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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 inadequacy of a weak government, yet the ~~State~~ Framers' experience under the colonial rule of George III had demonstrated the threat posed by a strong government. The challenge was to reconcile these two experiences, and create a government strong enough to serve the people, yet not strong enough to ~~become~~ ~~become~~ ~~become~~ ~~become~~ 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." ~~Madison~~

The solution embraced by the Framers was to diffuse 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~~ considering the allocation of authorities in the Constitution, it is important to keep in mind ~~that~~ the purpose of this careful allocation—the promotion of liberty. This is what Hamilton ^{wrote that} ~~the~~ ~~Constitution~~ ~~is~~ ~~itself~~ "a bill of rights." Our liberties

"Institute of 1787"

named

"The Constitution is itself, in every rational sense, and to every useful purpose, a bill of rights."

The opposite to what the
the government is "first" and
control by the rest of the
world.

have been preserved in large part because of
the allocation of powers in the Constitution.
That allocation has put government the
power rather than the the master of the people,
and has secured the people the freedom
to enjoy their rights.

This central part - that the Court is
a bill of rights, + that the allocation is
specific + clear - insures a social justice
in those affairs which concern matters of liberty,
religion, press, business, or a justice. These are
not only meant given, but must respect
rights +, equally important, preserve the
propriety of their office. Any and President is
a trustee of the power of the office, +
cannot forfeit those powers for expediency.
In exercising those powers the key is protection
liberty by fulfilling the Framers design.
The Framers looked to the Congress, +
the way the power, to provide the initial
"safety" for the law

[and
1972
quote]

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 ~~own~~ 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 pervert those powers for excluding or any other purpose. There may be many instances when a President would prefer to have another branch make a decision or take action vested in the executive, or when ~~the~~ 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 merely for efficiency but to preserve ~~the~~ liberty. In defending the constitutional prerogatives of the office the President is protecting liberty by fulfilling the Framers' design.

~~173~~

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 "lacking of energy." ~~The~~ The structure of the Constitution rebounded that problem by vesting in the Executive ~~power~~ ~~authority~~ to lead the nation. As Hamilton wrote:

"consistent powers"

"a-a" 423

The framers' 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 ~~depends~~ "in the first instance to an immediate act of the people of America." [413]

looks

~~[424] resulting from: "due dependence on the people, & a direct responsibility." Paine, and the other~~
~~of the office, I believe the framers must mean~~
~~but also had. The office of the President~~

~~There, however~~ The office of President has "a due dependence on the people, and a due responsibility."

Perhaps the most genuine responsibility of the President is to administer the executive branch. ~~Though entrusted by a government~~

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." ~~Every~~ The people look ultimately to the President to ensure the efficient performance of duty by the ~~more than~~ federal employees scattered among the various departments and agencies across the land. I doubt that any of the Framers, present as they were, could have envisaged the size and scope of today's federal establishment. They nonetheless afforded the President the tools to meet the responsibility they vested in ~~that~~ that office "to produce a good administration."

The ~~by~~ constitutional authority inhering in the President's responsibility for administration of the government is his ~~power to~~ appointment power. The Supreme Court long ago ruled that the President's power to ~~appoint and remove~~ nominate - with the advice and consent of the Senate - the officers of the United States, carried with it a corollary power to remove those officers when necessary. The people may thus look to the President for the sound administration of the various offices in the government because he is responsible for the individuals

millions of

generally

The key constitutional authority implementing the President's responsibility for administration of the government is his appointment power. The President ~~is given the power~~ Constitution provides that the President ~~shall~~ shall nominate, ~~and~~ and by and with the advice and consent of the Senate ^{shall} ~~shall~~ appoint, the officers of the United States. ~~As the President is responsible~~ The ~~Executive~~ ~~power~~ France 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} ~~affirm~~ 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 ~~trust~~ 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."

