

THINGS LIKE THAT
By MICHAEL VENTURA
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On Oct. 18, President Barack Obama appeared on *The Daily Show With Jon Stewart*. Stewart lobbed him a softball when he noted that, in the 2008 election, many Obama supporters expected an Obama presidency to remedy Bush-Cheney excesses like warrantless wiretapping “and things like that.”

“Things like that” were absent from the three presidential debates. Not one question to Obama about his expansion of the Patriot Act. Not one question to Mitt Romney as to whether he thinks it’s legal for a president to order the assassination of American citizens with no judicial oversight. Things like that.

Three debates. Not one question. Nor was the omission noted during the post-debate hiccup-fest that posed as analysis. In this election, the Constitution is a nonissue.

At least Jon Stewart broached the specter of warrantless wiretapping and things like that.

Obama’s response: “We have modified them and built a legal structure and safeguards in place that weren’t available before.”

That sentence is typical of how Obama lies: The words are true, but the impression they convey is not.

Let’s look at what Obama means by “modify” and “legal structure.”

“Senator Ron Wyden, an Oregon Democrat and a member of the Intelligence Committee, said that the executive branch had come up with a secret legal theory about what it could collect under a provision of the Patriot Act that did not seem to dovetail with a plain reading of the text. ‘I want to deliver a warning this afternoon: When the American people find out how their government has secretly interpreted the Patriot Act, they will be stunned and they will be angry.’ ... Senator Mark Udall, Democrat of Colorado, [added that] ‘Americans would be alarmed if they knew how this law is being carried out’” (*The New York Times*, May 27, 2011, p.17).

Last May, an Obama appointee, Judge Katherine B. Forrest, acting on a suit brought by Chris Hedges, David Halberstam, and Noam Chomsky, “struck down a law allowing the indefinite detention of anyone suspected of terrorism on American soil as a violation of free speech and due process. Two days later, the House made it clear it considered those to be petty concerns ... On a 238-to-182 vote, it rejected a proposal for something so basic that it is hard to believe there was an argument about it: a formal charge and trial for anyone arrested in the United States. You might have thought that was guaranteed in the Constitution, but that right was stripped away by last year’s military bill, signed by President Obama. ... [T]he bill essentially allowed presidents to brand anyone a terrorist and lock them up for life without a trial” (*The New York Times* online, May 18).

“[T]he Obama administration believes the shadow war on terrorism gives it the power to choose targets for assassination, including Americans, without any oversight. [Obama chooses targets personally]. ... How can the world know whether targets chosen by this president or his successors are truly dangerous terrorists?” [*The New York Times*, May 30]

In July, Magistrate Judge Stephen W. Smith of Houston’s Federal District Court spoke up. His job “is to consider law enforcement requests for cellphone and e-mail records. ...

[M]ost courts allowing surveillance are so secret, [Smith] wrote ... that they might as well be ‘written in invisible ink.’ [Smith’s article] chronicles the rise of a secret docket on a scale that has no parallels in American history” [*The New York Times* online, July 23].

In August, “Attorney General Eric H. Holder Jr. announced ... that no one would be prosecuted for the deaths of a prisoner in Afghanistan in 2002 and another in Iraq in 2003, eliminating the last possibility that any criminal charges will be brought as a result of the brutal interrogations carried out by the C.I.A.” (*The New York Times* online, August 30). The message to interrogators is clear: no consequences.

The Obama administration has an “overall record of trying to avoid legal scrutiny of Bush-era abuses. Not only have those responsible escaped criminal liability, but the administration has succeeded in denying victims of harsh methods any day in court” (*The New York Times* online, Sept. 9).

Also in September, Royce C. Lamberth, chief judge of the United States District Court for the District of Columbia, an appointee of President Ronald Reagan, “rejected [the Obama administration’s] effort to impose new restrictions on lawyers’ access to prisoners at Guantanamo Bay, Cuba. ... The judge wrote: ‘The court, whose duty it is to secure an individual’s liberty from unauthorized and illegal executive confinement, cannot now tell a prisoner that he must beg leave of the executive’s grace before the court will involve itself. This very notion offends the separation-of-power principles and our constitutional scheme’” (*The New York Times* online, Sept. 7).

Then Judge Katherine B. Forrest finalized her ruling of last May – or she thought she did. Judge Forrest “blocked the government from enforcing a controversial statute about indefinite detention without trial of terrorism suspects [including American citizens]. ... The ruling came as the House voted to extend for five years a different statute, the FISA Amendments Act, that expanded the government’s power to conduct surveillance without warrants” (*The New York Times* online, Sept. 13).

Quickly, Court of Appeals Judge Raymond J. Lohier “granted the Obama administration’s request for an ‘emergency’ stay of [Judge Forrest’s] ruling. ... Judge Forrest’s order ‘threatens irreparable harm to national security and the public interest by injecting added burdens and dangerous confusion’ ... the government wrote in a 38-page filing” (*The New York Times* online, Sept. 17).

Even in the midst of a tight election race, Obama insists on these extreme powers.

As I’ve documented before (“A Pattern of Subversion,” *Austin Chronicle*, April 6), Obama has played hell with the Constitution since he took office in 2009. In Jon Stewart’s innocuous phrase, “things like that” are on the record for all to see – or rather, for all who want to see.

What sounds like an exaggeration is merely obvious, if you care to look:
The Constitution is under siege.

Yet there was not one Constitutional question in the three ballyhooed debates – though president-elects swear an oath to “preserve, protect, and defend the Constitution of the United States.”

The debates also avoided a detailed discussion of the Supreme Court. (I know very smart people who actually believe – because, I suppose, they want to – that, if re-elected, Obama will appoint Supreme Court justices who will overturn the same statutes and practices that he’s fighting so hard to retain. It’s that kind of election.)

If you vote for the Republican candidate, Mitt Romney, you vote for a man who takes foreign policy and economic advice from the same people who advised Bush-Cheney. You vote for a man beholden to those who support vicious legislation against women, the uninsured, the undocumented, and the poor.

If you vote for the Democratic candidate, President Barack Obama, you vote for a man who presides over unprecedented warrantless surveillance and a Patriot Act on steroids. You vote for a man who claims the right to arrest you without warrants, detain you without trial, and, if he feels like it, personally order your assassination without judicial or congressional oversight of any kind.

Those are the choices offered. It's that kind of election.

Good luck.

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