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PSCI 204

March 30, 2021

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## Abuse, Inefficiency, and Ability to Act: The Foundations that Created the American Presidency

When the framers assembled in Philadelphia for the Constitutional Convention in 1787, they brought with them expectations, fears, and concerns about the executive they would design with their new government. After almost two centuries as colonies under the monarchy, the framers were fearful of the abuse that occurred under such broad influence and power. In designing the new government, they drew on their experiences of the monarch, the British governors in the colonies, the existing state governors, and their current lack of national executive under the Articles of Confederation to design an executive different from those they had fought to be free of and the current system that was failing the nation. The fears and concerns they had due to their previous executives coupled with the failings of their current government system warranted the framers overhaul of the Articles of Confederation to establish an effective government for the young nation.

Before the Declaration of Independence and the Revolution, the British Colonies were ruled by the British constitutional monarchy and Parliament. The king earned his throne through inheritance, ruling for life, while Parliament was a bicameral legislature formed of one house with an elected body and one house of hereditary lifetime seats. As their most familiar example of government forms, many American colonists treated the system as the best in history. It was

widely believed the government was best fitted to maintain and protect the basic liberties of its citizens, promoting wealth and power (Milikis and Nelson 2). Additionally, the British government had managed to effectively merge the monarchy, aristocracy, and democracy in a way many governments throughout history had tried and failed to. With few institutional checks, the monarch could act quickly and efficiently with an absolute veto, the ability to appoint royal officers and impose martial law. The lack of institutional checks, however, gave the monarch the power of an unlimited executive that was subject to much abuse. Throughout the final years of the British colonies, the reigning King George III abused his executive power, notoriously using patronage as bribes to get his way and maintain his influence and power hold in Parliament (Milikis and Nelson 3). Despite the king's limited power in contrast to Parliament, the colonists' experiences with the monarchy showed them the threat an unchecked executive posed to the citizens' liberties and how easily the executive could and would abuse their power.

In the British colonies, the local governments were similarly structured. A governor was appointed by the king and a legislature was constructed of two houses: the upper house chosen by the governor, and the lower house elected by the people. Governors were given similar powers over the local legislatures to those the king had over Parliament, as royal governors could give an absolute veto over legislation, form courts and appoint judges, and end the current legislative session or dismiss the legislature. While wiser governors used their powers carefully to avoid giving the legislature reason to refuse to appropriate the funds necessary to finance the government, some colonial governors were still prone to abuse their office in efforts to gain more

power, with several governors favoring similar acts of patronage as the king to influence the local legislatures (Milikis and Nelson 3). With the power-hungry executives common in both the British and colonial governments, the colonists grew furious at the lack of respect and more unmistakable misuses of executive power, declaring their independence in favor of a government they could design to prevent such abuse, instead, protecting their liberties with greater legislative power.

After declaring independence from the British, each state wrote a separate constitution. Fearing the experiences suffered under the king and his royal governors the authors of the state constitutions opted for “weak governors and strong legislatures” (Milikis and Nelson 4). In many of the states, governors could be elected for one short term, typically only a year, and shared their powers with a council either appointed by the legislature or elected by the people. The governors had few powers and were granted vague authority by the state constitutions. Most were denied the power to veto legislation or make appointments, giving the legislature the majority of the power and influence. While most states followed a similar structure, New York differed, as their governor was elected by the people for three-year terms, to be reelected as many times as the voters chose. The New York governor was a unitary office rather than a council who could veto legislation, subject to the legislature’s right to override, and could make appointments with the legislature’s confirmation. Unlike the vagueness of the other states’ constitutions, the New York governor’s powers were laid out in extensive detail (Milikis and Nelson 4). Aside from New York, each state invested the majority of the power in the legislature

hoping that doing so would prevent executive abuses of power, however, it became more difficult for action to occur in the state without a strong leader to act in a time of war and uncertainty for the new states.

When the colonies declared independence, the Declaration essentially made each state a separate and independent nation; however, to fight the British, a common government was necessary. Unwilling to give up their independence, each state required the national Congress be only as strong as needed to fight the war and stipulated that any executive branch of government be minimal. The Articles of Confederation that was eventually ratified resembled little more than the makeshift agreements the states had already been using and encompassed the nation's fears of central government and executive power. The Articles had established alliances between the states better than it did a central government, giving each state one vote in Congress, and setting a president to be a presiding officer rather than an executive (Milikis and Nelson 6). With strict rules of operation, most notably the requirement of affirming votes from nine of the thirteen states for legislation to pass and the need for the approval of all states for amendments to the Articles, Congress was ineffectual, consistently undermining the power of the national government. While Congress was given the power to declare war, make treaties, and raise an army amongst other powers, the states were supposed to supply the funds and troops according to their wealth and population (Milikis and Nelson 7). As Congress had no power to tax or enforce, when states refused to oblige there was no way to force the states' hands, and as the war ended, states became even less likely to fulfill their end of Congressional requests.