The invisibility of ~~structure~~ the President's responsibility to execute the laws, was further ensured by what has come to be known as the "Incompatibility 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 - ~~cannot thus hold the~~ ~~legislative~~ ~~several~~ ~~may~~ ~~not~~ simultaneously serve in the legislature. This ensures full loyalty to the President, and firmly fixes responsibility for the administration of government in the ~~President~~ President. It has guaranteed a clear line of demarcation between the legislature and the Executive, leaving each to its own ~~separate~~ responsibility in the constitutional scheme.

of
the
Officers

The challenge confronting the modern President is to "produce a good administration" as the Framers intended when the Federal establishment has grown ~~so far beyond their~~ so far beyond anything they could have imagined.

It is an amazing fact that there are more Federal employees ~~today~~ than there were people ~~at the time~~ 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]

in
America
today

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 argument: "In this vast external realm, the President has the power to speak or listen as a representative of the nation." The President's powers ~~in this area~~ in this area derive from ~~the general~~ the general grant of executive power, and the more specific grants of authority to make treaties, ~~appoint and receive~~ ~~to~~ ~~appoint and receive~~ ~~ambassadors~~ ~~and~~ ~~receive~~ ~~them~~ appoint our ambassadors and receive those of other nations, and ~~as commander in chief~~ his role as Commander in Chief of the armed forces.

The Framers recognized that ~~only the President~~ ~~possessed the~~ of the two democratic branches only the President possessed the requisite attributes for the successful conduct of foreign relations. Hamilton noted in his description of the executive that "Decision, activity, secrecy, and promptness will generally characterize the proceedings of one man in ³much more eminent degree than the proceedings of any greater number," and John Jay - himself one of our most successful early diplomats - argued that "the President will have no difficulty to provide" ~~the attributes necessary to successful negotiation~~ those qualities,

Executive

though based the equality of the ~~legislature~~
 a broadly deliberative body as such as
 Congress. ⁽⁹⁾ When it came to the ~~actual~~ defense
 of the Nation, the Framers were even more
 unambiguous. Hamilton, who served ~~as~~ at
 General Washington's ~~side~~ side during
 the war of Independence, knew that "the virtues
 of man most eminently demand those qualities
 which distinguish the exercise of power by a single
 hand." The virtues of man imply the virtues
 of the common strength; and the power of directing
 and employing the common strength forms a natural
 and essential part in the definition of the
 executive authority." [487] In 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 ~~also~~ required
 the assent of ~~a~~ two thirds of the
 Senators to a treaty, and of course only
 Congress possesses the power to declare war.
 Even beyond those ~~rather~~ defined ~~roles~~ roles
 the support of Congress has been indispensable
 to an effective foreign policy throughout our
 history. ~~Recent years to our history of the~~
~~Vietnam era has been an erosion of the~~
~~dignitable American tradition of partisan politics~~
~~staying at the nation's edge...~~
 [487]

As
 Hamilton
 argued,
 "The
 qualities
 ... inherent
 in the
 management
 of foreign
 negotiation
 point out
 the
 executive
 as the
 most
 fit
 agent in
 those
 transactions..."
 [487]

[BIPARTISAN FOREIGN POLICY INSERT, 10-12]

Apart from the President's executive functions, the Constitution accords him ~~and~~ a significant role in the legislative process. ~~It is not~~
~~merely~~ 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.

~~There is the constitutional power of the President~~
~~and~~ ~~his responsibility for~~ ~~such~~ ~~acts~~
The ~~people~~ 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 ~~a~~ substantive legislative reform.

~~Perhaps the most prominent of the President's legislative powers is his veto power. An able Supreme Court recently reaffirmed in its decision in INS v. Chubb, the Constitution requires all legislative acts of Congress to be presented to the President for his approval; the President may ~~to~~ veto the bill, which Congress by a two-thirds vote of both Houses may override; or he may permit it to become law without his signature, if Congress is in session, or ~~with~~ may pocket veto it in certain circumstances.~~

Veto power - protect prerogative of the President. [442] but also, and legit [443]
Revol, Pres elected by all the people.
Chubb, 28 (Major quote)

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 nevertheless be enacted by a two-thirds vote of both Houses. The Framers accorded the President a veto power for two purposes. ~~As to the first~~ ~~the preservation~~ of First, the Framers recognized the "proximity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments," and provided the ^{President} ~~Executive~~ a veto power so that he could defend the prerogatives of his office against legislative encroachment. The second purpose of the veto is an "additional security against the enactment of ~~any~~ improper laws." As Hamilton wrote:

a-a 443

The unique prerogative the President can bring to bear in reviewing legislation was recognized by ~~James Madison~~ ~~Chief Justice~~ ~~Justice~~ Chief Justice Taft:

b-b [Chubb, p. 28]

