

Rosenstein's departure would test Americans' commitment to Rule of Law

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We may be about to arrive at the constitutional moment many Americans have been dreading for some time now

A moment the founders of our country foresaw and sought to head off through the structuring of our constitutional system, but whose rich complexities they did not fully fathom. The moment represents a fork in the road for the nation, one no less decisive for our self-definition as Americans than were our responses to Pearl Harbor or 9/11.

The moment will not be the firing or resignation of Deputy Attorney General Rod Rosenstein.

Rather, the critical moment, the one that is so consequential for the future of the country, is the one that comes next. What will Americans do in response to an event that would be so perilous for the rule of law as an unwarranted removal of the deputy attorney general at this moment in time? If Rosenstein's removal is warranted - as a result of any untoward behavior on his part in the past - will they insist that his successor embody the independence required to fulfill the critical function Rosenstein is currently serving?

The stakes are this high, in part, because the removal of Rosenstein would place into jeopardy the independent investigation into Russian interference in the 2016 election, and related matters, being conducted by Special Counsel Robert Mueller. Whether or not you like the political machinations surrounding the Mueller investigation, the investigation itself is serving an essential function in upholding the rule of law at a time when our political system is not. To date, Rod Rosenstein has been the bulwark in protecting the ongoing work of the Mueller investigation. If the critical fact-finding function being served by the Mueller investigation is interfered with by the very branch of the State under investigation, our ability to understand and address what happened in 2016 will be set back considerably. The credibility of democratic governance in the United States is at stake.

More than this, however, is what this moment would mean for who we are as a nation, and the degree to which we are willing to overlook the slow, steady erosion of our most basic values and governing principles. In recent months attacks on the press have become so frequent and so aggressive that the words "enemy of the people", a phrase with a long history among totalitarian regimes, has become commonplace as a description of the media. We have become inured to the steady antagonizing of the Justice Department and individuals within it, without regard to its critical function as a source of independence in our democracy.

Indeed, at times our country looks and feels more like a two-bit autocracy than the resilient democratic leader of the free world that we would hope it to be.

There is precedent for Americans drawing a line in the sand against attacks on the rule of law, the most obvious of which took place during the Watergate era. The precipitating moment in the early 1970s was the "Saturday Night Massacre", when the country

responded forcefully to President Nixon's attempt to subvert an equally high-stakes investigation by ordering his attorney general to fire the special prosecutor, only to have the AG and his successor resign in protest before the third-in-line ultimately complied. Up to that point, the public was largely sanguine in regard to the Watergate allegations and the president's efforts to interfere with the investigation, reelecting Nixon in a landslide less than six months after the Watergate reporting began appearing in the press. It was Nixon's effort to subvert the independent investigation, and with it the rule of law, that was a bridge too far for a majority of Americans.

If, as many fear, the constitutional moment is here, the fundamental question is how will Americans respond? Will we defend the basic principles on which our country was founded, demanding that our representatives in Congress fulfill their Constitutional responsibilities as a check on the executive branch? Or will we shrug this off as just another among many affronts to the rule of law in recent years? We may find out before the week's over.

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