

The Heritage Foundation

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Thank you very much, Fritz. As we stand here this evening, one year past the half-way mark of the 1980's, we need to take stock of where we are, and look at how far we've come, particularly in the course of the last five and a half years.

I think that we would all agree that President Reagan's firm vision of what America could be, and his unrelenting faith in the spirit of the American people has brought our great republic out of the so-called "malaise" that we were allegedly in just a short time ago. His great moral leadership has renewed our confidence in our ability to govern ourselves. As he has said many times, his confidence was not in government, but in the American people. And the idea that we should let the American people make more decisions for themselves has permeated the many governmental programs he has championed, including the tax reform program that is before Congress at this very moment.

As a result of this confidence in the people and the willingness to get government out of the way as much as possible, our economy is stronger than it has been in years. Inflation is down. Interest rates have dropped, and business is on the move again. As a matter of fact, you know that things are going pretty well because the press has stopped talking about a misery index. Young families have once again found that they could afford their first home, while older Americans can enjoy their retirement for which they worked and saved. Our economic health, in fact, has rewoven the social fabric of this great nation.

If you look beyond our shores, we once again stand tall and proud. Our defenses are stronger than they have been for decades, and we're growing stronger. You only have to go out and meet with the young men and women of our armed forces to realize how far our country has come in five and a half years.

On the home front, we've renewed our efforts to restore the principal heart of the American republic. We've sought to restore some of our most basic principles of limited constitutional government, including such concepts as federalism and separation of powers. Our objective has not been simply to get government off the backs of the people, but to enable the national government to achieve its proper objectives with efficiency and with equity.

As a result, politics at the state and local level have also been reinvigorated. Just recently, there have been articles in some of the leading news magazines about the rediscovery of state government and the creativity and new ideas coming out at the state level. These articles attributed this to what the Reagan Administration has done on the federal level. Well, that's what our strategy has been all about because it's at the state and local levels that government is closer to the people. And it is there that the rules, regulations, and conditions that pertain to the everyday living of our people should be formulated and determined by legislative bodies.

That's what it means to participate in our great federal system of popular government. We've sought to restore our most basic belief that government means government by the people, and that we, the people, have the constitutional right and the political obligation to define the moral and legal content of our public lives. So, in summary, as to where we are at this point in the 1980's, America is back, and once again we stand together as a sturdy and

robust people, ready, willing, and able to confront the problems that we face, and to solve those problems.

It has been said by many that America is once again proud, and I think that's an important statement of where we are, not the arrogant or harsh pride that some would say we should avoid, but rather the quiet pride of accomplishment and self-confidence that we can use to solve problems and continue our position of world leadership.

The important thing, as we look at the objectives that you've been talking about — trade policy, foreign policy, national security policy, and economic policy — is to think about how we can protect, preserve, and perpetuate what has already been accomplished. Therefore, I think we ought to consider how we can institutionalize what has already been accomplished and what we hope to accomplish in the next two and a half years.

The liberal and leftist forces that have held power for so long before this Administration have not been vanquished or neutralized by any means. They are continually plotting ways to negate the efforts of President Reagan and this Administration, and to regain control of the machinery of government over which they had such influence for such a long time.

I would suggest to you that the intellectual and philosophical battles are becoming more intense each day, particularly as we head this year towards the November 1986 elections. And I predict that this battle will produce new levels of sound and fury during the two years that precede the presidential election of 1988. The social engineers, the champions of centralized federal power, the liberal elitists, and the big government special interests are dismayed and enraged by the demonstrated success of free market economics, deregulation, fiscal responsibility, international leadership, and peace through strength.

Their response has been to increase the viciousness of their attacks, to attempt to play down the successful results of the past five years, to distort the economic progress that's been made, and to appeal to divisive elements of race, class, and status in an effort to set groups of Americans against each other and rebuild the voting blocks upon which their former victories depended.

The advocates of the liberal causes in the news media, in the news media, in academic communities, and among special interest groups are losing no opportunity to attack this Administration, to misrepresent our purposes, and to belittle our achievements. The constant presence of an organized opposition, well funded by their appeals to the fears of gullible citizens, driven by an insatiable appetite for government power, should be a continual warning to us against any complacency or smugness, whether it be in election or in trying to push our proposals through Congress or in continuing to educate the American people.

And so I would say that as we look to where we are at this point and look ahead towards the 1990's, we have an important challenge, not only to continue our efforts to implement the policies and programs that are currently before the country, which represent the mainstream political thinking of the American people, but also how to institutionalize our successes so that they will continue into the 1990's and beyond.

Tonight I'd like to speak to you about four initiatives that I think would contribute to this institutionalization of the philosophies and the policies in which we believe. They are important because we must remember that our ultimate goal is to secure this great revolution that President Reagan has wrought.

