# **Maryland Law Review**

Volume 47 | Issue 1 Article 12

# After the Imperial Presidency: Introduction by Whitman H. Ridgway

Whitman H. Ridgway

Follow this and additional works at: http://digitalcommons.law.umaryland.edu/mlr



Part of the Legal History, Theory and Process Commons

## Recommended Citation

Whitman H. Ridgway, After the Imperial Presidency: Introduction by Whitman H. Ridgway, 47 Md. L. Rev. 52 (1987) Available at: http://digitalcommons.law.umaryland.edu/mlr/vol47/iss1/12

This Article is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Law Review by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact smccarty@law.umaryland.edu.

#### AFTER THE IMPERIAL PRESIDENCY

### INTRODUCTION BY WHITMAN H. RIDGWAY\*

The creation of an independent Executive in article II of the Constitution<sup>1</sup> troubled some of the founding fathers. Fearful of the abuses associated with monarchies, they sought to curb the President's independence through a system of checks and balances that divided power between the executive and legislative branches, while giving the President veto power over legislation. The Constitution gave the President control over the executive branch of government<sup>2</sup> without specifying what the President's role would be in domestic affairs of the Nation; made the President Commander-in-Chief of the Nation's military<sup>3</sup> at a time when there was only a small force; and gave the President substantial control over foreign affairs subject only to the Senate's right to ratify treaties and Congress' right to allocate money and to declare war.<sup>4</sup>

Over the past two hundred years the power and influence of the Presidency has expanded enormously. Active presidents who believed that they embodied the will of the people, from Andrew Jackson to Ronald Reagan, have pressed reluctant Congresses to approve legislation they personally desired. The authority of the executive branch in domestic affairs has grown substantially since the New Deal era. The power of the Presidency has expanded with every war the Nation has fought and Presidents have jealously guarded their prerogatives in foreign affairs. Theodore Roosevelt insisted that the Nation needed the Panama Canal, Woodrow Wilson wanted the League of Nations, and Ronald Reagan sought support for the Contras in Nicaragua.

Notwithstanding the broad Presidential powers of article II, Congress has frequently asserted its equality under the separation of powers doctrine. The War Powers Resolution,<sup>5</sup> passed in the wake of the Vietnam War, was designed to reassert congressional

<sup>\*</sup> Associate Professor of History, University of Maryland College Park.

<sup>1.</sup> U.S. Const. art. II, § 1.

<sup>2.</sup> Id. at § 2.

<sup>3.</sup> Id. at cl. 1.

<sup>4.</sup> Id. at cl. 2; see also id. at art. I, § 8, cls. 11-16, 18.

<sup>5.</sup> Pub. L. No. 93-148, 87 Stat. 555 (current version at 50 U.S.C. §§ 1541-1548 (Supp. III 1985)).

power in foreign policy decisionmaking. Opponents of this legislation argue that it is inherently unconstitutional.

There are two contemporary events that formed a background to Professor Schlesinger's lecture. The Nation was captivated by the Iran-Contra hearings. The hearings probed executive branch decisionmaking concerning the sale of weapons to Iran and the diversion of some of these funds to purchase arms for the Contras in the face of congressional legislation<sup>6</sup> forbidding such assistance by the government. There was also a debate on national policy toward the Sandanista government of Nicaragua and the wisdom of supporting the Contra effort to subvert it through armed conflict.

Against this timely backdrop, Professor Schlesinger examines the current debate concerning the appropriate scope of Presidential power in our democracy. He defends the balance of powers struck by the framers against those who believe that the Constitution unduly hampers Executive policymaking, especially in the area of national security. He acknowledges that the separation of powers doctrine can prove somewhat disabling for a President, but believes that effective Presidential leadership can overcome these problems by urging Congress and the Nation to consensus. And, by requiring the President to achieve this consensus, the separation of powers principle ensures the accountability fundamental to our constitutional system.