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THE WHITE HOUSE

WASHINGTON

June 20, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Article on the Presidency

The attached letters for your signature will forward to the editors of the issue of National Forum devoted to the Bicentennial of the Constitution what I have styled a "first draft" of the President's article. The draft includes your suggested changes. The letter to editor Stephen W. White also notes that the President, consistent with established White House policy, will neither accept an honorarium nor designate a charity to receive his honorarium. White raised the honorarium question in his letter to you of May 25.

Attachments

THE WHITE HOUSE

WASHINGTON

June 20, 1984

Dear Dr. White:

Enclosed is a first draft of the President's article for the issue of National Forum devoted to the Bicentennial of the Constitution. We may have some revisions as the result of further staffing of the article within the Executive Branch, but I wanted to provide you with a draft without awaiting the receipt of comments from all interested offices.

The President, consistent with established White House policy, will neither accept an honorarium for the article nor designate a charity to receive his honorarium. I look forward to your comments on the draft.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Dr. Stephen W. White
National Forum
Box 19420A
East Tennessee State University
Johnson City, TN 37614

FFF:JGR:aea 6/20/84
bcc: FFFielding/JGRoberts/Subj/Chron

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With best wishes,

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Dr. Mark Cannon
Administrative Assistant
to the Chief Justice
Supreme Court of the United States
Suite 5
Washington, D.C. 20543

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THE WHITE HOUSE

WASHINGTON

June 12, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

To JOHN G. ROBERTS

SUBJECT:

President's Article on the Presidency
for National Forum Issue on the
Bicentennial of the Constitution

Attached is a draft of the President's article on the Presidency for the issue of National Forum dedicated to the bicentennial of the Constitution. The article was supposed to be written at a level understandable to secondary school students. The attached draft slightly exceeds the length limits established by the editors, so suggested deletions will be more welcome than suggested additions.

I hope everyone remembers that.

I do not consider it necessary to do anything in the way of "staffing" other than having the Research Office do the same sort of accuracy check it does for addresses. The elements of the article concerning current Administration proposals and positions -- the regulatory reform, foreign policy, and line-item veto discussions -- are taken from previous statements by the President. I think we should share the draft with the editors as soon as you are comfortable with it, rather than waiting for the completion of whatever further staffing you consider appropriate.

Attachment

↓ → OLC
↳ Darman

go!

PR014-08

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Stephen W. White

John

MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Ronald Reagan article for National
Southern Convention re: Constitution

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>W Holland</u>	<u>ORIGINATOR</u>	<u>8/10/53</u>		<u>1 1</u>
<u>WAT18</u>	<u>Referral Note</u>	<u>8/10/61</u>	<u>S</u>	<u>8/10/61</u>
	<u>Referral Note:</u>	<u>1 1</u>		<u>1 1</u>
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ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

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- C - Completed
- S - Suspended

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- Completion Date = Date of Outgoing

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NATIONAL Forum

THE PHI KAPPA PHI JOURNAL

Editor
STEPHEN W. WHITE

Managing Editor
ELAINE M. SMOOT

May 25, 1984

The Honorable Fred F. Fielding
Counsel to the President
Old Executive Office Building
Room 45
Washington, DC 20500
RE: President Ronald Reagan article

230435 *aw*

Dear Sir:

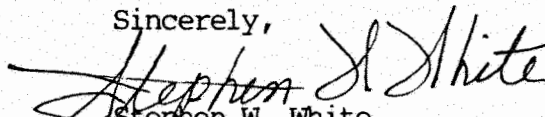
By this time, we hope that you are polishing the final draft of your manuscript for the issue "Why Celebrate the Constitution? Toward the Bicentennial of the Constitution." We would like to remind you that the article should be cogent and highly readable. As you will recall, the deadline for receipt of manuscripts for this issue is June 10, 1984. If you will be unable to meet this deadline, please contact our editorial offices so that, if possible, we can make arrangements for submission at a later date. One copy of your manuscript should be submitted to: Dr. Stephen W. White, National Forum, Box 19420A, East Tennessee State University, Johnson City, TN 37614. Also, one copy of your manuscript should be sent to: Dr. Mark W. Cannon, Administrative Assistant to the Chief Justice, Supreme Court of the United States, Suite 5, Washington, DC 20543.

If you have not sent a black-and-white, glossy photograph of yourself (preferably studio quality) to the editorial offices, please do so now. Photographs of authors may be published in this issue if space permits and/or may be used in publicity concerning this issue.

Honoraria for articles on the Bicentennial of the Constitution will be issued upon publication of the journal. If, for any reason, you will be unable to accept an honorarium or if you would like to donate this honorarium to an organization of your choice, please complete and return the enclosed form designating the name and address of the recipient.

We are looking forward to receiving your manuscript. Please do not hesitate to contact our office if you have questions.

Sincerely,


Stephen W. White
Editor

Enclosure: Honoraria Form

NAME OF AUTHOR: _____

HONORARIUM FORM

_____ I will accept an honorarium.

_____ I will be unable to accept an honorarium. Please return the funds to the Bicentennial account.

_____ I will be unable to accept an honorarium. Please forward a check to the following organization.

NAME: _____

ADDRESS: _____

Please return this form to: Stephen W. White, Editor, National Forum,
Box 19420A, East Tennessee State University, Johnson City, TN 37614.

The Declaration of Independence not only proclaimed our freedom from Great Britain, it also set forth the principles for which the Founding Fathers were willing to pledge their lives, fortunes, and sacred honor: "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." The battles of the Revolution secured the independence proclaimed in the Declaration; it remained for the revolutionaries to put the ideals of liberty into practice. History has recorded many tragic episodes that bear witness to President Filmore's caution "that revolutions do not always establish freedom." Our's did, largely because it was shortly followed by the framing of the Constitution, what the great American historian George Bancroft termed "the most cheering act in the political history of mankind."

One of our more able statesmen and constitutional lawyers, Daniel Webster, once wrote: "We may be tossed upon an ocean where we can see no land -- nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. The chart is the Constitution." For nearly two hundred years the Constitution has endured, with relatively few amendments, as a blueprint for freedom.

