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Dick Cheney

The President Versus Congress: The Score Since Watergate

Excellent

THE PRESIDENT HAS SEEN . . .

In graphic fashion, President Ford's veto May 7 of a \$4.4 billion foreign aid and arms sales bill symbolizes the struggle between Congress and the White House to reach an accommodation in the exercise of power in the post-Watergate era.

Eventually, the accretion of excessive executive power led to a series of Watergate-related crimes and widespread institutional abuses. But the role of Congress in the impeachment and subse-

quent resignation of Nixon seemed to give the legislative body new vigor. Now, having apparently shaken off years of inertia, Congress is intent on recovering its lost authority, thus threatening the supremacy of presidential government.

Presidential objection: As the nation's chief executive, Ford has made it clear that he believes that Congress is not

only seeking to redress the balance of power but trying to encroach upon his constitutional authority as well. In startlingly sharp language, Ford rejected the foreign aid bill (S 2662), maintaining that it was a "congressional invasion" of his executive territory.

Ford protested that Congress breached the principle of the separation of powers and infringed on his executive authority in foreign policy affairs by the inclusion of provisions that would have placed a ceiling of \$9 billion on U.S. military sales in any one fiscal year, prohibited aid to countries that habitually violate human rights, lifted the trade embargo against Vietnam and extended the right of Congress to halt foreign military sales by concurrent resolution of both houses of Congress. Concurrent resolutions require only a ma-

ajority vote and do not need presidential approval. Joint resolutions, which need the President's signature, require a two-thirds vote of Congress to override a White House veto. In effect, Congress was attempting to neutralize the President's will by employing a "legislative veto."

Tactics: The proliferating use of this practice is one of several tactics instituted by Congress during the twilight years of the Nixon Administration and throughout Ford's appointed term to achieve a semblance of parity with the executive branch.

Congress now requires that some members of the Executive Office of the President, such as the director of the Office of Management and Budget (OMB), be confirmed. It has cracked down on White House claims of executive privilege and the frequent impoundment of appropriated funds by the President. It has indicated its distaste of dual titles conferred on Administration officials, as, for instance, when Henry A. Kissinger held commissions as both Secretary of State and assistant to the President for national security affairs. Questioning of government witnesses at congressional hearings has been intensified. Presidential appointees are scrutinized more closely.

Formal restrictions: For the most part, these are procedural devices. While they reflect the determination of Congress to reassert itself, they do not greatly revise the system of checks and balances fundamental to constitutional government. Of more significance are the formal restrictions Congress has imposed, notably the 1973 War Powers Resolution and the 1974 Congressional Budget and Impoundment Control Act.

Under these acts, Congress theoretically has a larger participatory role in major foreign affairs matters and, on the domestic side, is equipped to handle the federal budget as a whole, rather than on an uncoordinated, appropriation-by-appropriation basis.

Question of weakness: While these reforms have been hailed as indicative of Congress's reemergence as a co-equal branch of government, it is too early to determine whether they will achieve their promise. Nonetheless, this new vitality on the part of Congress has raised the question of whether the presidency has, in fact, been weakened. The conventional view is that the trend toward the accumulation of presidential power has been stalled and that the President has been brought to heel. A March 28 headline in *The New York Times*, for example, proclaimed, "Presidency Is Found Weaker Under Ford."

However, a *National Journal* survey of presidential scholars, Administration officials and former White House aides produced varying opinions and interpretations of the issue. The study showed that it is considerably more complex than a simple weighing of the powers of one branch against the other and that what may seem like a depreciation of presidential power, such as the War Powers Resolution, can be an illusion.

The experts: Not unexpectedly, government specialists are of several minds on the issue of the scope of power.

Harvard University professor Samuel P. Huntington said he believes that executive power has been eroding since the late 1960s, beginning with the reaction to President Johnson's Vietnam war policies, and eventually followed by a decline in public confidence in government induced by the actions of the Nixon Administration. "I don't think this is transitory," he said. "My guess is it is going to be with us for awhile. It reflects a desirable redress of the balance between the legislative and executive branches."

Rep. Bob Eckhardt, D-Texas, chairman of the Democratic Study Group, said that through various institutional reforms, "Congress has not weakened the President but has strengthened itself."

