JACK GOLDSMITH
THE TERROR PRESIDENCY, LAW AND JUDGMENT
INSIDE THE BUSH ADMINISTRATION
New York; W.W. Norton & Company, 2009

Reviewed by John Thompson

Introduction
Jack Goldsmith is one of the leading intellectuals in America’s conservative legal conscious. He is a professor of law at Harvard, a former clerk for the Supreme Court, and a legal expert on terrorism, international law, presidential war powers and the laws of war. His research interests include, among others, national security law, international law, and foreign relations law. Goldsmith has co-authored The Limits of International Law (2005), Who Controls the Internet? Illusions of a Borderless World (2006), and several other books and legal casebooks. Foreign Affairs has called him one of America’s “new sovereigntists,” in part for his strong views that America is not bound by customary international law, nor should it entertain international human rights law suits in its courts. A proponent of American policies that maximize national interest, he argues that America is justified in refusing to enter treaties such as the Rome Statute which established the International Criminal Court.

The Terror Presidency is less academic and more political than Goldsmith’s other works, as it is a chronicle of the author’s time as head of the Office of Legal Counsel (OLC) from 2003 to 2004. OLC is the division of the Justice Department that advises the White House on legal matters and the limits of executive power. It is a powerful office that has the ability, in its legal opinions, to define the contours of the executive branch’s authority to act on the most delicate matters of national policy. The book offers unparalleled access to the inner offices and personalities of some of the most influential players in the White House, the Department of Justice, and the U.S. Intelligence Community during
a time when the government was answering extremely sensitive questions regarding U.S. policy on the subject of terrorism. Goldsmith was at the eye of the storm in the Bush administration during one the most significant security crises since World War II. His insider’s view offers penetrating insight as to how and why decisions were made regarding interrogation, surveillance, extended detention of suspects, the applicability of the Geneva conventions, and the scope of Presidential power. The book is written for anyone seeking to learn more about the Bush administration’s policies on the war on terror and their underlying legal foundations. Goldsmith’s analysis, however, extends to cover what future presidents will encounter on issues of terrorism and national security. A background in law or politics, while helpful, is certainly not necessary for a solid understanding of the book.

Although the author is a conservative and a staunch supporter of the fundamental goals of the Bush administration’s policies in the war on terror, Goldsmith is extremely critical of how the Bush administration went about securing the legal foundations for those policies. His opinions put him at odds with the administration, and after only ten months as head of OLC, he realized that he was out of place in an administration in which top officials “blew through [laws] in secret based on flimsy legal opinions that they guarded closely so no one could question the legal basis for the operations.” In a damning account of the executive branch’s pursuit of near-limitless power, Goldsmith is successful in demonstrating how a handful of government officials, combined with a culture of fear, came together to create an administration that was willing to do almost anything, legal or not, to combat the threat of terrorism.

More importantly, through historical comparisons to the wartime presidencies of Lincoln and Roosevelt, Goldsmith persuasively demonstrates what the executive should have done in order to achieve both national security and a more democratic process for the pursuit of those ends. The author’s undying dedication to the underlying conservative goals of the Bush administration gives him particular legitimacy to condemn the methodology employed to reach those ends. His practical approach, unwavering logic, and searing honesty are likely to convince readers that he is worthy of their trust. Essentially an academic, Goldsmith lacks political ambition, which further increases his credibility regarding the subject matter. He has little to gain by his assertions in the book, and his time at the OLC came at the cost of substantial personal sacrifice. As a man who wants to see the U.S. safe, but who refuses to sacrifice the law for that goal, Goldsmith is ultimately writing
a lamentation of what could have been accomplished had the Bush administration had a greater respect for democracy and the rule of law. Whether the reader agrees with his ideological perspective or not, *The Terror Presidency* is an illuminating book regarding the fundamental challenges of terrorism and how the U.S. government can choose to meet those challenges. Goldsmith demonstrates, through an analysis of historical examples and current events, that the presidency can choose to operate with arrogance and disregard for the rule of law or with courage and a respect for democratic principles.

