P.S. to the NEWS
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RESTORING LEGISLATIVE POWER

The erratic behavior of the Nixon Administration during the past few weeks, particularly in regard to the release of the Watergate tapes, has dismayed and disheartened many people. Indecision and hasty reversals of decisions have plunged the power and influence of the Presidency to a new low.

This dark cloud, however, could have a silver lining. The fundamental problem of Government during the past 40 years has been a fantastic increase in the power and perquisites of the executive and judicial branches at the expense of the legislative branch.

Although the Constitution clearly says that "all legislative powers" shall be exercised by Congress, a supine Congress has allowed its jurisdiction to be usurped by administrative law and by judicial legislation. The executive branch has gathered into its hands vast, unprecedented powers to involve us in foreign wars, to spend our tax dollars on wasteful foreign and domestic giveaways, to make deals and extend credits to Communist countries, to dictate school policies, and to interfere in our businesses. The Supreme Court has legislated for abortion but against capital punishment, for the right of Communists to teach in our schools but against the right of God-fearing people to pray in the schools. The Federal Courts are even legislating boundaries of school and legislative districts.

A supine Congress has permitted its power of investigation to be drastically reduced by both the judicial and the executive branches.

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Congress has permitted the Supreme Court to dictate what questions Congressional committees may and may not ask witnesses. Congress has even allowed the executive branch to manufacture the phony claim called "executive privilege," and then use it to conceal corruption and subversion in high places.

The term "executive privilege" was coined in the United States in 1954 by the Government officials who wanted to frustrate Congressional investigations of Communists in the Government, in the armed services, and in defense plants. In order to protect the reputations of Government officials and prevent Congressional exposure of security risks, they wrapped themselves in the lofty language of "executive privilege." There is nothing in the Constitution or in any Federal law which grants "executive privilege." The Supreme Court has never upheld it. It is, as the leading expert on the subject, Professor Raoul Berger of the Harvard Law School, recently stated, "a myth without constitutional underpinning." The consistent and clearly constitutional position is that the executive branch of our Government has no right whatsoever to withhold information from Congress.

Lovers of freedom should not look to a President or to a Presidential candidate to regrasp the power and influence that have slipped out of Richard Nixon's hands, but instead look to Congress to reassert itself as the preeminent branch of our Government. The Watergate scandal may be a blessing in disguise if it restores the legislative branch, the one closest to the people, as the principal vehicle of the process of self-government. This was what the Founding Fathers intended.

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