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The State of the Modern Presidency: Can It Meet Our Expectations?

Stuart E. Eizenstat*

I. INTRODUCTION

Ronald Reagan understood that a successful Presidency depends on understanding some basic truths: a strong economy is the single most important ingredient to sustaining the presidential popularity necessary to govern effectively; a President must concentrate on accomplishing a few big items rather than dissipating his energies on many smaller issues; time and energy spent on enhancing the image of the President as Head of State can provide the public support essential for him to function as the Head of Government.

And yet, the institution which Ronald Reagan turned over to George Bush remains the most mystifying in the country. The Presidency is at one and the same time the most powerful political position in the world and one of great fragility. It equally combines the ceremonial functions of a monarch with the nominal authority as head of government—an Americanized king and prime minister rolled into one. It occupies a platform with unparalleled opportunity to reach the American people and the world. But the Presidency has limited power to accomplish what that very opportunity presents. It creates the illusion of far greater power than it actually possesses, even to its occupants. It tempts Presidents to try to accomplish too much in too many arenas and leads them to dissipate their energies and resources in too many directions with too little to show.

Since the modern Presidency was created by Franklin Roosevelt out of the crucible of the Great Depression and the Second World War, the Ameri-

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can people have assumed the President is responsible for things never dreamed of by the Founding Fathers who created the office—the stability of the economy, the welfare of the poor, housing for the homeless, the health of the American psyche, peace around the world. The President has come to be the embodiment of the nation, his mood the nation's. The President must lead or no one can. Only he can set a national agenda and a course for the country. Precisely for this reason, the public can become frustrated and disappointed with the inability of Presidents to get things done.

The Presidency was created under the U.S. Constitution to share power, not to exercise it unilaterally. But an institution created in the eighteenth century when far less was expected of a President must be able to handle the complex problems of the twenty-first century. The Presidency must be strengthened for the United States to deal effectively with the challenges that face this country as we look into the next century.

II. CONSTRAINTS ON PRESIDENTIAL POWER

The powers delegated to the President by the U.S. Constitution are pitifully few and almost all must be shared with other institutions. As James Polk lamented, "The President's power is negative and not affirmative. He can enact no law." His power of appointment is conditioned by the need for Senate confirmation. His actions and those of his top officials can be enjoined by a single U.S. District Court judge. He can negotiate treaties only with the shared consent of the Senate. He is the Commander-in-Chief of the armed forces, yet his ability to deploy the troops he commands is severely circumscribed by the constitutional requirement that only Congress can declare a war and appropriate funds. He cannot pass his own budget nor effectively oversee the very Executive Branch officers he appoints.

The President finds his decisions are often dictated not by what is on his agenda, but what is pressed upon him by others—it may be the priority of an advocacy group which was a part of his electoral coalition and whose support he must retain to govern effectively; it may be the agenda of his own Cabinet officers; it may be legislation initiated by the Congress; and, most certainly, it will be in a series of external events to which he has no choice but to respond. Indeed, the mettle of a President is often

tested less by what he does on the agenda he has planned for himself than by how he responds to unanticipated events at home and abroad.

A. Precedent as a Limit on Presidential Power.

The power of a president is circumscribed not only by constitutional limitations, but also by the decisions made by his predecessors.

Prior commitments by previous Presidents act as precedents which can be ignored only at a President's peril, in much the same way that a judge is bound by legal precedent in deciding the case before him. Thus, for example, there can be little doubt that President Reagan strongly opposed the Panama Canal Treaty. He railed against the proposed Treaty in 1976 when he challenged President Ford in the Republican primaries and contended during the 1980 presidential campaign that it was a giveaway after President Carter negotiated it. Yet while he could have attempted to renegotiate the Treaty when he came into office, Reagan's ability to do so was severely limited by the uproar it would have caused in Central and Latin America, and the solemn commitment it represented to the Panamanians.

Actions taken by Presidents can bind their successors even when those actions have no legal force in law. This is because they create a set of expectations on the part of other parties or countries which, if dashed, would hurt the credibility of American commitments across the board. Every President recognizes that the Presidency itself will be diminished if actions taken by previous holders of the office are lightly abandoned. There can be little doubt that President Reagan and his first Secretary of State, Alexander Haig, had little use for anything Jimmy Carter had done as President and wished to fashion their own Middle East policy. Yet the President's 1982 initiative and the 1988 Shultz plan and now the evolving Bush Administration Middle East policy were carefully drawn to be consistent with the Camp David Accords, even though these had no legally binding effect on the United States. Even more dramatic was President Reagan's decision to comply with the strict terms of the SALT II agreement negotiated by President Carter but never ratified by the Senate and therefore of no legal value, even though he had personally opposed SALT II. President Carter had created a precedent upon which the Soviet Union relied and which was difficult for President Reagan to overturn.

President Reagan had been a sharp critic of Jimmy Carter's handling of the Iranian hostage crisis, yet he did nothing as President to upset the settlement, which led to the partial unfreezing of Iranian assets in the United States once the hostages were released. Legally, he could have said, "We have our hostages, we will use the Iranian assets to repay the hostages and their families, their pain and suffering, and put the balance in the Federal Treasury." Yet to do so would have undercut a solemn obligation by his predecessor, even one made to an outlaw government, with negative ramifications on other countries relying on presidential commitments.

In the domestic arena, Presidents have greater flexibility to change the priorities of their predecessors, particularly on discretionary programs paid for by general revenues, as shown by President Reagan's dramatic domestic budget action in 1981. But Presidents have much less flexibility to change entitlement programs such as Social Security, early Medicare, and unemployment insurance, funded by earmarked payroll taxes. These represent virtual contract rights to the contributors, which permit only marginal changes by Presidents. However much Ronald Reagan may have wished to privatize Social Security, he was constrained not only by political opposition, but by the expectations contributors to Social Security had that their reliance would be honored.

