

Executive Power: Hamilton and Jefferson on the Role of the Federal Executive

One of the great debates surrounding the creation of the United States Constitution focused on the distribution of power between the Federal Government and the individual state governments. Within that context, another debate raged between the framers over the strength and make-up of the executive branch. In the Federalist camp, Alexander Hamilton championed the cause of what he called "...an energetic executive."¹ Hamilton viewed the legislative branch as inefficient and cumbersome and felt that a responsible government must include a check on the incoherent passions of the masses, as represented by the legislative branch.² Hoisting the banner of republicanism defined by a more limited executive with significant governing power in the hands of a democratically-elected legislative branch was Thomas Jefferson. The dispute between their competing views on executive power continues to this day.

The Hamiltonian View

Alexander Hamilton wrote of his view of executive power extensively in *The Federalist*. He outlined his arguments for a strong executive in *Federalist No. 70*. Hamilton claimed that a powerful executive is necessary to prevent foreign attacks (in today's parlance, to protect national security), to have consistency in the administration of laws, to protect private property, and to protect man from the disastrous consequences of anarchy. In

¹ Hamilton, Alexander; Madison, James; and Jay, John. *The Federalist, No.70*. Edited by Jacob E. Cooke. Middletown, Conn.: Wesleyan University Press, 1961.

² *ibid*

Federalist No. 70, Hamilton declared: “A feeble executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution: And a government ill executed, whatever it may be in theory, must be in practice a bad government.”³ Therefore, not only did Hamilton insist on the need for a strong executive – he defined a weak executive as the essence of bad government.

Hamilton believes even less in ridged constitutional restraints placed upon the executive by the legislative branch that might diminish the efficiency competence of the presidency. For example, Hamilton argues strongly against an executive of plurality in *Federalist 70*.⁴ Hamilton believes that checks on the legislative body are prudent. He feels that, “In the legislature, promptitude of decision is oftener an evil than a benefit.”⁵ Hamilton has no faith in the will of the masses, and feels that the more tar they are made to wade through before passing judgment, the better. So while Hamilton believes in the deliberative value of the legislative body, he maintains the importance of an executive that is able to act quickly and decisively.

Hamilton has much more faith in the “purity” of the executive. He states in *Federalist No. 73* “It [a strong executive] not only serves as a shield to the executive, but it furnishes an additional security against the enactment of improper laws. It establishes a salutary check upon the legislative body calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen

³ Hamilton, Alexander; Madison, James; and Jay, John. *The Federalist, No.70*. Edited by Jacob E. Cooke. Middletown, Conn.: Wesleyan University Press, 1961.

⁴ *ibid*

⁵ *ibid*

to influence a majority of that body.”⁶ Hamilton sees the executive as the ultimate check on the potential irrationality of the legislative branch.

A recurring issue used by Hamilton as a means of demonstrating his argument of a strong executive is the war-making powers of the federal government. He repeatedly argues that the president must have broad authority to conduct matters of war, and must not be impeded by plural executive or other circumstances which might render the executive unable to competently carry out its duties. Again, in *Federalist No. 70*, Hamilton states, “In the conduct of war, in which the energy of the executive is the bulwark of the national security, every thing would be to be apprehended from its plurality.”⁷ Hamilton’s view on the extent of war-power authority that should be placed with the federal government, as executed by the president, is nearly absolute. He states in *Federalist No. 23* that, “The authorities essential to the care of the common defence are these--to raise armies--to build and equip fleets--to prescribe rules for the government of both--to direct their operations--to provide for their support. These powers ought to exist without limitation: *Because it is impossible to foresee or define the extent and variety of national exigencies, or the correspondent extent & variety of the means which may be necessary to satisfy them.*”⁸ Hamilton goes as far as to openly scoff at detractors of broad military powers when asserting in *Federalist No. 23*, “There is something so far fetched and so extravagant in the idea of danger to liberty from the militia, that one is at a loss whether

⁶ Hamilton, Alexander; Madison, James; and Jay, John. *The Federalist No. 73*. Edited by Jacob E. Cooke. Middletown, Conn.: Wesleyan University Press, 1961.

