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STUDY OF THE PRESIDENCY

May, 1968

A Preliminary Outline of Problems and Issues

Caveat

Even to take up the idea of improving the Office of the President raises the question: Is there such a thing as an "Office of the President" apart from the President who occupies it? Is there "a right way" to be President?

A study of the Presidency should recognize that the answer may be "no" and in any case will be contested. Nonetheless, as its minimum assignment, such a study could and should

- a) show what has been happening -- throughout 180 and especially the last 36 years -- to the concept and functioning of that Office;
- b) discuss alternative approaches to the key issues today (e.g. the war power, coordination of domestic programs);
- c) sum up certain lessons of administrative effectiveness, applicable at any level; and
- d) end up by displaying before future Presidents and the nation the choices available and the consequences of choosing.

Bradley H. Patterson, Jr.

I. SOME ISSUES IN THE PRESIDENT'S ROLE AS CHIEF ADMINISTRATOR

A. The key dilemma: A singular President and a Plural Executive Branch

Article II Section I begins "The Executive Power shall be vested in a President of the United States of America." This one man, with one body and one brain, is thus in the eyes of the Constitution, alone responsible for carrying out tens of thousands of public statutes and for directing the work of 6 million employees. Both statutes and employees are increasing yearly.

Early or late in the study, two questions must be faced:

1. Is there any limit at all on the number of statutes, programs and employees which a President can direct with enough effectiveness to make elections meaningful?
2. Should the Presidency be multiple?

The answer to both questions is probably "no" but this then forces examination of all the modes of a President's Administrator Role.

As preliminary research:

- Graph the number of public laws in effect at the start of each President's term, beginning in 1789;

-- Graph the number of civil and military employees in the same manner;

-- Graph the federal budget likewise;

B. With respect to some of the Statutes: The laws assign specific duties to the President.

1. How many are there of these specific assignments? Make a catalogue.
2. How many have been delegated and to whom?
3. How many are still undelegated?
4. Of the undelegated assignments, how many others could or should be delegated?

C. For All of the Statutes: There is the President's obligation to "Take Care That the Laws be faithfully executed."

1. To do this the President needs information on how programs are being administered, especially advance information on problems being encountered.
 - a. From recent history, what are some notable examples of this need?
 - b. What information mechanisms for producing advance information been tried? Which have the greatest promise of effectiveness?

- c. Is the President used too often as Ombudsman for the Congress, Governors, Mayors and the rest? What is the irreducible minimum for this role?
2. An unavoidable part of the "Take Care" Role is the President's ultimate obligation to be Chief Coordinator in program administration. With special reference to the domestic sphere:
 - a. Describe this obligation, with examples.
 - b. What can be learned, useful to domestic program coordination, from the accomplishments in forging a national security community over the past quarter century? What essential differences?
 - c. Evaluate (linked with "b" above) the program coordination role of:
 - Committees (e.g. Cabinet, NSC, EOC and on down to regional and local levels e.g. Federal Executive Boards).
 - Executive Office troubleshooting task forces (e.g. on Neighborhood Centers).

- The Bureau of the Budget, OST, OEP.
 - A new unit in the Executive Office.
 - Special White House Assistants and Staffs (Califano, Bundy/Rostow & Companies).
 - Interagency information exchanges (the Vance-Ball Agreement, CHECKPOINT procedures).
 - Special Agency Centers (NMCC, Operations Centers, Chart Rooms, Situation Room).
 - Interchange of agency personnel (e.g. State/Defense/JCS).
 - The Metropolitan Expediter experiment.
 - The reforms proposed in the Intergovernmental Relations Act.
 - Consolidated Departmental regional boundaries and offices.
 - Regional Presidential coordinators.
 - Training programs for the bureaucracy (Executive Seminar Centers, Career Executive Institute, War Colleges).
- d. Another way of looking at it: could the problem of federal program coordination be lessened by delegating the operation of certain federal programs out of the federal bureaucracy to geographically

based units at other levels of our federal system: e.g.: Neighborhood Corporations, Cities, Multi-County Units, Regional Governmental Organizations, States?

Pros and cons of this approach.

D. For Statutes yet to come: a President may need new flexibility.

1. To vary tax rates within a given range: give the arguments pro and con.
2. To vary interest rates within a given range: give the arguments pro and con.
3. To transfer funds among appropriation titles or programs: give the arguments pro and con.

E. The President's Control: Is the Executive Branch being insulated from him?

The Congress frequently attempts to drive wedges between the President and his subordinates, vesting statutory power in the hands of independent bodies or of long-term officers. Does the nation benefit or suffer from this?