II. Summary of Contents
Goldsmith begins by describing the OLC, the office of the Attorney General, the Solicitor General, and the White House. The individuals who held those offices during the author’s time at the OLC become central characters in Goldsmith’s narrative, and they are introduced to the reader early in the book. The background information in this introductory section provides the reader with an understanding of the structure of the executive legal offices and its members’ personal relationships that would later influence the manner in which policy was formed. Goldsmith then begins to recount a complex and interwoven story that jumps back and forth between events in the administration from 2003 to 2004 and events that took place during the wartime presidencies of Lincoln and Roosevelt. Throughout the book, there are many other references to instances in U.S. history involving security threats, war, presidential power, and national politics. The author also references numerous historians, leaders, academics, politicians, and several of America’s most respected new publications.

With an insider’s view, Goldsmith paints a vivid portrait of the culture of fear that existed in the offices and minds of the key decision makers in the U.S. government after the devastating attacks of 9/11. The author then describes what he sees as the overly legalistic culture in the federal government which has come to dominate much of the decision making process in the executive branch. The preceding topics are tied together to detail what Lincoln and Roosevelt accomplished during the Civil War and WW II: balance between protecting national security and honoring the U.S. democratic tradition of cooperative intergovernmental and interagency decision making. Goldsmith’s favorable treatment of Lincoln and FDR casts a disapproving shadow over the Bush administration’s approach to terrorism. The book concludes with observations on the nature of the fight against terrorism and the challenges it creates
for the U.S. presidency – challenges that will be inherited by both the immediate successors of the Bush administration and those who follow.

III. Textual Analysis
Goldsmith recounts his inconspicuous and unlikely ascent to the powerful position as the head of the OLC. He had previously taught as a professor of law and worked as a legal advisor for the Department of Defense in a relatively minor position from 2002 to 2003. Unlike many of his predecessors, Goldsmith lacked the political credentials for the office. He had never contributed to a Republican campaign, let alone been counted among the prominent officials in the administration. However, what Goldsmith possessed was a devotion to the ideals of the conservative right and a reputation as one of the most talented intellectuals in fields that were central to the issues now confronting the administration: terrorism, national security, and international law. In 2003, his name was recommended to the White House by an OLC deputy, a friend of Goldsmith, and a fellow legal expert, John Yoo.

Yoo becomes central to the book and was among the most influential individuals in Washington who shaped the administration’s policies on terrorism; he was one of a five member group who dubbed themselves the “War Council.” This secret insiders group planned the thrust of security policy post-9/11. Its members included then White House Counsel Alberto Gonzales, Gonzales’s first deputy Tim Flanigan, the Vice President’s Counsel David Addington, the Pentagon’s top lawyer Jim Haynes, and Yoo. There were strong political tensions in the executive branch when Goldsmith was brought on board, and many of the traditional functions of executive officials had changed during the Bush administration. Goldsmith indicates that the longstanding procedures of past administrations that guided how decisions were made had been short circuited, and almost all of the power had been concentrated in a handful of individuals at the expense of a more democratic, cooperative approach within the executive. For example, the War Council often planned legal strategies without the customary presence of lawyers from the National Security Council, the Joint Chiefs of Staff, and the State Department. Goldsmith notes that, before his arrival, the head of the OLC, Jay Bybee, was even excluded from the War Council. By keeping the decision making process contained within a privileged circle whose members agreed on virtually every substantive issue, dissent was eliminated and the War Council could do as it pleased. Additionally, Yoo, as deputy assistant attorney general in the OLC, officially acted under
the authority of the Attorney General, John Ashcroft. However, Yoo’s membership in the War Council allowed him to have unprecedented access to the White House directly.\(^4\) Goldsmith recounts that this frustrated Ashcroft, as Yoo seemed to have greater loyalty to Gonzales and Addington than to the OLC.

Goldsmith argues that the OLC walks a fine line between providing the White House with an unbiased, apolitical legal perspective and, on the other hand, providing advice that will permit the President to do as much as possible while approaching the edge of what is legally permissible. The office is neither wholly detached nor wholly loyal to the President and his staff.\(^5\) The opinions of the OLC are binding, highly influential, and respected; they can provide immunity to an executive official acting on the fringes of the law (e.g. interrogation methods of terrorism suspects). Goldsmith writes that Yoo was the War Council’s ace in the hole, and Yoo wrote many opinions that provided a legal basis for all of the administration’s most controversial and aggressive policies for the war on terror.\(^6\) As an expert on presidential war powers and someone who believed there should be virtually no restrictions on executive power with regard to matters of national security, Yoo was the administration’s ideal choice as author of OLC opinions.

