Preface

This is not another history of the Presidency. Arthur Schlesinger in *The Imperial Presidency* has brilliantly traced the evolution of the war-making and other powers of that office. Emmet Hughes in *The Living Presidency* has thoughtfully examined its place in our history and system. I could not hope to add to these excellent recent works.

Nor is this another book about what happened at Watergate. Like millions of others, I was both fascinated and horrified by the evidence of massive corruption and criminality in the White House. But also like them, I have only the knowledge of those events that could be learned through the news media. The inside story I gladly leave to the participants. Some of them will have ample time on their hands to write about it.

Nor, finally, is this book a plea to restore or remember Camelot. On the contrary, Camelot-like glorifications of the Presidency are part of the problem. Despite some notorious mistakes—including the Bay of Pigs, fallout shelters, the missile gap, and Vietnam—the Kennedy Administration, with its high ideals and spirited approach, unintentionally raised public expectations of the Presidency to a level that facilitated subsequent attempts to monopolize power in the White House. In truth there never was a Camelot—only an honest, hard-working Administration, as prone to error as any other collection of humans. True, it was light years away from the

Nixon era in the myriad of ways discussed herein; but the clock cannot and should not ever be turned back.

This small volume is intended instead to examine from the viewpoint of a lawyer who knows the office from the inside what effect Watergate might have and should have on the future of the American Presidency. It was prompted by the kind invitation of The Massachusetts Institute of Technology and The MIT Press to deliver a series of lectures on this topic in the fall of 1974 on which such a book might be based.

I accepted their invitation because of my deep concern over two conflicting but pervasive public reactions to Watergate regarding the Presidency—an underreaction, which assumed that the departure of Richard Nixon left no further problem; and an overreaction, which called for emasculating the office to "prevent another Nixon."

Both were shortsighted reactions to immediate events that failed to take into account a longer view. I understand this error, having committed it myself a decade ago.

Having served in the White House and written two books on the subject, I thought I knew a fair amount about the uses of presidential power. I didn't know half as much as I thought I did. I knew a fair amount about one President. I knew something about the Presidency. But John F. Kennedy's two immediate successors operated the same levers of government so differently than he did, and utilized the same powers of that position for purposes and in a manner so unlike his own, that it gradually became clear to me that many of my generalizations about the good that would flow from every aggrandizement of that office were more hope than reality.

Even though in my previous books I had acknowledged necessary limitations on presidential authority, I had regarded the Presidency in ideal terms, as had the President for whom I worked. I had valued its powers in the belief that they were indispensable tools for waging peace, not war, expanding human rights, not invading them, and spurring respect for the law, not violations. I helped write John Kennedy's speeches on a strong Presidency, and helped him forge the legal tools of a stronger Presidency, in the mistaken belief that what was good for the Presidency would inevitably be good for the country.

Yet I have not joined, and indeed have found profoundly disturbing, the recent sudden conversion of many American liberals to a preference for a weak Presidency—after supporting a strong Presidency as long as the office was occupied by a liberal committed to the policies they favored. Nevertheless, I have come to recognize the imbalance in my previous views and to see that it is possible for the emperor to have no clothes.

Whatever the illusions of the past, no thoughtful American favors today either an all-powerful President or a weak figurehead President. The question is what needs changing and how. When we were all "wallowing" in Watergate, too much was happening to afford much time to think about its implications for the future. Yet it raised questions more fundamental to our system than any raised since the Constitutional Convention, with the possible exception of those preceding the Civil War.

Now, between Watergate and our national bicentennial, is an appropriate time for a new national debate on the powers of the Presidency. The time available for the preparation of

the lectures on which this book is based was too limited to permit the necessary exposition, illustration, or documentation of all points; but it is my hope that this volume will nevertheless make some small contribution to that debate. Its basic thesis is that we must make certain changes which take Watergate and other recent events into account without letting them distort our long-range perspective—that our nation will continue to need great power in the Presidency, but that we must do more to hold it accountable.