1. Review this problem with respect to Departments and Agencies (e.g. the REA issue of 1959, the Small Business Administration, terms of office for FBI, JCS).

2. Review this problem with respect to the Regulatory Commissions: do they improperly circumscribe the President's ability to meet his responsibilities?

II. SOME ISSUES IN THE PRESIDENT'S ROLE AS COMMANDER IN CHIEF

Article II, Section 2:

"The President shall be Commander in Chief of the Army and Navy of the United States and of the Militia of the several States, when called into the actual Service of the United States;"

The dilemma:* The same singular President, one body and one brain, also responsible for the actions of 3-1/2 million persons in the Armed Forces -- in their use of bayonets or megatons -- with shorter and shorter warning times and with the constant danger of small, far-off crises escalating into major confrontations.

The basic question: With new gadgetry making Washington-to-front-line communications easier and easier, what principles of delegation should a President follow?

As preliminary research:

- Discuss and if possible graph or otherwise portray the stages through which Presidential military communications have come: from the packet of letters on board a sailing ship through telegraph and telephone to today's facilities.
- Forecast them ten years ahead.
- Graph the size of the Armed Forces beginning in 1789.

*For a discussion of the War Power in the sense of making and keeping commitments, see Section III.

-- Graph the size of the Armed Forces
Budget beginning in 1789.

A. Strategic Crises

1. What are the best estimates as to the warning time Presidents in the near future will have with respect to strategic threats?
2. What do present and future strategic weapons developments portend for the variety of Presidential options, the length of time he may have to choose and his ability to delay, redirect or recall weapons once chosen?
3. What new facilities and procedures, if any, need to be initiated to equip a President to survive and to command in a strategic crisis?

B. Tactical Crises

1. What are the factors which tend to force Presidents to play a personal hand in tactical national security crises? (There are at least ten.) Give examples from recent history.

2. What are the risks a President runs who feels impelled to play such a personal hand?
3. What principles should govern the balance to be struck?
4. What aids and helps should be developed or enlarged for the President to make this balance more tolerable?

III. SOME ISSUES IN THE PRESIDENT'S ROLE AS CHIEF DIPLOMAT

Article II, Section 2:

"He shall have the power, by and with the Advice and Consent of the Senate, to make Treaties, providing two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, ..."

Article II, Section 3:

"... he shall receive Ambassadors and other public Ministers;"

"The Congress shall have Power ... To declare War,"
 "... To make rules for the Government and Regulations of the land and naval Forces."

The dilemma:

Chairman Fulbright: "You think it is outmoded to declare war?"

Under Secretary Katzenbach: "In this kind of context I think the expression of declaring a war is one that has become outmoded in the international arena."
 (S Res. 151 Hearings, August, 1967, page 81)

Chairman Fulbright: "Would the President, if there were no [Tonkin] resolution, be with or without constitutional authority to send U.S. soldiers to South Vietnam in the numbers that are there today?"

Under Secretary Katzenbach: "It would be my view, as I indicated, Mr. Chairman, that he does have that authority. I think there would be others both inside and outside of the Government who would not agree with that...yes, I think it includes the authority to bomb North Vietnam." (S Res. 151 Hearings, August, 1967, page 141).

A. The President's Power to Make and Keep Commitments.

1. The Secretary of State should be asked to prepare a list of all the nations with which we have diplomatic relations and for each one set forth what it (not we) believes are either formal (e.g. NATO) or informal (e.g. Israel) U.S. commitments to it which could involve the use of US armed forces.

2. What are the prospects over the next eight years that under any of these believed commitments U.S. armed forces help will be requested?

3. What are the prospects over the next eight years that any of these requests could be met by peace-keeping forces other than of the U.S. (e.g. UN, Regional?)

4. Should the new President endorse and abide by S. Res. 187?* Give a full analysis of the arguments pro and con. If not, what principles should guide future Presidents' relationships with Congress with regard to the use of U.S. Armed Forces in meeting foreign requests for assistance?

*Text appended

B. The President as Negotiator

1. Graph, in terms of hours if possible, the international bilateral and multilateral conferences (in the U.S. or abroad) in which the President has personally participated as a substantive negotiator, from President Roosevelt through President Johnson. What trend here does the Secretary of State forecast for the future?

2. Analyze the procedures now used in preparing for, in "advancing" and in conducting every aspect of a Presidential conference at home or abroad with another Head of Government with a view to recommending steps to save Presidential time and energy without degrading his ability to conduct negotiations effectively.

