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This central part - that the contribution is itself a bill I wight a that the allocation of nones in the contitution in presentic of liberty - since a special Mightim on these who hald office under the Constitution. These officiale must not any historye this oper responsibilities but must also rement the contraction! raticale on this office al, equally invotent, present the constitution of their office. Any itilal Preidet is a trustice of the somen of the office, and cannot potent these prover for expedicing or any other pupper. The may be many instances when a President would meeter to have another branch make a herinin or take action vested in the executive, a when the a freihert would be willig to countenance an intrusion on this powers to achieve a particular result. At such the the Chip Exectic must reall that some were allocated in the Constitution not night for offices but to menne that likely. A Separting the constitution managerting of the state the might in motatio which be building the Franci Dairon .

B The France label mindy to the Puilet to maile the initial elect of "energy " It the guarment. The public with the growt of the Article of capilities no the it was " sailthat & ens." they All The suffer of the Cartithe rehend "compiled) with maller by marting in the smaller with power" to lad the mile. As with mute: "a-a" 423 The hall popular malate justified this and of cullity. His house are build for the ment of the gread. athen the the vie Parket with alm to me, the Paulit is the la stil in an governt child that a more inly all the notes Daly the Cambot and die to would for M the make, have, so that and his looks) white that " in the first milie to an midile at of the sumle of Amin. " the trank a the and With Any Usin the mention lat du led. Fle Him alitate OS The The Min of Prachet has " a here continue on the ready and a die montally. "

Perhaps the most pervasive respiribility of the Parished is to alministe the exercise hard. They white the a game The France of our Constitution sere practical men anto recognized, as Hamilton wrote, "that the true text of good government is its aptitule and tendany to makine a good administration." All por The score look altimitely to the Printet to ensure the appriment sufarmere of buty by the ma the filed extore illion method any the marine departments and mining array the land. I boult that any of the France, manient on they more, could have missived the size and none of taday's fideral intablishment. They monthlese Monthed the Produce the take to meet the requirility they nated in the that office "to make a and Aminitation . " 1 The go rangetition fithits infalenting L' multil's for filminity tim t it is the men The Sume of court / for - fante the nifte site - the oppin 1/24 At a , afril mit until ste fe / there Aging t 2 Ing form any for the sand the fle la be white he to

The by constitutional anthrity implementing the Privilet's reprihible for Aministration of the government is his appointment some. The hat in give the sour Contitution mailes that the Preisent and shall mominte, a and by and with the advice of emet of the Sate the amount, the spin of the United States. And the the The Enter France gave the Preiht the requiribility to "the lave that the home he faithfully executed, " and you him the pour to against the officers that assist him in binhaging that requiribility. A the Randmark case of myone . United states, Chief Sontice Tast, the former Presidet, wrote that it was a "reasonable indication" from the Prostate Mintin to execute the laws that " he would relact three who were to act for him when his direction in the execution of the laws." The Chief Justice went on to affected the principle that the Preilets' amintant owner carried with it the constant power to remove those officers in whom he could no logar place his too cafiderce: " an his relation of administrative officers in anatril to the execution of laws by him, as must be his some of remaining there for show he can not contine to be requeste. "

The invidebility of the the Providet requilility to execute the laws was forthe enough by what has came to be Amon as the "Accomputability clause." In a show legentive from pulsimiting meters, the France provided that " no Para Alling any Office when the United States, whele he a menter of either House being this Cartinians in Office." Antrile I, section 6. Those solding high office in the executive branch - inlast, the Prendet himself - and the the toget any may not interesty serve in the tigislatione. This manue full logality hat the Printed, and finity fixes requestility for the eliminitation of gournet in the total Printer. It has guaranteed a clear live of democration between the seguilation of the Executive, leaving each to ite our semantet requiretiles in the contribution schene. I

The chillence cabiniting the modern Proclang is to " produce a good administration " as the France interfel when the Feler established has now a for the this on so for beyout anything they could have impried. It is an amying fact that there are in more Febral englages taking that there were people America today the when the France Suffel the Constitution. Perhaps Preschat warlington can't play an active rule in againing the letaile of the first administration; it is now the momentality of his ancessore to weath the mechanisme for carted and confinition of the mentic branch. [E.O. 12291 INSTRT] [GROWTH OF FEVERAL GARDAMENT]

