thought the government had the authority to gag the media to prevent publication of state secrets. "It depends on the circumstances," Horton quoted Gonzales as answering. "There are some statutes on the books

which, if you read the language carefully, would seem to indicate that that is a possibility. That's a policy judgment by the Congress in passing that kind of legislation. We have an obligation to enforce those laws."

Gonzales was not speaking in abstraction. The Justice Department was already working on a series of cases under the Espionage Act of 1917—including the indictment in May 2005 of Pentagon analyst Larry Franklin and two officials of the America Israel Public Affairs Committee (AIPAC), on charges of passing secrets to the Israeli government.

Professor Horton commented on the Bush Justice Department's scheme: "Rather than approach Congress with a proposal to enact the British Official Secrets Act, a proposal which would certainly be defeated even in the prior Republican-led Congress, Gonzales decided to spin it from whole cloth. He would reconstrue the Espionage Act of 1917 to include the essence of the Official Secrets Act, and he would try to get this interpretation ratified in the Bush Administration's 'vest pocket judicial districts,' the Eastern District of Virginia and the Fourth Circuit."

While many people with long and bitter experience with AIPAC's over-reach in Congress and the White House welcomed the Franklin case and the indictments of AIPAC operatives Steven Rosen and Keith Weissman, only a handful of legal scholars had any inkling of what the Bush Administration had in mind with the novel use of the Espionage Act. Ultimately, Franklin would reach a plea agreement with Federal prosecutors, and the case against Rosen and Weissman would be dropped.

But, before that happened, Paul McNulty, the U.S. Attorney for the Eastern District of Virginia (later named by Gonzales to head the Criminal Division of the Justice Department), submitted a motion spelling out the argument for using the Espionage Act as a foot-in-the-door to an Official Secrets Act. Again, quoting from Horton's *Harpers* magazine article: "The government respectfully submits that an 'ordinary person exercising ordinary common sense' ... would know that foreign officials, journalists and other persons with no current affiliation with the United States government would not be entitled to receive information related to our national defense."

Obama Trumps Bush

While Bush was still in office, Attorney General Gonzales and his successor Michael Mukasey ramped up the drive for an Official Secrets Act, by opening investigations into a slew of whistle-blowers, using the

Espionage Act. Two of the primary cases launched before Bush left office were against National Security Agency official Thomas Drake and Central Intelligence Agency officer Jeffrey Sterling.

Both men were suspected of leaking embarrassing information about failed secret programs and outright national security state crimes to journalists from the *Baltimore Sun* and the *New York Times*.

However, in the final months of the Bush Administration, Federal prosecutors at the main Justice Department were unable to reach a decision on whether to prosecute. Steven Tyrrell, the Chief of the Justice Department's Criminal Fraud Section, left his post—and left the decision on these cases to his Obama Administration successors.

Drake and Sterling were left hanging. They were dismissed from their jobs, they lost their security clearances and pensions, and were financially and psychologically smashed by the still-dangling accusations.

In 2010, the Obama Administration launched a flurry of prosecutions under the Espionage Act, all against whistle-blowers who had provided damning information to journalists about the continuing government illegal spying and other crimes and bungled security programs:

April 2010: Thomas Drake was finally indicted under the Espionage Act for leaking information to *Baltimore Sun* reporter Siobham Borman and House Intelligence Committee staffer Diane Roark regarding an NSA program known as Trailblazer.

May 2010: Shama K. Liebowitz, an FBI translator, reached a plea agreement on charges of passing information to a blogger. His attorneys would later lament that they advised their client to accept the plea deal, out of fear of a long prison sentence under the Espionage Act. They failed to anticipate that Federal Judges would almost uniformly reject the use of the Espionage Act in domestic leak and whistle-blower cases.

May 2010: Pvt. Bradley Manning was arrested and charged under the Uniform Code of Military Justice, which incorporates parts of the Espionage Act, for allegedly leaking classified material to Julian Assange and Wikileaks.

August 2010: State Department contractor Stephen Jin-Woo Kim was indicted under the Espionage Act for allegedly disclosing information about North Korean nuclear weapons to Fox News reporter James Rosten.

December 2010: After a four-year investigation, Federal prosecutors indicted CIA officer Jeffrey Alexander Sterling under the Espionage Act, for making unau-

thorized disclosures about CIA operations against Iran, to *New York Times* reporter James Risen. The alleged leak occurred in 2003, and appeared in a book by Risen, published in 2006. Yet the indictment was not handed down until the end of 2010. Among the charges contained in the indictment were a string of lawful activities, including a discrimination complaint against the CIA (Sterling is African-American), briefings to staffers of the Congressional intelligence oversight committees, and a petition to the CIA for permission to write a book.

In rapid succession, the Espionage Act prosecutions have collapsed. In June 2011, Federal prosecutors reduced all the charges against Drake to a single misdemeanor count of misuse of government documents.

Judge Richard D. Bennett used the July 15, 2011 sentencing hearing as an opportunity to denounce the Justice Department, and especially chief prosecutor William M. Welch, for abuse of prosecution.

Bennett rejected Welch's demand that Drake be fined \$50,000 as part of the misdemeanor sentencing. "There has been financial devastation wrought upon this defendant that far exceeds any fine that can be imposed by me. And I'm not going to add to that in any way.... That's four years of hell that a citizen goes through. It was not proper. It doesn't pass the smell test," the judge declared.

Then he went at the very heart of the Obama Administration's back-door attempt to impose an Official Secrets Act via the Espionage Act: "I don't think that deterrence should include an American citizen waiting two and a half years after their home is searched to find out if they're going to be indicted or not. I find that unconscionable. Unconscionable. It is at the very root of what this country was founded on, against general warrants of the British. It was one of the most fundamental things in the Bill of Rights that this country was not to be exposed to people knocking on the door with government authority and coming into their homes. And when it happens, it should be resolved pretty quickly, and it sure as heck shouldn't take two and a half years before someone's charged after that event."

Congress Next

According to Scott Horton and other civil liberties experts, the Sterling case is not likely to go any better for the Obama Administration's efforts to get a court endorsement of a back door to Official Secrets.

According to a consensus of experts, the Obama Administration is likely to go to Congress to pass an Official Secrets Act. Three prominent Senators—McCain, Lie-

berman, and Graham—are smarting from Wikileaks, and could be expected to front for the White House in ramming through a suppression of the First Amendment.

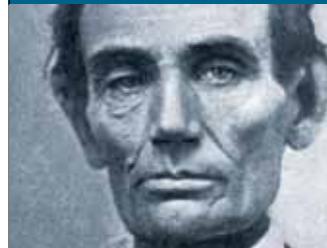
An August 2009 State Department cable, leaked through Wikileaks, has caused the trio great embarrassment. The cable detailed a visit to Libya, in which the three lawmakers met with Muammar Qaddafi, praised him to the skies as a key U.S. ally in the global war on terrorism, and agreed to push through Congressional approval of arms sales, including counterinsurgency weapons for use in suppressing protesters.

According to legal scholars and senior U.S. intelligence sources, since 9/11, both the Bush and Obama Administrations have engaged in such systematic lying and coverup of crimes, under the guise of national security, that they are desperate to cover their trails. Having failed to bully the Federal courts into rubber-stamping an out-of-control and unconstitutional abuse of the Espionage Act to suppress legitimate whistle-blowing, they are now prepared to push for Congress to take the lead in ripping up the Constitution.

Obama's impeachment may be the only thing standing in the way of this deadly assault against the American Republic and its Constitution.

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