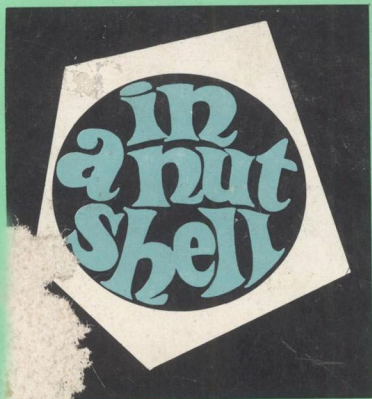


Presidential Power



ARTHUR S. MILLER

PRESIDENTIAL POWER IN A NUTSHELL

By

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For Dagmar

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PREFACE

One is temerarious indeed to undertake to write a brief exposition of presidential power in the American constitutional order. The field is a mixture of law and politics, with the accent heavily on the latter, and is noteworthy for the paucity of authoritative precedent as lawyers understand precedent. Presidential power is characterized by its fluidity and its relative uncertainty. The imponderables that go into its exercise in any given Administration are too many and varied, and too subject to the accidents of personality and the impacts of external imperatives, to permit one to do much more than pose some of the questions that must be considered in any examination of the presidency.

This Nutshell was prepared for use as ancillary reading in courses in constitutional law, both in law schools and undergraduate schools. In addition, I employ it as the basic text in my offering, *The Executive Function*. Because it is designed for classroom use, as well as outside reading, references—both cases and statutes, plus some law journal and text writings—have been included. No attempt has been made to compile a complete bibliography.

A word about the point-of-view of the author: In today's world, strong presidential leadership

PREFACE

is not only characteristic of modern Presidents; it is a necessity. Government could not operate otherwise. The basic constitutional problem is how to make power that is necessary as tolerable and as decent as possible. It is becoming ever increasingly obvious that Americans have not yet solved that deepseated, all-pervasive problem. The power is there and it is being exercised—for better or for worse—but the means of placing effective, but not excessive, checks upon it have not yet been found.

I am indebted to two students, George Knapp and Jeffrey Mirman, for research assistance. Miss LaMona Rivers typed the entire manuscript with style and dispatch.

It is important to note, since the situation regarding the specifics of the presidency is so fluid, that the cutoff date for material used in this volume was March 1977.

ARTHUR S. MILLER

Washington, D. C.
March, 1977

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