

By Deroy Murdock

Walking The Tightrope

Don't Bloat Our Government To Thwart Overseas Enemies

A French stuntman once traversed a tightrope between the two World Trade Center Towers. Now Uncle Sam must conduct his own tightrope walk. He must avenge the September 11 massacre and prevent another assault from ever happening again. Yet he must do so without letting the scope of police powers or the size of government bloat excessively—as often happens in times of strife. Maintaining a balance between security and liberty is essential, and avoiding a stumble will require unparalleled discipline by both the White House and Capitol Hill.

The meticulously scripted terrorist attacks on New York and Washington were quickly followed by calls for stronger federal police powers. The total surprise, sheer audacity, and lethal results of this unprecedented onslaught made enhanced federal surveillance and prosecutorial tools tough to resist. In fact, the Senate passed the Bush administration's plan after barely half an hour of debate.

In the House, though, an unlikely alliance of conservative Republicans and liberal Democrats grabbed the emergency brake before Big Brother's bandwagon could leave the driveway. The House Judiciary Committee unanimously scaled back an administration request for powers to detain suspicious immigrants indefinitely. Instead, they will be able to be held for seven days, after which they must be released, deported, or indicted. Without a search warrant, police may read the origins and destinations of a suspect's e-mails, but not the "content," as the Department of Justice had hoped. The DoJ also wanted to permit criminal investigators to view a suspect's tax records. The House limited that new authority to terrorism cases. At this writing, negotiators are trying to reconcile the more restrictive House bill with the more expansive Senate measure. Thus far, things seem to be moving the House's way.

The frightening reality is that there likely will be more attacks on America as the War on Terror unfolds. New acts of mass murder may prompt additional proposals that restrict our personal freedoms. How might we assess the long-term wisdom of

such policies? Three principles may help assure that any new measures oppress terrorists rather than American citizens.

First, expanded police powers should be directed at suspected terrorists, not the American people in general. Non-violent offenders should not be prosecuted as robustly as those who detonate office buildings.

Second, domestic surveillance operations should always require court orders. While these tend to be granted almost automatically, the fact that two branches of government must cooperate before anyone in this country has his phone or computer tapped should frustrate overzealous or malicious officials.

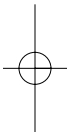
Third, all new powers granted in the War on Terror should be subject to "sunset" provisions. This would require each Congress to review and reauthorize such laws. Those that proved helpful and unproblematic could be renewed. Those that backfired could be expunged from the U.S. Code. This would give Congress regular opportunities to modify or remove laws if they were abused by the Bush administration or some future government (e.g. the Hillary Clinton administration or Attorney General Maxine Waters). Sunset clauses also would make the balance between freedom and security an issue in congressional elections.

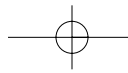
On the whole, the law enforcement reforms adopted after September 11 have been fairly sensible. But up on his tightrope, Uncle Sam is being buffeted severely by the winds of government growth. He had better hold on for dear life.

No one would argue against the \$40 billion in emergency funding that Congress approved shortly after terror struck. These funds—to boost America's defenses and rebuild the attacked areas—are for precisely the objectives for which a limited government is constituted.

Alas, that's only where the spending began. The fatal blasts blew open the so-called Social Security "lock box," and triggered

TAE contributing writer Deroy Murdock is a New York City-based columnist and a senior fellow with the Atlas Economic Research Foundation.





an unseemly, bipartisan spending orgy. In addition, Washington threatens to nationalize functions that should remain in private or municipal hands.

Certain new federal programs make sense. President Bush appointed former Pennsylvania Governor Tom Ridge as the Cabinet-level director of the Office of Homeland Security. Despite its mildly Teutonic name, under Ridge's leadership this new agency could rationalize the federal government's currently disjointed efforts to prevent domestic terrorism. Given the apparent existence within America of murderous sleeper agents loyal to terrorist groups, one only can wish Ridge Godspeed.

But there may be no need to nationalize airline security. Congressional Republicans fear that Democratic hopes to hire 30,000 new federal workers to screen passengers at airports are as much about increasing the ranks of public-employee unions as about bolstering safety. Checkpoint personnel should remain private employees, albeit subject to strict federal performance guidelines.