C. The President as Manager of the National Security Community

1. Review the arrangements in the national security community for keeping the President informed -- the respective roles of the White House Staff, the Situation Room, the Departmental Command/Operations Centers. Examine the possibilities (and pros and cons) of increased automation, faster data storage and retrieval, improved communications (especially to Ambassadors), secure conference television.

2. How effectively are Ambassadors acting as Presidential agents in knitting together the Country Teams abroad? What further improvements if any are needed here in the interests of the Presidency?

3. Make an analytic comparison of the national security policy machinery used by Presidents Roosevelt, Truman, Eisenhower, Kennedy and Johnson in such a way that present options and choices for the new President are clearly set forth.

4. Include in the above a critical review of the current and future abilities and procedures in the national security community to anticipate crises in foreign affairs and to form contingency plans both interdepartmental and intergovernmental.

IV. ISSUES IN THE PRESIDENT'S ROLE AS CHIEF RECOMMENDERArticle II, Section 3

"He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient;"

A. The Increasing Role

1. Graph (in terms of numbers of Messages, or perhaps of words) the growth of formal proposals Presidents have made to Congress from Washington's term on.
2. Describe the changes in technique: from the written note to the evening, televised address to a Joint Session.
3. Compare comments on this practice by Presidents, Senators and Congressmen and others. The future: more of same undiminished or even increasing?

B. Information for Policy Formulation

1. Make a thorough analysis of OEO's Information Center function -- what it has done already (County-by-County Poverty Indicators, a catalogue of assistance programs, County-by-County Federal expenditure analysis), and what it foresees being able to do in the future

(construction of models, testing of alternative hypotheses).

2. Do the same for OEP's PARM system and the facilities this represents.
3. Review the economic information function of the Council of Economic Advisers-- what it can contribute.
4. Distill from these analyses and any other systems being inaugurated in progressive Departments, alternative proposals for constructing a Presidential information system for policy formulation (fitting same hand-in-glove with the information systems for program coordination-- being discussed under Section 1-B above).

C. Unresponsible Advice for Policy Formulation

1. Total (in numbers) the Citizens Commissions and Councils (those made public and those not made public) advisory to the President from Roosevelt's time on.
 2. Describe and show the plusses and minuses for the President of the various roles Advisory Commissions play vis-a-vis the Presidency (e.g. researchers, balloon-floaters, crises-calmers, staller, wakers-up of somnolent Departments, policy
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reviewers and innovative proposers, lobbyists-in-Congress, talent pools, keep-Congress-happy groups, patronage outlets, even needlers of the President himself, etc) and name an example or two of each of these types.

3. Name the whole total in being as of January 1, 1968 which were advisory to the President. Analyze the problems of overlap, vague terms of reference, poor attendance.
4. Analyze the rocky road every President must in the end travel from irresponsible to responsible advice -- from the blue-sky proposals of Commissions to feasible legislative recommendations.
5. From all the above, what guidelines can be proposed for the President's use of public advisory groups -- perhaps to make that final stretch less rocky for him?
6. Explore the idea of a common secretariat and common facilities for public advisory groups to the President.

D. Responsible Advice for Policy Formulation

1. How open are the channels between the President and the senior career

bureaucracy? How open should they be?

- White House social receptions
from time to time?
- Should the President visit more
Federal field installations?
- Should the President oftener visit
the Departments for closed-door
Q and A sessions with assembled
career officers?
- Should the President, should the
White House Staff, directly seek
the advice of career officers?
Analyze the benefits and risks
in view of the pressures on the
President from program-loyal
bureaucracies.
- What other ways, if any, to bring
the President closer to his career
helpers?

2. The role of Cabinet Members and the other political executives -- the razor-edges they walk:
 - a. Between the bureaucracies and the President;
 - b. Between Congress and its Committees and the President;
 - c. Between outside pressure groups and the President.
 - d. What additional measures, if any, are needed to ensure that the President gets Cabinet Members' unvarnished advice?

3. The Bureau of the Budget features its Legislative and Budget Reviews as machinery for policy formulation: Any improvements possible?

4. The role of Committees:

a. Cabinet Committees: Make an analysis of their strengths and weaknesses.

e.g. the Cabinet Committee on Balance of Payments probably has been quite effective; the Economic Opportunity Council probably has not. What makes for success-- in terms of

helping the President? How can the sense of Presidential or inter-departmental perspective come to flower on the part of senior career and Sub-Cabinet/Cabinet officers?

b. The Cabinet as a collective body.

