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executive is the bulwark of the national security, everything would be to be apprehended from its plurality.

It must be confessed, that these observations apply with principal weight to the first case supposed, that is, to a plurality of magistrates of equal dignity and authority, a scheme, the advocates for which are not likely to form a numerous sect; but they apply, though not with equal, yet with considerable weight, to the project of a council, whose concurrence is made constitutionally necessary to the operations of the ostensible executive. An artful cabal in that council would be able to distract and to enervate the whole system of administration. If no such cabal should exist, the mere diversity of views and opinions would alone be sufficient to tincture the exercise of the executive authority with the spirit of habitual feebleness and dilatoriness.

But one of the weightiest objections to a plurality in the executive, and which lies as much against the last as the first plan, is, that it tends to conceal faults, and destroy responsibility. . . . It often becomes impossible, amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure . . . ought really to fall. It is shifted from one to another with so much dexterity, and under such plausible appearances, that the public opinion is left in suspense about the real author. . . .

A little consideration will satisfy us, that the species of security sought for in the multiplication of the executive, is unattainable. Numbers must be so great as to render combination difficult; or they are rather a source of danger than security. The united credit and influence of several individuals must be more formidable to liberty than the credit and influence of either of them separately. When power, therefore, is placed in the hands of so small a number of men, as to admit of their interests and views being easily combined in a common enterprise, by an artful leader, it becomes more liable to abuse, and more dangerous when abused, than if it be lodged in the hands of one man; who, from the very circumstances of his being alone, will be more narrowly watched and more readily suspected, and who cannot unite so great a mass of influence as when he is associated with others. . . .

I will only add, that prior to the appearance of the constitution, I rarely met with an intelligent man from any of the states, who did not admit as the result of experience, that the unity of the executive of this state was one of the best of the distinguishing features of our constitution.

Chapter 6



The Presidency

The American presidency is the only unique political institution that the United States has contributed to the world. It developed first in this country and later was imitated, usually unsuccessfully, in many nations. In no country and at no time has the institution of the presidency achieved the status and power that it possesses in the United States. This chapter will analyze the basis, nature, and implications of the power of this great American institution.

Constitutional Background: Single Versus Plural Executive

The change that has taken place in the presidency since the office was established in 1789 is dramatic and significant. The framers of the Constitution were primarily concerned with the control of the arbitrary exercise of power by the legislature; thus they were willing to give the president broad power since he was not to be popularly elected and would be constantly under attack by the coordinate legislative branch. Although the framers were not afraid of establishing a vigorous presidency, there was a great deal of opposition to a potentially strong executive at the time the Constitution was drafted. In *Federalist 70* Alexander Hamilton attempts to persuade the people of the desirability of a strong presidential office, and while persuading, he sets forth the essential constitutional basis of the office.

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Federalist 70



Alexander Hamilton

There is an idea, which is not without its advocates, that a vigorous executive is inconsistent with the genius of republican government. The enlightened well-wishers to this species of government must at least hope that the supposition is destitute of foundation; since they can never admit its truth, without, at the same time, admitting the condemnation of their own principles. Energy in the executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws, to the protection of property against those irregular and high-handed combinations, which sometimes interrupt the ordinary course of justice, to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy. Every man, the least conversant in Roman story, knows how often that republic was obliged to take refuge in the absolute power of a single man, under the formidable title of dictator, as well as against the intrigues of ambitious individuals, who aspired to the tyranny, and the seditions of whole classes of the community, whose conduct threatened the existence of all government, as against the invasions of external enemies, who menaced the conquest and destruction of Rome.

There can be no need, however, to multiply arguments or examples on this head. A feeble executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and government ill executed, whatever it may be in theory, must be, in practice, a bad government.

Taking it for granted, therefore, that all men of sense will agree in the necessity of an energetic executive, it will only remain to inquire, what are the ingredients which constitute this energy? How far can they be combined with those other ingredients, which constitute safety in the republican sense? And how far does this combination characterize the plan which has been reported by the convention?

The ingredients which constitute energy in the executive are: unity; duration; and adequate provision for its support; competent powers.

The ingredients which constitute safety in the republican sense are: a due dependence on the people; a due responsibility.

Those politicians and statesmen, who have been the most celebrated for the soundness of their principles, and for the justness of their views, have declared in fa-

vor of a single executive, and a numerous legislature. They have, with great propriety, considered energy as the most necessary qualification of the former, and have regarded this as most applicable to power in a single hand; while they have, with equal propriety, considered the latter as the best adapted to deliberation and wisdom, and best calculated to conciliate the confidence of the people, and to secure their privileges and interests.

That unity is conducive to energy will not be disputed. Decision, activity, secrecy, and dispatch, will generally characterize the proceedings of one man, in a much more eminent degree than the proceedings of any greater number; and in proportion as the number is increased, these qualities will be diminished.

This unity may be destroyed in two ways; either by vesting the power in two or more magistrates, of equal dignity and authority; or by vesting it ostensibly in one man, subject, in whole or in part, to the control and cooperation of others, in the capacity of counsellors to him. . . .

The experience of other nations will afford little instruction on this head. As far, however, as it teaches anything, it teaches us not to be enamored of plurality in the executive. . . .

Wherever two or more persons are engaged in any common enterprise or pursuit, there is always danger of difference of opinion. If it be a public trust of office, in which they are clothed with equal dignity and authority, there is peculiar danger of personal emulation and even animosity. From either, and especially from all these causes, the most bitter dissensions are apt to spring. Whenever these happen, they lessen the respectability, weaken the authority, and distract the plans and operations of those whom they divide. If they should unfortunately assail the supreme executive magistracy of a country, consisting of a plurality of persons, they might impede or frustrate the most important measures of the government, in the most critical emergencies of state. And what is still worse, they might split the community into violent and irreconcilable factions, adhering differently to the different individuals who composed the magistracy. . . .

Upon the principles of a free government, inconveniences from the source just mentioned, must necessarily be submitted to in the formation of the legislature; but it is unnecessary, and therefore unwise, to introduce them into the constitution of the executive. It is here, too, that they may be most pernicious. In the legislature, promptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarrings of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection; and serve to check excesses in the majority. When a resolution, too, is once taken, the opposition must be at an end. That resolution is a law, and resistance to it punishable. But no favorable circumstances palliate, or atone for the disadvantages of dissension in the executive department. Here they are pure and unmixed. There is no point at which they cease to operate. They serve to embarrass and weaken the execution of the plan or measure to which they relate, from the first step to the final conclusion of it. They constantly counteract those qualities in the executive, which are the most necessary ingredients in its composition—vigor and expedition; and this without any counterbalancing good. In the conduct of war, in which the energy of the