~~"The President is~~

~~Perhaps the most prominent of the President's~~
~~legislative power is his ~~power~~ qualified veto~~
~~power, qualified in the sense that a bill~~
~~returned to Congress with the President's disapproval~~
~~can be enacted ~~without~~ by a two-~~
~~thirds vote of both Houses. (9)~~ The Supreme
Court recently reiterated the importance
of the veto power in the Framers' design
in the landmark INS v. Chadha decision.
That decision struck down the "legislative
veto" device, whereby Congress purported to
revert to ~~itself~~ itself, or to one, or
even a committee the authority to block
agency regulations. The Court, in an
opinion by the Chief Justice, ruled that such
legislative vetoes were unconstitutional, in part
because) ~~since 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
designed scheme of the Framers.

Many had looked to the legislative
veto as a possible means of restoring
control ~~to~~ by the people's elected representatives
over the burgeoning Federal bureaucracy. That
option is no longer available, so, as the Court
noted: "c-o-c," Chadha, p. 39. ~~the~~ ~~legislative~~
~~branch~~ ~~has~~ ~~been~~ ~~stripped~~ ~~of~~ ~~its~~ ~~power~~
in the wake of Chadha that the ~~power~~ of Chadha
itself is prominent from the legislature to take
greater care in delegating authority, since the
exercise of delegated authority can only be checked
by Congress through legislation. ~~It is also prominent~~
~~upon the~~ The ~~device~~ also ~~under~~ it ~~delegated~~

~~that responsibility for ~~any~~ executive agency~~
~~action rests with the executive, and is~~
~~not dependent upon~~

It can now be hoped that Congress,
which can no longer ~~the~~ review
particular agency action through the legislative
veto, will take greater care in ~~delegating~~
delegating authority to agencies in the first
place. It is no longer possible for Congress to
avoid the hard policy choices, ~~and the~~
~~to the agency to make, and that it can~~
~~substantially restrain the~~ ~~the~~
~~decision if it delegates authority~~ with the
reservation that particular agency action can be
substantially reversed. The Chadha decision also
clarifies that the executive is solely responsible
for executive agency action, ~~consistent~~ and
heightens the responsibility of the executive to
ensure that such action is consistent with
the statutes authorizing the action.

Delegating
power to
agencies
with
~~the~~
~~power~~
only
vague
guidance
as to
its
exercise,

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 practice ~~and~~ ~~at the time of the~~ ~~framers~~ of combining various items in a single appropriations bill. The Framers anticipated that Congress would pass separate appropriation bills for distinct programs or activities, and the President would be able to ~~to veto~~ ~~to~~ review each program. Until about the time of the ~~Civil~~ War Between the States, this was the practice of Congress. Since that time, however, Congress has increasingly combined various items of appropriation in ~~an~~ ~~omnibus~~ omnibus appropriations bills. This practice makes it difficult for the President to discharge the responsibility vested in him by the Framers, because he ~~is~~ cannot consider the ^{individual} items of appropriation separately but must either veto or approve the package as a whole. When he must either block ~~veto~~ needed programs so that wasteful ones will not be enacted, or permit wasteful ones to slip through when the protective ring of needed programs, the President is prevented from ~~exercising~~ ~~the~~ ~~power~~ using his veto as the Framers intended, "to remove the chance 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 by giving a constitutional amendment to grant the President line-item veto authority. The constitution of no fewer than 43 states

Congressional

undoubtedly

^{some} grant broad authority to the governor, and the
experience at the state level suggests a limited
vote would work well at the Federal level.