As an author, Goldsmith draws, not only on his academic expertise, but also on his intimate personal knowledge of the people and the interworkings of the OLC. He vividly recounts story after story of specific meetings and conversations with executive officials, and he provides a play by play account of how decisions were made. While preparing the book, in order to provide third party verification of Goldsmith’s recollection of the events during those meetings, the author spoke with someone who was either present during each meeting or someone he recounted the events to immediately following the meeting. Although this measure provides additional credibility to the details of the conversations in the book, readers must ultimately trust Goldsmith’s version of the events if they are to follow the author’s ideas to their logical conclusions. Every member of the executive inner circle would inevitably have a slightly different perspective about the events in question; however, over the course of the book, the reader gets a sense that there was an unspoken pact between the members of the War Council to do whatever was necessary, legal or not, to fight terrorism. According to Goldsmith, dissent was treated as political treason.

Therefore, it was with great hesitancy and regret that Goldsmith had to inform his colleagues that several of the key opinions that provided
the authority for highly sensitive anti-terrorist policies were flawed. It is this sense of duty and respect for the law that lends Goldsmith an additional air of credibility in his book. He describes, in detail, his personal struggle as he was beginning to realize that he simply could not support the reasoning underlying several critical legal opinions of his predecessors and other OLC officials, most notably, John Yoo. He knew the costs of his decisions. In response to a proposed counterterrorism initiative, which Goldsmith did not support, Addington, Cheney’s lawyer and a member of the War Council, replied, “If you rule that way, the blood of the hundred thousand people who die in the next attack will be on your hands.”

It was very difficult for Goldsmith to bring himself to oppose the Bush administration time and time again, as he knew the costs of his actions, and he was a strong supporter of the war on terror. His book is full of narratives conveying his understanding of the tremendous pressure that the intelligence community is under to both obey the law and to prevent another terrorist attack. Goldsmith also believes that the U.S. public no longer realizes the seriousness of the terrorist threat that it continues to face. He writes that a substantial part of this phenomenon is due to the Bush administration’s lack of effective communication. Instead of working to bolster public support, Goldsmith argues that the administration used a “go it alone” approach and steadily usurped an unprecedented amount of power from both the courts and Congress. This only heightened public concern while the country was already nervous about executive expansion and an exaggerated terrorist threat. Goldsmith acknowledges the tightrope that the White House must walk. On one hand, the President must do everything reasonably possible to protect the security of the country, but, on the other hand, the President must respect civil liberties and the rule of law. Goldsmith is acutely aware of this predicament, and his recognition of this problem bolsters the legitimacy of the book’s criticisms of the Bush White House. He was comfortable in his role as the head of the OLC and with the corresponding responsibility of giving the President as much power as was legally possible. His conservative policy goals fit the administration’s agenda. The reader is hard pressed to interpret Goldsmith’s criticisms of the administration as being based on partisan or ideological grounds. The author’s commitment to the ideals of conservatism is not in question.

Goldsmith makes many references to U.S. history, but two stories emerge as his most important examples. The author compares the
challenges faced by the wartime presidencies of Abraham Lincoln and Franklin Delano Roosevelt to the threats of modern day terrorism. Goldsmith argues that all three presidencies were forced, in order to preserve the security of the United States, to push the boundaries of executive power to their limits. Goldsmith invokes the spirit of Thomas Jefferson:

A strict observance of the written laws is doubtless one of the high virtues of a good citizen, but it is not the highest. The laws of necessity, of self-preservation, of saving our country when in danger, are of higher obligation. To lose our country by a scrupulous adherence to written law, would be to lose the law itself, with life, liberty, property and all those who are enjoying them with us; thus absurdly sacrificing the end to the means.21

It is with this principle in mind that Lincoln rounded up and imprisoned thousands of southern supporters, suspended the writ of habeas corpus, and chose to disregard an order from the Supreme Court commanding him to free a prisoner who was held illegally.22 Goldsmith utilizes the expertise of historian Arthur M. Schlesinger, Jr. who argues that Lincoln’s philosophy of emergency powers extended beyond Jefferson’s.23 While Jefferson interpreted these powers as something wholly outside the Constitution, Lincoln concluded that crises actually make war powers constitutional.24 FDR, who was very familiar with the legacy of Lincoln, threatened that he would ignore a Congressional act (a price control law) if the legislature did not repeal it, stating, “The President has the powers, under the Constitution and under Congressional acts, to take measures necessary to avert a disaster which would interfere with the winning of the war.”25 Bush, Lincoln, and FDR all articulated that the President possesses extralegal powers in order to meet the exigencies of war.