The President has no more important responsibility and the constitution than the conduct of brings affaire. As John Marshall noted on the floor of the Home of Reconstituice, "The he lat is the ade again of the notion in ite esternel relations, and its ache monthis with foreign materine." In the former to Cutie -Winget beinin of 1936, the service Can't agreed with Manhall's amount : " & this want extend realmy the mucht doe has the same to much a liter as a momentative of the matin." The meilte pour time for in this area Service from the second mant of mention power, and the more societies quarter of authority to make treatice, mit and wine the alter and the main and the second s - - minit an antonedore and recine there of the matine, and the the the role as Cambo in Chief of the and forcer. The France recognized that the the forthet the the of the has landie handles and the Product personal the requisite Attiluter for the summerful what of brigge relations. Hamilton noted in his lemistic of the executie that "Deinin, which, servery I hight will genely characterize the mousty of me man in Linuch mar amount leave than the mousing of any mathe mentor, " and John Jay - kind me of an ment mucht who distante - and that "the milit will have a supply to minde" the attack many to tempt my diffic those qualities,

thigh begad the combility of the timetation a lamity delibertie bady - mak a A. H. Typen. When it care to the to define Jul, of the Nation, the Frances were ever more "The ties I mantigeness. Hamilton, who send to it - the General Wandingting the state sile dais a tit the war of Admilier, how that "the wint of non mut punching beauls there qualities which biliguich the exercise of some by a ingh had. " The histic of ma ight the birti bit in of the commantegth; of the same of diets show tim ... the first al contages the comen strength form a much and essential part in the behinter of the exemtic attaly." ENDI & foreign attains the votion must even with me voice, and als the Print in capable of providing that more . This is not to my that Come has no role in the herelogent of bring white. On the contrary, the Frances - moving the and of a two this of the Sentos to a truty, al of some any have some the some to bestore war, Even hered there with defined a nales the anyout of Grans has been indigently to an affective fining policy thought our huber that much an long of the Victure the has then an environ of the Sportle American tradition of mating politics Kning at the matin when Eterne) [BIRMITISAN FOR OTHEN POLICY INSONT, 10-12]

Apart from the Predit's exection functione, the contribution accords him cont a visibilit rde in the legislative surren . It is not mate The milet has not many the power but the buty the " from this to time to give to the low Admitis of the sale of the Unio, and recommend to their Carilantia much meanues as to shall only muny of embient." art. II, actin 3. The the test til and the hat it the althe and tility for what its The stan reach have norm to spect lealenhip por the Richt not als in execting the lance but also in question program to line for anilestic. The requility now from the annual bulset to a substantive lightative reform. Jesting the must grant of the by emilitie man in the nets ofen. An the Symme at mets person in the perif in loss aller, the atitute mining all contains the atitute mining all contains at a cran to the pential to the could be dis manuals the milit my to fate the will site hand is and it is here the former of the former of the first his infer, & come and a find the mater with it is with the mater and the state and the state out the state and the state of the state out of the and the state of the state out of the state and the state of the state out of the state and the state of the state out of the state and the state of the state out of the state and the state of the state out of the state o

Perhaps the most graninent of the Paulite legislative govers in his gentified wets power. This gove is qualified in the seme that a will returned by the built with his bingment can mattheles be marted by a two-thile whe of both House. The France analis the built a noto power por two proposes. Bet the progetter of First, the France recognized the " morenity of the limitative departent to intrule upon the right, al to shall the parce, of the the lightent, " and provided the spectra a net some no that he call shal the progeties of his this against ligitates encoulant. The nearly ansare of the note in an " an elliteril servite sout the matter of an initian land." do Hailt mote: a-a 443 The imput propulsive the Prachet can big to beer in reviewing liquilation was recommined by forme for bit Topt the Chief Autre Topt : 6-6 [Chillin , 1. 28] "The fail to

labour the met provid of the light' lyndetic man in his and y pulfich mot for militie the same that a little stand to Cyres with the milet's himmed in the metal south the a losthat note of both themes. I The Summer Court recently restanted the importance of the nets prom in the France' Series in the admit ws . Childre Scinim. That kining struck form the "legislative vets " leine, whenty Comes mysted to recent to all itself, we Home, or even a committee the arthrity to block agency regulations. The Count, in an quining by the Chief Justice, muled that much legislative vetoes were arcontitutioned, in part berne) when they sugarted to permit ligners to art without presenting its action to the heilest for some a bissonal. The Cont muled that this middled the carefully Service alone of the France. Many had looked to the limitative nots as a smill man of intany central - by the prophin elected representation our the buyening Federal burenny. That optim in no loga amilette, so, a the court noted: " c-c, " Challe, p. 31. Low Comment the sentire buncher have maker truthe the a chille the thy she of the it for frenchet for the Fileture to the having a selection attick in the first of the selection of the second of