None of this is meant to suggest that a President is totally a prisoner of the decisions of his predecessors. Ronald Reagan ended the 1980 grain embargo imposed by President Carter in retaliation for the Russian invasion of Afghanistan. President Bush has moved away from military aid to the Nicaraguan contras, a centerpiece of Ronald Reagan's Central American policy. And he has renegotiated, though not abandoned, the agreement the Reagan Administration made to co-produce the new FSX fighter with Japan. But each comes with a price, which can be afforded only so often.

B. Campaign Promises: Opportunity and Constraint

A Presidency really begins during the presidential campaign. It is here that a future President begins to impart his own world view, to make decisions to which he will be bound if elected. Indeed, it may be his greatest opportunity to do so. It is essential that a presidential candidate know why he is running for

President and what it is he wants to accomplish when he is elected. Generally, only if he can claim a mandate on certain issues can he make his critical first year in office a success. A President's ability to legitimately claim a policy mandate from his election by the American people is his greatest weapon in convincing the Congress to support his program. In many ways, the major difference between Ronald Reagan's first and second terms was that he sought a specific mandate in the 1980 elections—for budget cuts and tax reductions, combined with a defense increase—but was content to seek reelection in 1984 with no specific policy mandate. He was able to achieve much of what he campaigned for in 1980 but had a relative paucity of accomplishments in his second term, due in no small part to the absence of a policy mandate in the 1984 election.

But campaign promises can also restrict and limit a President. Indeed, the sheer length of the campaign, the number of states in which one must compete, and the constituencies which must be assembled to win a nomination, guarantee that campaign promises will act as a restraint on Presidents once they are elected. Thus, for example, in the 1976 presidential campaign, Jimmy Carter made a pledge to create a Department of Education, in significant part to obtain the endorsement of the National Education Association, which was critical to his primary victory. While he first had to be convinced that this was not a totally unsound idea and was moved by the fact that education did not have a seat at the Cabinet table, the NEA endorsement was a key consideration. He asked that the issue be revisited early in his term, but his campaign commitment was too firm to give him latitude to change. Likewise, during the Wisconsin primary, he felt impelled because of intense competition from Congressman Udall to promise Wisconsin dairy farmers 80 percent of parity for milk price supports. He felt compelled, despite misgivings, to follow through on this promise when elected. So, too, in the 1988 elections, Vice President Bush made specific commitments on issues such as gun control which markedly limit his ability to act otherwise as President in the face of a gun onslaught in the drug war.

The difficulty with campaign promises is twofold. First, they often conflict with the realities of governing. In a well publicized letter written to Governors Born and Briscoe of Oklahoma and Texas in October 1976, Jimmy Carter had promised to dereg-

ulate the price of natural gas over a five-year period. Yet, as President, because of the strong opposition of Congressman John Dingell and the late Senator Scoop Jackson, the energy chiefs of the House and Senate, and the recommendation of his energy adviser, James Schlesinger, he decided to continue controls on natural gas. At the same time, he deregulated crude oil prices, which he had promised in the campaign to control, because this was the price of getting the Germans and Japanese to stimulate their economies at the 1978 Bonn Summit.

The Bush no tax increase pledge—“read my lips”—is another example of realities conflicting with promises. It is virtually impossible to reach the \$100 billion deficit figure mandated by Gramm-Rudman for fiscal year 1990 without tax increases. Having to maintain a campaign promise in order to keep his credibility will force the President and ultimately the Congress into making overly optimistic economic assumptions, and into accounting legerdemain in order to appear to stay within the Gramm-Rudman figures.

The second problem is the remarkably haphazard way in which campaign promises are made. Even a well financed presidential campaign, particularly in the primary phase, has very few staff resources, little data at its disposal, and is under enormous time and political pressures to make decisions. President Ford used to be the butt of jokes for saying how glad he was to be in one state when he was actually in another. But anyone involved in the continental chase which passes for a presidential campaign knows precisely his dilemma. On the sixth stop of the day, a candidate may answer a question on which he is inadequately briefed, only to find, because of the presence of an AP stringer, that he has made tomorrow's campaign headline and the day after tomorrow's presidential decision. No one would want their President to make decisions under these circumstances, yet the decisions they make as candidates are often binding on them as President. Thus, Ronald Reagan had little hard, well thought out data at his disposal when he pledged a three-year across-the-board tax cut during the 1980 campaign. We are still living with the consequences in massive deficits which now constrain President Bush and the Congress from increasing needed expenditures in a variety of areas.

There is a conundrum. Presidential candidates are constantly forced to make promises so that their

campaign can claim a mandate for something specific. Yet they make them under the worst possible circumstances.

C. Financial Markets

Yet another factor that constrains presidential action is the operation of free financial markets, both in the United States and in our increasingly global economy. While Presidents affect financial markets by their actions in the economic area, the degree to which financial markets constrain and limit a President's freedom of economic action is much less well understood. Thus, between January 1977 and November 1978, the American dollar was devalued by 17 percent against other major currencies, in part the product of a conscious effort to stimulate exports and eliminate the vestiges of the 1975 recession, but in part because financial markets lacked confidence in the Administration's economic policies, fearing a weakened resolve to fight inflation. To prevent a freefall of the dollar occasioned by a loss of investor confidence, President Carter followed Secretary of the Treasury Blumenthal's recommendations for a major rise in interest rates in late 1977 to stabilize the value of the dollar, an action the President took contrary to his own instincts as a small businessman and as a supporter of low interest rates.

To be blunt, financial markets have an implicit veto on a President's economic policy. In many ways, financial markets serve as a daily barometer of confidence in the President's economic policy course. In 1982, President Reagan sent up a proposed budget which was dead as a doornail when it arrived in Congress. Only a year after signing the biggest tax cut in history, he signed into law the largest income tax increase in history—just under \$100 billion—taking away many of the cuts he made the previous year. The reason again was the reaction of financial markets to the yawning deficit created by the initial tax cuts. The threat was that an economic recovery would be aborted by continued high interest rates without a greater show of determination to reduce the deficit. Then in 1983, this anti-tax President sent up a budget with contingency taxes because of continued lingering high interest rates. His willingness to support large increases in Social Security taxes was necessitated by the crisis in the Social Security trust fund and the belated recognition that budget cuts alone would not do the trick of

closing the gap between spending and revenues in the fund.