However, Goldsmith argues that Lincoln and FDR interpreted and applied expansive executive powers in a very different manner than did the Bush administration. The author cites historian Kenneth Davis who wrote that FDR was “extremely reluctant” to assert a power that was “normally constitutionally a legislative function.”26 Lincoln stated before Congress that his actions, “whether strictly legal or not, were ventured upon under what appeared to be a popular demand and a public necessity, trusting then as now that Congress would readily
ratify them." The Bush White House, on the other hand, extended Jefferson’s principle of extralegal exigencies far beyond Lincoln and FDR’s interpretation. The “War Council,” spearheaded by Yoo and Addington, reintroduced a Regan-era theory which claimed tremendous and virtually unprecedented executive power, but the Bush administration’s use of the theory was even more “aggressive” in its pursuit of power. Goldsmith offers a Washington Post article for support, “Even in a White House known for its dedication to conservative philosophy, Addington is known as an ideologue, an adherent of an obscure philosophy called the unitary executive theory that favors an extraordinarily powerful president.” Unlike the Lincoln and FDR administrations, the Bush presidency claimed that the executive had no obligation to defer to the legislature or the judiciary and was totally justified in unilateral executive action.

Goldsmith relies on numerous sources for his accounts of the Bush administration’s “unitary executive” approach including, inter alia, presidential signing statements attempting to limit judicial power, a famous Iran Contra Minority Report researched by Addington and used by Cheney (which asserted that Congress had overstepped its bounds by attempting to limit presidential authority), and personal accounts of his time in the OLC. The author’s skillful presentation of the Lincoln and FDR histories allows the reader to see the striking similarities between the security threats faced in their time and ours, but the author’s insider’s view of the OLC demonstrates how the Bush administration was very different from its predecessors in its treatment of national security matters. Although the source of the threat has changed, this does not change the fundamental reaction that security crises provoke in the government.

Central to Goldsmith’s analysis are the relationships created between the executive and the other branches of government, and it is the methodology of the executive branch that he examines in detail. Here, Goldsmith highlights one of the most important arguments in his book: although the Lincoln, FDR, and Bush presidencies all asserted quasi-legal or extralegal powers, Lincoln and FDR, on topics of national security, emphasized the need for a diverse base of political support including the other branches of government and the American people. Although Lincoln and FDR had to flex their political muscle on occasion in order to help generate consensus, the focus was nonetheless on cooperative problem solving. The Bush administration, on the other hand, operated under the ideological belief that the unitary executive
had the power to operate unilaterally without seeking Congressional approval at all. Although President Bush eventually went to Congress for approval for some of the most controversial programs, he did this as a last resort when other means had failed or when the judiciary had forced this upon him. The Bush War Council made decisions under tremendous secrecy whereas FDR, for example, often made his most controversial actions public in order to persuade the nation that, although he was operating outside the bounds of traditional executive power, he did so out of necessity, and he wanted the country to understand the exigencies of the situation.

Goldsmith’s use of historical analogy is effective. The author’s detailed account of history, often told through the eyes of respected historians, reveals strong parallels between the intergovernmental power dynamics of the Lincoln, FDR, and Bush presidencies. Goldsmith’s privileged position at the heart of the Bush administration, combined with his academic expertise, puts him in an unusually well informed position from which he brings these various perspectives together to produce a synthesized and comprehensive analysis of the Bush White House’s approach to national security. However, despite the incredibly influential position that the War Council had within the administration, Goldsmith could have provided more concrete examples of Bush’s actions instead of the actions of his legal advisors for purposes of the author’s comparisons of Bush, Lincoln, and FDR. Goldsmith addresses this issue head on toward the end of the book. He acknowledges that he had little direct contact with the President, and he concludes that history will have to be the judge of our 43rd President. Goldsmith notes that, in their day, Lincoln and FDR were also criticized as extending executive power too far. However, the author’s lack of condemnation for Bush himself, while at the same time delivering a damning indictment of Bush’s most influential officials, rings a little hollow. Goldsmith does not provide enough justification for the “history will be the judge” approach regarding President Bush. The author does include a passage at the end, though, concluding that Bush’s neglect for soft power ultimately weakened the executive. Nevertheless, the historical arguments, which comprise a substantial portion of the book, remain solid, and Goldsmith’s focus on the War Council instead of Bush himself does not substantially affect the usefulness of the comparisons. If anything, the author’s focus on the actions of the War Council, for purposes of evaluating the position of the President, only serves to further highlight the preeminent role the War Council played. The emphasis on the preeminent nature of the
War Council reinforces the reader’s understanding of how extensively damaged the internal decision-making processes had become.

