

Antifederalist No. 67

Various Fears Concerning the Executive Department

From the "Cato" letters of George Clinton, taken from The New-York Journal of November 8, 1787.

I shall begin with observations on the executive branch of this new system; and though it is not the first in order, as arranged therein, yet being the chief, is perhaps entitled by the rules of rank to the first consideration. The executive power as described in the 2d article, consists of a president and vice-president, who are to hold their offices during the term of four years; the same article has marked the manner and time of their election, and established the qualifications of the president; it also provides against the removal, death, or inability of the president and vice-president -- regulates the salary of the president, delineates his duties and powers; and, lastly, declares the causes for which the president and vice-president shall be removed from office.

Notwithstanding the great learning and abilities of the gentlemen who composed the convention, it may be here remarked with defence, that the construction of the first paragraph of the first section of the second article is vague and inexplicit, and leaves the mind in doubt as to the election of a president and vice-president, after the expiration of the election for the first term of four years; in every other case, the election of these great officers is expressly provided for; but there is no explicit provision for their election which is to set this political machine in motion; no certain and express terms as in your state constitution, that statedly once in every four years, and as often as these offices shall become vacant, by expiration or otherwise, as is therein expressed, an election shall be held as follows, etc.; this inexplicitness perhaps may lead to an establishment for life.

It is remarked by Montesquieu, in treating of republics, that in all magistracies, the greatness of the power must be compensated by the brevity of the duration, and that a longer time than a year would be dangerous. It is, therefore, obvious to the least intelligent mind to account why great power in the hands of a magistrate, and that power connected with considerable duration, may be dangerous to the liberties of a republic. The deposit of vast trusts in the hands of a single magistrate enables him in their exercise to create a numerous train of dependents. This tempts his ambition, which in a republican magistrate is also remarked, to be pernicious, and the duration of his office for any considerable time favors his views, gives him the means and time to perfect and execute his designs; he therefore fancies that he may be great and glorious by oppressing his fellow citizens, and raising himself to permanent grandeur on the ruins of his country. And here it may be necessary to compare the vast and important powers of the president, together with his continuance in office, with the foregoing doctrine -- his eminent magisterial situation will attach many adherents to him, and he will be surrounded by expectants and courtiers. His power of nomination and influence on all appointments; the strong posts in each state comprised within his superintendence, and garrisoned by troops under his direction; his control over the army, militia, and navy; the unrestrained power of granting pardons for treason, which may be used to screen

from punishment those whom he had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt; his duration in office for four years -- these, and various other principles evidently prove the truth of the position, that if the president is possessed of ambition, he has power and time sufficient to ruin his country.

Though the president, during the sitting of the legislature, is assisted by the senate, yet he is without a constitutional council in their recess. He will therefore be unsupported by proper information and advice, and will generally be directed by minions and favorites, or a council of state will grow out of the principal officers of the great departments, the most dangerous council in a free country. . . . The language and the manners of this court will be what distinguishes them from the rest of the community, not what assimilates them to it; and in being remarked for a behavior that shows they are not meanly born, and in adulation to people of fortune and power.

The establishment of a vice-president is as unnecessary as it is dangerous. This officer, for want of other employment, is made president of the senate, thereby blending the executive and legislative powers, besides always giving to some one state, from which he is to come, an unjust pre-eminence.

It is a maxim in republics that the representative of the people should be of their immediate choice; but by the manner in which the president is chosen, he arrives to this office at the fourth or fifth hand. Nor does the highest vote, in the way he is elected, determine the choice -- for it is only necessary that he should be taken from the highest of five, who may have a plurality of votes.

And wherein does this president, invested with his powers and prerogatives, essentially differ from the king of Great Britain (save as to name, the creation of nobility, and some immaterial incidents, the offspring of absurdity and locality)? The direct prerogatives of the president, as springing from his political character, are among the following: It is necessary, in order to distinguish him from the rest of the community, and enable him to keep, and maintain his court, that the compensation for his services, or in other words, his revenue, should be such as to enable him to appear with the splendor of a prince. He has the power of receiving ambassadors from, and a great influence on their appointments to foreign courts; as also to make treaties, leagues, and alliances with foreign states, assisted by the Senate, which when made becomes the supreme law of land. He is a constituent part of the legislative power, for every bill which shall pass the House of Representatives and Senate is to be presented to him for approbation. If he approves of it he is to sign it, if he disapproves he is to return it with objections, which in many cases will amount to a complete negative; and in this view he will have a great share in the power of making peace, coining money, etc., and all the various objects of legislation, expressed or implied in this Constitution. For though it may be asserted that the king of Great Britain has the express power of making peace or war, yet he never thinks it prudent to do so without the advice of his Parliament, from whom he is to derive his support -- and therefore these powers, in both president and king, are substantially the same. He is the generalissimo of the nation, and of course has the command and control of the army, navy and militia; he is the general conservator of the peace of the union -- he may pardon all offenses, except in cases of impeachment, and the principal fountain of all offices and employments. Will not the exercise of these powers therefore tend either to the establishment of a vile and arbitrary aristocracy or monarchy? The safety of the

people in a republic depends on the share or proportion they have in the government; but experience ought to teach you, that when a man is at the head of an elective government invested with great powers, and interested in his re-election, in what circle appointments will be made; by which means an imperfect aristocracy bordering on monarchy may be established. You must, however, my countrymen, beware that the advocates of this new system do not deceive you by a fallacious resemblance between it and your own state government [New York] which you so much prize; and, if you examine, you will perceive that the chief magistrate of this state is your immediate choice, controlled and checked by a just and full representation of the people, divested of the prerogative of influencing war and peace, making treaties, receiving and sending embassies, and commanding standing armies and navies, which belong to the power of the confederation, and will be convinced that this government is no more like a true picture of your own than an Angel of Darkness resembles an Angel of Light.

CATO