The powers of the President 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 "near-constant 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 despises and which some sort of system of checks and balances." The President is charged with the faithful execution of the laws, but Congress creates 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 authorizes the office and 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 ~~approve~~ ~~or~~ the Senate must approve treaties negotiated by the President. And while, as Justice Frankfurter noted, the Framers "did not make the Judiciary the nucleus of our government," it has been established at least since Marbury v. Madison that, in an appropriate case, executive action is subject to judicial review. 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.

the
quote

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 he must make are, ~~the~~ in the final analysis, his alone. ~~He is not to be~~ ~~led~~ ~~by~~ ~~the~~ ~~advice~~ ~~of~~ ~~others~~ ~~but~~ ~~by~~ ~~his~~ ~~own~~ ~~conscience~~. ~~He~~ ~~is~~ ~~not~~ ~~to~~ ~~be~~ ~~led~~ ~~by~~ ~~the~~ ~~advice~~ ~~of~~ ~~others~~ ~~but~~ ~~by~~ ~~his~~ ~~own~~ ~~conscience~~. The ultimate guide must be his own conscience. ~~He~~ ~~is~~ ~~not~~ ~~to~~ ~~be~~ ~~led~~ ~~by~~ ~~the~~ ~~advice~~ ~~of~~ ~~others~~ ~~but~~ ~~by~~ ~~his~~ ~~own~~ ~~conscience~~. Our most tested President, Abraham Lincoln, announced ~~the~~ a standard 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 pause to commemorate the centennial
of the Constitution, let us ~~remember~~ honor
the memory of the Framers who drafted our
blueprint for freedom, ~~and~~ those,
like Lincoln, who ~~did not~~ did not
permit their dream to die. But let us
also recognize the workings of a greater force.
The crisis of the Declaration of Independence ended
with "a firm reliance on the Protection of Divine
Providence," and Madison, revising the work
of the Constitutional Convention, noted that
"It is reasonable for the man of serious reflection
not to conceive in it a design of that Almighty
God which has been so frequently and usually
extended to our relief in the critical stages of
the revolution." ~~There can be no better~~
~~quote~~ what President Cleveland said on the
occasion of the centennial of the Constitution
rings even truer today:

as well
as

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 Fildmore's caution "that revolution does not always establish freedom." Ours did, ~~and the main reason was that~~ it was shortly followed by the framing of the Constitution, what the great American historian George Bancroft termed "the most daring act in the political history of mankind."

largely because

~~GEORGE WASHINGTON, 1827~~
~~"The most... in the~~
~~published history of...~~

One of our ablest statesmen and constitutional
language, 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 - four pages in John~~
~~Harvard's glowing hand - has served as~~
~~a blueprint for freedom - I do not know~~
~~how many of the forty men who signed~~
For nearly two hundred years the Constitution
has endured, with relatively few
amendments, as a blueprint for freedom.

It's
not just
a fact
but a
testament
to
our
values
and
principles
which
have
endured
through
the
years
and
will
continue
to
inspire
us
in
the
future

As we approach the bicentennial of the
signing of the original four pages of the
Constitution, ~~at Philadelphia on September 17, 1787~~
~~it is important not only to reflect~~
on the wisdom of the Framers but also to ~~reaffirm~~
recommit ourselves to the values
embodied in the document they ~~created~~
For we celebrate not simply the historical
event that took place in Philadelphia on
September 17, 1787, but the ~~process~~ process by
which we govern ourselves today.

drafted
for the
open

in
commemoration
the
bicentennial
of the
Constitution.

The very notion of self-government was
novel when the Framers embarked upon the
experiment ~~of~~ 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 the novelty of its design. Madison argued
that it was the glory of the American
people that they were willing to embark

on the untried experiment of self-rule. "To this mainly 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." ~~Edwards~~

Madison's prediction has proved true. We are indebted to the French for their brave willingness to govern themselves, and the world is indebted to America for the example it continues to provide, ~~to the world~~ ~~to the world~~. But while the French had to overcome the fear of the new we must now equally fight against the complacency of 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 gift is. ~~A brief glance~~ ~~around the world~~ ~~with slow~~ ~~supreme~~ ~~regimes~~ ~~authoritative~~ ~~rule,~~ ~~can~~ ~~be~~ ~~lost~~ ~~by~~ ~~the~~ ~~little~~ ~~more~~ ~~the~~ ~~small~~ ~~part~~ ~~and~~ ~~a~~ ~~reading~~ ~~of~~ ~~the~~ ~~principles~~ ~~of~~ ~~the~~ ~~constitution.~~ ~~That~~ ~~there~~ ~~is~~ ~~no~~ ~~better~~ ~~way~~ ~~to~~ ~~fight~~ ~~this~~ ~~complacency~~ ~~than~~ ~~by~~ ~~study~~ ~~of~~ ~~the~~ ~~constitution.~~ The difference between these ~~two~~ ~~ways~~ ~~of~~ ~~view~~ ~~and~~ ~~our~~ ~~existing~~ ~~constitution~~ lies in the ~~problem~~ ~~we~~ ~~are~~ ~~to~~ ~~solve~~.

