

**The original documents are located in Box D16, folder “Growth of Executive Power, December 1963” of the Ford Congressional Papers: Press Secretary and Speech File at the Gerald R. Ford Presidential Library.**

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I

INTRODUCTION

We have witnessed in the past few weeks, as perhaps never before in our history, unprecedented tragic events. The assassination of the President has removed from our midst a man of great charm, great dignity and great courage. It was my privilege to serve with him in World War II as well as in the Congress of the United States. I knew him perhaps as well or better than most other members of Congress. I did not agree with many of his programs and policies; I did not agree with many of his actions, but these disagreements in no way interfered with the personal friendship which existed between us. I mourn him deeply.

△Note: Here insert a personal anecdote if an appropriate one exists with respect to your relationships with President Kennedy, and particularly if it relates to the point that personal friendship for a man in political opposition to him and his policies is not incompatible.7

The greatest respect that I can pay John Kennedy and his memory is to continue the fight that I have made over the years for the principles that I believe should guide us in the complex

problem of operating our Government. Our eternal goal must be to achieve a government that serves all the people and not just a part of the people. We cannot permit our sacred governmental institutions to be used simply to satisfy a lust for power or preference by any individual, any group of individuals, or any political party.

## II

### GROWTH OF EXECUTIVE POWER - HOW AND WHY

My subject today goes to the very heart of the great problem of whether our Government is sufficiently viable to deal with the complex problems of our times. Can it deal with them properly and at the same time preserve the dignity of the individual citizen and protect him in his legitimate activities? Our Government will accomplish the noble objectives which our forefathers designed for it only to the extent that you and I ensure that it operates as it was intended to operate.

Our forefathers designed a unique system of government. It was designed in response to the tyranny of the past and as a means to achieve the promises of the future. The uniqueness of

this great design was in the separation of powers into three branches, each of which was designed to be co-equal and to act as a restraint upon the other branches. The separation of the legislative, executive and judicial "powers" was not an accident. ~~Though not spelled out explicitly by the framers of the Consti-~~  
~~tution, and~~ perhaps the word "powers" is an inexact word and the word "functions" is more exactly descriptive of the framework designed by the authors of our great Constitution. Whether we call it a separation of "functions" or a separation of "powers", the fact of the matter is that the framers of the Constitution, viewing history at that time, knew that the inevitable result of a concentration of the three functions or powers in a single agency always produced tyranny for the people.

Our Constitution places restraints upon the legislative power through ~~presidential veto~~, the power of the executive to recommend legislation, to summon Congress to special sessions and to veto their acts. The judicial power exercises a restraint through its power to review and interpret legislation, thereby imposing a restraint upon the legislative branch. The legislative

branch, to some degree, restrains the executive and the judiciary by its powers with respect to approving appointments, consenting to treaties, and impeachment of federal officials. The executive restrains the judiciary through his power of pardon for all offenses except treason. Thus our system of government is a complex and delicate system of checks and balances. So long as there is no undue dilution of any of these powers or any usurpation by one branch of the powers of another, there can be no tyranny imposed upon the people.

As our government has become more complex and as the power of the executive has become increasingly used for political purposes, there has been a blurring of the distinctions between the various functions of government. We now find governmental bureaus, under the control of the executive branch, exercising legislative and judicial powers to a degree far beyond the contemplation of the framers of our magic document, the Constitution. The growing insistence of the executive branch that there be adherence by the Congress and adherence by the judiciary to the principles espoused by the executive threaten the very foundations

of our unique system of separation of powers! We are at a point in our history, as in the days of Jackson, when once again it has become accepted that public office and the spoils that flow from it are properly the loot of victory at the polls. It is fortunate that our nation and our people are so vastly rich that our economy can prosper notwithstanding these wasteful misuses of executive power. In what other country in the world can 24,700,000 bushels of surplus grain disappear without a trace; in what other country in the world can investigation disclose that many thousands of the bushels of that grain found its way at economic profit to someone behind the iron curtain of a nation sworn to do us in; in what other country in the world would the officials in the executive branch of the government charged with its safekeeping be continued in office, notwithstanding their apparent disinclination to find what happened to the grain? (Note: See attached article re Senator Williams from The National Observer.)