Another view was expressed by professor Arthur M. Schlesinger Jr. "What has happened since Ford proves that the presidency is relatively indestructible. . . . It is clear that Watergate has not damaged the office in a serious way. Ford is a President who can't even command his own party and yet he has vetoed more bills than Nixon or Johnson did and four-fifths of them are sustained.

"There is enough evidence to show that the office, even for a man who was not elected to it, (who) is personally and politically weak and so on, still retains very considerable strength. . . . I don't think the lawful powers of the presidency have been weakened, nor do I think that the President has been deprived of any powers that are appropriate for him to exercise."

Consciousness raised: While it remains undetermined whether the presidency and the powers of the President have been altered in the aftermath of Watergate and the resulting demands for reform, it is clear that the level of national consciousness of presidential power has been raised. This is evident in the outcry against big government and the anti-Washington theme played to political advantage by several presidential candidates, such as Jimmy Carter and Ronald Reagan.

Above all, it is apparent that the relationship between Congress and the White House has been changed, at least to some extent. The question is whether the change has been made at the expense of the presidency and in the public interest.

THE PRESIDENT HAS SEEN....

Ford: 'In Case of the Removal of the President'

James MacGregor Burns once asked, "If a moderate, 'constitutionalist' President like Gerald Ford fails even to reverse the trend toward presidential domination, who or what can?"

In asking the question, Burns may have answered it. As he implied the concept of a strong presidency has so inculcated American political thought that any suggestion that a President would attempt to project any other image would, in effect, be a denigration of his character. Our hero-Presidents—George Washington, Andrew Jackson, Abraham Lincoln, the two Roosevelts and Wilson—loom as a composite ideal for their successors. Any President who fails to meet that standard is considered a disappointment. Yet, as Stephen Hess, a senior fellow at Brookings Institution, has stated, we may not always need a strong President, but rather one who is "appropriate to the times."

The Ford image: The public image of Ford is that of a personable, unassuming individual. Nonetheless, the regal trappings surrounding U.S. Presidents—the private air force, large personal staff, domestic servants, military aides, Secret Service agents, Marine band—have not been muted. The Ford White House relies as much on public relations and press manipulation as its predecessor, although with less cynicism.

Fred I. Greenstein, the Henry Luce professor of politics, law and society at Princeton University, suggests that the Imperial Presidency of Ford simply takes another form. "The presidential mystique, pomposity and aggrandizement continues, but in a different mold," he said. "Ford plays the humble man, homey and just-folks, but relies on cosmetics with his one-liners, media activity, private photographer, bust of Truman in his office and so on."

Both Charles Black and Thomas Cronin believe that part of Ford's failure to be more widely accepted is that he is an appointed President.

"Power rests on prestige: Ford has to govern by veto because he doesn't have much," Black commented.

Cronin suggested that Ford suffers from "the eighth year factor." He said that Ford is serving the eighth year of the Nixon-Ford Administration and that the public is looking restlessly for a change.

This portrayal of Ford as a provisional President almost certainly affects his relationship with Congress and the electorate.

Government by veto: Espousing a political philosophy calling for the reversal of liberal social assistance programs identified with recent Administrations, and confronted with a Congress dominated by the opposing party, Ford flaunts his veto power as a presidential tool to ensure a balance of power.

Ford, consequently, has made the veto an integral part of his presidential strategy, and not just a power of last resort. But this is essentially a negative power that distracts from the leadership and creativity expected of modern Presidents.

Big government: Aside from his style and policies, Ford has not changed the institution of the presidency markedly. He has reduced the size of the White House staff by about 10 per cent to less than 500 regular staffers, not including detailees.

Civil Service Commission statistics, however, show only a miniscule drop in federal civilian personnel since shortly after Ford took office, from 2,866,904 in September 1974, to 2,859,127 in February 1976, the last month for which figures are available. Permanent

executive branch employment for the same period reflects a proportionately small dip, from 2,474,320 to 2,463,360. This would not seem to confirm White House declarations that the President has cut the federal payroll by 40,000 jobs.

Ford's problem is how to disassociate himself from big government when he has been identified with it for more than 25 years as a Member of Congress, Vice President and President.