An active and informed citizenry is necessary to the effective functioning of our constitutional system. As ~~Chief Justice~~ John Marshall, who has written a thing or two about the Constitution, once wrote, "the people make the Constitution, and

of democratic self-government

condition

Chief Justice

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.

If you are a citizen, you owe your duty to
yourself, first to the young men who
pledged their lives, fortunes, and sacred honor that
we might be free, ~~and~~ to the countless
others who have given their lives over our
freedom to secure that freedom, and to our
children and our children's children. There is
no better time than this historical period to
re-familiarize ~~our~~ ourselves with the blueprint
for freedom, and commit ourselves to the
values it embodies. [For the framers' success
of the Constitution is due not only to the
genius of those who wrote it, but to
the vigilance and sacrifice of those who have
preserved it through the years.]

not only to ourselves and
our posterity, but

This is an obligation we owe ~~not only to~~
~~ourselves~~ to the Framers, who risked
everything for freedom, and ~~subjected to a~~
~~constitution to~~ ~~preserve~~ ~~freedom~~. ~~It is~~ and to
a ~~obligation~~ ~~owed~~ to the brave men and
women throughout our history who have ~~been~~
~~able~~ ~~to~~ preserved the Constitution, often
at the cost of their lives. ~~It is~~ ~~not~~ ~~only~~,
~~an~~ ~~obligation~~ ~~we~~ ~~owe~~ ~~to~~ ~~ourselves~~ ~~and~~ ~~our~~ ~~post~~
~~erity~~, ~~but~~ ~~also~~ ~~to~~ ~~the~~ ~~men~~ ~~and~~ ~~women~~
~~who~~ ~~have~~ ~~preserved~~ ~~it~~. ~~There~~ ~~is~~ ~~no~~ ~~better~~
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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^e 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 ^e 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 that they were ~~willing to embark on the untried experiment of self rule.~~ "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."

not blindly bound to the past but willing to rely on "their own good sense" and experience in charting their course for the future.

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

toward

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^{ur} 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^{UP}, 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. 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.

7
unamended

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^s and, equally important, preserve the constitutional prerogatives of their office^s. Any

individual President is a trustee of the powers of the office, and cannot ~~forfeit~~^{yield} those powers for expediency or

any other purpose. There may be ~~many~~^{times} instances 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. 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, ^a~~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 circumstances in which officers are not removable by the President, the ~~basic~~ basic rule is that the President appoints and may remove 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."

at will

The inviolability of the President's responsibility to execute the laws was further ensured by what has come to be known as the "Incompatibility 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

(A)

During my first month in office, I issued an executive order that constituted an important step in this direction. Executive Order 12291 for the first time provided effective and coordinated management of the regulatory process. Under the executive order, ~~and~~ 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 the mechanisms to ensure that this policy is reflected in the actions of individual agencies. ~~At the same time,~~

~~the budget~~ The net result has been that the Federal Register, which records new regulatory actions, has grown shorter for three consecutive years. ~~As a result of other~~

~~initiatives~~ the President's Council on Management Improvement, an interagency committee charged with improving management and administration throughout the government; ~~and~~ ~~through such efforts to~~

~~reverse the functioning of the Federal Government that make products scarce to the extent the Government~~ The President's Administration that the Executive Order "produce a good administration" requires ~~that~~ ~~the~~ ~~Government~~

Given the size and scope of the Federal Government, the President's Administration that the Executive "produce a good administration" requires such careful and continuous attention to results and management reform. (9) At

the same time, however, it is folly to consider if the Federal Government is trying to do too much. The President

today

for the first time

initiatives include the establishment of recent

regarding budget levels the entire efforts of the President's Council on Management Improvement, established in 1981, to meet cost goals, waste, and management; and the expansion of the functions of the Council on Management Improvement to include private sector issues in cost control.

