

worked for decades for the *Evening Standard*, and despite numerous requests from his Conservative leaders Beaverbrook refused to interfere with Low's murderous cartoons. Low frequently lampooned Beaverbrook himself. The record on "totalitarianism" is therefore mixed.

Newspapers today make less money and their lords are both less

influential and less colorful. The "drama" which Beaverbrook loved so much has moved elsewhere, and those who seek power without responsibility pull different levers. The specialists have taken over, and figures like Beaverbrook have become legendary. The world has not become better or worse without them, but it has become duller.

ing and fencing are as cynical and ruthless in the pursuit of their aims as he is proving to be in the pursuit of his aims."

Osborne seems an exemplary liberal, with a penetrating eye and a free and open mind, as ready to agree with Nixon as to disagree with him, seeking always, and above all else, to understand. And if his effort to be fair occasionally leads him astray, how much more devastating is his judgment for that effort: "In the weeks between his renomination and his reelection, Mr. Nixon seemed to me to deny and defeat in advance of his victory whatever hopes there may have been that the mandate he sought and got would free him to be a more generous and compassionate, and, in domestic affairs, a more creative President than he proved to be in the first term. My own hopes along that line, and I had some, were dimmed well before the President in his few and cautious utterances taught me once again (will I ever really learn?) that the qualities of generosity and compassion and true creativity that I as both citizen and journalist have wanted to discern in him simply are not there."

That this President so wanting should reshape the Supreme Court to resemble his own worst self is a prospect which greatly alarms James F. Simon, but does not seem, in truth, near or likely. Not that Nixon has not tried; but Carswell and like mediocrities have been blocked from the high bench, and the four jurists who now sit there courtesy of Nixon appear to be, on the whole, rather serious and able conservatives. But this is far from enough for Simon. He wanted the Warren Court to march boldly onward forever. And so, instead of regarding the shift in emphasis as, in some form, inevitable and, in moderate form, even desirable, he chooses to stoke his discontent. His bias mars an otherwise competent piece of journalism.

Simon, at one point, laments that the Burger Court "has abandoned, for the moment at least, the role of keeper of the nation's conscience."

The Fourth Year of the Nixon Watch by John Osborne

(Liveright; 218 pp.; \$6.95)

In His Own Image: The Supreme Court In Richard Nixon's America by James F. Simon

(McKay; 310 pp.; \$7.95)

The Power of the Presidency, 2nd Edition edited by Robert S. Hirschfield

(Aldine; 395 pp.; \$9.75)

The Presidency in Flux by George E. Reedy

(Columbia University Press; 133 pp.; \$5.95)

The Living Presidency by Emmet John Hughes

(Coward, McCann & Geoghegan; 377 pp.; \$10.50)

Robert K. Landers

The Hobbesian outlook turned inward; tragic savagery abroad was joined by farcical crime at home. It was a momentous year, 1972, and we must be grateful to John Osborne for his thoughtful chronicle of the Nixon Presidency's passage through it. His separate *New Republic* reports cohere into a superb journal, especially marked by its author's desire to be fair, his respect for fact

and his quiet anguish at the difficulty in reconciling moral values and political action.

We find Osborne in April, for instance, wondering if Nixon's foreign course eventually will come to seem a triumph of Presidential judgment and statesmanship, and reflecting that, if so, "it will be because the leaders in Hanoi, Peking and Moscow with whom Mr. Nixon is deal-

He does not note how imperfect a keeper even the bold Warren Court was when President Lyndon B. Johnson misled the nation into undeclared and unwise war. But then, as Robert S. Hirschfield observes: "The judiciary is always placed in a difficult position by conditions which allow a strong President to assume extraordinary power. Compelled to acknowledge that the law of necessity is superior to the law of the Constitution, and lacking the kind of popular support which is accorded the political leader, it must accept many actions which under normal conditions would be outside the realm of legitimate power. . . . The Court's primary function in checking a strong President is to act as a symbol of restraint, a moral force, and a constant reminder of established principles—a function which is by no means unimportant—but with regard to executive power, Article II of the Constitution is what the President, and not what the Court, says it is."

This rather realistic observation was made in a 1961 essay Hirschfield has included in a collection on the power of the Presidency. The collection is quite useful, except that it seems curiously—for even the first edition appeared as recently as 1968—to preexist Vietnam. Of the ten students of the Presidency whose views Hirschfield offers as the culmination of the work, only Edward S. Corwin, in a 1941 essay, sees sufficient menace in a strong Presidency to warrant Constitutional reform; and only Arthur M. Schlesinger, Jr., in a 1968 essay, finds himself "deeply troubled . . . by the way in which President Johnson was applying the thesis of a strong Presidency to Vietnam." The others are untroubled; in a few cases, almost fatuously so.