THE PRESIDENT HAS STAYED

The Presidency — As Strong As Ever

Talk of the erosion of presidential power is "nonsense," said James E. Connor, staff secretary to President Ford and secretary to the Cabinet, in a *National Journal* interview. Connor, who holds a doctoral degree in political science from Columbia University, offered these other comments on the subject:

If you make the argument that there has been a weakening of presidential power, you've got to make it against some kind of standard—what was it? What has happened in lieu of a weakening of presidential power, which does not appear to me to be a weakening at all, are two things.

One, a President with a Congress that is two-thirds against him, and that's a hell of a thing . . . The second, and I think a more profound thing, is that a group of people in the late '50s and '60s idealized the presidency as the incarnation of their aspirations. They used it as a club to beat Eisenhower, who did not live up to what they thought the presidency should be, and to apotheosize Kennedy, with whom they were intimately connected either by direct appointment or indirect contacts. Now, they have changed their minds for one of a number of reasons—they are out of power or are disillusioned over what power has produced for them—and have articulated a theory of the weakening of the presidency, a fundamental change which is probably much more related to their own psychological transitions than a serious examination of the nature of the office would indicate.



Connor

To me, Schlesinger is the pluperfect example of that. If there is anybody who contributed to the Imperial Presidency, it is Arthur Schlesinger. He glorified a Jackson, he glorified a Franklin Roosevelt, he shilled for John Kennedy and did a whole series of things which in a kind of pseudo-academic guise were, in fact, the intellectual creations of the Imperial Presidency.

Somehow or another, we have departed from that grand standard, either because men can't live up to it or because Arthur is not there, or because events double-crossed us, as they often do. As you look back and say where is the other evidence, I think you're very hard pressed.

This is a President who in January 1975 said there are not going to be any new federal spending programs, and there were none in the first session of the Congress that was 2 to 1 against him, and there isn't going to be any in the second session of Congress that is 2 to 1 against him. I don't see the weakening of presidential power there. That he has been overridden on some vetoes, sure, but what he has had sustained is rather more impressive.

We have not seen a weakening of the presidency in terms of the relationship between the presidency and the other institutions in the system: their relative strengths and weaknesses, advantages and disadvantages are very much as they have always been. Presidents can use those well or foolishly, they can squander the assets, they can husband them, they can pick their shots, they can over-

come Congress in certain kinds of areas and they must give way before Congress in other kinds of areas. The courts have a role. All these things, relatively speaking, have not changed. But what has changed is the centrality of politics in the system.

For a period of 15 years or more, maybe back from FDR on, we have been in a period in which the nation has looked to the political world and the public world as a source of salvation, and now that is changing. That, it seems to me, springs from three different things.

First, I suggest, the failure of the Great Society and its programs and promises. Second, Vietnam and its promises.

In both of those cases, government set out on enormous undertakings they were unable to accomplish. Those failures, if you will, brought to a head the question of competence of government.

For many years before that, certainly during the early '60s, and in much liberal thought before than, the competence in government to do whatever it set out to do, whatever it had the will to do, was unquestioned. If you recollect, particularly as the Great Society began to fall apart, people were saying that what it shows is that we don't have the will to make better houses, erase poverty and the like. That was kind of a knee-jerk reaction to the horrible truth that nobody wanted to admit, which was that maybe we aren't smart enough to do these things, maybe we are not as smart as we thought we were in terms of molding and shaping people's attitudes toward family, jobs and those things that make up the poverty complex.

And correspondingly, maybe we weren't as smart as we thought when we talked glibly of "graduated response" and "fine tuning." They were the two key words of the '60s: nothing sums up more the intellectual pretenses that characterized the international and domestic aspirations of the '60s.

What we would not admit to ourselves then and what some people don't want to admit now, as so many of these same people start talking about the decline of the presidency, is that there are questions of competence which are fundamental to government—can government do certain kinds of things, can you really wage such a thing as a graduated, limited war? Answer—it sure doesn't seem so. Can you really fine-tune an economy so there is a little gnome somewhere in the Federal Reserve or the Bureau of the Budget who pulls a little lever a third of the way down and says, "Aha, we will maintain prosperity without inflation?"