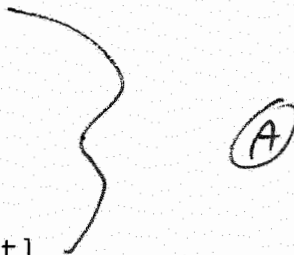
At the same time, however, it is fitting
to reflect on whether the Federal Government is
likely to be too much.

vest in the the responsibility &
did not ~~rest~~ a national government 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. ~~This Administration has~~
~~reduced the ~~rate of~~ growth of the~~
It is the responsibility of the President not
only to manage government efficiently, but
~~also to offer leadership~~ also to offer leadership
in recognizing that spending by government must
be limited to those functions which are the
proper responsibility of government, and taxing
by government must be limited to providing
revenue for legitimate government purposes.

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, 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 ⁿ 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.

~~However,~~

The 1970s saw a rapid rise in Congress efforts to ~~control~~ directly affect 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. ~~These~~ ~~scholars~~ Scholars and officials have ~~expressed~~ ~~views~~ ~~on~~ ~~the~~ ~~constitutionality~~ ~~of~~ ~~several~~ ~~of~~ ~~these~~ ~~initiatives~~, and a discussion of the legal issues is beyond the scope of this article. What is important to note, however, is that ~~the~~ ~~relatively~~ ~~recent~~ ~~Congressional~~ ~~actions~~ ~~in~~ ~~the~~ ~~area~~ ~~of~~ ~~foreign~~ ~~affairs~~ ~~have~~ ~~not~~ ~~been~~ efforts to participate in the development of American foreign policy ~~which~~ ~~must~~ ~~be~~ ~~accompanied~~ ~~by~~ ~~responsibility~~ ~~for~~ ~~the~~ ~~development~~ ~~of~~ ~~legitimate~~ ~~concerns~~. We need to restore the honorable American tradition that certain policies stop at the water's edge. The Framers recognized that effective foreign policy ~~is~~ demanded that the nation speak with one voice, ~~and~~ ~~as~~ ~~such~~ ~~there~~ ~~must~~ ~~be~~ ~~a~~ ~~single~~ ~~voice~~ ~~in~~ ~~foreign~~ ~~affairs~~ ~~and~~ ~~it~~ ~~must~~ ~~be~~ ~~the~~ ~~voice~~ ~~of~~ ~~the~~ ~~people~~ ~~as~~ ~~expressed~~ ~~through~~ ~~their~~ ~~representatives~~ ~~in~~ ~~Congress~~ ~~and~~ ~~the~~ ~~Executive~~ ~~Branch~~. As Congress ~~is~~ responsible its foreign policy role it must ensure that the result is not merely that America presents a discordant cacophony to the world, to the detriment of its security and interests.

by Congress

a responsibility of the government

attention to

The President — "the sole organ of the nation in its external relations" — ~~and with authority to~~
~~develop a treaty~~ must continually seek the means of developing a bipartisan, legislative - Executive consensus on America's role in the world and the means of supporting that role. As Congress increasingly enters the foreign policy realm it too must recognize a greater responsibility for developing such a consensus.

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] — (8)

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^{icle} 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 ^(case of) INS v.

Chadha ~~decision~~. 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 ~~such~~ 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 Chadha 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.

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 ^{wing} signing of needed programs, the President is 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 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 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 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 been established at least since Markey^{but} v. Madison that, in an appropriate case, executive action is subject to judicial review. 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 ~~he must make~~ are, in the final analysis, his

~~alone.~~ ^{to make} ~~The ultimate guide must be his own conscience.~~ Our

most tested President, Abraham Lincoln, announced a ^{guide} ~~standard~~

^{making those decisions} for ~~Presidents~~ that has not been improved upon:

vested by the Constitution in the Executive

"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} ~~who~~ did not permit their dream to die. But let us

*offer this gift to that
the Constitution is not just*

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.'"