The first way is to continue to restore the principle of federalism. As you know, Ronald Reagan arrived at the White House reiterating his longstanding call for a restoration of healthier federal balance to our politics. In many ways the “new federalism” initiatives which we have successfully implemented have proved to be one of the real success stories of the first term, as many political commentators have begrudgingly admitted. We’ve made major reductions, for example, in federal regulations, and have thereby been able to relieve state and local officials of the stifling burdens and bankrupting costs of those regulations. But we have not been content to leave this at the level of policy. We have now moved on to the deeper level of principle.

Recently, the President signed a statement of principles which were distributed to all the members of the cabinet and all heads of government agencies. These principles represented the President’s specific understanding of the proper relationship among the national, state, and local governments and the people they represent.

At the direction of the President, these principles are to guide the members of the Administration in the formulation and implementation of policies and particularly of regulations. They represent the President’s commitment, not simply to good government, but to good constitutional government. They reflect a proper reading of the original intent of the framers of the Constitution, as well as the frame of mind of the American people. We believe it will be a major success of federalism in action.

For example, the second principle in this list — and I won’t go through all of them tonight — confirms two things that we in Washington all too often may be able to forget. It states that the national government is a limited one of enumerated powers, and that the states are held to be sovereign in all other respects, except where specifically prohibited or required by the Constitution.

The eighth principle goes even further, and demands that the national government recognize the responsibility of individuals, neighborhoods, local government and private associations to achieve their personal, social, and economic objectives through cooperative effort. Well, to further the President’s statement, we also need to reexamine various legal documents. Among the things we in the Justice Department are looking over is the Commerce Clause, which too often has been misused to expand the scope of the powers of the national government at the expense of the states, corporations, private individuals, and other entities.

The executive branch, Congress, and courts should confine the use of such doctrines to the original meaning of the constitutional provisions from which those doctrines were derived. There’s no reason, to take one illustration, to accept forever the recent case of *Garcia v. San Antonio Transit Authority*, which held that federal labor regulations supervene the activities of state and local governments. We don’t believe that this should be, or will be, the final word as to this important question. This is only one of many rulings in which we are strategizing to set the legal framework so that they may be overturned. This will thereby return the law of the land back to the original meaning of the Constitution. It is imperative that President Reagan’s commitment to federalism be one of the lasting legacies of this revolution.

The task remaining to us now is two-fold: first, to ensure that the statement of principles that I talked about is implemented; and, second, to root out the policies and regulations such as federal preemption that undermine federalism. In short, we must leave behind us the institutional mechanisms that will be capable of keeping the national government on a much shorter federal leash. Now, this is not an easy task, but it’s a task in which Heritage is greatly in-

volved, through its publications, seminars and conferences, and other means of communications. Through these efforts Heritage has helped people see that in the long run government of the people and government by the people requires that people get involved at the local and state level, and that the federal government not assume the concentration of power that characterized the 50 years prior to 1981.

A second initiative that we must undertake in order to secure the true restoration of our form of limited constitutional government is the maintenance of our basic theory of separating the powers of the national government itself. Toward this end, we are seeking to resuscitate the notion of an energetic and unitary executive. As our arguments in the brief that was filed recently in the Gramm-Rudman-Hollings case demonstrated, good government depends upon an executive branch which has the power sufficient to truly execute the laws duly passed by Congress.

And we have been consistent in our view, not wanting the executive to trespass in any way upon the powers of either of the other two branches, but likewise making sure that the other two powers did not trespass upon the executive branch. We must curb, for example, the Congress' tendency of micro-managing the functions of the executive branch, which I believe is one of the most serious threats, not only to constitutional government, but to sound, effective, and cost-conscious government.

The amount of time, resources, and energy that is taken in trying to respond to the manifold requests for information that stem from the congressional branch, including the time testifying on minuscule matters that have nothing to do with policy or legislation, absorbs a great deal of resources which would be far better used, in the case of the Justice Department, to enforce the law, curb drug dealers, and go after organized crime. And that same could be said by every other cabinet member or department head, and particularly in the Defense Department, where the Packard commission pointed out that one of the great problems faced by Defense was the micro-management of the department by Congress.

A part of the effort to restore a truly independent and energetic executive would come from giving the President something he has asked for repeatedly — the line item veto. This device would help restore the balance between the appropriating functions of Congress and the budget proposing responsibility of the president. As Ronald Reagan has said many times, he'll be glad to take the heat, whatever it might be, from cutting some of the unnecessary functions of government.

We also seek to restore the proper separation of powers to ensure that the judiciary likewise observes its limited role under the Constitution. We live in an age that Raoul Berger has described as government by judiciary. A liberal himself who has come to see how things have changed over the course of the last half century, Berger has set forth in his writings how the courts were never intended to be policy makers, and that judges should not be presumed to have, as Nathaniel Gorham told the federal convention of 1787, any peculiar knowledge of ordinary questions of policy.