In commemorating the bicentennial of the Constitution we celebrate not simply the historical event that took place in Philadelphia on September 17, 1787, but the process by which we govern ourselves today.

The very notion of self-government was novel when the Framers embarked upon the experiment of the Constitution. James Madison, in the Federalist Papers, found it necessary to urge his fellow citizens not to oppose ratification of the Constitution because of its novelty. Madison argued that it was the glory of the American people that they were not blindly bound to the past but willing to rely on "their own good sense" and experience in charting their course for the future. "To this manly spirit posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theater in favor of private rights and public happiness."

Madison's prediction has proved true. We are indebted to the Framers for their brave willingness to govern themselves, and the world is indebted to America for the example it continues to provide of democratic self-government. But while the Framers had to overcome the fear of the new we must now equally fight against complacency toward the old. There is the danger that a people that has lived with freedom under law for two

centuries may forget how rare and precious that condition is.

An active and informed citizenry is necessary to the effective functioning of our Constitutional system. As Chief Justice John Marshall, who knew a thing or two about the Constitution, once wrote, "the people make the Constitution, and the people can unmake it. It is the creature of their own will, and lives only by their will." All of us have an obligation to study the Constitution and actively participate in the system of self-government it establishes. This is an obligation we owe not only to ourselves and our posterity, but to the Framers, who risked everything for freedom, and to the brave men and women throughout our history who have preserved the Constitution, often at the cost of their lives. There is no better time than this bicentennial period to refamiliarize ourselves with the Constitution, and rededicate ourselves to the values it embodies.

The central challenge confronting the Framers of the Constitution was to create a strong national government without at the same time permitting that government to threaten the liberties so recently won. Experience under the Articles of Confederation had demonstrated the inadequacies of a weak government "destitute of energy," yet the Framers' experience under the colonial rule of George

III had demonstrated the threat posed by strong central government. The challenge was to reconcile those two experiences. As Madison wrote, the difficulty was "combining the requisite stability and energy in government with the inviolable attention due to liberty and to the republican form."

The solution embraced by the Framers was to diffuse the national governmental authority. Power was to be shared among separate institutions -- The Legislature, the Executive, and the Judiciary, -- in order that no single branch could become so powerful as to threaten the liberties of the people. In considering the allocation of authorities in the Constitution, it is important to keep in mind the purpose of this considered allocation -- nothing less than the preservation of liberty. This is what Hamilton meant when he wrote that the unamended Constitution "is itself, in every rational sense, and to every useful purpose, a bill of rights." Our liberties have been preserved in large part because of the allocation of powers in the Constitution.

This central fact -- that the unamended Constitution is itself a bill of rights, and that the allocation of powers in the Constitution is preservative of liberty -- imposes a special obligation on those who hold office under the Constitution. Those officials must not only discharge their responsibilities but must also respect the constitutional restraints on their offices and, equally important, preserve

the constitutional prerogatives of their offices. Any individual President is a trustee of the powers of the office, and cannot yield those powers for expediency or any other purpose. There may be times when a President would prefer to have another branch make a difficult decision or take action vested in the executive, or when a President would be willing to countenance an intrusion on his powers to achieve a particular result. At such times the Chief Executive must recall that powers were allocated in the Constitution not simply for efficiency but to preserve liberty. In defending the Constitutional prerogatives of the office the President is protecting liberty by fulfilling the Framers' design.

The Framers looked primarily to the President to provide the critical element of "energy" in the government. The problem with the government of the Articles of Confederation was that it was "destitute of energy." The drafters of the Constitution redressed that problem by vesting in the Executive "competent powers" to lead the Nation. As Hamilton wrote:

Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy.

The President's popular mandate justified this grant of authority. Other than the Vice President with whom he runs, the President is the only official in our government elected through a process involving all the voters. Only the President can claim to speak for all the people, because, as Hamilton wrote, his selection looks "in the first instance to an immediate act of the people of America." The office of President has "a due dependence on the people, and a due responsibility."

Perhaps the most pervasive responsibility of the President is to administer the executive branch. The Framers of our Constitution were practical men who recognized, as Hamilton wrote, "that the true test of good government is its aptitude and tendency to produce a good administration." The people look ultimately to the President to ensure the efficient performance of duty by the millions of federal employees scattered among the various departments and agencies across the land. I doubt that any of the Framers, prescient as they were, could have imagined the size and scope of today's Federal establishment. They nonetheless afforded the Presidency the tools to meet the responsibility vested in that office "to produce a good administration."

The key constitutional authority implementing the President's responsibility for administration of the government is his appointment power. The Constitution provides that the President shall nominate, and by and with the advice and consent of the Senate shall appoint, the officers of the United States. The Framers gave the President the responsibility to "take Care that the Laws be faithfully executed," and gave him the power to appoint the officers that assist him in discharging that responsibility. In the landmark case of Myers v. United States, Chief Justice Taft, a former President, wrote that it was a "reasonable implication" from the President's obligation to execute the laws that "he should select those who were to

act for him under his direction in the execution of the laws." The Chief Justice went on to recognize the principle that the President's appointment power carried with it the corollary power to remove those officers in whom he could no longer place his confidence: "as his selection of administrative officers is essential to the execution of laws by him, so must be his power of removing those for whom he can not continue to be responsible." While there are limited circumstances in which officers are not removable by the President, the basic rule is that the President appoints and may remove at will the officers of the United States. This power, as the Framers recognized, is necessary if the President is to be responsible for the faithful execution of the laws and the provision of "a good administration."

The challenge confronting the modern Presidency is to "produce a good administration" when the Federal establishment has grown so far beyond anything the Framers could have imagined. It is an amazing fact that there are more Federal employees in America today than there were people when the Framers drafted the Constitution. Perhaps President Washington could play an active role in supervising the details of the first administration; it is now the responsibility of his successors to create the mechanisms for control and coordination of the executive

branch. One such mechanism is Executive Order 12291, which I issued during my first month in office. Executive Order 12291 for the first time provided effective and coordinated management of the regulatory process. Under the executive order, all Federal regulations must be reviewed by the Office of Management and Budget before being issued to determine whether their social benefits will exceed their social costs. The Administration has issued a comprehensive statement of regulatory policy, and established procedures to ensure that this policy is reflected in the actions of individual agencies.