The new, interdependent world economy further complicates presidential decision making. The health of the American economy is dependent on global financial markets. Decisions made thousands of miles away not only by foreign governments but by investors in foreign markets profoundly affect a President's ability to make economic policy. Consider the following:

— U.S. debt issued to finance our deficit is held substantially in foreign hands. Today, one out of every three dollars of U.S. Federal debt is financed abroad. In 1987, the U.S. economy owed foreign lenders \$368.2 billion. From 1980 to 1988, the U.S. went from the world's greatest lender to its biggest debtor—bigger than the debt-ridden economies of Mexico, Brazil, and Argentina combined.

— The largest stock market in the world is not the New York Stock Exchange, but the Tokyo Stock Exchange.

— In 1986, foreign investors bought and sold over \$275 billion in U.S. domestic corporate stocks, and U.S. bond issuers raised \$43.7 billion through international bond issues.

— In 1988, for the first time, the Japanese gave more money in foreign aid than did the United States. With greater economic power comes greater political power.

D. Press

The press has a great deal to do with the shape of a President's agenda. By focusing attention on a particular issue, the press can virtually force the President to address it.

It is instructive to look at the difference in presidential action by President Johnson toward the North Korean capture of the American military ship *Pueblo* and its sailors in 1968 and President Carter's handling of the Iranian hostages in 1979-80. President Johnson was able to negotiate patiently for the release of the hostages over the course of a year with little public pressure, in significant part because there were no cameras to film the incident and no daily press attention. The same is true of the lack of pressure on President Reagan to free the American hostages in Lebanon. Their capture was not recorded and the event had a faraway quality.

In contrast, daily press attention given to the Ira-

nian hostage crisis, with its glaring films of American hostages carried away in blindfolds against the backdrop of burning American flags, undercut President Carter's political standing, created pressures for the Desert One hostage rescue effort and, ultimately, was a major factor in his defeat. Indeed, the "Nightline" program was initiated by the daily emphasis on the hostage crisis, and one evening news broadcast began by counting which day it was of the hostage taking.

None of this suggests that the press should fail to report such incidents. They are legitimate news and the public has the right to be informed. It is to say that the manner and method of reporting have a great deal to say about resultant presidential action.

From the beginning of the Republic, Presidents have always felt themselves besieged by the press. In 1807, Thomas Jefferson stated that "the man who never looks into a newspaper is better informed than he who reads them, inasmuch as he who knows nothing is nearer the truth than he whose mind is filled with falsehoods and errors." What is new is the heightened suspicion and decline in deference for the Presidency since the days of Watergate. Given the aggressiveness and, indeed, hostility of today's press to the Presidency, it is doubtful whether a President now would have the time within which to make the kinds of momentous decisions President Kennedy made during the Cuban missile crisis. The press voluntarily withheld much of the detail of the Cuban missile situation until the President felt that the public should know. This deference permitted him to use non-military action to resolve the crisis. This cooperation with a President would be inconceivable today, given the enormous distrust between the press and the President.

E. The Cabinet

The President is the Chief Executive Officer of the Executive Branch. With all the institutional checks on his authority, the Executive Branch should be his instrument to make and implement policy, but the President is the Chief Executive in ways no corporate CEO would ever imagine. The President's own Cabinet, rather than enhancing his power, more often forces him to share power with others who may have a different agenda from his.

Unlike a parliamentary system where a shadow Cabinet has been in existence before the minority

party is elected, every American presidential Cabinet is jerry-built. People are appointed to top Cabinet and sub-Cabinet positions not only because they share the President's ideology, but oftentimes to serve the need for ideological, racial, or geographic balance and to reward certain constituencies. Particularly at the sub-Cabinet level, the Carter Administration had many people taken from the environmental and consumerist movement who were more "pro-regulation" than the President himself, which led to constant tension between the President's efforts to deregulate in various areas and his Administration's appointees who were often interested in maintaining regulation.

Presidential Cabinets are generally filled with people the President little knows and who have worked with him not at all. John Kennedy named Douglas Dillon as his Secretary of the Treasury, not because he necessarily shared his economic philosophy, but because he would be a calming signal to Wall Street. He appointed Dean Rusk as his Secretary of State, the premier position in his Administration, although he met Rusk seriously only once, days before he announced his selection.

The President's Cabinet and sub-Cabinet officers are subject to centrifugal forces beyond those the President can generate. A President's control over the people he brings to Washington to help him run the Executive Branch is always shared by others whom his appointees see as "multiple masters." The Congress exercises a countervailing force over the President's own appointees in a variety of ways, beginning with the confirmation process itself. When William Webster was named by President Reagan to be the new CIA Director, there was little question he would be confirmed. He had passed muster once as a Federal judge and had twice been confirmed as FBI Director, once under President Carter and once under President Reagan. But the confirmation process was used by the Senate Intelligence Committee to send a signal to Mr. Webster that greater cooperation was expected from him on reporting on covert actions in a "timely" fashion under the Foreign Intelligence Oversight Act than his predecessor William Casey had demonstrated in the mining of the harbors of Nicaragua and the Iran contra affair.

In addition, it is Congress, and not the President, who appropriates money to run the departments and with whom the President's appointees who run the

departments must negotiate over appropriations bills. It is with the Appropriations subcommittees of the Senate and House that the Cabinet officers negotiate the compromises to permit their programs to be funded. It is the rare Secretary who will urge his President to veto his Department's appropriations bill.