Interestingly, despite Goldsmith’s conservative values, he chose Lincoln and FDR’s presidencies as the standard on which to base his comparison with the Bush administration. In the end, the author expresses disappointment with Bush’s performance. His administration aimed to leave the American Presidency stronger, yet Goldsmith argues that it ultimately left it weaker. By denying the importance of cooperative solutions between the branches of government, the executive invited the distrust of the legislature, the judiciary, and ultimately the American public. Goldsmith argues that the members of the War Council made a fatal error when they disregarded a critical component of wartime leadership: winning the country’s trust. Goldsmith highlights that, although we have not been attacked successfully since 9/11, there has not been a single military commission trial of a suspected terrorist, there is no consensus as to how the detainees should be held or tried, and the executive and the legislature have failed to create a modern, effective, and legal regulatory scheme for monitoring suspected terrorists communications. The author argues that the comprehensive, durable institutional reforms that were necessitated by 9/11 should have been in place by now, and they are not. More significantly, Goldsmith points out that the next president will inherit all of the original challenges created by 9/11 and will additionally face the culture created in the wake of the “unitary” executive: heightened distrust for the White House which will likely weaken the president’s ability to protect and enhance national security.

IV. Discussion

Jack Goldsmith presents his recollections of his time as the head of the OLC in a candid and straightforward manner that engenders trust in the reader. Considering that Goldsmith has never had political aspirations, it is unlikely that the book seeks to grind any axes. The book’s objective and methodical analysis of both the historical examples and their contemporary counterparts may remind the reader why this was the same man that pulled many of the support beams out from underneath the Bush administration’s legal framework for the war on terror. Unyieldingly logical, Goldsmith picks apart his subjects piece by piece as one would expect from an academic of his stature.

On many levels, The Terror Presidency is a lamentation of a failed attempt to find a sustainable long-term approach to combat the modern threat
of terrorism. The comparisons to Lincoln and FDR are extremely convincing because the author justifies the analogy by illustrating how the challenges faced by those presidents are sufficiently similar to the challenges created by terrorism today. The reader begins to see the cyclical nature of executive power and how it ebbs and flows with the changing tides of peace and war. The book highlights the fact that the government’s responsibility to balance civil liberties and national security is always at hand, whether during Lincoln’s day or our own. However, far from concluding that the presidency is somehow defined by the cycles of some sort of historical relativism, Goldsmith concludes that administrations are defined by their willingness to engage the nation and by their commitment to make decisions cooperatively and democratically.

It is critical to remember that Goldsmith is a staunch conservative. From the beginning of the book, he indicates that his policy goals fit closely in line with other members of the Bush administration. He is an individual unequivocally committed to preserving American power even if it means refuting international agreements that sideline national interests. However, his book makes it clear that he insists on pursuing those goals within the legal, democratic framework that has been handed down from generations past. Liberal readers are likely to be disarmed by Goldsmith’s willingness to so painfully lay out the flaws of his fellow conservatives and by his recurring themes of cooperative decision making that reach across ideological divides. Conservative readers are likely to appreciate Goldsmith’s commitment to the goals of the Bush presidency despite their failed execution. Additionally, Goldsmith offers the conservative reader the explanation of how several Bush policies could have been carried out legally, and, conversely, more effectively.

The Bush administration understood terrorism as a security threat that warranted the use of the President’s war powers. The White House pursued, in part, a military solution that involved aggressive physical measures to dismantle terrorist networks abroad. The United States Armed Forces played an important role in the Bush strategy. While alternatives have been suggested, this book review does not seek to analyze the merits of the different approaches. Goldsmith clearly supports many of the Bush administration policies. The instructive value of The Terror Presidency is the book’s criticism of how the White House went about achieving its policy goals.