Other initiatives include the recent establishment of the President's Council on Management Improvement, an interagency committee charged with improving management and administration throughout the Government; the continuing efforts of the President's Council on Integrity and Efficiency, established in 1981, to root out fraud, waste, and mismanagement; and the comprehensive review of the functioning of the Government undertaken by the President's Private Sector Survey on Cost Control. Given the size and scope of the Federal bureaucracy, the Framers' admonition that the Executive "produce a good administration" requires careful and continuous attention to regulatory and management reform.

At the same time, however, it is fitting to consider whether the Federal Government is today trying to do too much. The Framers did not vest in the national government the responsibility of solving all the problems that might confront the citizens of the Republic; the early Americans were too jealous of their freedom to sanction such an expansive view of central authority. It is the responsibility of the President not only to manage government efficiently, but also to offer leadership in recognizing that spending by government must be limited to those functions that are the proper responsibility of government, and taxing by government must be limited to providing revenue for legitimate government purposes.

The President has no more important responsibility under the Constitution than the conduct of foreign affairs. As John Marshall noted on the floor of the House of Representatives, "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." In the famous Curtiss-Wright decision of 1936, the Supreme Court agreed with Marshall's assessment: "In this vast external realm, the President alone has the power to speak or listen as a representative of the nation." The President's powers in this area derive from the general grant of executive power, and the more specific grants of

authority to make treaties and appoint our ambassadors and receive those of other nations, and his role as Commander in Chief of the armed forces.

The Framers recognized that of the two democratic branches only the Executive possessed the requisite attributes for the successful conduct of foreign relations. Hamilton noted in his description of the executive that "Decision, activity, secrecy, and dispatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater member," and John Jay -- himself one of our most successful early diplomats -- argued that "the President will have no difficulty to provide" those qualities, though they were beyond the capability of a basically deliberative body such as Congress. As Hamilton argued, "The qualities...indispensible in the management of foreign negotiations point out the executive as the most fit agent in those transactions..."

When it came to the defense of the Nation, the Framers were even more unambiguous. Hamilton, who served at General Washington's side during the War of Independence, knew that "the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and

employing the common strength forms a usual and essential part in the definition of the executive authority." In the areas of defense and foreign affairs the Nation must speak with one voice, and only the President is capable of providing that voice.

This is not to say that Congress has no role in the development of foreign policy. On the contrary, the Framers required the assent of two thirds of the Senators to a treaty, and of course only Congress possesses the power to declare war. Even beyond those defined roles the support of Congress has been indispensable to an effective foreign policy throughout our history.

The 1970s saw a rapid rise in Congressional efforts to affect directly the formulation and implementation of foreign policy by the Executive. Over 100 separate prohibitions and restrictions on Presidential authority were enacted in the areas of trade, human rights, arms sales, foreign aid, intelligence operations, and the dispatch of troops in times of crisis. Scholars and officials have differing views on the constitutionality of several of these initiatives. What is important to note, however, is that efforts by Congress to participate in the development of American foreign policy must be accompanied by a recognition of the concomitant responsibility for the development of

bipartisan consensus. We need to restore the honorable American tradition that partisan politics stops at the water's edge. As Congress attempts to augment its foreign policy role it must ensure that the result is not simply that America presents a discordant cacophony to the world, to the detriment of its security and interests. The President -- "the sole organ of the nation in its external relations" -- must continually seek the means of developing a bipartisan, Legislature-Executive consensus on America's role in the world and the means of safeguarding that role. As Congress increasingly enters the foreign policy realm it too must recognize a greater responsibility for developing such a consensus.

Apart from the President's executive functions, the Constitution accords him a significant role in the legislative process. The President has not merely the power but the duty "from time to time to give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient." The people have grown to expect leadership from the President not only in executing the laws but also in presenting a legislative program to Congress for consideration.

Perhaps the most prominent of the President's legislative powers is his qualified veto power. This power is qualified in the sense that a bill returned by the President with his disapproval can nonetheless be enacted by a two-thirds vote of both Houses. The Framers accorded the President a veto power for two purposes. First, the Framers recognized the "propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments," and provided the President a veto so that he could defend the prerogatives of his office. The second purpose of the veto is as "an additional security against the enactment of improper laws." As Hamilton wrote:

The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

The unique perspective the President can bring to bear in reviewing legislation was recognized by Chief Justice Taft:

The President is a representative of the people just as the members of the Senate and of the House are, and it may be, at some times, on some subjects,

that the President elected by all the people is rather more representative of them all than are the members of either body of the Legislature whose constituencies are local and not countrywide.

The intent of the Framers in providing the President a qualified veto power has been frustrated to a large extent by the development of the Congressional practice of combining various items in a single appropriations bill. The Framers undoubtedly anticipated that Congress would pass separate appropriations bills for discrete programs or activities, and the President would be able to review each program. Until about the time of the War Between the States, this was the practice of Congress. Since that time, however, Congress has increasingly combined various items of appropriation in omnibus appropriations bills. This practice makes it difficult for the President to discharge the responsibility vested in him by the Framers, because he cannot consider the individual items of appropriations separately but must either veto or approve the package as a whole. The President is thus prevented from using his veto as the Framers intended, "to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design."

It is for this reason that we have proposed restoring the Framers' original design through a constitutional amendment granting the President line-item veto authority. The constitutions of no fewer than 43 states grant some such authority to the governor, and the experience at the state level suggests a line-item veto would work well at the Federal level.

The powers of the Presidency are limited powers, and the President discharges his constitutional responsibilities in a system according other powers to the coordinate branches of the Legislature and the Judiciary. As the Supreme Court has remarked, there is a "never-ending tension between the President exercising the executive authority in a world that presents each day some new challenge with which he must deal and the Constitution under which we all live and which no one disputes embodies some sort of system of checks and balances." The members of all three branches take an oath to uphold the Constitution, and it is a tribute not only to the genius of the Framers but also to the statesmanship of those who have held office under the Constitution that the system has worked as well as it has.

