

Questions not yet asked about Mitt Romney

by **Nat Hentoff**, Aspen Daily News Columnist

Wednesday, May 16, 2012

As Mitt Romney exults in his rise to the very top of the Republican Party, I was struck by a tiny story deep in The New York Times last week. At a campaign stop in Euclid, Ohio, a woman in the audience stood up, arguing that President Barack Obama "is operating outside the (structure) of our Constitution ... he should be tried for treason" ("Romney Says Treason Comment Doesn't Reflect His Views," Ashley Parker, The New York Times, May 8).

She went on to ask Romney, as I have several times here, "I want to know what you are going to be able to do to help restore balance between the three branches of government and ... restore our Constitution in this country?"

In response, "Romney sidestepped the woman's comments about treason, talking generally about the Constitution."

What he should have said is: The Constitution breaks down without separation of powers.

There wasn't a word from Romney about Obama's specific unconstitutional actions, such as signing into law the National Defense Authorization Act for Fiscal Year 2012, allowing the president to imprison an American citizen indefinitely without trial who is just "suspected of association" with terrorists ("Congress, Obama Codify Indefinite Detention," Sheldon Richman, The Future of Freedom Foundation, fff.org, Dec. 27, 2011).

As I've previously documented, Obama often imposes his will outside the Constitution. But Romney has yet to even mention — let alone rebuke the president for — any of those unconstitutional breaches.

I must add that later on, after his brief dialogue with the woman speaking for the Constitution, Romney emphasized that he did not agree with her that President Obama should be tried for treason.

Even if there were a try for impeachment for treason (bribery, or other high crimes and misdemeanors), Obama can rest easy because there would be far too few members of Congress who'd vote to convict. Democrats are loyal to their leader in such accusations — even those Democrats who stingingly attacked George W. Bush and Dick Cheney for encouraging torture and other U.S. and international crimes but are largely silent about Obama's assaults on the Constitution.

And with few notable exceptions, such as Ron Paul (who just dropped out of the race), the Republicans campaigning forcefully against Obama's re-election have avoided any substantive mention of his "operating outside the (structure) of our Constitution" in the name of national security.

However, I was recently startled to discover revealing evidence of Romney's principles in defining the Constitution and selecting the judges, including those on the Supreme Court, who rule on these issues.

Last month, eminently skilled reporter-columnist Robyn E. Blumner of the Tampa Bay Times disclosed that Mitt Romney had chosen Robert Bork to co-chair his presidential campaign advisory committee on the law, the Constitution and the judiciary ("Don't let us get Borked,"

Tampa Bay Times, April 29).

Reading that, I got up and shouted, "Wow!"

Bork was all over the news when Ronald Reagan nominated him to the Supreme Court in 1987, resulting in a fiery national debate that became more raucous when a bipartisan Senate voted 58-42 to reject his confirmation. I covered that story almost daily and was even on a TV panel that included Bork to discuss it. He was not pleased by my questions.

Among Bork's interpretations of constitutional issues reaching the high court, he claimed there was no general right of privacy in the Constitution.

The Fourth Amendment is full of typos?

Then there was Bork's outrage when, in 1996, the Supreme Court confronted the all-male Virginia Military Institute (VMI) with the Constitution's equal protection of the laws for every American and ordered the public college to admit women.

Romney's present adviser on the Constitution and judges responded, "VMI is only one example of a feminized court transforming the Constitution."

Women are third-class citizens? Not up to dealing with the Constitution?

Bork, whom Blumner called Romney's "simpatico legal thinker," had also demonstrated that he "supports the constitutionality of literacy tests and poll taxes in state elections — those notorious instruments the South used to keep blacks from voting."

So where did Blumner get this jarring news of Bork joining Romney's forces? She told me it's from an Aug. 2, 2011, press release on Romney's campaign website: "Mitt Romney Announces Justice Advisory Committee" (www.mittromney.com/press/2011/08/mitt-romney-announces-justice-advisory-committee).

And dig this applause line from the chairpersons of the advisory committee, including Bork: "Mitt Romney ... will nominate judges who faithfully adhere to the Constitution's text, structure and history, and he will carry out the duties of president as a zealous defender of the Constitution."

This is from Robert Bork?

Among the other members of Romney's Justice Advisory Committee is Steven Bradbury, a lawyer in the Bush administration's Office of Legal Counsel who, in 2005, wrote three secret opinions approving exceptionally severe interrogation techniques.

What does Romney think of torture?

I'm also going to find out more of Romney's views on the Bush-Cheney-Obama presidential state secrets mandates. These mandates prevent trials from proceeding that may embarrass an administration currently dedicated to keeping secret its Constitutional basis for targeting American citizens with drone strikes.

Has Romney said anything about this?

I've written that I will vote for Romney to defeat the most dangerous presidential destroyer of American liberties in our history. But what will be the meaning of America to its citizens and the world after just four years of Mitt Romney? Or four more of Obama?

Of course the long-range cruelties of the economy and the health-rationing price of Obamacare will be among the basic issues in the imminent elections. But if either Obama or Romney wins, how much more of our constitutional liberties will ultimately be lost?

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