the that aquilibly for any mentich many ation rate with the exection, and in at hige the It can now be bouch that linen , which can no larger the and review particular every action through the contaction vets, will take grate are in the belegating attailing to again in the first place. It is no loga partile for ligner to filighting and the hard policy choice, the the pour to to the man and the total and willing on the the the star have it it thigues with the andy sayse reservation that entitle every rations can be as to unilitially reneral. The childre Davin he ite exensie claipies that the exactive is salely requirible for executive young action, with and highters the requirelility of the opentic to ensure that much water is consistent with the statutes anthonizing the action.

The intent of the France in multip the milet a qualified noto some has been prostated to a love start by the dealquest Conjunial) of the heractic - mathematic the time of the Formande of continuing random items in a single manitions till. The Franchastingstel undoubtedly y that again would gove usuate assumition tillo to hinste monano o activitico, and the Priviled month he all to attent The review each pronon. Until don't the time of the total was between the Stake, this was the pustice of Corner. Since that time, however, Comes has miningly combind various itere 1 ministin in as mile ministeine tille. This martice makes it helpicalt for the Pricht to hickory the requilibility rated in him by the France, because to the canot individual of agreentic months but must with nots a symme the party as a whole. When he must either block the nucled program so that with me will not be match, a remit monthly are to alig though whe the intertie ming of needed program, the Pricht is mental tom any at the has not a the Francis iteld, " to minere the chance in from of the commity against the soning of bal land, though haste, inclusting, or beign." It is for this reason that we have proposed rectoring the Frames' migril Davis by paris a contraction and the gent the Present live - item noto anthink. The constitutions of no ferra than 43 states

grant hand antherity to the gave, I the equien at the state had month a his-iter wet would work well at the Filmed level.

The gover of the Prailing are build some at the malet history his constatulit requilibilities in a system aundis other some to the condicte branche of the basilation al the pulicing. An the same last has remarked. there is a "mene-endy teners between the Predit quincing the questic authinty in a wall that queats each day some new chillese with which he must beel and the cuilt he which me il hire al which no me dimite antalis some not of writing back al belance." The Preiht is chard with the faithful eventie of the laws, but anew and the land and thigh its liquilative anthing histly apparte the Present's ability to white the Feder Covent. The Maket mit the optime of the With state, but cross withink the there all must more the Partet's mines the particular to fill those optime. The Print is requille In the autit of Arin tring seting, but aly come can lake man and there and on the sect must ame tradic mostalis by the Printet. And white, - but a Frelikter noted, the France "did not make the making the server of our governent, " it has been established I least sin maky . Makin set, in an againgite care, executive active in subset to gulinil review. The menters of all theme banks take an ath to rahall the autitution, and it is a tabute not any to the period of the France but also to the atolementing of three who have held the aber the contribution that the agater has maked as well as it has.

Themes Jefferrow colled the Presiling " a spledid miny." The Frances interded, as Hamilton mate, that " the executive should be in a intruction to day to and this our simis with view and lawinin." The Presibil has at his biginal the alivier of leand aliving, and he can consult with the Comment, but the defined of potentially momenton larining to must make are, the the find and is, his alme. No me contest tother than latt Tang de to make that Harland The back along that The ultime quide must be his own conscience. take On most tested Pricht, Alachan hich. amound the a stand for President that has not been agained upon : of beine to conduct the appair of this Administra that is, at the and, when I can to los down the reins of yours, I have last every the find an waith, I shall it last have me build left, and that find able to how inite of me."

As me prove to commente the trateril of the Cartilution, let us inthe hora the menoy of the France who hapted our blugint for backing, and there, like hinder, who want the sid not permit their bream to die. But let un also recognize the multip of a menter force. The since of the balanti of solvedure antil with " a time stime on the Partali of Divis Providence, " and Makiam, revising the mach of the cantet and and the "It is mainthe for the man of sion affection at to servere in it a time of that Alights had which has been to figurity al winty yteld to an aling in the witil story of the resolution ." & ear to no father the gete what Pricht Clearly said on the occasion of the certain of the cartitate rings even true today :

