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THE WHITE HOUSE  
WASHINGTON

February 23, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

RON NESSEN

FROM:

JIM CONNOR *JEC*

SUBJECT:

PRESIDENTIAL POWER

The President reviewed your memorandum of February 18, copy attached, and made the following notation:

"OK"

Please follow-up with appropriate action.

cc: Dick Cheney  
Jim Shuman

THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

February 18, 1976

MEMORANDUM FOR THE PRESIDENT

THROUGH: DICK CHENEY

FROM: RON NESSEN *RHN*

We have received a number of requests -- from the New York Times and the Saturday Evening Post among others -- for your view on the question of whether the Presidency has lost power in the wake of Watergate and Vietnam. Attached find a suggested draft answer prepared by Bob Goldwin and me.

We would appreciate any revisions or suggestions when you have a free moment to review this.

The New York Times, especially, would like to have an answer as soon as possible.

*OK*  
*[Signature]*

DRAFT RESPONSE TO  
QUESTIONS ON PRESIDENTIAL POWER

Q: Do you think the Presidency has lost power or authority to Congress in the aftermath of Watergate and Vietnam?

A: No, I don't think the President has lost his basic powers.

The powers of the President are established by the Constitution and by law and there have been no fundamental changes in these grants of authority.

What has happened recently is that the Congress, which has a better than two-to-one majority of members of the Democratic party, has asserted a demand to play a larger role in certain aspects of Government, partly for partisan political reasons.

In order to understand the situation today, we must look back at our history. The three branches of our government -- the Executive, the Legislative, and the Judicial -- share power under a system of checks and balances written into our Constitution. Over the 200-year history of our country there have been periods when the proper balance got out of line, when the Executive or the Congress...and, on rare occasions, even the courts...took on more power than the Founding Fathers intended.

Whenever this has happened, the system has corrected itself. The pendulum has swung back the other way. Sometimes, in fact, it has swung back too far and there has been the need for another correction.

Frankly, I believe that Congress recently has gone too far in trying to take over powers that rightfully belong to the President and the Executive Branch.

This probably is a natural reaction to the steady growth of Executive Branch power over the past 40 years. I'm sure it also is a reaction to Watergate and Vietnam. And the fact that I came to this office through a Constitutional process, and not by election, also may have something to do with the current efforts by the Democratic Congress to take away some powers of the President.

As a Member of Congress for 25 years I clearly understand the powers and obligations of the Senate and House under our Constitution. But as President for 18 months I also understand that Congress is trying to go too far in some areas.

The Constitution does give Congress an important role in foreign policy.

But, in an era of intercontinental missiles and instant communications, only the President can manage day-to-day relations with more than 100 foreign nations.

We already have seen clearly the disruptive effect when Congress tries to involve itself in the daily conduct of foreign affairs. I'm thinking of Angola, aid to Turkey, Soviet emmigration and trade, and the damaging disruptions of our legitimate foreign intelligence activities.

My successful and constructive use of the veto is proof that the Presidency has not lost its power to stand up for the best interests of the nation against a large Congressional majority of the opposition party. I have used my veto -- as the Constitution intended it to be used -- to remind Congress that on certain issues, when I disagree with the judgement of Congress, more than an ordinary majority is required to resolve the issue. My vetoes have forced Congress to re-think their first decision on issues, and, in many cases, to come up with a far better answer. This process has saved the taxpayers billions of dollars and has been, I believe, an important use of Presidential power.

As for the future, I am confident that after January 1977, when I am elected by the voters, when more Republicans are elected to Congress, when the economy has improved even more and when the historic pendulum has swung back, as it always does, then some of the concern expressed now about the supposed loss of Presidential authority will diminish.