A Cabinet or sub-Cabinet officer is also heavily influenced by the constituency groups his department is designed to serve. Congress created each department with a specific mission. The Commerce Department is designed to promote the interests of business and commerce, the Labor Department is designed to promote the interests of the working man and working woman, and the Department of Agriculture the interests of farmers and rural Americans. The mission for each Cabinet department is fine and good, but when issues come before the President they inevitably involve the clash between conflicting Cabinet mandates and interests. Each department has its own constituencies to serve based on its mission and mandate. This is the essence of a representative democracy. If different interests in society did not have powerful Cabinet Departments promoting their interests, they would be unrepresented in the presidential decision making process. They look to their Cabinet Secretaries to be advocates for their interests.

The permanent bureaucracies which staff the departments in the President's Executive Branch were there when he came and will be there after he leaves and the next President comes. Their job is to provide expertise and historical memory and continuity. They are the institutional advocates for the Department's interest groups. Because a President's political appointees below the rank of Cabinet officer stay in their positions on the average for less than two years, they must rely heavily on the expertise of the bureaucracy. These appointees are novices to their jobs and to the multi-billion dollar programs they are called on to manage with little or no prior experience. They must rely heavily on the expertise of the career civil service and must adopt the elan and the mission of the bureaucracy if they are to have an effective working relationship with the people they are to lead. It is not accidental that three of President Reagan's most ideological bedfellows, James Watt of Interior, Raymond Donovan at Labor, and Anne Burford at EPA did not last. Their pursuit of policies at variance with the interests of their bureaucracies

ended up imperiling their ability to serve the President effectively. A lightning rod inevitably becomes too supercharged to be effective to the President. Their replacements were more acceptable precisely because they were *not* such passionate advocates of the President's program.

Over time, a President learns that the men and women he has brought to Washington to serve him are whiplashed between different interests. They must balance their loyalty to him with the competing interests of their departments and the Congress, with whom they must stay in good grace. Regardless of the Administration and regardless of the issue, foreign, domestic, or defense, almost every matter coming to the President is laden with conflict between competing advocates within the Executive branch, each bringing his or her own views and conflicting data to buttress the case. The President is often a judge, deciding between opposing advocates within his own branch of government.

F. The Congress

The Founding Fathers distrusted concentrations of political power and consciously sought to divide power between the Federal and state governments and, within the Federal government, among the Legislative, Executive, and Judicial Branches. They did so out of a conviction, born of the unhappy experience with the King of England, that centralized executive power was a danger to freedom and individual liberty. They succeeded beyond their wildest hopes but left a legacy in the modern era of a Presidency often impotent to act and to respond to the vast new challenges a modern-day President is expected to handle.

It is my conviction that a stronger Presidency than the Founding Fathers envisioned is essential for the United States to meet the global challenges of the twenty-first century. The President is expected to do more than the limits of his powers permit. While this cannot as a practical matter be done by wholesale amendment of the Constitution, it must be done by working out creative relationships with Congress in which the President is given more discretion to act within the constraints of the constitutional checks and balances. But we have been moving in the opposite direction, with the Presidency stripped of flexibility by the Congress and hamstrung in meeting the heightened expectations of the office.

The modern Presidency truly began with Franklin Roosevelt. The emergencies of the Depression and World War II forced the President to assume greater responsibilities and leadership than ever before. It was obvious that a legislative body could not direct the country through either a war or a Depression without strong presidential direction. From FDR through the aborted Nixon Presidency, the pendulum of power swung in the direction of the President. There were times when Congress failed to give the President a blank check during this era of presidential ascendancy, such as Congress's defeat of FDR's court packing plan in 1937. But particularly in the area of foreign and defense policy, the President was given enormous discretion. President Eisenhower, with impunity, was allowed to land the Marines in Lebanon in 1958 to rearrange the political order there. President Truman fought the Korean War without a Declaration of War from the Congress, and Presidents Kennedy, Johnson, and Nixon fought the Vietnam War with no congressional Declaration of War.

Ironically, it was during the Presidency of the man who centralized presidential power more than any other—Richard Nixon—that the decline of the Presidency and the reemergence of Congress began.

Three events during the Nixon Administration dramatically shifted the balance away from the President and toward the Congress, where the ascendant power remains today.

The first was the secret and unauthorized extension of the Vietnam War into Cambodia. This led to a limitation in an appropriations bill in 1973 barring the use of funds for bombing in Cambodia. Soon to follow were the Clark Amendment, banning aid to the rebels in Angola (June 30, 1976) and the passage of the Foreign Intelligence Surveillance Act of 1978, which prescribed guidelines for the gathering of intelligence information through means such as wiretaps.

Second was President Nixon's impoundment of appropriated funds. These impoundments were taken to court by the Congress and the Congress won each one of them.

The third event was Watergate, which seemed to underscore the dangers of an imperial Presidency with powers too highly concentrated in the Chief Executive. In fact, Watergate was more a case study on what happens when paranoid people with a proclivity to dishonesty are put in power than it was an

indictment of a strong Presidency. Watergate itself demonstrated how the checks and balances in the system work. It underscored that a President in our system can never become too powerful.

But these three events set in motion a cycle in which congressional power eclipsed presidential power and left the Presidency on the defensive. Consider the following:

1. Congressional staffs grew enormously from 6,440 in 1960 to 18,718 in 1989. As Joe Califano, President Johnson's domestic adviser, told me, during his White House tenure, Congress had to rely upon the expertise of the Executive Branch agencies to draft legislation and key amendments for the Congress. Now the Congress, with its expanded staff, drafts its own amendments and controls its own agenda.

Moreover, the Congress now duplicates many of the institutions in the Executive Office of the President, creating, for example, in 1972, the Office of Technology Assessment, to serve the same role for the Congress as the President's science adviser and the President's Office of Science and Technology Policy, and in 1974, the Congressional Budget Office, to serve the same purposes for Congress on budget making and economic forecasting as the Office of Management and Budget did for the President.

