

Morris K. Udall -- Selected Speeches:

**"The Future of the American Presidency"
Clemson University, South Carolina, October 11, 1973.**

NOTE: The following text has been edited from the original notes [URL: http://www.library.arizona.edu/branches/spc/udall/future_jpg.html] used for this speech; some handwritten notations have been enclosed in brackets for clarity.

I commend Clemson University for this series on the future of the presidency and the role of the presidency in our nation's life. It's healthy and important and I hope I can contribute something here tonight. My basic message here tonight is that we're really in trouble with the presidency. This is a country that's built on optimism and faith. Yet in recent years the fact is that many Americans have really stopped believing in their government. This is dangerous, and it's serious and I cite some examples;

* I'm a Democrat but if I were asked what the single most important new term that went into the dictionary from the Administration of President Lyndon B. Johnson, I would have to say fairly or unfairly the term credibility gap. That's simply a polite way of saying that your government lies to you or that you think your government lies to you.

* Twice this year the President of the United States has taken national television time to explain to his fellow citizens that he was not involved in anyway in the Watergate break-in or cover-up. And the polls if they're accurate show that two-thirds of his fellow citizens don't believe him.

* Last year 45% of the adult-age Americans did not vote. Many of them because our registration laws shut them off. But a lot of them simply because they didn't think it mattered or were turned off from their government.

* Sadly, I report as a Member of Congress that the Gallup Poll about three or four years ago placed 20 occupations on an Index of Trust; public servants or politicians came out 19 and used car dealers 20. They went out and did the survey again recently and we've switched places with the used car dealers. We joked about it but it's serious.

I think it's time to analyze what went wrong, where we're going and what we can do about it. So tonight in this spirit I would like to speak about the presidency.

Was the presidency always so powerful and dominating in American life and if not how did we get this way? Was it congressional decline or was it simply a grandizement of a whole series of strong presidents?

To give you a measure. A hundred years ago, Woodrow Wilson, then a scholar at Princeton, wrote a book called *Congressional Government*. His theme was that Congress dominated public life. He said the presidency was a weak breed, that our government was run by Congressional chairmen and powerful barons in the House and Senate. I suspect that if Woodrow Wilson would come back to earth in a new appearance as a scholar today he would write a book entitled *Presidential Government*.

Let me put it in focus first if I can. Our system is really unique in the world. A unique contribution of Americans to political science is this idea of a divided government. If you would call the Harvard Business School and say "we're going to start a new country on another planet somewhere, devise us a government that is efficient" the last kind of government you would devise is one of divided powers. Efficiency demands a strong man in charge, he can make decisions that can be carried out quickly and any such design would stress centralized control and management.

And yet the founding fathers deliberately chose another model. Coming from countries where kings and tyrants had started wars at their pleasure, seized properties and gave scant attention to liberty, they deliberately devised a system upon which power was fragmented all over the place. Under three separate branches, the genius of the idea was that each branch would check the others and yet it would be efficient. The compensating factor was that it would probably promote liberty and for nearly 200 years the idea has worked and worked very well.

The idea wasn't that we were to have peace among the branches necessarily or that there wouldn't be confusion and division and struggling for power. As Emmet Hughes said recently, the Executive, Legislative and Judicial Branches of Government were given mandates to fight fairly, to fight openly and to fight forever and so they have. It's kind of crazy and illogical and somehow it works.

The result has been something we tend to forget; that over the two centuries, we haven't always had dominant presidents, a hundred years ago it was quite the contrary. And it went well into modern times. Had you gone to Washington in the 1920's and said to a local bartender or cab driver (these are oracles of wisdom in places like Washington) "show me to the five most important and powerful men in town." They might have gotten to Calvin Coolidge around number three, four or five. The most powerful man in town was Nicholas Longworth, the Speaker of the House of Representatives. And so it was through much of our history that the most powerful men in our government were the men in Congress.

I look back and analyze it and it appears that two shattering events, back to back, caused or at least set off the era of the dominant presidents. I remember the depression dimly. Here was this great free enterprise system -- the most productive nation on earth with all its sources was in ruins. We worry about 6% unemployment today. We had 33% unemployment in 1932. Half the factory capacity was idle and people were saying "this system has failed" and socialism didn't really look too bad to a lot of intelligent Americans.

