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Take the Constitution Seriously in the Second Term **by Sheldon Richman**

Should President Bush declare a mandate and push ahead with his agenda or extend an olive branch of conciliation to his opponents?

This is a typical false alternative that American politics often presents. He should do neither. Instead, he should do what on January 20 he will declare he is obligated to do.

On Inauguration Day he will swear, as the U.S. Constitutions prescribes, that he will “faithfully execute the Office of President of the United States, and will to the best of [his] Ability, preserve, protect, and defend the Constitution of the United States.” He should refuse to do anything else. That will keep him busy enough the next four years.

Of course, that would be a major break with what he has been doing the last four years. According to the Constitution the presidency is a modest office. The powers are rather few. Article II begins, “The executive Power shall be vested in a President of the United States,” that is, he executes the laws passed by Congress, which is also bound by a small number of powers. The president can spend money only as appropriated by Congress. Other than that, the president appoints judges and other officials (with the advice and consent of the Senate), makes treaties (which must be ratified by the Senate), and is commander in chief of the armed forces and the state militias when called. Note two things to about this last power: He is not *our* commander in chief, as people seem to believe, and second, being commander does not include the power to declare war. That power was reserved, exclusively, to the Congress. This will be news to many, especially in Washington.

The president’s obligation to uphold by the Constitution applies whether he wins by a squeaker or a landslide. So his agenda for the next four years ought to be plain: terminate all programs and projects that fall outside of constitutional limits.

Bush should get out of Iraq as soon as possible. This was never a defensive war, and it was not declared by Congress. It’s unconstitutional. So is trying to remake the Middle East.

He should also restore habeas corpus to the exalted position it occupied before the administration announced that it could forever hold even American citizens on America soil

without charge and without judicial review merely by declaring them enemy combatants. The courts have reined in the administration somewhat, but how heartening it would be to see Bush give up his indefensible position. While he's at it, he should ask that the USA PATRIOT Act be repealed. Secret warrants and promiscuous eavesdropping have no place in America.

Next, he should acknowledge that the federal government has no constitutional authority to have any role in education whatsoever. The No Child Left Behind Act should be repealed, and all federal education appropriations should be rescinded. The Department of Education should be closed.

After that the president should get his Republican colleagues in the House and Senate to end the farm program. Again, there is no power in the Constitution to help farmers. The same goes for all the corporate welfare. Businessmen and farmers should make it on their own or find other lines of work.

Bush should also kill his pet faith-based initiative, that is, handing taxpayer money to religious groups that do social work. The administration's detachment from constitutional reality was made clear Sunday when Bush's chief political advisor, Karl Rove, said on *Meet the Press* that subsidies are necessary to enable those groups to do their work fully. Is that so? Bush is right when he points out that secular groups get subsidies. End those too.

I could go on. Most cabinet departments are unconstitutional. Government has no constitutional authority to run pension or health-care programs. While the Constitution does grant the power to regulate interstate and foreign commerce, trade restrictions help only special interests at the expense of everyone else and therefore violate the general-welfare clause.

If Bush sets his mind to taking his oath seriously, he will surely keep out of mischief in his second term.

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