How have different Presidents used it? Accomplishments and limitations; lessons earned from the Eisenhower experience; role of a Cabinet Secretariat; options for a new President.

c. Committee management: how can good techniques help a President? What about a common secretariat located in or near the White House for the senior-most Cabinet Committees? What could its role be in policing the adequacy of distribution of papers, flagging

the key decisions and knottiest problems for the President, supplying common facilities?

5. The role of the Executive Office:

It's in six pieces (BOB, CEA, OEP, NSC, OST, OEO) with more continually proposed. Does it make sense to have such a subdivided staff, fractioned by statute, in the Executive Office of the President? Do the President's problems fit into such packages? Is some consolidation in order in the President's own environs?

E. Other Possible Issues Surrounding the President's Policy-Formulating Relationship with Congress

1. Evaluate the consultative arrangements - at White House and at Cabinet level.
2. Review the doctrine of Executive Privilege.

V. ISSUES IN THE PRESIDENT'S ROLE AS CHIEF PARTISAN

The dilemma is between the President who knows that both foreign and domestic issues are complicated, full of gray areas, with key supporters for his positions on both sides of the political aisles vs the same President who must rise before his partisans every 2 or 4 years and state the issues as being the "good guys against the bad guys".

This dilemma is probably not ameliorable.

A. The Decline of Patronage

Analyze the effect of the decreasing number of non-merit positions (e.g. IRS, Customs, Post Office) on the President's ability to use patronage as a lever of persuasion and influence.

B. The President's Relationships to the Party -

What are the Proprieties?

1. In Fund-raising?
2. For his personal role in campaigning?
3. In building the party for the future?

VI. ISSUES IN THE PRESIDENT'S ROLE AS CHIEF OF STATE

A. Answering his mail

1. Graph the numerical increase in mail to the President since 1932.
2. Graph the numerical increase in gifts sent in to the President since 1932.
3. Graph the increase in private requests for Presidential statements and messages since 1932.
4. After considering both precedent and prognosis, what would be some useful guidelines for the future in what has been called the Pastoral Role of the President?

B. Communicating with the American Public

The country looks to the President to provide unifying leadership particularly amid the disorder and dissension of these times. What new or refurbished modes of communication should the President consider?

- "walks in the ghetto" a la Lindsay
 - some kind of local Presidential presence, e.g. at regional level...
 - Fireside chats a la Roosevelt.
 - Giving the thousands of White House tourists more information about the Presidency
- What others?

VII. OTHER AREAS OF INQUIRY

A. Assistance from the Vice President

At least in the public mind, the question almost always arises: "What can the Vice President do to help with the burden on the President?" Being fully aware of the extreme sensitivity of President-Vice President relationships, a proper study could and should discuss the possibilities and the limits of Vice Presidential assistance in the form of:

1. Trips and Conferences abroad
2. The "Staff officer" function on specific problems (e.g. as Vice President Johnson did on the supersonic transport.)
3. Chairmanship of Cabinet committees
4. Liaison with special groups (e.g. Vice President Humphrey with Mayors)
5. Political duties.

B. Structure of the White House Staff

Here particularly the caveat at the beginning of this outline comes into play: there is no "right" structure. Yet since the Brownlow-Merriam Report of 1937, there is experience with various forms. What light does this experience shed on the alternatives open to a new President?

1. A staff of specialists or generalists?

2. A structure of hierarchy or equality?
3. The need for internal communication devices.
4. Cooperation with special staffs (e.g. national security) and with coordinating units in the Executive Office.
5. Idea of a Conference Secretary and what he could do (e.g. decision records, rapid, limited distribution systems).
6. Desirable and undesirable methods of liaison and quick communication between White House Staff and key parts of the bureaucracy.
7. The extension of White House staff: secretariats, duty centers in the Departments.

C. The Presidential Role with the Press

1. What are the proprieties if any? New rules needed? The choices facing each President.

D. Presidential Facilities

The White House Residence was rebuilt 18 years ago. But the White House office facilities, and some of the procedures in it are not far removed from horse-and-buggy days:

1. The Chief Physical Needs

- a. Space for offices
- b. Conference facilities; a Cabinet Room with visual display capability
- c. An auditorium
- d. Reception facilities
- e. Ceremonial facilities
- f. Press facilities

2. Communications Procedures

- a. Messengers getting in and out of cars and driving them around town; electronics surely have moved us beyond this.
- b. Explore a tube delivery system; secure multiple LDX; secure conference television

E. Should there be more of a Role for Ex-Presidents?

1. In the Congress or in the Executive Branch?
2. Constitutional or statutory? -- or stick with informal arrangements?