And so when Franklin Roosevelt came along, fighting this terrible breakdown in our economic system, he asked for any power he wanted and he got it. Political careers were made on the basis of who could do the most to rubber-stamp Roosevelt's legislation the fastest. Let me share with you the tale of an old colleague of mine in the Congress who died a few years ago. He said that one night on the floor of the House someone held up a piece of paper and said "the President wants a new law in banking. All those in favor say 'aye'." It was passed and they sent it down to the White House where the details were filled in by Roosevelt's brain trustees. I don't know if this tale is true but this was certainly the spirit at that time.

The Congress was reasserting its powers and beginning to make a comeback in the late 1930's when all of a sudden, along came World War II. It was a shattering event and we were threatened by dictators and tyrants, who we thought were going to stamp out liberty all over the world. And so if the President wanted battleships or the President wanted planes, Congress gave him battleships and planes. The Congress rubber-stamped whatever program the President had. A whole generation of leaders grew up with the idea that it was unpatriotic to criticize the President on foreign policy. This continued into the Cold War when we believed the Russians were the leaders of a worldwide Communist conspiracy that was going to do us in at any moment. I know men who served in Congress in those days and one of them was John McCormack, a great and good man who served as majority leader of the majority party and then Speaker for the three crucial decades of the 40's, 50's and 60's. His total foreign policy was "support the President." He did not deem it his role in the Congress to initiate the kind of foreign policy suggestions we are hearing today from leaders in the House and Senate.

Almost 125 years ago while the Mexican War was going on a Congressman by the name of Abe Lincoln criticized the President on the war. Throughout our history it was not out of order for a Member of Congress to criticize the foreign policy or war policy of the President in office. But World War II changed all that and I think it was this hang-up in part that led us into the swamp of Vietnam and made it so difficult to extricate. Vietnam has shot down to some degree this attitude that somehow the President always knew best. But in the early days of the war, many Congressmen felt that if we were in Vietnam at his order we were probably there for a good reason and that somehow we had no right to question the President's decision.

You know Harold Icke's, the old curmudgeon who was Secretary of Interior during the 1940's and 1930's, suggested something. He said maybe we ought to be willing to distrust our presidents to some degree, to

recognize that they're human beings and Icke said the President is neither an absolute monarch nor a defendant of the sun goddess.

During the days of Lyndon Johnson, a Senator who had served with him said "It's a strange psychological phenomenon. When the President was in the Senate, nobody thought he was infallible he was just another Senator. But he moves sixteen blocks and you treat him as if he's infallible and has this private pipe line to God. Of course that's the way it used to be in medieval times, we're not very far from the divine right of kings.

But the founding fathers didn't intend to create a position of imperial power. The man who holds the office of the President is simply the temporary first citizen of a republic, a democracy. He's not a monarch. Victor Gould recently called it the "exultation of the presidency." Its grown in recent years.

This led to another of our current problems -- the great grandizement of the whole White House operation; the size of the staff and the attitudes toward it.

Calvin Coolidge was once asked, "Mr. President , how many people work in the White House" and he said "oh about half of them I guess." Well I did a study in the heyday of Erlichman and Haldeman two years ago and discovered a strange thing. Every president in modern times has come to power saying "too many people in the White House. I am going to rely on the Cabinet departments, I am going to get the best men and I am going to have a tight little White House staff." Yet every one left with a much bigger White House staff. And Richard Nixon broke all records. He made a very good speech on the need for a small White House Staff in 1968. Then he surpassed all precedent for concentrating power in the White House.

This did a great deal of damage. Let me illustrate the size of the White House staff that he built. Before he became Secretary of State, Henry Kissinger headed the National Security Council; one little piece of the White House Operation, perhaps 2 or 3% of it with assistants and special assistants to assistant secretaries and limousines, and consultants and all kinds of task forces. This small part of the White House Operation had more bodies than Franklin Roosevelt's total White House staff at the height of World War II including cooks, bakers, and gardeners.