2. Closely related, oversight of the Executive Branch has grown. Each agency now has its own oversight subcommittee. There is greater and greater congressional management of the Executive Branch. Appropriations bills are passed with detailed instructions on how many times ammunition has to be tested before it can be deployed, and employment floors are set on agencies for particular tasks, severely limiting the discretion of the Executive Branch to manage and implement policy.

In 1978, the Inspectors General bill was passed, placing what were effectively "congressional moles," Inspectors General, in Executive Branch agencies. These Inspectors General were to root out waste, fraud, abuse, and mismanagement in the management of Federal programs and to report simultaneously to the Congress and to the President on their findings. These were not the President's vehicles to improve the efficiency of the Executive Branch. Rather, they were Congress's men and women to help direct the Congress's oversight of the Executive.

3. Suspicious of Executive Branch action, Congress passed more than 200 legislative vetoes from 1973 until 1983, more than it had passed in the previous 200 years of the country's history. These restricted the ability of the Executive Branch to draft regulations implementing congressional statutes, if they were opposed by one House or, at times, by one Committee of one House of Congress, without giving the President the opportunity to veto that legislative action. This overreach of legislative authority was finally put to rest by the Supreme Court in the *Chadha* case, which held legislative vetoes unconstitutional.

But even today there are legislative vetoes in other forms. Early in the Administration, President Bush and Secretary of State Baker agreed to an informal legislative veto arrangement to obtain bipartisan congressional support in Nicaragua. Under the informal arrangement, not written into legislation and therefore constitutional, but nevertheless suspect in terms of presidential power, President Bush agreed not to spend any appropriated money for aid to the contras beyond February 1990 if any one of four Committees of Congress disapproved the aid. Thus, Congress effectively had the power to cut off aid without any presidential action.

4. The powers of the Commander-in-Chief were clipped by the War Powers Act of 1973, passed over President Nixon's veto. Under the War Powers Act, the President is precluded from maintaining troops in a potential combat area if Congress does not approve the deployment within 60 days. Certainly there was an abuse of presidential power in fighting wars such as Vietnam without a Declaration of War. But just as surely, the War Powers Act is an unreasonable restriction on the powers of a Commander-in-Chief to deploy forces. President Reagan's use of force against Libya, Grenada, and the deployment of naval power in the Persian Gulf were all done without congressional approval under the Act. So too was President Bush's use of American military force in Panama. All were arguably contraventions of the Act. A President ought not to have to violate a congressional statute to take such necessary action as the head of the armed forces.

5. Congress took away substantial presidential powers over economic policy in several ways:

a) Richard Nixon, in one of the most extensive exercises of presidential power, under the statutory authorization provided to him by a Democratic Congress which never expected him to use it, imposed wage and

price controls in August 1971. All prices and wages were frozen for 90 days. President Nixon, having called Congress's bluff, won the battle but lost the war as Congress removed the President's authority to impose wage and price controls.

b) One of the few tools left to President Carter to deal with raging inflation in 1980 was the authority to impose credit control under the Credit Control Act of 1969. When these controls were imposed by the Federal Reserve, interest rates declined. When credit controls were removed a few months later, interest rates rose again. Congress eliminated this use of presidential authority in 1980, thereby depriving the President of yet another instrument over economic policy.

c) In 1973, President Nixon temporarily embargoed soybeans to Japan; in 1974, President Ford temporarily suspended grain sales to the East bloc; and in January 1980, President Carter embargoed grain to the Soviets in retaliation for the invasion of Afghanistan. After President Reagan lifted the grain embargo in 1981, Congress made sure that the authority would never be used again by terminating it.

d) In 1974, the Jackson-Vanik Amendment and the Stevenson Amendment limited the President's ability to provide most favored nation treatment, dependent upon a nation's human rights performance and, in the case of the Soviet Union, its emigration of Soviet Jews. While I share the concerns for human rights and Soviet Jewry and support Jackson-Vanik, this nevertheless was one of a series of actions which diminished presidential discretion and authority to conduct foreign policy.

6. In a number of ways, Congress has insulated the President's subordinates from his authority. Thus, the Congress has required that the President's budget chief, the head of OMB, be confirmed; it has set specific terms of office for the Joint Chiefs of Staff; and it has issued periodic warnings of a desire to extend the confirmation process to the President's National Security Adviser. Similarly, Congress has lengthened the time of service of certain presidential appointments, such as the Director of the Tennessee Valley Authority, and it has required certain agencies within the Executive Branch, such as the National Transportation Safety Board and the Consumer Products Safety Commission, to directly submit their budgets to Capitol Hill, without going through the OMB process through which Presidents control their budget.

7. Nothing has changed the presidential/congressional relationship as profoundly as the Anti-

Impoundment and Budget Control Act of 1974, creating the congressional budget process, limiting presidential impoundments, and establishing the Congressional Budget Office. In Washington, information is power. The congressional budget process and Congressional Budget Office ended the monopoly Presidents had on economic and deficit forecasts and projections of the cost of presidential initiatives.

The creation of the congressional budget committees and the entire congressional budget process has also enormously complicated the President's ability to develop a budget with the Congress. For seven straight years Congress failed to finish the appropriations process by the start of the fiscal year and had to operate under Continuing Resolutions. More and more congressional time is now eaten away at the budget process, and the President has had great difficulty gaining control over it. In a parliamentary system, the entire government would fall if the Prime Minister's budget were not promptly enacted by the Parliament. In the U.S., impasse is now the apparent mode.

III. STRENGTHENING THE PRESIDENCY

The Presidency must be strengthened for the United States to meet the challenges confronting the country at home and abroad. Congress is not constituted to provide leadership because of its disparate and divided membership.

I suggest the following ways to strengthen the Presidency without losing the proper relationship with the Congress and the courts explicit in our Constitution.