Thomas Jefferson called the Presidency "a splendid misery." The Framers intended, as Hamilton wrote, that "the executive should be in a situation to dare to act his own opinion with

vigor and decision." The President has at his disposal the advice of learned advisors, and he can consult with the Congress, but the difficult and potentially momentous decisions vested by the Constitution in the Executive are, in the final analysis, his alone to make. Our most tested President, Abraham Lincoln, announced a guide for making those decisions that has not been improved upon:

I desire to conduct the affairs of this Administration that if, at the end, when I come to lay down the reins of power, I have lost every other friend on earth, I shall at least have one friend left, and that friend shall be down inside of me.

As we prepare to commemorate the bicentennial of the Constitution, let us honor the memory of the Framers who drafted our blueprint for freedom, as well as those who, like Lincoln, did not permit their dream to die. But let us also recognize the workings of a greater force. The signers of the Declaration of Independence acted with "a firm reliance on the Protection of Divine Providence," and Madison, reviewing the work of the Constitutional Convention, noted that "It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally

extended to our relief in the critical stages of the revolution." What President Cleveland said on the occasion of the centennial of the Constitution rings even truer today:

When we look down upon 100 years and see the origin of our Constitution, when we contemplate all its trials and triumphs, when we realize how completely the principles upon which it is based have met every national need and national peril, how devoutly should we say with Franklin, "God governs in the affairs of men."

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1/1/1

Name of Correspondent: Richard Dorman

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Additional Comments on the President's Article for the National Forum from OMB, USC, legislative Affairs, and Ben Elliott

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>CU-HOU</u>	ORIGINATOR	<u>84 07 12</u>
<u>CUAT 18</u>	Referral Note: <u>D</u>	<u>84 07 12</u>
	Referral Note:	<u>84 07 13</u>
	Referral Note:	<u>COB</u>
	Referral Note:	<u>1 1</u>
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	Referral Note:	<u>1 1</u>
	Referral Note:	<u>1 1</u>

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 C - Completed
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FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
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 Completion Date = Date of Outgoing

Comments: _____

PRESERVATION COPY

Steve Mintz
252-3410

Steve White Elaine Smart
(615) 929-5347

THE WHITE HOUSE
WASHINGTON

July 12, 1984

NOTE FOR DIANA

Re: Article for National Forum

Attached are comments received
from OMB, NSC, Legislative Affairs,
and Ben Elliott.

The Offices of Cabinet Affairs,
Policy Development and Inter-
governmental Affairs had no
changes.

Sorry this is late.

Jan

PRESERVATION COPY


THE WHITE HOUSE

WASHINGTON

REC'D JUL 13 11 4: 22

July 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: President's Article

The attached draft article has been submitted on behalf of the President for inclusion in the upcoming issue of National Forum magazine devoted to the bicentennial of the Constitution. The issue will contain articles on the Constitution by scholars and statesmen, including an article on the Supreme Court by the Chief Justice, one on the Congress by the Speaker of the House, and the instant article on the Presidency by the President. I would appreciate whatever staffing of the article you consider appropriate. Our office must provide final comments to the editors by Friday, so we would appreciate any suggestions by noon Thursday. Many thanks.

The Declaration of Independence not only proclaimed our freedom from Great Britain, it also set forth the principles for which the Founding Fathers were willing to pledge their lives, fortunes, and sacred honor: "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." The battles of the Revolution secured the independence proclaimed in the Declaration; it remained for the revolutionaries to put the ideals of liberty into practice. History has recorded many tragic episodes that bear witness to President Filmore's caution "that revolutions do not always establish freedom." Our's did, largely because it was shortly followed by the framing of the Constitution, what the great American historian George Bancroft termed "the most cheering act in the political history of mankind."

One of our more able statesmen and constitutional lawyers, Daniel Webster, once wrote: "We may be tossed upon an ocean where we can see no land -- nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. The chart is the Constitution." For nearly two hundred years the Constitution has endured, with relatively few amendments, as a blueprint for freedom.

In commemorating the bicentennial of the Constitution we celebrate not simply the historical event that took place in Philadelphia on September 17, 1787, but the process by which we govern ourselves today.

The very notion of self-government was novel when the Framers embarked upon the experiment of the Constitution. James Madison, in the Federalist Papers, found it necessary to urge his fellow citizens not to oppose ratification of the Constitution because of its novelty. Madison argued that it was the glory of the American people that they were not blindly bound to the past but willing to rely on "their own good sense" and experience in charting their course for the future. "To this manly spirit posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theater in favor of private rights and public happiness."

Madison's prediction has proved true. We are indebted to the Framers for their brave willingness to govern themselves, and the world is indebted to America for the example it continues to provide of democratic self-government. But while the Framers had to overcome the fear of the new we must now equally fight against complacency toward the old. There is the danger that a people that has lived with freedom under law for two

centuries may forget how rare and precious that condition is.

An active and informed citizenry is necessary to the effective functioning of our Constitutional system. As Chief Justice John Marshall, who knew a thing or two about the Constitution, once wrote, "the people make the Constitution, and the people can unmake it. It is the creature of their own will, and lives only by their will." All of us have an obligation to study the Constitution and actively participate in the system of self-government it establishes. This is an obligation we owe not only to ourselves and our posterity, but to the Framers, who risked everything for freedom, and to the brave men and women throughout our history who have preserved the Constitution, often at the cost of their lives. There is no better time than this bicentennial period to refamiliarize ourselves with the Constitution, and rededicate ourselves to the values it embodies.

The central challenge confronting the Framers of the Constitution was to create a strong national government without at the same time permitting that government to threaten the liberties so recently won. Experience under the Articles of Confederation had demonstrated the inadequacies of a weak government "destitute of energy," yet the Framers' experience under the colonial rule of George

III had demonstrated the threat posed by strong central government. The challenge was to reconcile those two experiences. As Madison wrote, the difficulty was "combining the requisite stability and energy in government with the inviolable attention due to liberty and to the republican form."

The solution embraced by the Framers was to diffuse the national governmental authority. Power was to be shared among separate institutions -- The Legislature, the Executive, and the Judiciary -- in order that no single branch could become so powerful as to threaten the liberties of the people. In considering the allocation of authorities in the Constitution, it is important to keep in mind the purpose of this considered allocation -- nothing less than the preservation of liberty. This is what Hamilton meant when he wrote that the unamended Constitution "is itself, in every rational sense, and to every useful purpose, a bill of rights." Our liberties have been preserved in large part because of the allocation of powers in the Constitution.