Although the United States won independence under the governance of the Articles of Confederation, the problems of the weak legislative national government became apparent in the years following the war. No longer fighting a common enemy, the states turned on each other and Congress. With internal territorial disputes, border conflicts with Britain and Spain, and currency crises arising due to a bankrupt national government and unpaid war veterans pressuring state legislatures to overprint paper money (Milikis and Nelson 6-7), the weaknesses of the Articles of Confederation and state constitutions were becoming clear.

As the issues prevailed and grew, many Americans struggled to balance their fear of executive power and knowledge that the current system was preventing the nation from prospering and best maintaining the liberties of the people. During the time under the Articles of Confederation, Americans came to grow more confident in the idea of an executive and hesitant in giving complete power to the legislature. Furthermore, the Articles “taught that executive energy and responsibility are inversely proportional to executive size; that, consequently, the one-man executive is best,” while also showing that “a new concept of national government... [comprised of] the ruling constitution, the limited legislature, and the three equal and coordinate departments” (Milikis and Nelson 8). Despite this growing acceptance and knowledge that the government needed to change, hesitation and fear prevailed until Shay’s Rebellion highlighted the true underlying issues of a government without an executive, demonstrating the national government's inability to act and help states maintain peace, forcing Congress’s hand in calling the states together for a Constitutional Convention.

When the delegates gathered in Philadelphia, the original intent had been to revise the Articles of Confederation, before their decision to scrap the Articles and write a new constitution. At the time, some argued it was not necessary to rewrite the Constitution and design a new government, as the Articles of Confederation could have been edited enough to fulfill their needs. To prefer that, however, would have meant establishing the nation with a government already proved to not work. While originally, the idea of the Articles of Confederation fit everything the framers and early Americans wanted to limit potential abuses of power, the government quickly proved to be ineffective and detrimental to the nation both domestically and amongst foreign nations. The Congress established by the Articles was unable to effectively fight the Revolutionary War; incapable of enforcing laws and policies; allowed disputes over interstate commerce and trade; struggled to control fighting over state and foreign borders; lacked the respect of the states to pay taxes; and faced abuses of power within the legislature itself, causing even greater problems in the economy and society.

To simply have added to the existing Articles would have been more difficult than writing an entirely new Constitution. Editing the existing Articles would have taken the approval of every state, and at the Convention, never were all delegates present at the same time and complete agreement on articles occurred close to never (Milikis and Nelson 12). To create a new Constitution was easier, as the delegates were able to establish new rules at the Convention on how the Constitution would be written and ratified, with the new rules requiring only nine of the thirteen states to ratify the Constitution ("Constitution of the United States," Art. 7). At the

Convention, when designing the new presidency, the framers drew on the lessons they had learned about executives under British rule, the state governors and legislatures, and the current Articles. They concluded that the monarch and royal governors had continuously disregarded liberties, while the state constitutions had executives that were too weak to be productive, and the national government had none, allowing for the abuse and ineffectiveness of the legislature. While they feared the idea that the President would become an elective monarch, they ensured the checks on their power and the share of power with Congress would prevent that (Hamilton). With several examples of what the executive should not be, the issue the framers faced was the general ambivalence about executive authority, as they wanted a strong enough executive to enforce the law and control the legislature with enough checks to ensure the executive did not become dictatorial, an idea shared by the public (Milikis and Nelson 33-34). With the two extremes in mind, the framers created a middle ground of a powerful unitary executive that was checked by a legislature holding different powers of equal status.

While the office that arose from the Convention is not perfect and is plenty problematic today, at the time it was the best option the Framers could have settled on. With few examples to model their new executive after and only ideas of what they did not want, to create a new kind of executive the way they did was the best course of action. In different manners, both the monarch with royal governors and the state constitutions with the Articles of Confederation's lack of national executive were equally problematic, however, both forms had parts the Framers wisely adopted. The British government had successfully managed to combine a strong executive,

aristocracy, and democracy in a way that had worked and still works for their country, and that system of a bicameral legislature and strong executive was a good structure the framers replicated with the Senate, House, and President. As for the Articles of Confederation, after disregarding the previous system, the framers used perhaps only the structure of equal representation in designing the House of Representatives, as there were no examples to source from for the executive office. However, the framers likely drew inspiration from New York's constitution and governor who had similar powers to those given to the President in the new Constitution, an idea Hamilton discussed when defending the new office, suggesting the President had less power than the New York governor (Federalist No 69). By compiling everything they had learned throughout the various versions of executives and government structures as both colonies and an independent nation, the framers were able to create an executive that fit the needs of the nation.

Overall, while it was a long process to create the office of the Presidency that has lasted to the present day, the lessons the early Americans and Constitutional framers learned through the process allowed them to create an executive that best represented the concerns and desires they had for an executive office, something they were only able to do by starting afresh in 1787 at the Constitutional Convention. The office that was created embodied the best parts of the monarchy and the governors, rectifying the issues they had with the monarchy, state constitutions, and Articles of Confederation, all of which had been equally problematic in



different manners that were presented to the early Americans. Since the Convention, the office of the presidency has evolved in the amount of power granted and role of the office, while

upholding the spirit the framers had in mind when designing the office over two centuries ago.

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