



We Should Trust the Leader, Not the Law? It Just Ain't So!

BY JUDE BLANCHETTE

Los Angeles Times columnist Max Boot has a message for the American people: put all your fears of diminishing civil liberties back in the closet; the good guys are running the show.

That, at least, was the message in his column last January, “The Wiretaps Shouldn’t Bug Us,” prompted by a 2005 *New York Times* article detailing a covert NSA program to collect intelligence from international phone calls involving American citizens without court approval. Backed by history and knowledge of human nature, critics of the program worry that it is ripe for abuse. These fears are unwarranted to Boot: “Muttering about ‘slippery slopes’ isn’t enough to convince most people that fascism is descending. If the president’s critics want that part of the nation that doesn’t read the *Nation* to believe that he’s a threat to our freedom, they’d better do more than turn up the level of vituperation. They’d better find some real victims—the Eugene Debses and Martin Luther Kings of the war on terror.”

Boot imagines a populace snug in the speculation that the federal government is working to keep us safe. “No system is perfect,” he writes. “But there isn’t a scintilla of evidence that these were anything but well-intentioned mistakes committed by conscientious public servants intent on stopping the next terrorist atrocity.” This, I suppose, means that we should all

breathe a sigh of relief that the media hasn’t uncovered signs of abuse.

“Trust government” is the prevailing sentiment among many people today. Viet Dinh, Georgetown law professor and chief architect of the PATRIOT Act,

recently told a conservative audience, “None of us can make a conclusive assessment as to the wisdom of that program and its legality without knowing the full operational details. I do trust the president when he asserts that he has reviewed it carefully and therefore is convinced that there is full legal authority.”

Rather than a Jeffersonian presumption of liberty and an inherent mistrust of government, Boot and others feel it should be given wide latitude so long as we like the individuals in power and there’s no obvious evidence of abuse. If any attitude can be found counter to that which the country was founded on, it would be Boot’s. To quote Thomas Jefferson, we “bind down those whom we are obliged to trust with power” with “jealousy and not confidence.” We do not put our trust in men; we put our trust in laws. To

confuse good men with good laws is a perilous mistake.

Aristotle addressed this question some 24 centuries ago: “We begin by asking whether it is more expedient

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to be ruled by the best man or the best laws.” He concluded: “Therefore he who asks law to rule is asking God and intelligence and no others to rule; while he who asks for the rule of a human being is importing a wild beast too; for desire is like a wild beast, and anger perverts rulers and the very best of men. Hence law is intelligence without appetite.”

Trust should be given sparingly to government, even (or perhaps, especially) when we support the individuals in power. Good intentions are never enough to secure the blessings of liberty. Trust in government is an anesthetic that often dulls the individual to the slow usurpation of freedoms. True, civil liberties have waxed and waned throughout the 218 years since the Constitution was ratified. The PATRIOT Act pales when standing next to the internment of Japanese citizens during World War II, and few can imagine the modern equivalent of Socialist Party candidate Eugene Debs’s jailing under the 1917 Espionage Act. (This article is not the place to point out that there are, in fact, very real victims of the war on terror. But a jailing like that of Debs’s is pretty well unimaginable—at least for the near future.)

The exhortation to trust government is all the more disconcerting when one considers the currency with which the government buys our loyalty: fear. As *Freeman* columnist Robert Higgs wrote in a recent article, “The people who have the effrontery to rule us, who call themselves our government, understand this basic fact [fear] of human nature. They exploit it, they cultivate it. Whether they compose a warfare state or a welfare state, they depend on it to secure popular submission, compliance with official dictates, and, on some occasions, affirmative cooperation with the state’s enterprises and adventures. Without popular fear, no government could endure for more than twenty-four hours.”

How odd, then, that while American citizens are whipped into a frenzy by threats domestic and foreign, intellectuals beseech them to trust their leaders. It is odd,

but not irrational. As we saw in the immediate aftermath of September 11, national catastrophes rally the nation around its politicians.

This causal connection between threat and trust is not lost on America’s political leaders. As political scientists Virginia Chanley, Thomas Rudolph, and Wendy Rahn have written, “Trust in government not only has implication for citizen compliance, but it also has more direct political consequences. Distrustful voters are more likely to support nonincumbent and third-party candidates and are more likely to express support for devolution of decision making from federal to state governments on issues. . . .” Thus, for politicians, trust breeds job security and centralized power. And unfortunately, the perception of threat is a catalyst for trust. To again quote Chanley, Rudolph, and Rahn, “[A]s public concern about international affairs increases, support for governmental authority will increase in the form of greater trust and approval.”

Real Threats

This is not to say that politicians create foreign enemies out of thin air to solidify power. September 11 and other such horrors were not contrived deep within American government bunkers. But in relating potential and actual threats, an incentive exists to embellish.

So let us return to Max Boot. I suspect that if someone he dislikes ascends to the presidency, Mr. Boot’s inherent trust of the executive branch will diminish, and with good reason. It will be at this point that Mr. Boot takes shelter behind the rule of law, questioning the constitutional legitimacy for every action the new president takes. All he or she need do, however, is cite the precedent established by the predecessor and quote the likes of Max Boot, who tossed overboard their fealty toward the rule of law and instead opted to trust the executive to wield the powers of state wisely. And when the last law was down, and the new president turned ’round on you, where would you hide, Mr. Boot, the laws all being flat? 

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