This central fact -- that the unamended Constitution is itself a bill of rights, and that the allocation of powers in the Constitution is preservative of liberty -- imposes a special obligation on those who hold office under the Constitution. Those officials must not only discharge their responsibilities but must also respect the constitutional restraints on their offices and, equally important, preserve

the constitutional prerogatives of their offices. Any individual President is a trustee of the powers of the office, and cannot yield those powers for expediency or any other purpose. There may be times when a President would prefer to have another branch make a difficult decision or take action vested in the executive, or when a President would be willing to countenance an intrusion on his powers to achieve a particular result. At such times the Chief Executive must recall that powers were allocated in the Constitution not simply for efficiency but to preserve liberty. In defending the Constitutional prerogatives of the office the President is protecting liberty by fulfilling the Framers' design.

The Framers looked primarily to the President to provide the critical element of "energy" in the government. The problem with the government of the Articles of Confederation was that it was "destitute of energy." The drafters of the Constitution redressed that problem by vesting in the Executive "competent powers" to lead the Nation. As Hamilton wrote:

Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy.

The President's popular mandate justified this grant of authority. Other than the Vice President with whom he runs, the President is the only official in our government elected through a process involving all the voters. Only the President can claim to speak for all the people, because, as Hamilton wrote, his selection looks "in the first instance to an immediate act of the people of America." The office of President has "a due dependence on the people, and a due responsibility."

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The challenge confronting the modern Presidency is to "produce a good administration" when the Federal establishment has grown so far beyond anything the Framers could have imagined. It is an amazing fact that there are more Federal employees in America today than there were people when the Framers drafted the Constitution. Perhaps President Washington could play an active role in supervising the details of the first administration; it is now the responsibility of his successors to create the mechanisms for control and coordination of the executive

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At the same time, however, it is fitting to consider whether the Federal Government is today trying to do too much. The Framers did not vest in the national government the responsibility of solving all the problems that might confront the citizens of the Republic; the early Americans were too jealous of their freedom to sanction such an expansive view of central authority. It is the responsibility of the President not only to manage government efficiently, but also to offer leadership in recognizing that spending by government must be limited to those functions that are the proper responsibility of government, and taxing by government must be limited to providing revenue for legitimate government purposes.

The President has no more important responsibility under the Constitution than the conduct of foreign affairs. As John Marshall noted on the floor of the House of Representatives, "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." In the famous Curtiss-Wright decision of 1936, the Supreme Court agreed with Marshall's assessment: "In this vast external realm, the President alone has the power to speak or listen as a representative of the nation." The President's powers in this area derive from the general grant of executive power, and the more specific grants of

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When it came to the defense of the Nation, the Framers were even more unambiguous. Hamilton, who served at General Washington's side during the War of Independence, knew that "the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and

employing the common strength forms a usual and essential part in the definition of the executive authority." In the areas of defense and foreign affairs the Nation must speak with one voice, and only the President is capable of providing that voice.

This is not to say that Congress has no role in the development of foreign policy. On the contrary, the Framers required the assent of two thirds of the Senators to a treaty, and of course only Congress possesses the power to declare war. Even beyond those defined roles the support of Congress has been indispensable to an effective foreign policy throughout our history.

The 1970s saw a rapid rise in Congressional efforts to affect directly the formulation and implementation of foreign policy by the Executive. Over 100 separate prohibitions and restrictions on Presidential authority were enacted in the areas of trade, human rights, arms sales, foreign aid, intelligence operations, and the dispatch of troops in times of crisis. Scholars and officials have differing views on the constitutionality of several of these initiatives. What is important to note, however, is that efforts by Congress to participate in the development of American foreign policy must be accompanied by a recognition of the concomitant responsibility for the development of

bipartisan consensus. We need to restore the honorable American tradition that partisan politics stops at the water's edge. As Congress attempts to augment its foreign policy role it must ensure that the result is not simply that America presents a discordant cacophony to the world, to the detriment of its security and interests. The President -- "the sole organ of the nation in its external relations" -- must continually seek the means of developing a bipartisan, Legislature-Executive consensus on America's role in the world and the means of safeguarding that role. As Congress increasingly enters the foreign policy realm it too must recognize a greater responsibility for developing such a consensus.

Apart from the President's executive functions, the Constitution accords him a significant role in the legislative process. The President has not merely the power but the duty "from time to time to give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient." The people have grown to expect leadership from the President not only in executing the laws but also in presenting a legislative program to Congress for consideration.

Perhaps the most prominent of the President's legislative powers is his qualified veto power. This power is qualified in the sense that a bill returned by the President with his disapproval can nonetheless be enacted by a two-thirds vote of both Houses. The Framers accorded the President a veto power for two purposes. First, the Framers recognized the "propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments," and provided the President a veto so that he could defend the prerogatives of his office. The second purpose of the veto is as "an additional security against the enactment of improper laws." As Hamilton wrote:

The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design.

The unique perspective the President can bring to bear in reviewing legislation was recognized by Chief Justice Taft:

The President is a representative of the people just as the members of the Senate and of the House are, and it may be, at some times, on some subjects,

that the President elected by all the people is rather more representative of them all than are the members of either body of the Legislature whose constituencies are local and not countrywide.

The intent of the Framers in providing the President a qualified veto power has been frustrated to a large extent by the development of the Congressional practice of combining various items in a single appropriations bill. The Framers undoubtedly anticipated that Congress would pass separate appropriations bills for discrete programs or activities, and the President would be able to review each program. Until about the time of the War Between the States, this was the practice of Congress. Since that time, however, Congress has increasingly combined various items of appropriation in omnibus appropriations bills. This practice makes it difficult for the President to discharge the responsibility vested in him by the Framers, because he cannot consider the individual items of appropriations separately but must either veto or approve the package as a whole. The President is thus prevented from using his veto as the Framers intended, "to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design."