If the legislative branch of the Government is not permitted to operate as a coordinated branch of the Government with a full check upon the executive branch, then tyranny is the

result. The interferences in our political system upon the legislative branch by the executive branch stem mainly from favors promised and given or withheld, and political support granted or withheld. If the executive branch succeeds through the exercise of its tremendous powers in obtaining control of the legislative branch, as has been increasingly the case, then tyranny is the result. In his great book "The Great Issues of Politics", Leslie Lipson has said on this subject:

"Unfortunately the evidence on this point is not taken only from the pages of the past. Modern dictatorships-Nazi, Fascist, and Communist-supply corroborative testimony. There, too, the executive branch has acquired enormous new power and the work of government is carried on through the twin media of party and civil service. But these institutions, though employed by democracy and dictatorship alike, differ radically in the two political contexts. The spirit and status of any party are completely changed when it alone has the legal right to exist and therefore possesses a monopoly. Likewise a civil service, organized to serve a one-party state, must itself share a partisan loyalty and does not dare maintain the political neutrality that is expected when two or more parties may alternate in power.

"A dictatorship, furthermore, goes to extreme lengths in subjecting other branches to the domination of the executive. The courts may not, in any case that has political relevance, give a decision contrary to the will of the party leadership. Judges must be mice under the throne. So too with the legislature, which in a dictatorship is a superfluous and dangerous institution since it could be a rallying point for opposition. Dictators sometimes permit the outward form of a legislative body to survive. But it is a hollow shell, with the

kernel removed. By packing it with party stalwarts, by convoking it at long intervals, and by controlling its agenda and procedure, the dictator turns it into a receptive sounding-board for his own and his party's propaganda. Such was the fate that befell the Italian Parliament after 1925 and the German Reichstag after 1933, and the history of the Soviets in Russia has been similar. That system of councils or representative assemblies was constructed in 1917 by the revolutionary movement both as an instrument of opposition to Czarism and as a nucleus for a new government. But the Soviets, just because they were representative and elected bodies, contained within themselves a seed of democracy that Stalin did not permit to grow. Under his rule, therefore, the Soviets were reduced to a nullity. Any possibility of their independence was throttled by the stranglehold that the Communist Party secured over them.

"As examples of a concentration of power, pushed to its utmost, the following may be grouped together: the autocracy of the Russian Czars prior to 1905, the dictatorship of Stalin as boss of the Communist party in the U.S.S.R., the Hitlerite regime in Germany, Mussolini's Fascist system in Italy, and the oligarchy of militarists, bureaucrats, and businessmen who controlled Japan from 1931 to 1945. All the modifications that have occurred of recent decades in the American and British governments seem, when compared with such cases, meek and mild indeed. Such dictatorships aptly illustrate and justify the remark of Madison: 'The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.'"

The extension of executive control today threatens the legislative branch of the Government itself. Rewards are promised, granted and withheld in order to influence actions of members of Congress. But promises and the granting or withholding of rewards to individual citizens and to groups of citizens



are also employed to ensure a subservient Congress. Thereby the circle is completed because these individuals and groups of individuals are induced to send to the legislative branch representatives who will be subservient to the executive.

This problem of the encroachment of executive power is perhaps the truly great issue of the age in which we live and exposes each of us increasingly to the threat ~~of tyranny~~ that peoples of other nations have known in the past and in many nations know today.

I do not think I need to go into the countless examples of our trend toward tyranny. We are all familiar with the fact that Medicare is being promised as a solution to the problems of the health of our nation's people. This program, widely publicized and promised for its political effect, would transform the doctor's office and the hospital into a governmental bureau. We have witnessed the sad spectacle of the misuse of executive power by an insistence upon placing new post office buildings in cities, towns and villages where they are not only unneeded but unwanted. Again a use of executive power intended

to dilute the power of Congress by inducing the election to our Congress of persons who would become a pawn of the Executive.

In the TVA area, we have observed a distortion of the purposes of this agency to the extent that even today TVA Cooperatives are obtaining loans from the Government at the favorable rate of interest of 2% (?), which is ( ? ) percent less than the Government itself must pay for money. Funds are obtained by TVA Cooperatives in order to construct new facilities to serve industries - not the rural dweller who wants to have his kerosene lamps replaced by electricity, but large industries - which in turn are being financed by loans from the TVA Cooperatives at very favorable rates of interest and at a time when the same TVA Cooperatives themselves have bulging treasuries invested in Government bonds bearing interest at rates much higher than the rates they are paying to the Government for the loans that they obtain. Again this is a spectacle of the misuse of executive power in order to produce a favorable climate for electing a subservient Congress that will complete the circle and give ever greater power to the Executive!