It is not in the interest of the country to concentrate power in the White House for several reasons. Yes, again it may be more efficient but it's more necessary, more important to enlist the consent of the governed to work through regular structures than to have power in the immediate White House establishment in the hands of anonymous assistants and special assistants. I think this, along with the myth of Presidential infallibility, laid the foundation for the troubles we call Watergate.

Another mistake is this idea of the awesome burden born by the President. You see the picture of the lonely chief executive in that old office, crushed down by burdens. And yet no one thrust this office on Richard Nixon or tried to push it on George McGovern. I remember both of them traveling far and wide across this country for many years trying to get that awesome burden on their backs. They're human beings, your presidents. Believe me they're working, sweating politicians who have been graced by the office and not the reverse. They are not pressed into service involuntarily. As a matter of fact, they been known to pursue this awesome burden rather vigorously and to hold on to it with a vengeance.

Now I have reverence for the office and for the man who holds it but this exultation of the presidency leads to a lot of other serious problems. Because if the President is an all powerful, all wise ruler and infallible, then one must protect him at all costs and further his programs at all costs. A burglary becomes patriotism and destroying material evidence in a criminal case is a positive duty. He should be able to start wars if he's infallible, if he's the President of the United States. Another premise of this imperial presidency is if the President is a noble, larger than life size power, then all the Career Civil Service ought to get in line and do what he says ought to be done.

In Britain and other countries, the Career Civil Service is a protection against politicians doing things temporarily for some kind of political advantage and that's what our Civil Service was meant to be. But the idea

of the imperial President changed all that. The Foreign Service has been largely demoralized during the Nixon years by the Kissinger takeover of powers that should have been in the State Department.

For years, the Bureau of Labor Statistics, an important professional economics division has put out the monthly consumer price Index figures. They have been so reliable and so professional that millions of dollars are paid out to Labor Contracts because of adjustments in the consumer price index. And it's also been a thorn in the side of the Presidents who tell us optimistically that unemployment and inflation is going down and everything's lovely and then BLS comes out and you find that the President's misled you.

BLS did this to Richard Nixon so Haldeman and Erlichman fired the economists and said "you've got to get on the team! You're giving figures out that aren't in accordance with our game plan!" This cast a shadow throughout all other kinds of departments that are supposedly non-political. Another consequence of this is the destruction of the role of the Cabinet. I remember in the Kennedy-Johnson Administration and I can remember in the 30's, Cabinet members were men of national power and stature and prestige. They could stand up to the President and held be reluctant to fire them. Three of the eight original Kennedy-Johnson Cabinet member were there at the end of the eight years. But only five years into the Nixon Administration there isn't a single member of the original Cabinet left. One of the reasons as they'll tell you when they write their memoirs, is that they were being ordered around by 28-year old hotshots from the Haldeman and Erlichman shop.

In fact I was trying out a little test the other night. Maybe you can give it to yourself tonight. It's called Udall's Cabinet test. Ask yourself how many Cabinet positions we have; eight, eleven or fourteen or five; the answer is eleven and I'll bet there aren't three people in the audience who can name the names of the Cabinet Departments or give the names of the individuals holding the eleven Cabinet positions today. In my judgment, we are going to have restore the Cabinet and give the President some big men with national reputations -- men who can say "no." A dramatic example of the downgrading of the Cabinet's role came to focus here in the Nixon Administration. The Department of Justice is where you decide who's prosecuted, whether indictments are squashed whether ITT is going to get sued for anti-trust, who'll be federal judges. The Department of Justice, the crucial office for most of our history has been filled by lawyers of a national reputation, judges, law school deans; great men who have reputations in the bar or the bench and at large throughout the country. The Postmaster Generals could be politicians, but the Attorney General is someone special. And then starting in the 1950's we broke that tradition. Herbert Brodnell is a good man and a good lawyer. Bobby Kennedy I loved and fought for and I cried when he died. But neither of those men, those good men, should have been Attorney General because they were political campaigners. Who can have confidence in the decisions that have to be made on liberty, life and prosecution when we have politicians in the Attorney General's office.

John Mitchell brought the thing full circle and we now have under indictment and awaiting trial the former Attorney General of the United States -- it's been alleged and admitted that a burglary was discussed in his office. The highest law enforcement officer in the land discussed the details of a burglary. Now you can take his statements that he said "no, don't do it and don't bring it up again" or you can take the other statement that he agreed to it. The fact is that these discussions were held.

