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Our Little Secrets

HE SAID LATER HE WAS "STUPID"

"If I had to listen to her, I probably would have developed a little bit of a segregationist feeling.

But I think everybody can look at my life and what I've done and say that's not true.... I mean, she was such a bitch." Thus spake North Carolina Rep. Cass Ballenger about former US Georgia rep Cynthia McKinney, said comments being made on the record to the Charlotte Observer, amidst discussion of the Trent Lott affair.

FROM FLEISCHER'S PRESSROOM, JAN 6

Ari Fleischer: Actually, the President has made it very clear that he has not dispute with the people of Iraq. That's why the American policy remains a policy of regime change. There is no question the people of Iraq —

Helen Thomas: That's a decision for them to make, isn't it? It's their country.

Fleischer: Helen, if you think that the people of Iraq are in a position to dictate who their dictator is, I don't think that has been what history has shown.

Thomas I think many countries don't have — people don't have the decision — including us....

Russell Mokhiber: Ari, other than Elliott Abrams, how many convicted criminals are on the White House staff?

Fleischer: (Laughter.) You tell me, Russell. You seem to keep count.

Mokhiber: Can you give me a list

(OLS continued on page 2)

"Unlawful Combatant"

The Hamdi Ruling

A January ruling by the Fourth Circuit federal court of appeals, headquartered in Richmond, Virginia, has blessed Attorney General John Ashcroft's contention that American citizens detained as enemy combatants can be held indefinitely without access to a lawyer.

The case involves the fate of Yasser Esam Hamdi, an American citizen of Saudi descent who was captured in Afghanistan and has been held in the Norfolk Naval Brig since April of last year. Ashcroft argues that Hamdi forfeited his constitutional rights when he decided to fight alongside the Taliban. Thus far Hamdi has been prevented from having any contact with his family or lawyers and the Justice Department wants to keep it that way indefinitely.

The government has yet to offer any proof that Hamdi was actually part of the Taliban's army or that he was waging war against American troops. The lawyers acting on Hamdi's behalf filed a habeas corpus motion asking that the government turn over to the defense counsel the documents the feds used to conclude that he was in fact an enemy combatant. The court turned them down tersely, saying "No further factual inquiry is necessary or proper."

The court relies on a single fact to support Hamdi's indefinite detention: that "it is undisputed that he was captured in a zone of active combat operations abroad". None of the allegations about Hamdi possessing an AK-47 and other military equipment was relied on for the court's sweeping holding. Hamdi can't see the evidence used to detain him. So he has no way to challenge the government's allegations. And the court doesn't want to see the evidence either.

"Under the court's reasoning, any journalist, aid worker or, indeed, human rights watch researcher picked up in Afghanistan

could be detained indefinitely as an enemy combatant", says Joanne Mariner, a human rights lawyer in New York. "The court finds that active hostilities are ongoing there, so people could be arrested at any time."

"It is important to emphasize that we are not placing our imprimatur upon a new day of executive detentions," writes chief justice J. Harvie Wilkinson. "We earlier rejected the summary embrace of 'a sweeping proposition -- namely that, with no meaningful judicial review, any American citizen alleged to be an enemy combatant could be detained indefinitely without charges or counsel on the government's say-so.' But, Hamdi is not 'any American citizen alleged to be an enemy combatant' by the government; he is an American citizen captured and detained by American allied forces in a foreign theater of war during active hostilities and determined by the United States military to have been indeed allied with enemy forces."

So, in theory, American citizens enjoy the right to meaningful judicial review. In practice, they don't. The Fourth Circuit ruling elicits a sinister echo from the old phrase, "With all due deference".

"The events of September 11 have left their indelible mark", Wilkinson concludes. "It is not wrong even in the dry annals of judicial opinion to mourn those who lost their lives that terrible day. Yet we speak in the end not from sorrow or anger, but from the conviction that separation of powers takes on special significance when the nation itself comes under attack. Hamdi's status as a citizen, as important as that is, cannot displace our constitutional order or the place of the courts within the Framers' scheme. Judicial review does not disappear during wartime, but the review of battlefield captures in overseas conflicts is a highly deferential one."

(Hamdi continued on page 6)

OUR LITTLE SECRETS

of convicted criminals on the White House staff, other than Elliott Abrams?

Fleischer: I'll go right to the convicted criminals division and ask them to turn — (Laughter.)

Mokhiber: No, seriously — why isn't being convicted of a criminal a disqualifier for being on the White House staff?

Fleischer: Russell, this is an issue that you like to repeat every briefing. I refer you to the —

Mokhiber: But you don't answer —

Fleischer — repeat I gave you the third time you asked it, which matched the second, which corresponded to the first.