It is for this reason that we have proposed restoring the Framers' original design through a constitutional amendment granting the President line-item veto authority. The constitutions of no fewer than 43 states grant some such authority to the governor, and the experience at the state level suggests a line-item veto would work well at the Federal level.

The powers of the Presidency are limited powers, and the President discharges his constitutional responsibilities in a system according other powers to the coordinate branches of the Legislature and the Judiciary. As the Supreme Court has remarked, there is a "never-ending tension between the President exercising the executive authority in a world that presents each day some new challenge with which he must deal and the Constitution under which we all live and which no one disputes embodies some sort of system of checks and balances." The members of all three branches take an oath to uphold the Constitution, and it is a tribute not only to the genius of the Framers but also to the statesmanship of those who have held office under the Constitution that the system has worked as well as it has.

Thomas Jefferson called the Presidency "a splendid misery." The Framers intended, as Hamilton wrote, that "the executive should be in a situation to dare to act his own opinion with

vigor and decision." The President has at his disposal the advice of learned advisors, and he can consult with the Congress, but the difficult and potentially momentous decisions vested by the Constitution in the Executive are, in the final analysis, his alone to make. Our most tested President, Abraham Lincoln, announced a guide for making those decisions that has not been improved upon:

I desire to conduct the affairs of this Administration that if, at the end, when I come to lay down the reins of power, I have lost every other friend on earth, I shall at least have one friend left, and that friend shall be down inside of me.

As we prepare to commemorate the bicentennial of the Constitution, let us honor the memory of the Framers who drafted our blueprint for freedom, as well as those who, like Lincoln, did not permit their dream to die. But let us also recognize the workings of a greater force. The signers of the Declaration of Independence acted with "a firm reliance on the Protection of Divine Providence," and Madison, reviewing the work of the Constitutional Convention, noted that "It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally

extended to our relief in the critical stages of the revolution." What President Cleveland said on the occasion of the centennial of the Constitution rings even truer today:

When we look down upon 100 years and see the origin of our Constitution, when we contemplate all its trials and triumphs, when we realize how completely the principles upon which it is based have met every national need and national peril, how devoutly should we say with Franklin, "God governs in the affairs of men."

Stockman

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EXECUTIVE OFFICE OF THE PRESIDENT 5:11
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 11, 1984

MEMORANDUM

TO: Richard G. Darman
FROM: Mike Horowitz *MH*
SUBJECT: Proposed Presidential Article for National Forum Magazine

I suggest three modifications:

1. In light of our position that there should be no real distinction between Executive Branch and "independent" agencies -- a point of critical and, I believe, constitutional significance to the Presidency -- we should reconsider citing the appointment power as "[t]he key constitutional authority implementing the President's responsibility for administration of the government." The better position is that the key constitutional provision re administration of the government is the President's responsibility to "take Care that the Laws be faithfully executed." I would thus change the second paragraph on page 7 to read as follows:

"The key constitutional authority implementing the President's authority for administration of the government is his responsibility "to take Care that the Laws be faithfully executed." In addition, the constitution provides that the President shall nominate, and by and with the advice and consent of the Senate shall appoint, the officers of the United States.

In the landmark case of Myers v. United States, [etc.].

2. At page 9, the discussion of Executive Order 12291 needs modification in the interest of accuracy. The third sentence on page 9 should read as follows:

"Under the executive order, all regulations issued by Executive departments and agencies must be reviewed by the Office of Management and Budget before being issued to determine whether they

conform to the President's policies and to consider, to the extent possible, whether their social benefits will exceed their social costs."

3. At page 15, a symbolic and historic point, I think it inappropriate for a successor to Abraham Lincoln to speak of the War Between the States. (Lincoln would have regarded the phrase as bordering on treasonous.) The more appropriate reference is to the Civil War.

cc: Dave Gerson

ELLIOTT

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1984 JUL 12 PM 1:30

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7/10/84 ACTION/CONCURRENCE/COMMENT DUE BY: 7/12 - NOON

SUBJECT: PROPOSED PRESIDENTIAL ARTICLE FOR NATIONAL FORUM MAGAZINE

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	McMANUS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	VERSTANDIG	<input type="checkbox"/>	<input type="checkbox"/>
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HERRINGTON	<input type="checkbox"/>	<input type="checkbox"/>	<u>TUTWILER</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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MCFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u> </u>	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:
Please provide any edits/comments to my office by 12:00 Noon on Thursday, July 12. Thank you.

RESPONSE:

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Richard G. Darman
Assistant to the President
Ext. 2702


THE WHITE HOUSE

WASHINGTON

July 10, 1984

REC JUL 10 11 4:22

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: President's Article

The attached draft article has been submitted on behalf of the President for inclusion in the upcoming issue of National Forum magazine devoted to the bicentennial of the Constitution. The issue will contain articles on the Constitution by scholars and statesmen, including an article on the Supreme Court by the Chief Justice, one on the Congress by the Speaker of the House, and the instant article on the Presidency by the President. I would appreciate whatever staffing of the article you consider appropriate. Our office must provide final comments to the editors by Friday, so we would appreciate any suggestions by noon Thursday. Many thanks.

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The Declaration of Independence not only proclaimed our freedom from Great Britain, it also set forth the principles for which the Founding Fathers were willing to pledge their lives, fortunes, and sacred honor: "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." The battles of the Revolution secured the independence proclaimed in the Declaration; it remained for the revolutionaries to put the ideals of liberty into practice. History has recorded many tragic episodes that bear witness to President Filmore's caution "that revolutions do not always establish freedom." Our's did, largely because it was shortly followed by the framing of the Constitution, what the great American historian George Bancroft termed "the most cheering act in the political history of mankind."

One of our more able statesmen and constitutional lawyers, Daniel Webster, once wrote: "We may be tossed upon an ocean where we can see no land -- nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. The chart is the Constitution." For nearly two hundred years the Constitution has endured, with relatively few amendments, as a blueprint for freedom.

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extended to our relief in the critical stages of the revolution." What President Cleveland said on the occasion of the centennial of the Constitution rings even truer today:

When we look down upon 100 years and see the origin of our Constitution, when we contemplate all its trials and triumphs, when we realize how completely the principles upon which it is based have met every national need and national peril, how devoutly should we say with Franklin, "God governs in the affairs of men."