It's the centrality of government that is moving out, and a hell of a lot of people don't want to admit that.

Then you add on the Watergate situation, when not only the competence but the good intentions of government begin to be called into question. And kind of the little maraschino cherry on top is the incredible New York City collapse.

So I come back to asking, has the presidency been eroded? According to what standard, according to a set of aspirations of people who once thought that the presidency could bring heaven on earth? It's nonsense. What we're talking about is in the minds of certain types of people, not a real phenomenon in American political life.

The presidency keeps getting stuff loaded onto it, it is the pivot of the system. It sets the tone of the debate and continues to do so.

EVANS-NOVAK POLITICAL REPORT

WHAT'S HAPPENING . . . WHO'S AHEAD . . . IN POLITICS TODAY

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THE PRESIDENT HAS SEEN....

May 19, 1976 - No. 258

To: Our Subscribers

Michigan and Maryland

From: Evans-Novak

Primaries Special Report

President Gerald R. Ford's Michigan landslide and impressive Maryland win in the short run stop former California Gov. Ronald Reagan's momentum and Ford defeatism -- and in the long run guarantee no worse for the President than a hard fight at the convention in Kansas City. Mr. Ford has averted the knockout blow that would have resulted from a loss in his home state of Michigan and the probable attrition of uncommitted delegates that would have followed from a close win here.

Nevertheless, it is premature to say that President Ford has solved all his problems. His victories in Michigan and Maryland stemmed more from special circumstances rather than some magic new Presidential formula. What he did yesterday cannot be duplicated in California, where a Reagan win would guarantee a tough convention struggle.

On the Democratic side, former Georgia Gov. Jimmy Carter remains the odds-on favorite to capture the Presidential nomination, although his second straight Tuesday of unimpressive showings indicates deep, perhaps growing misgivings about him among ordinary voters. His advantages are: 1) The lack of a truly viable active opponent, and 2) The weight of numbers as he continues delegate accumulation. Prospects of stopping Carter have perhaps declined from 1-in-15 to 1-in-8, but it remains a long shot, even though the forces of Sen. Hubert H. Humphrey are stirring about again.

GOP

Michigan: In this non-Party state, Mr. Ford's margin of victory was given landslide proportions by Democrats crossing over to save their home state President. Jerry Ford had backing from local worthies, such as Gov. William Milliken and Sen. Robert Griffin, with an intensity certainly not experienced elsewhere. These factors rather than Ford's new Presidential style are the principal reasons for success.

Despite a late media buy, the RR effort here was modest (a total of 25 hours campaigning and very little organization). Some Reagan insiders feel that the high command had erred in not sending Reagan in for late campaigning Monday (though this would have cut into RR's weekend rest). But perhaps the extent of the margin justified a feeling by Reagan Campaign Manager John Sears that RR should not be seen trying too hard since that would expand the impact of Ford's win.

Maryland: Reagan had hoped for a close contest here, but Mr. Ford's win was no surprise (and, in fact, May 18th had been forecast in this Report as a good day for the President for some time). With neither candidate appearing and neither spending lots of money on media, the Regular Republican organization - inadequate though it is - was enough to best no Reagan organization at all. The real RR potential here was from the George Wallace voters on the

Eastern Shore and in Prince George's and Baltimore Counties who could not cross over in this closed registration state.

President Ford's renewed momentum could be dissipated if the six primaries next Tuesday run to form. Here is a quick rundown:

Oregon: This is Ford's best Western state, and he is clearly favored here, particularly after the renewed momentum gained yesterday. But RR is campaigning here, and a runaway of Michigan or even Maryland proportions is unlikely.

Tennessee: This is one of Ford's best Southern states, with Sens. William Brock and Howard Baker solidly behind him (although RR is Baker's houseguest tomorrow night). An edge to Reagan, but this is a battleground.

Kentucky: A bigger edge to RR, gaining from anti-busing sentiment in Louisville and elsewhere.

Arkansas: A solid lock for RR.

Idaho: RR heavily favored.