Here at CounterPunch we feel these exchanges show Fleischer to advantage. You think Mokhiber, co-editor of the excellent Multinational Monitor, would have been repeatedly allowed into the pressroom in Clinton Time?

EARLY VIETNAM DEMOS

In the past few weeks veterans of these early marches have been pooling their memories for CounterPunch. Here's a recollection to me of one of the earliest, from Lawrence Reichard, who these days works as an organizer in Stockton, California, defending

rural workers.

"In the spring of 1962," Reichard writes, "when I was three years old, my mother dragged me to a demonstration against the U.S. war in Laos in Cedar Rapids, Iowa. There were five people at that demo. My mom, my older brother, me and two others." Then, "In 1969 I rode in a VW bus from Charlotte, N.C. to Washington, D.C. for an anti-war demo that drew 500,000. According to Daniel Ellsberg that demo made Nixon reconsider the madman recommendation of his joint chiefs of staff to nuke Vietnam within a few miles of the Chinese border."

That trip was especially memorable for him, Reichard continues, because he made it with the family of Norman Morrison, who immolated himself in front of the Pentagon in protest over the war. Reichard recalls that he read later that LBJ's aides cut mention of Morrison's death out of his newspapers so he wouldn't see it.

"On the rare occasion that I'm asked to speak at a demo, and the turnout is low," Reichard concludes, "I speak about the turnout in Cedar Rapids, and the turnout in D.C. years later, as a way to rally the troops and lift spirits. Imperialism and colonialism are not stopped in a day!" He points out that "It is also noteworthy that in 1954 the American Friends Service Committee wrote a letter to the Eisenhower administration warning against U.S. involvement in Vietnam."

Reichard ended thus, "The anti-war movement has much to be proud of. To the absolute fury of the right wing, the anti-war movement of yesterday and today still, to this day, shackles this country's ability to wage unfettered war. Right off the bat they have to forget about any war that might last more than six months or cost more than a few hundred U.S. lives. For this you can thank the peace movement and the Vietnamese, who, at tremendous cost, beat us militarily. The entire world owes a tremendous debt to the Vietnamese."

The Nuts At Camera

By Bill Mink

On December 12, 2002, an article in the Boston Globe caught my eye. A group called Jewish Women for Justice in Israel/Palestine (JWJIP) was picketing WordsWorth Books, in Cambridge, MA, over the store's decision to halt its contributions to WBUR-FM, the local NPR affiliate. The store's action was

part of a larger underwriter boycott, all fueled by allegations of an "anti-Israel bias" at the station, and JWJIP intimated that WordsWorth president Hillel Stavis was somehow behind this attempt at shutting down public radio's coverage of realities in the Middle East.

Picketing "one of the last independent bookstores in Boston" because it doesn't agree with one's beliefs, Stavis told the Globe, "is the height of the suppression of free speech."

It turned out that Stavis's critique of WBUR came straight from the Committee for Accuracy in Middle East Reporting in America, an organization of which the Globe identified Stavis as a member.

CAMERA is a group that was formed after the Israeli invasion of Lebanon. Under the guise of promoting "accurate and balanced coverage of Israel and the Middle East", the group has helped silence critics of Israel by, one, putting a positive spin on state-sponsored terrorism, and, two, tarring most criticism of the Jewish State as a slip down some slope towards endorsing the Final Solution. Over the years, they've accused Architectural Review, CNN, Thomas Friedman, National Geographic, Peter Jennings, and the Lonely Planet travel guide of insufficient loyalty to the Light Unto Nations. In a characteristic move, they have libeled the late Holocaust survivor and human rights activist Israel Shahak as "one of the world's leading anti-Semites." Their scare mongering and paranoia are equal parts laughable and ghoulish.

With that in mind, I sent an email to Stavis reflecting my impressions: both a disbelief over censorship of, rather than from, the CAMERA crowd; and a question as to whether a store that operated according to that group's proscriptions might service the belles lettres best by a graceful bow towards its own bankruptcy. For a man who was simultaneously handing out leaflets denouncing the JWJIP as "Holocaust Preparers," Stavis sent a polite if condescending reply. He had no doubt that I was "a critical thinker and a person committed to social justice." He merely questioned my grasp of the facts. I had, he assumed, never taken "the time to examine the record and facts of NPR's bias, inaccuracies and violations of its own high standards of journalistic ethics." He was, naturally, willing to provide me with any information I might need if I chose "to see the evidence and not judge precipitously."

I wrote back that he had understood me too quickly. I'm under no illusions as to the

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