I think the President has the right to have a friendly man as the Attorney General who shares his broad philosophy but we must return the Justice Department to a situation where the first priority of the Justice Department is justice. I don't think the American people have had that confidence in recent years.

Another problem with the President's Cabinet is it's size. John Erlichman was right on a couple of things and one was the need to streamline the Cabinet. We started out with five or six Cabinet officers because there is a basic principal in human affairs. No man can supervise closely on a daily basis in complicated affairs more than four or five people. That's why the military had G-1, G-2, G-3, and G-4 and maybe 5 or why a company has five vice presidents and not 25. If you go beyond 5 you start getting super-vice presidents who supervise other vice presidents. We've always had this pressure to increase the Cabinet and today they want the Department of Health separate, they want a Department of Education there's a proposal for a Department of Peace, we've got a proposal for a Department of Energy, we've got a proposal every year for a new Cabinet departments. When you get above that magic number that one man can supervise, you're going to have super vice presidents or super Cabinet Members and this is what John Erlichman tried to legislate earlier this year. This leads me to

another related question that has arisen from this exultation of the President, this question of executive privilege.

You can't find executive privilege in the Constitution or in the statutes. It's a custom and it makes sense within the limits of what was really intended. You see, in the three branch government, each of the branches are entitled to an area of privacy. The President has no right to come to my office and rummage through my files and ask my secretary about that memo, as to why I voted yes yesterday instead of no or what I'm planning to do about his favorite bill that he sent up last week. I've have no right to go to the White House as a Congressional committee or anything else and demand access to those Advisors to the President with whom he's frankly discussed his alternatives. Neither of us have any right to go to the Supreme Court and cross examine the Judge or his secretary about how the first draft of the opinion differed from the second draft. So there's an area of privacy that each branch has with regard to the confidential operations of that branch.

But the corollary of that principle was that the men who make policies and carry out policies in the Executive Branch are available to the Congress because we must be the people's input into those policies while legislating many policies ourselves. And so the men who advise the President, who are supposed to carry out his policies like the Secretary of the Interior can never refuse to come to a Congressional committee. But here were Erlichman and Haldeman and Kissinger and dozens of people who you have never heard of who were making more policy than Cabinet members and they drew the cloak of executive privilege around them so the Congress couldn't do its job under the system of divided power.

In testimony before Congress, my fellow Arizonan Dick Klindiest said it covers the whole Executive Branch. "Any member of the Executive Branch?" I asked him once, "does it cover the Postmaster of Muleshoe, Texas who's on vacation in California, and sees a murder on the beach. Can he say executive privilege; I'm a member of the Executive Department." He said well there's no limit to it and he didn't think the President would do that kind of thing but in theory there is no limit to executive privilege. This is nonsense.

I remember reading a report of a terrified observer the other day who had been at a White House state dinner with President Nixon. He said Nixon doesn't come down and mingle with the guests as you might in your own home. Instead, here is all the military resplendent in uniforms and at the proper moment the band sounds up with martial music and down the stairs in lock step come the President and the First Lady in marching cadence into the East Room where everyone lines up to greet them.

I've painted kind of a dismal story of what is wrong. I want to talk about some solutions and with the time I've got left let me talk first about one non-solution. Americans like mechanicals if things go wrong. I think we've gotten into trouble with the environment and energy because we worship technology and technology can always give you a quick fix. We are running out of quick fixes in technology and in the environment. We see today with the Presidency in trouble people saying "oh the answer is to give us a six-year term. Let a President be elected put politics behind him, for six years he can carry out the will of the people and do the unpopular things and do what is right." And I'm surprised that Senator Mansfield and Senator Aiken have pushed hard for this very engaging idea. In my judgment it would be a disaster and the idea simply would not work.

I think we should scorn the idea that we need a non-political President or a non-political governor or a non-political congressman. I think some of the key things Richard Nixon did that history will honor him for were done only because he was facing the '72 election. I question whether he would have proposed welfare reform or found a way to end the war in Vietnam or started on the talk with the Russians and Chinese if he weren't facing an election in 1972 and I know he wouldn't have started his economic program in August of '71 because it violated everything he had ever talked about.