Nevada: Ford campaign managers feel that he has a shot to win here, but RR is favored with Sen. Paul Laxalt, his national campaign manager, and next-door neighbor status as a Californian helping. Reagan is campaigning in the state today. Ford is not campaigning in Nevada at all.

Outlook: If next Tuesday's primaries do run to form, Ford's renewed momentum will be slowed down again, but not all that much will be accomplished even if RR wins five of the six primaries. Since the delegates in all six primaries will be selected on a strict proportional representational basis, only a difference of 15-to-20 delegates in these relatively small states is at stake no matter what happens.

Accordingly, as we have reported for some time, it all boils down to California on June 8th, where the winner takes all 167 delegates. Reagan now has a lead but Ford will wage a strong campaign and could turn the tide. Based on first-hand reporting last week, we see one of the nastiest, most brutal primaries of all shaping up.

If Ford wins in California, it's all over. He's nominated.

If Reagan wins, each candidate will enter Kansas City with delegate blocks of about 900 apiece, with 1130 needed to nominate. We feel that President Ford would have an advantage under these circumstances, with the leverage of the Presidency involved. RR's hope rests in prying loose Ford delegates and taking uncommitted delegates on the grounds that Mr. Ford is a loser - an incumbent who cannot be nominated and certainly doesn't have a chance to be elected. The big Ford victories yesterday do cut off leakage of uncommitted delegates to Reagan, at least until after June 8th.

Don't look for a big showdown in Ohio (also on June 8th). As of now, there is no scheduled campaign time by RR there, and very little money or organization effort scheduled. Reagan strategists had wanted to finesse Ohio (as they did New York and Pennsylvania and plan to do in New Jersey) and agreed to accept a partial delegate slate there only under duress. But the Reagan camp still thinks they could peel away some Ford delegates in Ohio.

Ford: We watched the President in Michigan last week and, frankly, were not all that impressed by his return to a "Presidential" style (though, of course, it makes more sense than his anti-RR sniping in Indiana). Remember, he used it to no great advantage in Nebraska, and Michigan and Maryland were not fair tests. However, if Mr. Ford can score some upsets next Tuesday, then we shall have to revise our early impressions.

Reagan: We also observed RR for his 25 hours in Michigan, and have never seen him in better form. But we perceive an extremely difficult problem that could prove fatal. In our voter interviews in Michigan, we found for the first time a deepening public perception of Reagan as a hip-shooting warmonger.

In other words, the seeds planted by Ford and his surrogates are starting to take root a month later. Unless arrested, this could prove extremely damaging to RR - perhaps even in California. On the other hand, Reagan continues to do very well in caucus states, such as Oklahoma last weekend.

DEMOCRATS

Michigan: Jimmy Carter's amazingly poor showing in his narrowest of wins over Rep. Morris Udall can be measured by polls only one week ago showing him with 60% plus of the popular vote and 70% plus of the delegates. Part of what happened to him was Democrats crossing over to save Jerry Ford (Carter aides feel this enhanced Ford by 10 percentage points), but this cannot explain away the obvious disaffection of voters from the front runner.

Had it not been for the endorsements of UAW President Leonard Woodcock and all the statewide officers and Detroit Mayor Coleman Young (bringing with him the bulk of that city's black voters), there is little doubt that Udall would have won - with profound consequences for the nomination. The irony is that Woodcock talked his UAW colleagues into the nomination out of the necessity to get on the Carter bandwagon before it rolled off, and Young is a Hubert Humphrey man at heart.

Our quick study of the Michigan vote shows up interesting problems for Carter. In Rep. Lucien Nedzi's district, mainly white, middle class with some blue collars, Udall won heavily.

Maryland: The size of California Gov. Jerry Brown's victory cannot be explained away as merely the organization delivering the vote for Brown (though, in fact, his big win in Baltimore testified to that). In fact, the Carter-Brown even-split in rural Protestant areas indicates that something is wrong with the Carter campaign and the possibility that the months of attacking him as a trimmer has finally caught hold in the public mind.

The Outlook: Next Tuesday, Carter is expected to win in Tennessee, Kentucky and Arkansas, with Sen. Frank Church the winner in Idaho and Brown the probable winner in Nevada. Carter's polls show him ahead in Oregon, but this is not his kind of state, and Church could sneak through (although Brown's ill-advised write-in campaign scarcely helps).

