

"the most popular Jew in ... south Florida." Kovens, who was convicted with Hoffa in a Teamsters pension fund case, was released in January 1972, eight days after Smathers and Colson discussed the matter on the

telephone. Smathers reportedly told Colson that he had urged Rebozo to take up the case with Nixon. The parole board however said Kovens was released for valid medical reasons.

# Watergate and the Future of American Politics The Abolished Nixon Revolution

## Morgenthau

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It is the essence of democracy that the minority of today has a fair chance to become the majority of tomorrow and that the majority of tomorrow has a similar chance to become the majority the day after, by competing on approximately equal terms with the majority in free elections. In this competition the government, representing the majority of the last elections, has a built-in advantage, for it monopolistically controls the instruments of organized violence; it occupies

a privileged position vis-a-vis the media, and the concentration of armed and potent instruments of power and influence in the hands of modern government gives it a leverage which the minority party cannot match. In order to compensate for this built-in advantage the government's use of it is hemmed in by constitutional and statutory restraints. The effectiveness of these restraints is predicated upon a moral restraint termed by the Founding Fathers as "republican virtue," which is as essential to the democratic order as it is rare in the perspective of all of recorded history. The democratic order requires that those who hold power are willing to give it up, and that those who aspire to power will accept defeat under the rules of the Democratic game. That act of renunciation presupposes an ethos that puts respect for the democratic order above the desire to hold on to or acquire power.

That ethos has been absent from most political regimes during most of their history. It has been the exception to the rule of fraud and force. That is to say, in most states during most of history, men have tried to gain power and hold on to it by hook or crook, and more often than not the struggle for power was decided by who could kill whom. If one beholds the contrast between the bloody and rotten canvas of history and the spectacle—rare, delicate and noble—of a defeated incumbent surrendering the keys to the White House to his successor or of a defeated candidate going back to where he came from, nursing his wounds in silence, one becomes slowly and painfully aware of what Watergate has done to American democracy.

Devoid of that ethos the perpetrators of Watergate have put their desire to hold on to power above observance of constitutional and statutory restraints. They have taken the first steps toward the transformation of American democracy in the image of authoritarian and totalitarian regimes where the struggle for

HANS J. MORGENTHAU is Leonard Davis distinguished professor in political science, City College of the City University of New York.

power is carried on through the fraudulent use of democratic procedures, culminating in the suppression of dissent and the physical elimination of the dissenters. In order to put the temporary minority at a permanent disadvantage and thereby transform the majority's temporary hold on power into a permanent one, the powers that be have at their disposal two types of instruments: legal ones, used for purposes at variance with the purpose of the law; and illegal ones, claimed to serve, and to be justified by, a higher national purpose.

It is a violation of the law for the White House to suggest to the Internal Revenue Service to audit the income returns of certain individuals or to request the Federal Bureau of Investigation to report on certain individuals or to issue "enemies" lists. In general, the use of the law for any use of executive order is illegal, or is illegal for the administration in power to use these instrumentalities in order to favor its interests. These practices, antedating the present administration, do not violate the letter of the law. They abuse the law by employing the enormous powers which the law gives to the government for partisan purposes alien to the law. For the government uses the law not for the purpose of at least approximately justice as defined by the law, but for the purpose of perpetuating its own power as well as the minority status of the opposition. The fault of the government is moral rather than legal.

The present administration shares those sins with its predecessors although there can have been few, if any, who abused the law for political rather than personal purposes so flagrantly and systematically and on so extensive a scale as this one. The identification of the minority with the "enemy," a concept belonging to the world of warfare rather than legitimate competition, and the compilation of lists of "enemies," reminiscent of the Roman proscription lists, gives one an inkling of the extent to which the democratic ethos has been ignored by the present administration. Yet that administration has added to the traditional sins of partisanship novel transgressions for which there is no precedent in American history. In order to understand the nature of these transgressions it is necessary to make two observations, one concerning the ultimate purposes of the present White House, the other pointing to the limitations of the abuse of the law as a partisan instrument.

It is crucial to the understanding of the unique character of Watergate that predominately the transgressions were not committed for private gain but for political advantage. In other words we are not dealing here with manifestations of the private profit motive overwhelming the public sphere. We are dealing with a political organization which has one aim: to keep itself in power by means fair or foul. Yet it is the very logic of this aim that has compelled the organization

to supplement means fair or foul with means constitutional or unconstitutional, legal or illegal.

It is in the very nature of the abuse of the law as an instrument of political competition that it is limited by the restraints of the law. If the IRS or FBI refuses to do your bidding, being loyal to both the spirit and letter of the law rather than to your personal and political fortunes, you have three choices: you can reconcile yourself to having been stymied by the ethos of the bureaucracy; you can change the personnel of the bureaucracy, which is a slow and hazardous process; or you can create your own bureaucracy, unencumbered by legal restraints and subject only to your will. If the stake is not personal enrichment or even personal power, but rather the perpetuation in power of the organization to which you belong and to which you have given your ultimate allegiance, the compulsion toward the third alternative is well-nigh irresistible. Thus fascism and Nazism, putting the triumph of the "movement" and the perpetuation in power of the leader above all other considerations, created a peculiar system of government, called suggestively by Professor Ernst Fraenkel of the Free University of Berlin "the dual state" in which the official statutory agencies of the government, subject to legal restraints, are duplicated by agencies performing parallel functions, which are organized by the ruling party and responsive only to the will of the leader.

That duplication is particularly pronounced in the field of law enforcement. The official police may arrest a man and release him for lack of evidence, or he may be convicted by an ordinary court to a term in prison; upon release by the police or the prison authorities he is re-arrested by the secret police, tried by a special court and sent to a special prison or camp. While the ordinary police seek to apprehend persons suspected of a crime and while the proceedings of ordinary courts seek to establish the guilt or innocence of the accused and mete out punishment to fit the crime, the totalitarian bureaucracy has only one aim, to "screw the enemies," real or imaginary, of the regime and of the leader by harassing, confining or killing them.

The squads which the Nixon administration envisaged and in part organized for the purposes of eavesdropping, burglary, firebombing, forgery, opening of mail and other criminal acts were called upon to perform in a haphazard way the same functions which the highly organized and disciplined secret police have traditionally performed in authoritarian and totalitarian societies. That the organization of these squads was embryonic, their loyalty questionable, their performance sloppy, their overall scheme stillborn is a result not so much of personal deficiencies as of a peculiarity of the American political system that has saved American democracy before. The totalitarian organizations of Italy, Germany and the Soviet Union were imbued with a missionary zeal nourished by a charismatic leader or doctrine that carried a message