Clark Clifford once said "a President immunized from political consideration is a president who need not listen to people, respond to majority sentiment or pay attention to the views that may be diverse intense and perhaps variance with his own." Does anyone believe that Richard Nixon at this point in the middle of a last half or a six year term would be concerned with about some of the things you want him to be concerned about in the next three years. The idea of a president above politics in my judgment is hostile to the genius of democracy. [insert FDR]

We put our politicians down in this country and we make jokes about them. One of my favorites is the Carolina politician or maybe he was from Arizona who made the speech to the little group in a little town. He said "now ladies and gentlemen theme my views and if you don't like 'em well then I'll change 'em." And of course everybody laughs and it's a cynical story, but the job of a politician is to find that majority, to build that majority, to lead people forward together and if you have to adapt and change your policies to do it then in the limits of your own honesty and integrity you do this.

We put politicians down but politics is an art. Mothers want their sons to grow up to be like Jefferson and Lincoln, to be President but they don't want them to be politicians in the process. Well Lincoln was a success as statesman because he was a politician. He went to Gettysburg not to give a speech that you could memorize in first grade a hundred years later but because some governors were going to be there and he wanted to get off in some privacy and talk with them and get some support for his policies.

You are not going to have a democracy if you think somehow you can put the President or your public officials above politics. That's a non-solution. There are some things we can do that I do favor.

We can regain the congressional war powers that I spoke of earlier and we're working on that this week and we are going to have a test whether we can override a veto. It's ironic that we should have to enact a law to get back one power that everyone agrees that we were destined to have under the Constitution.

I think, also, that we have got to move on our budgeting programs. If we are going to make budget policy we ought to have a budget mechanism so we can look at the large range of priorities and counter the President in this regard.

I think also we have got to somehow force the President out of isolation so he can surround himself with people of political experience. Old Sam Rayburn, the Speaker of the House, was around in the 1960's when John Kennedy came to town with all of his glitter and glamour and someone, said, "oh isn't it so impressive. My God look at the intellect of these men that Kennedy has brought to Washington. There's Schushinger and Sorenson and Macnamara and Galbraith. Rhodes scholars all over the place." And Rayburn said "Yeah that may be true but I'd feel a heck of a lot better if a couple of them had ever run for sheriff."

We have to restore a measure of humility to the presidency. Someone tells the story of Thomas Jefferson after taking the oath of office, went back to his boarding house and the dining table was full. And so he stood there a while till one boarder finally finished and he took this place, ate his dinner and went off to bed. Jefferson was a powerful president but he recognized that he was a human being and not a God.

Today the President of the United States doesn't have to go to a boarding house. He can have anything he wants to eat at any time and all of these helicopters and jet airplanes can take him anywhere he wants to eat at anytime.

I've also been skeptical about loner presidents, about Presidents who have no cronies and close friends and who never go backpacking and never climb a mountain or play poker or golf; walk the beach or something of this kind. I think maybe we'd be better off to have presidents who aren't so intense and who don't work 24 hours a day and so on. They lose their perspective.

I say deliver us from presidents who are unable to laugh at themselves or their troubles. I remember Franklin Roosevelt used to have great fun telling stories on himself. One of his favorites; the Wall Street Tycoons hated him, he had changed the economic system and he told about the Tycoon who arriving at Wall Street early bought a newspaper from this boy for five cents. He would read the front page, curse and throw it into the trashcan. After a week the boy said "sir why do you waste money to buy a paper for five cents, curse and throw it into the trashcan?" He said "son it's not really any of your business but the fact is I'm looking for an obituary." The boy said "but sir the obituaries are not found on the front page, try the back of the paper." He said "son, believe me the obituary I'm looking for will be on the front page." Presidents used to go to grid iron shows where they were roasted where jokes were told and fun was poked. This President canceled the grid iron

shows and the radio and television correspondence dinner and all of the other little traditions and rituals that says I'm human and I'm just a temporary president; I'm one of you and I can take a joke.