In the final rundown on June 8th, Brown is heavily favored in California. But Carter has no opposition in Ohio and will sweep most of the delegates. The question: can Brown put enough steam behind the uncommitted slate in New Jersey to cause trouble for Carter there?

All this adds up to something less than stopping Carter, but also a good deal less than a triumphant march to Madison Square Garden. Just at the time when the power structure of the Democratic Party had virtually acquiesced in Carter's nomination, he has now lost to Church in Nebraska, Brown in Maryland and barely beat Udall in Connecticut and Michigan, where he had been expected to win easily. In fact, some Party leaders are unhappy about Carter's slump because it only postpones what they feel is the inevitable, making a united Party that much more difficult to pull together.

The fact that Carter won in Michigan prevented a breakaway of uncommitted delegates from him at least for now. With no single viable opponent, the numbers are on his side, and many Party leaders with no love for Carter cannot see how he can be stopped.

We can see him being stopped only under one of two circumstances or a combination of them: 1) Losing in New Jersey to an uncommitted slate (assuming, of course, that he also loses to Brown in California), and 2) Enough politicians coming to feel that Carter, after all, is not really a winner - reversing the

flow exemplified by Sen. Tom Eagleton leading the Missouri uncommitted into the Carter camp. That is possible but certainly unlikely. Further, if it should ever come to second ballot in New York City, we feel it is quite possible a good number of the Wallace delegates might move to Carter in preference to any Northerner, Midwesterner or Westerner.

Carter: His advisers were talking well into the early hours this morning about what's wrong. One quick and inescapable conclusion: he is in a different ballgame than his opponents: whereas the voters are now eyeing Carter as a potential President, they are still viewing Brown and Church as newcomers (just as they similarly viewed Carter last February). As such, the voters seem tired of Carter's call for love and faith. Will they be even more bored in November?

We also feel that there is some public feeling that Carter does not level with the public. Bob Shrum's memo did not phase the professional politicians, but it may be having some impact on the electorate. If there were one viable opponent, we think Carter would be in big trouble.

Brown: As the new boy on the block, he showed lots of voter appeal in Maryland. But he also showed the essence of disorganization in: 1) The fact that he was not entered in Michigan (he inquired too late to file) and other primaries, showing no planning whatever; 2) His write-in campaign in Oregon makes no sense to us at all, and is happening only because his campaign manager neglected to file in time to get on the ballot; 3) He ignored the advice of a supporter two weeks ago to contact Eagleton on one of his trips to Washington-Maryland - a contact that might have saved all those uncommitted Missouri delegates who went to Carter last week. These failures suggest to us that his entire campaign is very much an ego trip.

However, if Brown is moving on June 8th with the same speed that he is today - and Church doesn't get too much in his way - he could give Carter a very grave wound in California (even though the delegates are proportioned), causing JC to go to Madison Square Garden having lost the number 1 and number 2 states in the primaries - and to different candidates.

HHH: Here we go again! Humphrey is bitterly regretting his April 29th Farewell Address press conference, blaming it on his staff. He is also moving around - to Ohio to campaign for Rep. Wayne Hays' Favorite Son delegates in his Congressional district; to New Jersey to talk to the uncommitted twice; to Minnesota, where he is bringing Sen. Edward M. Kennedy on what is ostensibly a fund-raiser for HHH's Senatorial re-election campaign. He is not going to Sweden later this month, having just cancelled out. And he is seriously considering journeys to address other uncommitted delegates in such states as Iowa.

Meanwhile back in Washington, folks, Buffalo, New York Democratic leader Joe Crangle and Illinois Rep. Paul Simon are forming - without HHH's blessing (ho! ho!) an "independent committee" to advance HHH's candidacy - talk to the uncommitted, raise money, open an office, etc. Should Carter be stopped, the likely beneficiary would be HHH, we believe, not Udall, Brown or Church.

Udall: Remember that Mo Udall is entered in both the Ohio and New Jersey primaries (as well as California) on June 8th. As has been the case so far, he is capable of giving Carter a nasty surprise, particularly in Ohio.

Richard Egan
Robert D. Norder