

NYTimes MAY 25 1973

# Too Much Unchecked Power

By Tom Wicker

The House, as usual, has sustained President Nixon's veto, this time of a misdirected Congressional effort to remove two high officials from office, then to assert the Senate's right to approve their reappointment. This may suggest that the Watergate disclosures have not reduced Mr. Nixon's political clout as much as might have been expected; but it does not change the necessity, made urgent by these same disclosures, for a stronger public check on the White House staff.

The bill Mr. Nixon vetoed was ill-advised and, as some members of Congress thought unconstitutional, because it attempted to assert a roundabout and retroactive right of approval over two men already in office. Nevertheless, there appears to be no constitutional barrier—certainly there is no question of propriety or necessity—to prevent Congress from legislating its right to confirm future appointees to positions of immense institutional power.

No one will question the right of a President or any high official to have

a small, personal, private staff immediately answerable to him alone. Nor will such persons ever be without considerable power, which will always flow from such a close and confidential relationship with the President.

It is quite a different matter, however, when such personal assistants and advisers also are given great institutional positions, in some cases superior in fact to constitutional offices, in all cases cloaked in vast executive authority and the ability to affect the lives and fortunes of every American. When the President's budget director—once primarily a technical adviser, although admittedly an important one—becomes director of the Office of Management and Budget, with a fiscal and policy jurisdiction making him one of the two or three most powerful men in the Government, surely he should be subject at least to the same Congressional scrutiny routinely required for Cabinet officers, their assistants, Federal judges and any number of regulatory and independent agency officials—some of virtually no real authority.

Thus, when Mr. Nixon named John

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Ehrlichman his special counsel at the time the Administration was formed, that was his right, without Congressional intercession. But when Mr. Nixon organized the Domestic Council, with authority over several Cabinet departments and great responsibility for all domestic policies, why should Mr. Ehrlichman, merely by changing his chair on the White House staff, have been given such great authority without any kind of hearing, or testimony, or approval by anyone? Such an office, even if highly concerned with Administration policies, should no more be exempt from check-and-balance government than should that of the Secretary of Defense or the Secretary of the Treasury.

The same might be said for the executive head of the National Security Council, since his power now vastly exceeds that of the Secretary of State; and for so-called "super-Cabinet" positions like those Mr. Nixon first established, then abandoned in the wreckage

of his Administration wrought by the Watergate.

Men in such positions do not merely wield great executive and administrative powers, which would be reason enough to demand more than one man's approval of their appointments. If considered only as staff aides to the President—which makes a mockery of language as well as of political fact—they can readily invoke "executive privilege" (if that concept survives Watergate); they can also refuse to testify publicly and in Congressional hearings, as Cabinet officers routinely must; and they can exercise that far greater, truly immeasurable, but intangible power of saying to other officials, "the President wishes . . . ." (whether he does or not).

Power, of necessity, has shifted legitimately to the executive branch, thence even in more concentrated form to the White House, in a century of technological advance and extraordinarily involvement in a world made small by swift communication. That is no reason why even more power should be collected by the White House, or why the power already re-

siding there should not be more thoroughly checked and balanced, at least by Senate scrutiny of the personalities involved.

Power insufficiently controlled and personalities insufficiently scrutinized were, in fact, at the ugly roots of the Watergate scandal, and even more surely at the uglier roots of the "internal security" scheme for illegal surveillance that Mr. Nixon and his men put together in 1970. If, as has been reported, that plan was for a resumption of practices common in every Administration from Roosevelt's to Kennedy's, the point is only made the more clearly that the rush of uncontrolled power to the Presidency has made of it all too nearly a Frankenstein's monster.

It was incorrectly suggested in this space on May 18 that Mr. Justice William Rehnquist participated in the Supreme Court decision in *U.S. v. U.S. District Court*. On May 20, the Committee for Public Justice was inadvertently referred to as the Committee for Public Safety. Both errors are regretted.