Judges should be judges, not legislators, not city managers, or platonic guardians. When the judiciary undertakes, as too many judges have, to wield the power of legislation or to decree their own idiosyncratic set of values, then something must be done. And that is why, as a part of separation of powers, we need to reconsider judicial doctrines that create broad, standardless balancing tests which too often allow courts to engage in ad hoc, result-oriented decisionmaking.

Now, there's been something of a debate on this subject during the course of the past year, and I think it is the first time in many years that justices of the Supreme Court have felt compelled to come forward and defend their actions. I believe that's a good thing because it is much better for the public to see what is behind the arrogation of power by some members of the Court, and to have it laid out in front of them. That way a knowledgeable public will demand that we restore the balance that is inherent in a true separation of powers.

The third way that I think we can institutionalize the Reagan revolution is through the process of judicial appointments. No constitutionally granted power of the President has drawn such liberal ire as his dedication to the proposition that the best judges are those who know their constitutional place. As a matter of fact, no area of the President's responsibilities have drawn such a vicious attack as has his appointment of judges.

As you read Time magazine this week and some other other news columns, you will see the most flagrant distortion of the truth and the most systematic series of falsehoods, drawn almost entirely from one left wing special interest group — which is apparently well-funded from liberal sources and is dedicated to advancing falsehoods, distortions of character, and absolutely misrepresenting what the President is trying to do.

We've sought to place on the federal bench the very best and brightest among the legal profession, and the statistics prove this. We've brought talent and experience and, much to the chagrin of the liberals, we've brought you to the federal courts. Make no mistake. We have no litmus test. We do not seek candidates who take or shun particular stands on contemporary policy issues. That's too superficial an indication of what a good judge should be. It's a person's dedication to principle, not his or her preference for policy, that we try to measure. We look for judicial temperament, not ideological orthodoxy. The issue before the President when he selects from among a group of candidates is a person's understanding of the nature and extent of judicial power under the terms of our Constitution of limited powers. We are seeking judges who will preserve and perpetuate our Constitution well into its third century.

Perhaps nowhere else is the tide of mindless liberalism that has too often characterized our politics for the past 30 years more likely to be stemmed than in returning federal judicial power to the hands of judges who appreciate our grand tradition of judicial propriety.

The final means that I wish to suggest tonight as a necessary step in keeping on the right course as we move into the 1990's is one with which most of you are familiar. It's one that I know most of you will agree with, and it's an option that ranks very high with the President himself. I am, of course, speaking about the balanced budget and spending limitation amendment to the Constitution. For the past half century, the federal government has grown by leaps and bounds. It has grown, not because people set out to do something wrong, but because they set out to do what they thought was right.

But when you add up all the right things, it adds to the concentration of federal power through the appropriation of resources through the federal purse. There was a time when the Post Office was the only large bureaucracy. Now nearly every public issue has its own. And those of us who have been in Washington have been astounded by how easy it is for groups to get appropriations of money.

Many times we've had discussions with well-meaning people from this or that group, and we've said that if their local project were really important, why couldn't their state legislature appropriate the money? Or, similarly, why couldn't their city council take on that function?

And too often the answer is, “Oh, we could never get them to do that. It’s much easier to go to Congress.”

Well, that’s what’s happened, and that’s why today we have the deficit, and why we have an enormous federal budget approaching \$1 trillion. Self-interest is a powerful thing, and Congress necessarily seeks to accommodate each demand, and we all know that there is no interest group that represents the broad general public interest when it comes to appropriation time. We’ve even seen that politically, without some special external controls, the spending mania is not likely to be stopped.

Even an innovation such as the Gramm-Rudman-Hollings Act shows how, although the congressional head is in the right place, too often the congressional heart is too soft to make the hard choices item by item.

Now, I’m not sure how the Supreme Court case with Gramm-Rudman-Hollings will come out, but I do know that the only thing that will prevent us from returning to the deficit conditions of the late seventies and early eighties is some external control on the Congress such as the balanced budget and spending limitation amendment to the Constitution.

These are the four means that I feel would be helpful in institutionalizing the Reagan achievements for the 1990’s. They certainly don’t exhaust all the possibilities, and I know others have additional ideas. This is especially the case at the Heritage Foundation, which is one of the most intellectually vibrant organizations around. As we’ve looked to the Heritage Foundation so often in the past to articulate the policy choices that are most conducive to our broader political vision, we will continue to do so in the future. If the number of Heritage envelopes in my mail is any indication, I suspect you’re more than willing to keep up the excellent output that has so well served the conservative cause in this Administration. As Richard Weaver has so famously put it, “Ideas have consequences”, to which I can only add that it therefore follows that the right ideas have right consequences. Together, ladies and gentlemen, I know we can institutionalize our successes so that the values of free enterprise, limited government, and personal liberty can be handed down to generations yet to come.

Thank you.