The Declastion of Alexandere not only malained on pula from but critain, it also set forthe the principles for which the Forking Father were willing to plate their liver, fortunes, and sound have : "that all men are created equal, that they are enlouch by this Creator with certain unalimble Right, that among the are hits, hileby and the commit of Harrison " The battles of the Revolution secured the independence proclaimed in the Declaration; it remained for the revolutionaries to get the ideals of likely into quetice. History has reall many tragic exister that here withere to Rendert Filme's contin "that molation to not always establish freelow." Our's lis, at the min more than that langely because it was shorthy followed by the framing of the Constitution, what the next American historia benze Barenft tered " the most during art in the political history of manhind. "

GOALE TIPERSET, 1820 Ą - ite One of our ablest statemen and contitutional langue, Daniel Webster, orce wrote: " We may to track upon an occan where we can see no lad - my sectore, the sum or stare. But there is a chart and a compare for us to study, to comment, and to day. The chart is the Contitution . " For many two haded your the Constitution - four rases in John Hand's ploury had - Am much as a bloquist for feelow - I to not have have many of the pity men no right For menty two herehad years the Constitution has endered, with relating been and the as a blueprint for freedom. The we approach the brieftenniel of the signing of the original four reser of the Contitution, - at Participlia on Sente ber 17 let m 1207 - I in instat and why the affect the minden of the France but also redeficite and ownelver to the values \$ P embodied in the sourcest they fitted For m alebate not singly the historical p east that task place in Philadelphia on protifie Senterta 17, 1787, but the A more by Por which we govern ourselves taky. The very notion of self- government was novel when the Frances embarbed upon the 计序 quint of the Cutitution form why for Madrim, in the Federalist Pages, found it find the recurry to use his fellow citizen not to game attriation of the Carlitation because of the musting of its being . Makim agend that it was the stay of the American people that they nee milling to entank

on the antraid esseninet of relf-rule. "To this many against postarily will be indebted for the pomerium, and the would for the example, of the muchan invations highered on the American that is four of minute rights and public hoppings. " Ent Madin's subit has proved the. We are idebted to the France for their brane willigness to gover thereby and the wold is reletted to drive for the emple it atimes & millite atimes of the the But while the more had to account the fear of the men me must not equally beget upint the complany of the old. There is the barrow that a righ that has hird with buln when have for two certainies my first has now and recion the if is. A thing there whitin word the world will show Dominine regio Mitic no control by cath alle unto artitutes the me little more the met you and a contry of the entry the grand. The Pharing tette my to bight this confirment the ty the catilities The tithen taking the man I man to the atthe be to the film man to ac An artic of about iting is many to the starts funting of an articled chillie) ageten. An and ghe muchell, who have a this a two dat the calle, are wate, " the paper whe the contact, of

the people can unable it. set is the enature of this and will, and hive any by this will." All of me have m Mintin to study the cartitle and anticely matinte in the motion of relf- ment it atthe If if if it light and and with after to regal the live, but , a fame han the to first the fire, to the atte que any h pinty to men that pull, of ally I a fulling geen of There is whith the the hit hit mit this at male with blue the ale to the refue it coldie . To the hanting of the catholing and and the to Ale genins of the als when it, put to the mighter and faiting to theme and menul it that the non?

not only to overselves and our posterity, but This is an allightim we are the and to the France, who wild anythis for bulan, and baland to atthe the the prove but the and to addition the base men a waves thight on kits who have the allow merered the contitution, stor at the cost of this lines. The fitty no Mintin man to make I a my alter for here in la lat the many al getty There is no better time than this brientennial paril to repailings one will the contitution, and redefinite analys to the value it eblier.

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 Bancraft termed "the most cheering act in the political history of mankind."

One of our ablest 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. As we approach the bicentennial of the signing of the original four pages of the Constitution, let us not only reflect on the wisdom of the Framers but also rededicate ourselves to the values embodied in the document they drafted for the ages. For 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 follow citizens not to oppose ratification of the Constitution because of the novelty of its design. Madison argued that it was the glory of the American people not blink bound to the part our in the interior the server interior in the server interior and server interiors and server interiors in the in of self-rule. "To this manly spirit posterity will be their their their the the future 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 the

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complacency of the old. There is the danger that a people

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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 creative 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 stronger 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 government. The challenge was to reconcile those two experiences, and create a government strong enough to serve the people, yet not strong enough to become the master rather than the servant of the people. 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 governmental authority. Power was to be shared among separate institutions -- The Legislative, 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 nothing less than this considered allocation -- 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. That allocation has kept government the servant rather than the master of the people, and has accorded the people the freedom to enjoy their rights.

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This central fact -- that the 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 office and, equally important, preserve the constitutional prerogatives of their office. Any individual President is a trustee of the powers of the office, and cannot forfiet those powers for expediency or any other purpose. There may be many instances when a

President would prefer to have another branch make a difficient

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.