John Smith
of Kansas

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7/10/84 ACTION/CONCURRENCE/COMMENT DUE BY: 7/12 - NOON

SUBJECT: PROPOSED PRESIDENTIAL ARTICLE FOR NATIONAL FORUM MAGAZINE

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	McMANUS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	VERSTANDIG	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>BAROODY</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	<u>ELLIOTT</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MCFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide any edits/comments to my office by 12:00 Noon on Thursday, July 12. Thank you.

RESPONSE:

PRESERVATION COPY

Richard G. Darman
Assistant to the President

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RESPONSE:

Maybe see neighbors on this Hill will take this to heart.
R. Rajan


Richard G. Darman
 Assistant to the President
 Ext. 2702

THE WHITE HOUSE
WASHINGTON

1984 JUL 10 11:22

July 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: President's Article

The attached draft article has been submitted on behalf of the President for inclusion in the upcoming issue of National Forum magazine devoted to the bicentennial of the Constitution. The issue will contain articles on the Constitution by scholars and statesmen, including an article on the Supreme Court by the Chief Justice, one on the Congress by the Speaker of the House, and the instant article on the Presidency by the President. I would appreciate whatever staffing of the article you consider appropriate. Our office must provide final comments to the editors by Friday, so we would appreciate any suggestions by noon Thursday. Many thanks.

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The Declaration of Independence not only proclaimed our freedom from Great Britain, it also set forth the principles for which the Founding Fathers were willing to pledge their lives, fortunes, and sacred honor: "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." The battles of the Revolution secured the independence proclaimed in the Declaration; it remained for the revolutionaries to put the ideals of liberty into practice. History has recorded many tragic episodes that bear witness to President Filmore's caution "that revolutions do not always establish freedom." Our's did, largely because it was shortly followed by the framing of the Constitution, what the great American historian George Bancroft termed "the most cheering act in the political history of mankind."

One of our more able statesmen and constitutional lawyers, Daniel Webster, once wrote: "We may be tossed upon an ocean where we can see no land -- nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. The chart is the Constitution." For nearly two hundred years the Constitution has endured, with relatively few amendments, as a blueprint for freedom.

In commemorating the bicentennial of the Constitution we celebrate not simply the historical event that took place in Philadelphia on September 17, 1787, but the process by which we govern ourselves today.

The very notion of self-government was novel when the Framers embarked upon the experiment of the Constitution. James Madison, in the Federalist Papers, found it necessary to urge his fellow citizens not to oppose ratification of the Constitution because of its novelty. Madison argued that it was the glory of the American people that they were not blindly bound to the past but willing to rely on "their own good sense" and experience in charting their course for the future. "To this manly spirit posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theater in favor of private rights and public happiness."

As the risk of altering his original theory, how a boy, "to his" spirit

Madison's prediction has proved true. We are indebted to the Framers for their brave willingness to govern themselves, and the world is indebted to America for the example it continues to provide of democratic self-government. But while the Framers had to overcome the fear of the new we must now equally fight against complacency toward the old. There is the danger that a people that has lived with freedom under law for two

centuries may forget how rare and precious that condition is.

An active and informed citizenry is necessary to the effective functioning of our Constitutional system. As Chief Justice John Marshall, who knew a thing or two about the Constitution, once wrote, "the people make the Constitution, and the people can unmake it. It is the creature of their own will, and lives only by their will." All of us have an obligation to study the Constitution and actively participate in the system of self-government it establishes. This is an obligation we owe not only to ourselves and our posterity, but to the Framers, who risked everything for freedom, and to the brave men and women throughout our history who have preserved the Constitution, often at the cost of their lives. There is no better time than this bicentennial period to refamiliarize ourselves with the Constitution, and rededicate ourselves to the values it embodies.

The central challenge confronting the Framers of the Constitution was to create a strong national government without at the same time permitting that government to threaten the liberties so recently won. Experience under the Articles of Confederation had demonstrated the inadequacies of a weak government "destitute of energy," yet the Framers' experience under the colonial rule of George

III had demonstrated the threat posed by strong central government. The challenge was to reconcile those two experiences. As Madison wrote, the difficulty was "combining the requisite stability and energy in government with the inviolable attention due to liberty and to the republican form."

The solution embraced by the Framers was to diffuse the national governmental authority. Power was to be shared among separate institutions -- The Legislature, the Executive, and the Judiciary -- in order that no single branch could become so powerful as to threaten the liberties of the people. In considering the allocation of authorities in the Constitution, it is important to keep in mind the purpose of this considered allocation -- nothing less than the preservation of liberty. This is what Hamilton meant when he wrote that the unamended Constitution "is itself, in every rational sense, and to every useful purpose, a bill of rights." Our liberties have been preserved in large part because of the allocation of powers in the Constitution.

This central fact -- that the unamended Constitution is itself a bill of rights, and that the allocation of powers in the Constitution is preservative of liberty -- imposes a special obligation on those who hold office under the Constitution. Those officials must not only discharge their responsibilities but must also respect the constitutional restraints on their offices and, equally important, preserve

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the constitutional prerogatives of their offices. Any individual President is a trustee of the powers of the office, and cannot yield those powers for expediency or any other purpose. There may be times when a President would prefer to have another branch make a difficult decision or take action vested in the executive, or when a President would be willing to countenance an intrusion on his powers to achieve a particular result. At such times the Chief Executive must recall that powers were allocated in the Constitution not simply for efficiency but to preserve liberty. In defending the Constitutional prerogatives of the office the President is protecting liberty by fulfilling the Framers' design.

The Framers looked primarily to the President to provide the critical element of "energy" in the government. The problem with the government of the Articles of Confederation was that it was "destitute of energy." The drafters of the Constitution redressed that problem by vesting in the Executive "competent powers" to lead the Nation. As Hamilton wrote:

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Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy.

The President's popular mandate justified this grant of authority. Other than the Vice President with whom he runs, the President is the only official in our government elected through a process involving all the voters. Only the President can claim to speak for all the people, because, as Hamilton wrote, his selection looks "in the first instance to an immediate act of the people of America." The office of President has "a due dependence on the people, and a due responsibility."

