

The Growth of Executive Power

Q: Many Americans seem to feel that Watergate is just politics as usual. Others see the series of scandals as unprecedented in American political history, profoundly different and more serious than previous misconduct. What do you think?

A: Well, if we consider the problem of democracy to be essentially that of people in power refusing to use the power in ways that are not authorized and not decent and not constitutional, I would say that what makes this different from earlier problems in our society is that today the opportunities for the misuse of power are greater. Just stop to think for a moment about some of the central implements in the Watergate scandal. The most conspicuous was the Executive Office of the President. Why there are hundreds of

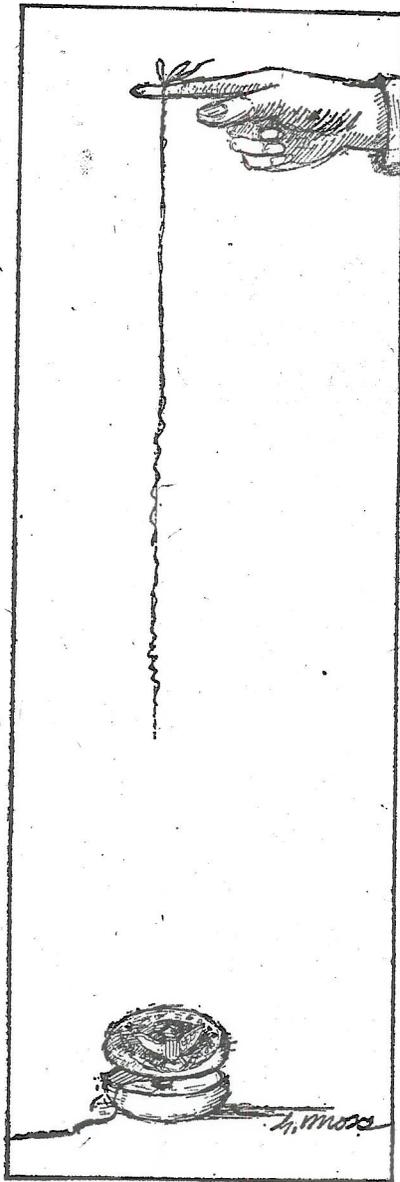
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people who write on White House stationery. This is a new phenomenon. In fact, it's a phenomenon which has astonished, and properly astonished, some senators who asked the counselor of the President if he ever saw the President and he said he didn't. And I think there are something like 40 persons who bear some title such as counselor to the President or assistant to the President or something of that sort. Now this is a relatively new phenomenon: the opportunity for the President to get out of touch with the people who speak in his name. . . .

Q: One of the obvious effects of Watergate has been to undermine the effectiveness of the President very early in his second term. Are there any historical precedents for this and, if so, what are the implications for the balance of power between the Congress and the President?

A: One of the things that we've witnessed which has not been sufficiently pointed out is the great advantage that the nation has at the moment in having a fixed-term election. If this had been a parliamentary system the government would have fallen, there would have been, perhaps, another party put in power and then there would have been criminal prosecutions. The problem would not have been dramatized as a political problem. The members of Congress or Parliament as it might have been, who were in the party of the President, would have been interested to minimize the episode so that it wouldn't affect their re-election. They would have to go to the people to be re-elected. It would be in their interest to minimize.

Now, in the present situation, where we see such an even-handed concern among Republicans and Democrats over this problem, this is to no small extent due to the fact that they're in there and that they are re-elected for a fixed term, especially the senators—for a senatorial term—and that when they expose the misdeeds of the leader of their party in the White House, they are not thereby requiring themselves to go to the people and stand for elec-



By Geoffrey Moss

tion. So that there's a kind of antiseptis.

The separation of powers is proving itself in some interesting ways, and I would say that one of the consequences of this, in public opinion, has been that whatever effect this may have had on the prestige of the presidency, the respect of the American people for the Congress has been increased. They can see the Congress as a vigilant Congress. The virtue of vigilance is certainly dramatized so that in a new way we have seen the wisdom—in almost an unsuspected way—the wisdom of the writers of the Constitution in separating the powers this way. . . .

Q: Watergate, then, to you, doesn't reveal any fundamental weaknesses in the present system that require change by Constitution or by law?

A: I think the passage of the 22nd Amendment in the Constitution (limiting presidents to two terms) was a mistake. I think that the proposal for a six-year term for the president is also misguided. I think one of the points in having a representative government is to have the elected person in power always subject to the possibility of being re-elected or not being re-elected. It's just conceivable that the

President might have been more vigilant if he had known that he was going to be a candidate in another election or at least might be a candidate in another election.

That was a very shortsighted and, I think, malicious constitutional amendment. It doesn't belong in the Constitution. And I think that the notion that it is desirable to have a president who can give his full attention to the "presidency" and not worry about re-election is quite a mistake. What we want is a president who will be thinking about the prospects of re-election and will wonder what reaction the public will have to what he's doing as president. That's what we mean by representative government.

Q: What do you see as the ultimate result of Watergate? Will it change our political institutions in any profound manner? Where is this episode going to lead us as a nation or as a people?

A: As a historian I am inclined to be impressed by the continuity of our institutions, and I am extremely skeptical when I read the obituaries for our nation. There has probably never been a scandal in American history which was not decried as the end of American civilization and the destruction of all public and private morality. I think this episode has probably had the effect abroad of dramatizing our concern with certain standards of public morality. And in that sense it's probably been a good thing. And it has dramatized the power of Congress. It has dramatized the integrity of our courts and it will probably have the effect of making anybody who sits in the presidential chair be more scrupulous of his use of the government—of the powers of the presidency.

In a practical way, one of the questions which should arise immediately is the question of the nature of the Executive Office of the President. I think that should be subject to investigation and scrutiny. Perhaps there should be some committee investigating that. The Executive Office of the President has expanded beyond all bounds and has tended to supersede the executive branch of the government. Some drastic reconsideration of that is in order. American citizens in general do not realize the extent of the Executive Office.

The dangers of that growth have been dramatized in Watergate, and in several ways. First, by making it possible for people to use or seem to use the authority of the President without his knowledge. And, then, by making it possible for a President to say (with some credibility) that he didn't know what was going on. That is an equally disastrous fact and one which should give us pause. The Executive Office of the President ought to be scrutinized. I cannot believe that the responsibility of the office is served by its proliferation. How many of these people and how many of these White House "positions" were simply superfluous? As I watched some of the Watergate hearings I kept asking myself what all these people—Dean and others—were doing there in the first place. Was there really an honest job there that needed doing?