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The President's popular mandate justified this grant of authority. His just powers are derived from the consent of the governed. 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 persistent 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 they 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, the 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 ariumstarces in which offices are not removable by the President, the the send their rule is that the smith aspirite and my nerver the Africe of the United States. This pone, as the Frances

renginged, is menory if the soulet is to be requille

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The inviolability of the President's responsibility to execute the laws was further ensured by what has come to be known as the "Incompatability Clause." In a sharp departure from parliamentary systems, the Framers provided that "no Person holding any Office under the United States, shall be a member of either House during his Continuance in Office." Article I, section 6. Those holding high office in the executive branch -- indeed, the President himself -- may not simultaneously serve in the Legislature. This ensures full loyalty of the officers to the President, and firmly fixes responsibility for the administration of government in the President. It has guaranteed a clear line of demarcation between the Legislature and the Executive, leaving each to its own responsibility in the Constitutional scheme.

The challenge confronting the modern Presidency is to "produce a good administration" as the Framers intended when the Federal establishment has grown so far beyond anything

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they 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.

[E.O. 12291 insert]

[Growth of Federal Government]

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,

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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 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

that 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 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..."

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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 area

only the President is capable of providing that voice.

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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.

[Bipartisan Foreign Policy insert, 10-12] ____ 3

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." Art, II, section 3. The people

have grown to expect leadership from the President not only

in executing the laws but also in presenting a program to Congress for consideration. The responsibility runs from the annual budget to substantive legislative reform.

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 against legislative encroachment. 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 Supreme Court recently reiterated the importance of the veto power in the Framers' design in the landmark <u>INS v</u>. <u>Chadha decision</u>. That decision struck down the "legislative veto" device, whereby Congress reserved to itself, one House, or even a committee the authority to block agency regulations. The court, in an opinion by the Chief Justice, ruled that <u>seen</u> legislative vetoes were unconstitutional, in part because they purported to permit Congress to act without presenting its action to the President for approval or disapproval. The Court ruled that this violated the carefully devised scheme of the Framers.

Many had looked to the legislative veto as a possible means of restoring control by the people's elected representatives over the burgeoning Federal bureaucracy. That option is no longer available, for, as the Court noted:

The choices we discern as having been made in the

Constitutional Convention impose burdens on governmental processes that often seem clumsy, inefficient, even unworkable, but those hard choices were consciously made by men who had lived under a form of government that permitted arbitrary governmental acts to go unchecked. There is no support in the Constitution or decisions of this Court for the proposition that the cumbersomeness and delays often encountered in complying with explicit Constitutional standards may be avoided, either

by the Congress or by the President.

It can now be hoped that Congress, which can no longer review particular agency action through the legislative veto, will take greater care in delegating authority to agencies in the first place. It is no longer possible for Congress to avoid the hard policy choices, delegating vast

power to agencies with only vague guidance as to its

exercise, with the reservation that particular agency actions can be unilaterally reversed. The <u>Chadha</u> decision also clarifies that the executive is solely responsible for executive agency action, and heightens the responsibility of the executive to ensure that such action is consistent with the statutes authorizing the action.

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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. When he must either block needed programs so that wasteful ones will not be enacted, or permit wasteful ones to slip through under the protective signing of needed programs, the President is prevented form using his veto as the Framers intended, "to increase the chances in favor of the community against the passing of bad laws, through

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haste, inadvertence, or design."

It is for this reason that we have proposed restoring the

Framers' original design by passing a constitutional

amendment to grant 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 Presidencey 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 President is charged with the faithful execution of the laws, but Congress enacts the laws and through its legislative authority directly affects the President's ability to administer the Federal Government. The President appoints the officers of the United States, but Congress establishes the offices and the Senate must

approve the President's nominees to fill those offices. The President is responsible for the conduct of American foreign policy, but only Congress can declare war and the Senate must approve treaties negotiated by the President. And while, as Justice Frankfurter noted, the Framers "did not make the judiciary the overseer of our government," it has bur been established at least since Markey v. Madison that, in an appropriate case, executive action is subject to judicial The members of all three branches take an oath to review. 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

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Congress, but the difficult and potentially momentous

vested by the institute Execution

decisions be must make are, in the final analysis, his to make alone. The ultimate guide must be his own conscience.

most tested President, Abraham Lincoln, announced a standard moling than being the for presidents 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, like

Lincoln, who 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.""