Well, I think President Nixon's trouble is the Watergate and all stand in some substantial trouble because as the imperial president he was above politics, in his self imposed isolation he had no peers he could talk to, who would speak back to him, give him frank advice. [insert Truman contrast with Haig and joke about fat?]

I think out of all the recent furor of impeachment we have been made aware of the need for a refinement in our procedure for dealing with situations like the one we are faced with now. I think we ought to take a look at some intermediate remedy between the two extremes of impeachment which is a divisive, blunt instrument which ought to only be undertaken in an unusual situation and on the other hand to be stuck for three years with a crippled President under his shadow and a cloud in a situation where over half the people have lost confidence in him. In Washington we had this silly debate about whether your Vice President ought to be indicted or impeached first. We ought to have some intermediate or less vigorous option than these two.

I have suggested and have introduced a bill with several cosponsors which borrows from the parliamentary system, an intermediate procedure. It says that if two-thirds of the House or Senate at any time vote no confidence in the President, not for trivial disagreements but because of his basic violations of the President's duty to faithfully execute the laws or the violation of the rights of citizens will have an election in 90 days.

The President and the Vice President can run. It isn't like impeachment where they're convicted and shamed and disgraced and run out of office and deprived of civil rights. They're not convicted or affected in any way, it's simply a vote of no confidence as they have in some of the other systems. I think we could keep what we have, the four-year term, and yet have this option that would help us in the time like today. I'm not ready to vote for impeachment, I don't think we have enough evidence, it's not a question of what my suspicions are. I wouldn't take that hard act unless I had strong and solid evidence.

I don't want to suggest that a strong measure of respect and reverence for our President is bad. Indeed, this is one of the unifying factors in our country's history. It's an unusual factor and in most country's the first impulse of the citizens is to chop up their leader; cut him down; give him trouble; throw him out. It's kind of an indoor-outdoor sport in many countries.

I think what we need is balance. We need an end to this reverential of the President of the United States. This unquestioning acceptance. But we need is respect for the office and the unifying factor that it's been.

Those who advocate simply a strong presidency have given up I think on the idea of three balancing checking branches of government and in the name of "efficiency" they would carry on the way it has been in recent years. The heart of what we need is balance in making the presidency work. Balance for the President, balance for the other two branches.

I'm not for a weak President, I'm for strong Presidents, who are aggressive, who are leaders, who are active but I'm for strong contending branches in the legislative and judicial to contest with him for power. Sure there will be tension and sure we dispute things. But this is the way it works. It's like our legal system in which we don't send two lawyers into the courtroom and say you're neutral you're above it all, you're just looking for justice." We send two lawyers in and say you do everything you honorably can to prove this man guilty and you do everything you honorably can and put the best possible face on every piece of evidence to prove him not guilty and then we set some people in the middle to make the decision. And its a great engine for getting at the truth and in this system the people are the jury. If you have three contending branches, balancing each other we are more likely to have liberty and get to the truth.

You know I have talked much tonight about laws and constitutions, and laws and constitutions are important and speeches like mine are less important but none of these will really help in the final analysis.

Not all of the changes we need are structural or mechanical or legal. The thing we've got to do in this country is to restore the spirit of civility and restrain and mutual trust; the spirit that distinguishes between a political

advisory and an enemy. Some of my closest friends are men like Barry Goldwater in the opposite party and I don't agree with him very often anymore than I agree with your Senator Thurmond, but we're friends and I have more in common with him than a businessman who wouldn't touch politics with a ten-foot pole. Our system works because of this civility and restraint and trust. Because you go through the rituals of congratulating your opponent on election night when he's clobbered you and you'd like to go off in a corner and cry somewhere or consume some stimulating beverages. We need to rededicate ourselves to the importance of our political life to the decency of our political life and it's this way that we'll strengthen the presidency and bring it back in the balance where it ought to be.

A long time ago Judge Learned Hand, one of my favorite judges, put it this way. He said "I often wonder whether we do not rest our hopes too much on constitution, upon laws and upon courts. These are false hopes believe me these are false hopes" he said "because liberty lies in the hearts of men and women and when it does there are no constitutions, no laws, no courts that can save it. No constitution, no law, no court can even do much to help it. While it lies there it needs no constitution, no law, no court to save it."

Thank you very much.

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