When President Johnson was commencing to apply the thesis of a strong Presidency to Vietnam, George E. Reedy was his press secretary. Reedy sought later to grasp why Johnson had gone wrong, and in 1970, in an engaging but exasperating book called *The Twilight of the Presidency*, Reedy gave, in effect, this answer: The peerless

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power of the Presidency isolated its occupant from reality, and thus . . . Vietnam. This exaggeration of a familiar concern was not, at least directly, very enlightening, which perhaps was why Reedy then thought he saw "lengthening shadows" portending "the twilight of the Presidency." Now, in a ludicrously padded nonbook called *The Presidency in Flux*, Reedy sees the shadows receding as the Congress stirs; simplification is summoned to match earlier simplification: a more assertive Congress will penetrate the Presidency's "wall of isolation" and reintroduce its occupant to reality. . . .

The Presidential isolation so decried, Emmet John Hughes notes, "has impressed others as being far from a curse: instead, it has suggested an independence of spirit, a resistance to clamor, and a steeliness of intent—all essential to Presidential initiative. Precisely in this sense, a student of the office as diligent as Woodrow Wilson—six years before he became the twenty-eighth President, to test his own teaching—could conclude: 'It is the extraordinary isolation imposed upon the President by our system that makes the character and the opportunity of his office so extraordinary.'" And, Hughes reflects, "As with one simple sign of Presidential life, so with almost all: each can be construed, understandably and plausibly, as either a strength or a weakness."

Hughes takes us way beyond simplification to a recognition of how little about the Presidency there is that has been changeless or can be known surely or precisely; of how much the office is less an institution than a mystery—its elusive meaning deferred at birth, deriving from history and yielding to nothing so grand as theory but only to something as precious as insight. Any President, Hughes sees, is "commanded to perform an almost interminable series of conjuring acts to control the ceaseless contradictions of Presidential life." And, he contends, any President's effectiveness as a popular leader is ultimately determined by nothing so much as

whether he possesses a sense of history.

Hughes's perception of the Presidency was displayed a decade ago in his genuinely distinguished memoir of the Eisenhower years, *The Ordeal of Power*. Now, spurred partly, of course, by the Vietnam tragedy, he has elaborated that perception, with bold imagination, subtle thought and sound judgment, assisted by considerable experience and wide reading, into a full and persuasive vision, expressed in majestic and incisive prose. (And still Hughes recognizes that "The American Presidency is so unique a sovereign office that the judgment of no one man upon it could possibly be sovereign," and so he appends to his own judgment those of a dozen other men who have been associated with recent Presidents.)

Hughes, who, as early as February, 1965, eloquently warned of "the peril of ambush in Vietnam," discerns the menace of Presidential power as arising not "from the historic nature or the whole concept of the office," but "from an extravagance of the specific freedom and authority enjoyed by the Chief Executive to make foreign war and foreign policy. Yet there assuredly does *not* follow from this a saving corrective in anything so simple as a broad reassertion of Congressional power. The history of the Republic provides no convincing reason to expect Congressional judgment to be superior, in prudence or foresight, to Presidential judgment on the nation's role in the world. Out of eight wars that the Republic has known since its creation, the force of opinion within the walls of Congress may be credited as decisive with respect to two: the War of 1812 and the 1898 War with Spain. These were neither glorious nor rational encounters. The weight of this evidence, I believe, argues that the seriously binding restraints must be not so much matters of statute as matters of practice. With regard to the Congress, what might be more healthy and welcome than the striking of a balance between its harsh defiance of the Presidency after World War

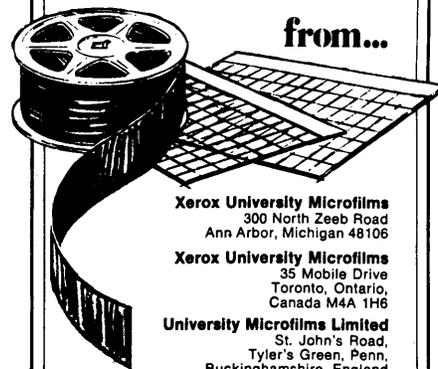
I and its bipartisan obsequiousness toward the Presidency after World War II? But this cannot be decreed or inspired by some new 'law of the land.' It is an issue of collective mood, will, and courage."

Wisely preferring, with Bryce, "a succession of small improvements, each made conformably by existing conditions and habits," to "a large scheme made all at once in what may be called the spirit of conscious experiment," Hughes proposes four eminently sensible "small improvements" in the institutional behavior of the Presidency. Yet these proposals, he observes, are not very important beside one fact: "What politically matters and historically decides will be what the citizenry, and their chosen representatives, accept or reject, welcome or question, and give or withhold. These are the crucial contingencies: whether they are too distracted to have a will of their own about their own world; whether they are pleased to leave all concern and judgment to supposedly higher authority; and whether they are uncritical enough to ascribe this authority to any man who may happen to be President. There are no statutes that can forbid such surrender. And there are no restrictive laws that can take the place of rebellious men."

This is truly a book to be pondered and prized. It may even be the best book on the American Presidency that has ever been written.

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