Perhaps the book could have included more firsthand accounts from other officials directly involved in the legal matters in question.
However, Goldsmith supports his analysis with a myriad of sources, and he does, in fact, include some firsthand evidence from other senior Bush officials. Goldsmith includes a frank and telling quote from Alberto Gonzalez, Bush’s personal lawyer at the time, as he bids farewell to Goldsmith upon his departure from the OLC, “I guess those opinions really were as bad as you said.”

V. Conclusion

Although some may disagree with Goldsmith’s ideological perspective and his insistence on an aggressive solution to terrorism, the reader will have a difficult time finding fault in Goldsmith’s logic regarding the Bush administration’s failure to engender consensus in the other branches of government and the country itself. Goldsmith is incredibly effective in reaching a wide audience and convincing the reader that our common goals of national security and cooperative decision making transcend partisan politics and ideological differences. The author does not state those arguments explicitly, yet they are inherently contained within his analysis of the successes of the Lincoln and FDR war policies vis à vis the failures of the Bush administration to create a durable, democratically chosen solution to terrorism. *The Terror Presidency* is an insightful and informative book for anyone seeking to learn more about how America has made policy decisions in its efforts to combat terrorism and how the U.S. should shape those decisions in the future.

Note on the 2009 Edition Afterword

The 2009 paperback edition of *The Terror Presidency* contains the identical text as the original 2007 hardback edition, but Goldsmith added an intriguing afterword to the 2009 edition. The author notes that many reviewers of the 2007 edition focused on his criticisms of the Bush administration while glossing over the book’s message that the presidency continues to face unique security challenges while impeded by the countries “excessively legalistic and retributive national security culture.” Goldsmith warns that, indeed, the Bush administration failed on many levels in its approach to an effective and appropriate counter-terrorism framework, yet the United States must forge ahead and recognize the continuing, substantial threat posed by terrorism. The author is concerned that the worst damage caused by the Bush administration is a change in national political and legal culture that will hamper the Obama administration’s ability to protect the country. Goldsmith cautions that the government’s new reticence to vigorously pursue terror-
ists combined with the public’s distrust of executive action could lead to disastrous results: another devastating attack on U.S. soil.

However, Goldsmith chooses to end the afterword with a combination of praise for President Obama and a final word of caution for the country. His words reinforce what the reader learns over the course of the book – that Goldsmith approaches his subject matter with insight, experience, and an apolitical perspective that merits the reader’s respect and attention:

The credibility with which he [President Obama] speaks will help narrow the public’s hazardous skepticism about the reality of the threat and will make clearer than President Bush ever could the difficulties that any president faces in keeping us safe. As I write these words in December 2008, there is every sign that President Obama will enhance trust in the presidency, and thus presidential effectiveness, by embracing the Lincoln-Roosevelt tenets of democratic leadership outlined in chapter 6: a bipartisan and pragmatic national security team, genuine consultation and consent from Congress, a less secretive executive branch, an open public embrace of constitutional values, and a greater commitment to educate the nation regularly about the security threat. Let us hope that these efforts will strengthen the second Terror Presidency such that if it exercises good judgment and is lucky, it can prevent the second and more devastating attack that many believe is inevitable, one that will change our nation in ways that will make George W. Bush seem like a civil libertarian.94

NOTES

1. J.D. expected, University of Cincinnati, May 2010.
Administration 21 (2007).

5. Id. at 33, 96.
6. Id. at 181.
7. Id. at 21-22.
8. Id. at 20.
9. Id. at 25.
10. Id. at 22.
11. Id.
12. Id.
13. Id.
14. Id. at 24.
15. Id. at 33.
16. Id. at 23.
17. Id. at 144-62.
18. Id. at 71.
19. Id. at 210-11.
20. Id. at 106-10.
21. Id. at 80.
22. Id. at 82.
23. Id. at 83.
24. Id.
25. Id. at 84.
26. Id.
27. Id. at 83.
28. Id. at 85.
29. Id.
30. Id. at 85-88.
31. Id.
32. Id. at 84-85, 89, & 191-205.
33. Id. at 98, 207-208.
34. Id. at 191-205.
35. Id. at 213-16.
36. Id. at 214.
37. Id. at 215.
38. Id. at 204-10.
39. Id.
40. Id. at 208-09.
41. Id. at 205-13, 232.
42. Id. at 172.
43. Id. at 219.
44. Id. at 232-33.