Washington might encourage insurance companies to play a greater role in tightening security, perhaps by offering lower premiums to airlines that boost the training, wages, incentives, and efficiency of security employees. Given the federal government's allergy to individual accountability, difficulties in firing poor workers, and hostility to bonus pay for stellar employees, placing Washington in charge of carry-on luggage is a worrisome prospect indeed. The feds are as likely to excel in that area as they have at air traffic control. Instead, the government should set appropriate standards, then let private industry decide how to meet them.

But nationalizing metal detectors is only one of the troublesome items on Washington's new wish list. Unfortunately, Republicans and Democrats alike are using war fever to justify other pet programs and money grabs.

Rep. Larry Combest (R-TX) shamefully used the smoldering wreckage of September 11 to propel the "Farm Security Act" through the House. According to a "Dear Colleague" letter Combest issued on September 27, the FSA supposedly would "ensure a safe and reliable food supply for all Americans." The real motive behind this \$167 billion slush fund appeared in the amazingly selfish headline that began the congressman's letter: "What's in it for me? The 2001 farm bill: From Buffalo, Kansas to Buffalo, New York, there is something for everyone." This monument to greed appeared on Capitol Hill as everyday Americans donated time, money, and blood to those injured or traumatized by terrorism.

This farm bill's ghastly provisions include \$101 million in subsidies for honey farmers. The once-extinct wool and mohair program has grown back at a cost of \$202 million. Taxpayers will shell out \$3.5 billion for peanut farmers. This measure, approved by the House of Representatives 291-120 on October 5, includes \$94 billion in baseline agricultural pork, plus \$73 billion in brand-new spending. "Maybe we could hit [terrorists] with peanuts," Fox News Channel's Bill O'Reilly suggested the evening of the vote. "You know, drop bags of peanuts on them and get them."

Meanwhile, the airlines' current travails prompted Senator

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Harry Reid (D-NV) to propose a \$9 billion magnetic-levitation train connecting Anaheim, California and Las Vegas. Perhaps linking Disneyland to Circus Circus

casino will kill al-Qaeda terror operatives with jealousy. Amtrak also leapt to argue that its increased passenger loads merit increased subsidies. Whether trains are empty or full, Uncle Sam gets a special funding request. (See pages 52-53.)

The AFL-CIO and a group called the Committee for Education Funding also proposed their own sweetheart deal. Columnist Robert Novak reports that they are asking Washington for \$1.6 billion in new school-repair money. These funds "will be crucial for strengthening our national security," a CEF letter to Congress explains.

The Congressional appropriations process continues as blithely as if the domestic economy were booming and the Taliban had shared the 2001 Nobel Peace Prize with the Israeli Likud party. "It might be autumn everywhere else, but in Washington it's spring-time for big spenders," lamented Office of Management and Budget director Mitch Daniels in mid October. Just days before, the House approved a labor, education, and health budget that hikes discretionary spending by 13 percent overall—roughly quintuple today's inflation rate. Next year alone, the Department of Education budget swells by 16 percent. That's still not enough for Senator Ted Kennedy (D-MA), who wants the Bush administration to support even higher school outlays. "They can stroke me with money," Kennedy told the *Wall Street Journal*. "I'm an easy stroke."

None of this surprises Robert Higgs, a researcher with the Independence Institute in Oakland, California. In his book *Crisis and Leviathan*, Higgs documents how emergencies often inspire massive, damaging, and rarely reversed governmental excesses. Fourteen years ago, Higgs presciently warned: "We know that other great crises will come. Whether they will be occasioned by foreign wars, economic collapse, or rampant terrorism, no one can predict with assurance [but] when they do, governments almost certainly will gain new powers over economic and social affairs."

As Ronald Reagan once observed: "Government programs, once launched, never disappear. Actually, a government bureau is the nearest thing to eternal life we'll ever see on this Earth." Among the "temporary" World War II measures still in force today are New York City's notorious rent control laws and the federal withholding tax (conceived, ironically, by a young Milton Friedman, who calls it his biggest mistake).

The federal officials who direct the War on Terror must resist the temptation to turn this Herculean and worthy effort into yet another excuse to feed the federal blob. At the same time, Washington should be relentless and ruthless overseas. Those who turned the Twin Towers, the Pentagon, and a Pennsylvania pasture into killing fields do not deserve the rights to remain silent, cross-examine witnesses, or deliver closing arguments. With the same vigilance with which he guards America's freedoms and its shores, Uncle Sam must find these savages and grind them into dust.