First, repeal the 22nd Amendment to the Constitution which limits the Presidency to two consecutive terms. George Washington voluntarily established the two-term limit which was followed until FDR. There is no logical reason to limit a President's term by law. No one has seriously suggested doing so for Members of Congress. Their seniority gives them their power. To artificially limit a President's tenure is to deny the American people a choice and to make the President an ineffective lame duck in his last two years in office. Even if a President were to choose not to exercise the right to run after two terms, the mere option would strengthen his hand.

Second, a presidential candidate's greatest opportunity to implement his agenda if he is elected will come from a clearly articulated set of campaign issues on which he can claim a mandate. President Reagan

could claim such a policy mandate in 1980. So could Lyndon Johnson in 1964. But it would be difficult to look at the campaign of 1988 and feel that George Bush could make a commensurate claim. A presidential campaign must stand for something other than the opponent's problems. The transition and early months of the Presidency must be structured so that the themes of the presidential campaign can be translated into clearly prioritized legislative initiatives which the President can then insist that the Congress pass to fulfill his electoral mandate. Certainly, the first imperative of a presidential campaign is to win. But it is just as essential to win standing for something clearly discernible and understandable.

Third, in the course of a four-year term, a President makes literally hundreds of significant decisions. And, yet, it is my experience that it is only perhaps a half a dozen decisions during a term on which his Presidency will hang in the balance. The crucial thing is for him to recognize those decisions and to concentrate his attention and resources on them.

There are three sets of decisions which, among the myriad ones he will make, will make or break him. If he can make them correctly, he can help impose his vision on the country, despite all the constraints on his action. If he fails, his Presidency will be imperiled, regardless of how well he treats the hundreds of more secondary decisions.

1. The first set of decisions involves setting the early course of his Administration. The President must prudently choose a very limited set of the most important things he wishes to achieve and for which he wishes to be remembered, devote a disproportionate amount of his energies and resources to them, and concentrate the attention of the public and the Congress on these proposals. These can provide him with early victories during the honeymoon period, build up his public credibility, and raise his stature in the Congress for the inevitable down times when things get rough during a Presidency.

President Reagan learned a lesson from the Carter years in which we overloaded the congressional circuits with far too many major initiatives, which dispensed President Carter's energies and failed to give a clear focus to our agenda. Mr. Reagan put on the back burner many of his campaign promises on the social agenda of the right wing of his party and focused instead on budget cuts, tax cuts, and a defense buildup. By concentrating his resources and the public's attention on a few things, he was able to

demonstrate success and bolster his strength for the inevitable ebbing of presidential power that occurs over the course of a four-year term.

2. A second set of decisions will be equally important—how the President reacts to unanticipated external crises. The real mettle of a President is judged by how he reacts to unexpected events. It is here where true presidential leadership can be demonstrated. It is precisely in these situations that the political system gives the President the greatest latitude, since it is recognized that only by unimpeded Executive action can the external crisis be handled. President Lincoln said it well, “Only events and a man’s exertions on his own behalf, can make a President.”

No President consciously creates such a set of circumstances, but they give him an enormous opportunity to demonstrate his leadership and to rise above the constraints of his office. John Kennedy’s most shining hour as President came during the Cuban missile crisis. And when the Russians unexpectedly launched Sputnik and sent a clear signal to the United States that the Soviets had a lead in aerospace engineering and technology which could threaten U.S. national security, President Eisenhower reversed his opposition to Federal aid to education and proposed the National Defense Education Act, which was the first modern Federal aid to education.

Of course, every external event does not lead to dramatic presidential action. Indeed, sometimes “no action” is the best decision. Thus, in September 1983 when the Soviets downed KAL Flight 007, besides some rhetorical objection and some very mild action such as limiting commercial flights with the Soviet Union, President Reagan essentially chose a no action option. This proved to be the right option since arms talks were just starting and it was not clear that the downing of the airline had been a command decision from the Kremlin rather than the action by a trigger-happy local commander.

A President must be ever alert to external events because they do give him the opportunity for bold and decisive action. President Bush missed a golden opportunity to demonstrate that he really meant to be an environmentalist President after the Valdez, Alaska, oil spill. Instead, by delay and half measures, he failed to use the crisis to demonstrate decisive presidential leadership.

3. The third set of presidential decisions, and the most important, revolves around the economy. I am convinced that if a President makes the right decisions

on the economy, he can suffer many mistakes or lack of success in other areas. A President's popularity is inevitably buoyed by a rising economy and depressed by economic troubles. Quite apart from the Iranian hostage crisis, President Carter would probably have lost the 1980 election because of double-digit interest rates and inflation.

A great deal is made about President Reagan's skills as "the great communicator," but these would have gone for naught had the economy not turned around for him in late 1982. During what was the worst recession since the Great Depression of the 1930s, President Reagan's popularity plummeted well below that of President Carter and his immediate predecessors at a similar point in their Presidency. While many factors contributed to his high rate of popularity the last part of his first term and during his second term, none came close to the lift provided by a sustained period of six years of uninterrupted growth.

Presidents should spend a disproportionate amount of their time on the economy. But few do. President Carter spent perhaps two-thirds of his time on foreign affairs, where the allure and greater opportunity for unilateral presidential action drew him—and draws most Presidents. But Presidents rarely win or lose elections and rarely can buoy up their support on a sustained basis by foreign policy successes. I remember being amazed, along with my White House colleagues, at how little long-term boost in standing President Carter achieved following his dramatic success at Camp David. It was little more than a blip after a few weeks. The American people still vote their pocketbooks and Presidents will forget that at their peril.

A President can do nothing more important to assure a sound economy than to be willing to take tough steps to keep inflation under control, regardless of the short-term political costs. Our biggest mistake in economic policy and one for which we paid the ultimate price—defeat at the polls—was in misjudging the strength of inflationary forces in the economy, focusing excessively on stimulating short-term growth and temporizing until it was too late with inflation.