⁷ Hamilton, Alexander; Madison, James; and Jay, John. *The Federalist No. 70*. Edited by Jacob E. Cooke. Middletown, Conn.: Wesleyan University Press, 1961.

⁸ Hamilton, Alexander; Madison, James; and Jay, John. *The Federalist No. 23*. Edited by Jacob E. Cooke. Middletown, Conn.: Wesleyan University Press, 1961.

to treat it with gravity or with raillery; whether to consider it as a mere trial of skill, like the paradoxes of rhetoricians, as a disingenuous artifice to instill prejudices at any price or as the serious offspring of political fanaticism.”⁹ Hamilton seems quite clear about his views on “weak republicanism” and others who would dare argue for restraints on federal power, whether legislative, executive, or both.

The Jeffersonian View

While Thomas Jefferson’s exhortations on the power of the executive might not have been as explicit as Hamilton’s, they were no less passionate. The major point of difference between Jefferson and Hamilton concerning executive power rests with Jefferson’s faith in the body politic as represented by the legislative branch. In addition, Jefferson harbors an inherent mistrust of the executive, which he saw as “monarchical” and he viewed those who espoused such a strong executive system as “monocrats”.¹⁰ Referring to the Hamiltonian led Federalists in a letter to Arthur Campbell in 1797, Jefferson states, “Hitherto, their [the Federalists] influence & their system has been irresistible, and they have raised up an Executive power which is too strong for the legislature.”¹¹ Jefferson goes on to (cautiously) assert that he feels the Federalists’

⁹ Hamilton, Alexander; Madison, James; and Jay, John. *The Federalist No. 23*. Edited by Jacob E. Cooke. Middletown, Conn.: Wesleyan University Press, 1961.

¹⁰ Thomas Jefferson to John Melish, January 13, 1813.

¹¹ Thomas Jefferson to Arthur Campbell, September 1, 1797. *The Works of Thomas Jefferson in Twelve Volumes*. Federal Edition. Collected and Edited by Paul Leicester Ford.

philosophies and political influence regarding executive power have "...passed their zenith.", much to Jefferson's relief.¹²

Jefferson was especially concerned about the presidency becoming too much like an English monarchy through unlimited terms of service. In a letter to Elbridge Gerry in 1799, Jefferson warns, "...I am opposed to the monarchising it's features by the forms of it's administration, with a view to conciliate a first transition to a President & Senate for life, & from that to a hereditary tenure of these offices, & thus to worm out the elective principle..."¹³ Later in his life, Jefferson would partake in a bit of historical revisionism concerning the presidency of George Washington. He would especially take issue with Hamilton's attempt to associate Washington with the High Federalists. In a letter to Walter Jones dated January 2, 1814, Jefferson asserts, "...I am convinced he [Washington] is more deeply seated in the love and gratitude of the republicans, than in the Pharisical homage of the federal monarchists. For he was no monarchist from preference of his judgment. The soundness of that gave him correct views of the rights of man, and his severe justice devoted him to them. He has often declared to me that he considered our new constitution as an experiment on the practicability of republican government, and with what dose of liberty man could be trusted for his own good."¹⁴ By claiming Washington as a champion of a limited executive and proponent of the virtues

¹² Thomas Jefferson to Arthur Campbell, September 1, 1797. *The Works of Thomas Jefferson in Twelve Volumes*. Federal Edition. Collected and Edited by Paul Leicester Ford.

¹³ Thomas Jefferson to Elbridge Gerry, January 26, 1799. *The Works of Thomas Jefferson in Twelve Volumes*. Federal Edition. Collected and Edited by Paul Leicester Ford.