Perhaps the most pervasive responsibility of the President is to administer the executive branch. The Framers of our Constitution were practical men who recognized, as Hamilton wrote, "that the true test of good government is its aptitude and tendency to produce a good administration." The people look ultimately to the President to ensure the efficient performance of duty by the millions of federal employees scattered among the various departments and agencies across the land. I doubt that any of the Framers, prescient as they were, could have imagined the size and scope of today's Federal establishment. They nonetheless afforded the Presidency the tools to meet the responsibility vested in that office "to produce a good administration."

The key constitutional authority implementing the President's responsibility for administration of the government is his appointment power. The Constitution provides that the President shall nominate, and by and with the advice and consent of the Senate shall appoint, the officers of the United States. The Framers gave the President the responsibility to "take Care that the Laws be faithfully executed," and gave him the power to appoint the officers that assist him in discharging that responsibility. In the landmark case of Myers v. United States, Chief Justice Taft, a former President, wrote that it was a "reasonable implication" from the President's obligation to execute the laws that "he should select those who were to

act for him under his direction in the execution of the laws." The Chief Justice went on to recognize the principle that the President's appointment power carried with it the corollary power to remove those officers in whom he could no longer place his confidence: "as his selection of administrative officers is essential to the execution of laws by him, so must be his power of removing those for whom he can not continue to be responsible." While there are limited circumstances in which officers are not removable by the President, the basic rule is that the President appoints and may remove at will the officers of the United States. This power, as the Framers recognized, is necessary if the President is to be responsible for the faithful execution of the laws and the provision of "a good administration."

The challenge confronting the modern Presidency is to "produce a good administration" when the Federal establishment has grown so far beyond anything the Framers could have imagined. It is an amazing fact that there are more Federal employees in America today than there were people when the Framers drafted the Constitution. Perhaps President Washington could play an active role in supervising the details of the first administration; it is now the responsibility of his successors to create the mechanisms for control and coordination of the executive

branch. One such mechanism is Executive Order 12291, which I issued during my first month in office. Executive Order 12291 for the first time provided effective and coordinated management of the regulatory process. Under the executive order, all Federal regulations must be reviewed by the Office of Management and Budget before being issued to determine whether their social benefits will exceed their social costs. The Administration has issued a comprehensive statement of regulatory policy, and established procedures to ensure that this policy is reflected in the actions of individual agencies.

Other initiatives include the recent establishment of the President's Council on Management Improvement, an interagency committee charged with improving management and administration throughout the Government; the continuing efforts of the President's Council on Integrity and Efficiency, established in 1981, to root out fraud, waste, and mismanagement; and the comprehensive review of the functioning of the Government undertaken by the President's Private Sector Survey on Cost Control. Given the size and scope of the Federal bureaucracy, the Framers' admonition that the Executive "produce a good administration" requires careful and continuous attention to regulatory and management reform.

At the same time, however, it is fitting to consider whether the Federal Government is today trying to do too much. The Framers did not vest in the national government the responsibility of solving all the problems that might confront the citizens of the Republic; the early Americans were too jealous of their freedom to sanction such an expansive view of central authority. It is the responsibility of the President not only to manage government efficiently, but also to offer leadership in recognizing that spending by government must be limited to those functions that are the proper responsibility of government, and taxing by government must be limited to providing revenue for legitimate government purposes.

The President has no more important responsibility under the Constitution than the conduct of foreign affairs. As John Marshall noted on the floor of the House of Representatives, "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations." In the famous Curtiss-Wright decision of 1936, the Supreme Court agreed with Marshall's assessment: "In this vast external realm, the President alone has the power to speak or listen as a representative of the nation." The President's powers in this area derive from the general grant of executive power, and the more specific grants of

authority to make treaties and appoint our ambassadors and receive those of other nations, and his role as Commander in Chief of the armed forces.

The Framers recognized that of the two democratic branches only the Executive possessed the requisite attributes for the successful conduct of foreign relations. Hamilton noted in his description of the executive that "Decision, activity, secrecy, and dispatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater member," and John Jay -- himself one of our most successful early diplomats -- argued that "the President will have no difficulty to provide" those qualities, though they were beyond the capability of a basically deliberative body such as Congress. As Hamilton argued, "The qualities...indispensible in the management of foreign negotiations point out the executive as the most fit agent in those transactions..."

When it came to the defense of the Nation, the Framers were even more unambiguous. Hamilton, who served at General Washington's side during the War of Independence, knew that "the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and

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The intent of the Framers in providing the President a qualified veto power has been frustrated to a large extent by the development of the Congressional practice of combining various items in a single appropriations bill. The Framers undoubtedly anticipated that Congress would pass separate appropriations bills for discrete programs or activities, and the President would be able to review each program. Until about the time of the War Between the States, this was the practice of Congress. Since that time, however, Congress has increasingly combined various items of appropriation in omnibus appropriations bills. This practice makes it difficult for the President to discharge the responsibility vested in him by the Framers, because he cannot consider the individual items of appropriations separately but must either veto or approve the package as a whole. The President is thus prevented from using his veto as the Framers intended, "to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design."

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I desire to conduct the affairs of this Administration that if, at the end, when I come to lay down the reins of power, I have lost every other friend on earth, I shall at least have one friend left, and that friend shall be down inside of me.

As we prepare to commemorate the bicentennial of the Constitution, let us honor the memory of the Framers who drafted our blueprint for freedom, as well as those who, like Lincoln, did not permit their dream to die. But let us also recognize the workings of a greater force. The signers of the Declaration of Independence acted with "a firm reliance on the Protection of Divine Providence," and Madison, reviewing the work of the Constitutional Convention, noted that "It is impossible for the man of pious reflection not to perceive in it a finger of that Almighty hand which has been so frequently and signally

extended to our relief in the critical stages of the revolution." What President Cleveland said on the occasion of the centennial of the Constitution rings even truer today:

When we look down upon 100 years and see the origin of our Constitution, when we contemplate all its trials and triumphs, when we realize how completely the principles upon which it is based have met every national need and national peril, how devoutly should we say with Franklin, "God governs in the affairs of men."