Fourth, as difficult as it will be to convince the Congress to do so, it is essential to restore to the Presidency many of the powers which have been lost over the past two decades.

I believe it is worth a try to have a trade-off with the Congress on foreign policy, such as has been suggested by Senators Danforth and Boren and is implicit

in the Nunn-Warner-Byrd amendment to the War Powers Act. A congressional consultative mechanism with the Chairman and ranking Members of the key Committees and the leadership would be created so that Presidents would have an early opportunity to enlist congressional support for their major foreign policy initiatives. In return for this, Congress would do less micro-management and intervention in the national security area.

A President is going to make his mark or lose the opportunity to do so in his ability to work with Congress. Each President must work with Congress in ways that accord with his own personality. Lyndon Johnson could act in one way. President Bush in another. But every President must be willing to spend an inordinate amount of time in formal and informal sessions with Members of Congress so they are invested with a stake in his Presidency. Nothing will pay greater dividends. This was an aspect of his Presidency that President Carter did not relish. Members of Congress sensed this and it had a negative impact on President Carter's relations with the Congress.

At the same time, while cooperation and compromise are frequently the order of the day, Presidents must know when to stand and fight and when to draw the line in the sand. Our Administration made two early mistakes in this regard. During the transition between the 1976 election and the Inauguration, President Carter indicated his desire to nominate Ted Sorensen as the CIA Director. When pressures built up on the Hill to oppose the nomination, rather than fight it out, the Sorensen nomination was dropped.

While many aspects of the Tower nomination were mishandled and bungled, President Bush was right to fight it out to the bitter end, rather than to withdraw at the sight of congressional opposition. This will stand him in good stead in future fights. It also explains his determination to threaten a veto for any minimum wage increase over \$4.25 an hour—although only \$.30 per hour less than the congressional bill. Winning an early fight with Congress builds in a success that will make Congress more willing to sacrifice on his next issue.

In economic policy, since a President, rightly or wrongly, is going to be blamed or praised for the state of the economy, he ought to have the maximum opportunity to influence it. As President Hoover put it, "In the end the President has become increasingly the depository of all national ills, especially if things go wrong." In this regard, I recommend the following:

— A President should be given greater discretion over appropriations spending by the Congress. While it is not worth the effort to try to amend the Constitution to provide Presidents with a line item veto, and we should not go back to the Nixon days of outright impoundments, Presidents should have enhanced authority for rescission. Currently, a President can defer spending on any particular program until the end of the fiscal year by sending up a deferral message unless the Congress affirmatively overturns the deferral. However, he can rescind spending on one or more items in a large appropriations bill—in effect a statutory line item veto—only if Congress affirmatively supports the President’s action.

I would strengthen the President’s rescission authority by allowing his rescissions to go into effect unless a majority of the House and Senate oppose them. This would modestly increase the President’s authority over fiscal policy. To further strengthen the President’s hand over the crucial budget process, the President’s signature should be required for a congressional budget resolution to be binding.

— Congress should restore to the President the credit control and wage and price control authority that were stripped away over the last two decades. It is doubtful that Presidents would or should use this authority often. But having the club in the closet would be useful during times of economic difficulty and might give the President more leverage to take more traditional actions to control inflation and high interest rates. The same is true with respect to embargo authority. I am not a devotee of embargoes and believe they can often be ineffective and indeed counterproductive. But, Presidents should be the ones who have to make those decisions and should have this weapon in their arsenal.

— The President should have greater influence over monetary policy. I would not put monetary policy squarely in the Treasury and under the President’s jurisdiction, for the temptation to have an easy money policy would be irresistible and ultimately damaging to the economy and to the country. But the Secretary of the Treasury should sit on the Open Market committee of the Federal Reserve Board so the Administration’s position can be more clearly articulated and fiscal and monetary policy can be more closely coordinated. Moreover, the Fed Chairman’s term should be coterminous with the President’s so the President does not have to live with a prior President’s holdover in such a central position.

— The leadership of the House and Senate should allow a President two or three key votes on the floor on his priority legislation so his major initiatives cannot be endlessly bottled up in committee. This could be done at the beginning of a congressional session. A President may decide not to exercise this opportunity if he sees defeat coming, but it is an opportunity that he nevertheless should have so he can at least be certain of getting a vote on his key priorities.

— The President's opportunity to conduct national security policy should be as unfettered as possible. The War Powers Act has been an abject failure. It is unworkable and unreasonable. It should be repealed or significantly amended. There is a promising amendment proposed by Senators Nunn, Warner, and Byrd, and by Congressman Hamilton, under which Congress would have to take affirmative action to restrict a President's deployment of forces in a combat area, rather than terminate deployment by a failure to act. In this way, Congress still retains a role, but must take affirmative action to restrict a President's deployment of troops.

Fifth, efforts should be made to reinvigorate political parties. They can be an important asset in helping a President govern and in giving a President greater leverage over the Members of Congress of his Party. If congressional Members of the President's Party have a greater stake in the success of his Presidency, they will make the President more successful.

In an age of television and mass communication, with party affiliation among voters declining and the public voting for the individual more than for his or her party, this is a very tall order. But it is worth an effort to strengthen political parties relative to the interest groups which balkanize the political process. To the extent that political parties can serve as a buffer between interest groups and a President and Congress, the President can have greater leverage over the political system. There are a number of steps that are worth examining in this area. I would impose severe limits on political action committee giving to Members of Congress, but would permit virtually unrestricted giving, with full disclosure, by political action committees and individuals to national political parties, which in turn could distribute the funds to Members. This would give national parties more leverage over Members, and since Presidents control the national committee of their Party, this would strengthen the hand of the President.

Sixth, I would like to see four-year terms for Mem-

bers of the House. This would serve two purposes. It would take some of the enormous pressure off Members who must run every two years, and it would require Members to run on the same cycle as the President, making them realize that their success and the President's are more closely linked than they are today.

