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# The President, Office and Powers 1987-1957, History and Analysis of Practice and Opinion by Edward S. Corwin

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important and interesting reading, and to the lawyer as a very well written book, giving some new ideas on an old problem in a most exciting manner.

GERALD S. GOLD

THE PRESIDENT, OFFICE AND POWERS 1787-1957, HISTORY AND ANALYSIS OF PRACTICE AND OPINION, by EDWARD S. CORWIN. New York University Press, 1957, 519 pages, \$6.50.

Perhaps no political institution has been subjected to as much discussion and analysis as the presidency of the United States. As the role of this country on the international stage has become increasingly important, and its president increasingly influential in international affairs, there has been a corresponding proliferation of the literature on the subject. Most of the writing, however, has tended to be topical and timely, being directed primarily at the then current scene, and has considered the institution of the presidency only in its relationship to the particular issues of the administration in office. Moreover, much of the writing on the subject has been partisan and polemical.

The great virtue of Professor Corwin's book is that it rises above mere timeliness and yet succeeds in being timely and current. The presidency is examined in historical perspective. Each of the several aspects in which the subject is considered is examined in depth and analyzed in terms of the entire history of this country. The result is not only a profound (and highly interesting) analysis of the development of the presidency in the various periods of American history, but a presentation — almost *à propos* — of the sweep of American history itself, from the point of view of the presidency. Some features of that history, such as the evolution of United States foreign policy, are perhaps best understood when seen from that very viewpoint.

The author is quite cognizant of the value of this approach and quotes with evident approval the statement of Henry Jones Ford that:

The agency of the presidential office has been such a master force in shaping public policy that to give a detailed account of it would be equivalent to writing the political history of the United States.

Professor Corwin has in no small measure himself achieved such a political history.

In the preface to this, the fourth revised edition of the work, he states that "it is primarily a study in American public law" and that "the central theme is the development and contemporary status of presidential power and of the presidential office under the Constitution." He adds that "at the same time, the personal and political aspects of the subject

have not been ignored." The author has admirably sounded the keynote of his effort and has been quite faithful to it in the execution. Each topic is in reality presented both in its "development" and in its "contemporary status."

The first chapter, which deals with the various conceptions of the office of the president, contains a refreshing discourse on the views held by the Constitution's framers. But unlike the many discussions of constitutional problems which rely merely on what the framers did or said, Professor Corwin discusses the influences which helped to shape the Constitution and the reasons for the decisions among the various alternatives.

And yet, despite his consistent effort to present issues in historic perspective, the author does not ignore the importance of the personality of the individual president. He realizes that "what the presidency is at any particular moment depends in important measure on who is President." This realization and the approach which it engenders leads the author to place the greatest emphasis upon those presidents, such as Lincoln, Roosevelt I and II, and Wilson, who had either the strongest personalities or the clearest conceptions of what they believed to be the nature and functions of the presidency. It is no coincidence (and it is an interesting comment upon the perennial question of whether men shape events or events men) that these same individuals occupied the White House at times of crisis.

Among the book's most attractive features is the masterful study of the burgeoning of the so-called "war power" under Lincoln. In a similar vein, and equally fascinating, is the description of the accretion of FDR's powers during World War II and a narration of the steps by which the United States moved from neutrality to belligerency in that conflict.

The author has also found room for an extensive discussion of the vice-presidency, with emphasis on the enhancement of that office during the present Administration.

Among the sections which the reader will welcome (because they are less often discussed than other aspects of the presidency) is that of the administrative problems of the office. Here the author poses and discusses the vital question of whether the highly-centralized administration which has evolved is, after all, best for this country.

Of particular interest to lawyers is the theme, much interwoven in the text, of the relationship between the presidency and the Supreme Court. The author provides numerous examples of the principle that abstract concepts, including those embodied in the Constitution, are shaped and molded in practice. Mr. Corwin demonstrates that presidential practice

is an important instrument in giving effect and meaning to the Constitution.

Perhaps of the most acute interest currently is the discussion of presidential power in the area of loyalty and the related issue of the president's right to stop the mouths of his appointees.

Although he writes in a tone of extreme objectivity, the author sometimes becomes an advocate, and near the end of the book he presents a proposal for a fairly radical change in the cabinet system. He suggests the elimination of the cabinet as we now know it and the substitution of a legislative council created by Congress and containing its leading members, "men whose daily political fortunes were not identical with his, whose daily political salt did not come from the presidential table, who would bring presidential whim under an independent scrutiny today lacking, and yet who, by putting the stamp of their approval on his proposals, would be able to facilitate their enactment into law." The suggestion is supported by fairly convincing argument as to its practical advantages and its constitutionality, and is at least worthy of serious consideration.

Another topic of current interest treated in scholarly detail is the treaty power, including the controversial question of executive agreements and of United States participation in the United Nations. Professor Corwin brings to the discussion considerable detachment and great erudition, elements usually lacking from the discussion of these issues.

The book contains notes (some of them quite intriguing) and documentation equal in length to the text of the volume. Their being placed together at the end of the volume prevents the text from having the heavy appearance of the usual footnoted legal writing — a virtue which more than compensates for the relatively minor inconvenience caused to the reader.

Generally the style is eminently readable, and the author wears his scholarship lightly. One occasionally feels that the individual chapters were written as separate articles, and that the organization of some of them could be improved. But these are minor blemishes and are hardly to be mentioned, in view of the great virtues of what is truly a monumental study of a vast and important subject. Portions of the book seem overly "textbookish" in style; yet there are passages of truly vivid writing — such as that with which the author introduces the section on disloyalty: "The issuance by President Truman on March 21, 1947, of his 'Loyalty Order' — Executive Order 9835 — marked the close of an epoch, the Age of Innocence of a democratic faith still untainted by European revolutionary nihilism and its mordant class hatreds."

Though hardly written for popular consumption, the book will be of great interest to all (laymen and specialists alike) who are concerned with politics, in the broadest sense of the term, with government and with law and public affairs.

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