

BILL BARR'S SCREED: BLINDNESS ABOUT CURRENT THREATS

A lot of people are talking about the intemperate speech that Bill Barr gave to the Federalist Society yesterday. I'll leave the detailed unpacking, about both its legal and historical claims, to others. To me, I find it unsurprising from a guy who used to be a serious authoritarian attorney but who has rotted his brain for the last two decades watching Fox News.

Obviously, Barr makes claims about "progressive" politics while ignoring that some things he celebrates – such as SCOTUS letting conservatives gerrymander their fellow citizens out of representation – show that Republicans, not "progressives" are the ones "willing to use any means necessary to gain momentary advantage in achieving their end, regardless of collateral consequences and the systemic implications." Relatedly, Barr absolutely disappears all trace of conservative opposition to Trump (or, for that matter, any other opposition aside from those who adopt the term "resistance"), and they're the people who actually fit the description of "conservative" that he imagines he can still claim.

Conservatives, on the other hand, do not seek an earthly paradise. We are interested in preserving over the long run the proper balance of freedom and order necessary for healthy development of natural civil society and individual human flourishing. This means that we naturally test the propriety and wisdom of action under a "rule of law" standard. The essence of this standard is to ask what the overall impact on society over the long run if the action we are taking, or principle we are applying, in a given circumstance was

universalized – that is, would it be good for society over the long haul if this was done in all like circumstances?

Donald Trump's Republican Party is no longer conservative, in any way, and it is sheer denial for Barr to think he merits this moniker any more.

Given that fact, I'm amused, reading the speech, by the possibility that Barr's own actions may (or may not) bring about the state he claims to fear, with the Executive actually being reined in. It is his own hubris, in fact, that poses the risk here.

I'm also struck by how he admits that his job is to "carry into effect the laws passed by the Legislature," because it is here that Bill Barr, personally, has failed this country.

To be sure, Executive power includes the responsibility for carrying into effect the laws passed by the Legislature – that is, applying the general rules to a particular situation.

Congress passed (and the Executive approved) a law requiring entities to share information that the Federal Election Commission to do his job. This is a law that Barr's DOJ continues to enforce. But his own DOJ broke the law by failing to share the whistleblower complaint with the FEC.

Congress passed (and the Executive approved) a law requiring Inspectors General to share whistleblower complaints with Congress within stated timelines. Barr's DOJ broke that law, and in the process allowed the President to continue to extort Ukraine when Congress should have had warning.

Congress passed (and the Executive approved) the Budget Control Impoundment Act, a means of enforcing their power of the purse. If the President fails to spend money appropriated by

Congress in the way they intend it to be spent, he must inform them, and provide them a timely way to override his actions. This is a crime that lies at the core of the impeachment investigation, but Barr has done nothing to pursue action even against Mick Mulvaney, who admitted that the Administration violated the law, to say nothing of the President.

Bill Barr complains that Congress is spending too much time conducting oversight and not enough time legislating (though he should take this up with Mitch McConnell, because the House is getting plenty of legislating done). But meanwhile, he has failed to do his duty, as he himself describes it.

But the most striking part of this speech is how he ends it. He suggests that the best moments in history (including Americas genocide of Native Americans and imperialism) have been accomplished through robust Executive power.

At every critical juncture where the country has faced a great challenge –

– whether it be in our earliest years as the weak, nascent country combating regional rebellions, and maneuvering for survival in a world of far stronger nations;

– whether it be during our period of continental expansion, with the Louisiana Purchase, and the acquisition of Mexican territory;

– whether it be the Civil War, the epic test of the Nation;

– World War II and the struggle against Fascism;

– the Cold War and the challenge of Communism;

– the struggle against racial discrimination;

– and most recently, the fight against

Islamist Fascism and international terrorism.

One would have to say that it has been the Presidency that has stepped to the fore and provided the leadership, consistency, energy and perseverance that allowed us to surmount the challenge and brought us success.

He may have a point about some of these, especially the Civil War and Civil Rights.

Except Bill Barr appears to have zero clue what the biggest current threats to the country are. There's no mention of climate change, of course, but President Trump has undercut efforts to respond to that emergency.

Closer to home for Barr, there's a mention of what he calls "Islamist Fascism," but no mention of white supremacist terrorism, which the FBI considers an increasingly grave threat. The President Barr enables fuels that terrorism, in large part because no one will rein in his worst behaviors.

Finally, there are the threats to our sovereignty posed by the ability of foreign powers – and Russia is just one – to buy up or compromise our politicians, starting with the President, and set US policy in ways that harm this country. This is the threat that Barr not only denies aggressively, but fosters, by flying around the world to find foreign propaganda to inject into our criminal justice system.

It may be true that some of our greatest moments as a nation were shepherded by a strong Executive. But in this particular case, the Executive that Barr is enabling is accelerating three of the greatest threats to this country. And making Trump stronger only exacerbates those threats.