Seventh, institutionally, the Office of the President must be strengthened. In the end, government comes down to people. The right people in key positions can make a Presidency, as Jim Baker, President Reagan's Chief of Staff, demonstrated. The wrong people can spell disaster. It is not just a question of putting good people in the government; it is putting them in places where their particular skills will fit. Much of the difference between the first and second Reagan terms was in having the right person as Chief of Staff in the first term and the wrong person, Don Regan, in the second. While Regan was a perfectly capable Secretary of the Treasury, he did not have the political skills required for Chief of Staff. The inexperience of President Carter's White House Staff was a crucial reason for the difficult first year we had and the early impression of ineffectiveness. Had seasoned hands like Lloyd Cutler or Anne Wexler been in the White House from the first day, the Carter Presidency would have been far different.

There are changes in the structure of the Executive Office of the President that would strengthen the Presidency. One is to reduce the number of operating units within the Executive Office, particularly those advocacy-oriented units, such as the Council on Environmental Quality. The White House must integrate and coordinate policy. This job is impeded and the President's job made more difficult when there are special pleaders within the Executive Office of the President itself. These advocacy units should be stripped out of the Executive Office of the President and put in existing agencies.

The presidency would be strengthened by an addition of a unit similar to that found in the Prime Minister's office in Great Britain and Canada—namely, a White House Secretariat, a small group of top level career civil servants to provide the historical memory and continuity so lacking in the modern Presidency.

When one walks into the West Wing of the White House, immediately after the Inauguration, for what has to be one of the giddiest experiences a person can have, the White House is virtually empty. All the pictures from the previous President have been taken

down, his files have been removed, his staff is gone. There is almost no overlap, even in the Bush-Reagan transition, between the foreign, domestic, and economic staffs of the White House. No one could imagine a modern corporation functioning with this kind of discontinuity and yet that is precisely what a new President faces when he comes into office. With the exception of the career staff at the Office of Management and Budget and a few holdovers in places like the National Security Council, the entire White House Staff and Executive Office of the President turn over almost 100 percent between Administrations. There is no one around who can tell the President the land mines on which his predecessor may have already stepped.

The fact is that Presidents often make major decisions in ignorance of the historical background of the issue. Thus, with the Iran contra affair, President Reagan and his National Security Council staff failed to appreciate many of the lessons the Carter Administration learned from our own mishaps with Iran—misunderstanding the nature of its revolutionary forces, the likelihood that secret negotiations would be leaked, the inability of the Iranian government to deliver on its promises, and the absence of any real moderates with whom the United States could deal. Similarly, when Secretary of State Vance stated that the status quo was unacceptable after the “discovery” of the Soviet brigade in Cuba in 1979, it resulted from a blind spot in memory. President Kennedy had sanctioned the presence of a Soviet brigade as part of the resolution of the Cuban missile crisis, a fact only later discovered in the State Department’s records.

A President needs a strong White House staff of trusted political aides who share his world view and who can impart direction to Cabinet Departments driven by the interests they serve. But there is an equal need for political aides to be supplemented by non-political career civil servants who will help provide a historical memory and review historical precedent. Thus, a White House Secretariat should be created in the Executive Office of the President, composed of perhaps a dozen career government employees of the highest caliber. The Secretariat would be charged with providing the President’s top staff with historical analogies drawn from their own experience and from the agency bureaucracies to keep the President out of trouble.

Eighth, because there are so few inherent powers in the Presidency, the President must make maximum

use of the symbolic features of the office. The Presidency embodies the values of the country and the President must constantly embody those values by word and deed. In retrospect, what was most endearing about Jimmy Carter during the 1976 campaign to the American people—the common touch of carrying his own suit bag and suitcase, making his own bed in the home in which he stayed—translated into perceived weaknesses as President. By a wholesale group of actions, from selling the presidential yacht Sequoia to refusing initially to have Hail to the Chief played when he entered a room, President Carter attempted to demystify a Presidency the American people wished to keep on a pedestal.

In the end, Presidents can make other institutions bend to their will only if they are successful in holding public opinion on their side and mobilizing it behind their programs. This must be done not by simply appealing to the head but also to the heart of the American people. They must feel themselves a part of the direction in which the President wishes to lead them. FDR once said, “I cannot go any faster than the people will let me,” and Lincoln said, “With public sentiment on its side, everything succeeds; with public sentiment against it, nothing succeeds.” Americans, preoccupied with keeping their own heads above water and with the everyday responsibilities of life, cannot be expected to follow and support the myriad decisions a President must make. The people must be given a sense of a larger whole, of a Presidency that is more than the sum of its parts. A poet once said, “The fox knows many things, but the hedgehog knows one big thing.” A President must know and articulate a few big things for the public, for a Presidency cannot be supported in a conglomeration of a great many marginal ones. He must ruthlessly set his priorities so that those big things are not overwhelmed by other issues, so that he is not bled to death by a thousand small wounds. He must constantly reiterate what those big things are, and why they are important to the country. This is the essence of presidential leadership. It is what enables a President to rise above all the conflicting forces and institutions which pin him down, hem him in, limit his power.

In the end, no one leads if the President does not. The Congress, the Cabinet, the bureaucracy, the American people, and the world itself—foreign leaders, leaders on the Hill, leaders in the corporate sector, leaders of interest groups, and average citizens—all

look to the President for leadership. It is his responsibility to send a clear signal and to sound a certain trumpet. President Wilson said it well: "The President is at liberty, both in law and conscience, to be as big a man as he can."

A President can—and should—enlarge the vision of our citizens. But it is our responsibility as citizens to give the President the tools he needs to meet our expectations; to give him the benefit of the doubt; to recognize the limitations under which he must operate; to be educated and to be informed. The American people have a right to expect a great deal from the President. But if we expect the impossible, if we believe the President can solve every social ill, foreign problem, and economic difficulty, we will inevitably be disillusioned.

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