¹⁴ Thomas Jefferson to Walter Jones, January 2, 1814. *The Works of Thomas Jefferson in Twelve Volumes*. Federal Edition. Collected and Edited by Paul Leicester Ford.

of republican government as carried out by the common man, Jefferson attempts to solidify the victory of republicanism as represented by legislative dominance over the monarchism of an unrestricted executive.

Jefferson too differs with Hamilton concerning the executive's war powers. Jefferson sees the major war-powers as residing with the legislative branch while the power to make peace rests with the executive. In a letter to James Madison in 1801, Jefferson writes, "The constitution has authorized the ordinary legislature alone to declare war against any foreign nation. If they may enact a perfect, they may a qualified war, as was done against France." He continues, "...The constitution has given to the President and Senate alone the power (with the consent of the foreign nation) of enacting peace. Their treaty for this purpose is an absolute repeal of the declaration of war, and of all laws authorizing or modifying war measures."¹⁵ Not only does Jefferson see the legislative branch as the legal institution with respect to waging war, but the president must confer with the senate when concluding peace and settling disputes with foreign nations. Finally, Jefferson strongly opposes a standing army or (military) navy. He writes Elbridge Gerry that he has need "...for such a naval force only as may protect our coasts and harbors from such depredations as we have experienced; and not for a standing army in time of peace, which may overawe the public sentiment; nor for a navy, which, by it's own expenses and the eternal wars in which it will implicate us, grind us with public

¹⁵ Thomas Jefferson to James Madison, July 15, 1801. The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

burthens, & sink us under them.”¹⁶ Jefferson is clear. No standing army or significant navy during times of peace.

Ultimately, Jefferson advocated a war-powers doctrine which would evenly distribute wartime authority equally between the legislative and executive. Jefferson insisted on checks and balances between the two branches so as to prevent the abuse of war-making power while securing the president’s ability to respond to crisis situations. In reference to the disruption of commerce due to war between England and France, Jefferson counsels James Madison, “Should this be formally notified [disruption of commerce due to attacks on US vessels] I should suppose Congress would be called, because it is a justifiable cause of war, & as the Executive cannot decide the question of war on the affirmative side, neither ought it to do so on the negative side, by preventing the competent body from deliberating on the question.”¹⁷ However, Jefferson seems to shift his view on executive war powers while serving in the office himself. Jefferson establishes an argument for preemptive executive military action regarding the Barbary Pirates situation. Jefferson states in his Sixth Annual Message that, “...powers of prevention to a certain extent are given by the laws.” and goes on to inform congress that he plans on sending naval reinforcements to the Mediterranean if the Barbary situation so demands.¹⁸ Jefferson does acknowledge the value, however cautiously, of executive action when in the interest of national security.

¹⁶ Thomas Jefferson to Elbridge Gerry, January 26, 1799. The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

¹⁷ Thomas Jefferson to James Madison, March 24, 1793. The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

¹⁸ Jefferson, Thomas, *Sixth Annual Message to Congress*, December 2, 1806.

So what value do Hamilton's and Jefferson's views on executive power have to our present day students? The role of an expanding executive has a rich historical context. The US History of Federal Government teacher can easily trace the expansion of presidential powers from Jackson to Lincoln to Wilson, FDR, Reagan, and George W. Bush. It will serve both the teacher and students well to explore the precedents set for this expansion and attempt to draw parallels. There is also value at investigating attempts to tie certain executive expansions of power to founding principles, whether accurate or not. Ultimately, the study of executive power will give a political perspective to our nation's highest office.

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This reflective paper is an attempt to lay the groundwork for a more extensive exploration into views on executive power. The intended audience is high school juniors and seniors enrolled in either an American History or American Federal Government. The students should be able to refer to the cited primary documents and deduce differing (and sometimes subtle) views on federal and executive power. As a lesson extension, students will be able to take the views of Hamilton and Jefferson and apply them to the expansion of present-day executive power. Using current events articles, students may want to discuss the legal views of George W. Bush administration officials John Yoo and David Addington concerning their justifications on vastly expanded executive power following the terrorist attacks of September 11, 2001.