

The Absence of Term Limits in the Constitution

Motivations of the Framers

Caitlin McLaughlin

After the American Revolution, the Framers attempted to design a Constitution that would provide institutional remedies to the flaws of the British government. One of their greatest concerns was the existence of an entrenched ruling aristocracy, which would be removed from the people and not attuned to the people's opinions and needs. The Framers, based on their experience with the British monarchy, felt that this system easily facilitated tyranny. The new government they formed, however, is superficially similar. While the executive branch and the legislature were both subjected to periodic elections, unlike the British monarch and House of Lords, by law all federal officials could be re-elected indefinitely. The Framers' concern with creating a free and just government seems to conflict with the unlimited ability to rule. Considering the political climate of the Revolutionary period, the regulations in the Constitution beg the question: why did the Framers not include term limits?

The Framers' general philosophical disposition tended to distrust the concentration of power in any one body over a period of time. Heavily influenced by European Enlightenment philosophers, the Founding Fathers had a healthy distrust of people. They understood human nature to be intrinsically motivated by selfish desires, although institutions could channel this base impulse toward the common good. The risk of evil behavior, then, was something to guard against when designing a system of government. History provides many examples of demagogues and tyrants who used their popularity to advance their interests over the interests of society as a whole. As Alexander Hamilton explained:

Men of upright, benevolent tempers have too many opportunities of remarking, with horror, to what desperate lengths this disposition is sometimes carried, and how often the great interests of society are sacrificed to the vanity, to the conceit, and to the obstinacy of individuals, who have credit enough to make their passions and their caprices interesting to mankind.¹

¹ Alexander Hamilton, "Federalist 70," FoundingFathers.info, <http://www.foundingfathers.info/federalistpapers/fedindex.htm> (accessed Dec 14 2008).

The Framers considered humans to be generally power-hungry and prone to seizing as much glory and control as possible. Designing a government, then, involved a delicate balance of giving the rulers power enough to be effective, yet reining them in to prevent too much power from being wielded. Any unchecked authority could easily devolve into tyranny. George Washington argued that federal powers “are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government.”² Clearly, the need to limit power and channel ambition was at the forefront of the Framers’ minds when designing the new system of government.

One of the most noteworthy aspects of the 1787 Philadelphia Convention was the marked attention the Framers gave to posterity. The men were highly conscious that they were embarking on an experiment whose success or failure would echo throughout history. Madison, while writing to Thomas Jefferson, who was in France at the time, explained, “The whole Community is big with expectation. And there can be no doubt but that the result will in some way or other have a powerful effect on our destiny.”³ The Framers understood that the eyes of the world were upon the Americans as they attempted to establish a system of rule that was only theoretical at the time. The fate of the young United States under this system was a test for the workability of free government in general. Benjamin Franklin felt that the failure of the American government would be a colossal blow to republicanism, since “it will show that we have not wisdom enough among us to govern ourselves; and will strengthen the opinion of some

² George Washington, “Washington’s Farewell Address,” The Avalon Project. http://avalon.law.yale.edu/18th_century/washing.asp (accessed Dec 14 2008).

³ Julian P. Boyd (ed.), *The Papers of Thomas Jefferson, Vol. 11* (Princeton, NJ: Princeton University Press, 1955), 401.

political writers, that popular governments cannot long support themselves.”⁴ Since modern readers have the benefit of hindsight, it is difficult to imagine the tendentiousness of this moment in history. The Framers, embarking on a new chapter in human history, were extraordinarily conscious of the weight of their decisions, so every choice they made must be considered the result of deep and honest consideration.

When designing the new Constitution, the Framers were influenced largely by their first-hand experiences with governance. The systems on which they based their opinions, then, were primarily the British rule and the government created by the Articles of Confederation. Also of great import, however, were the systems of rule in place in the various states. In order to understand the context of the Framers’ decisions regarding term limits, then, it is instructive to look at these contemporary cases. An examination of state constitutions reveals that in most cases, there were limitations on length of rule, especially for the executive. Often, the requirement was not a simple cap on the number of years in office, but rather a requirement that there be some rotation between administrations. The governor of Virginia, for example, “shall not continue in that office longer than three Years successively, nor be eligible until the expiration of four Years after he shall have been out of that office.”⁵ In other cases, the constitutions prohibited an individual from serving more than a certain number of years. All told, it was common practice for officials to be required to vacate their office – at least temporarily – after a certain period of service: Delaware limited re-election of the executive⁶,

⁴ John Bigelow (ed.), *The Complete Works of Benjamin Franklin, Vol. IX* (New York: G.P. Putnam’s Sons., 1888), 380.

⁵ Constitution of Virginia, The Avalon Project, http://avalon.law.yale.edu/18th_century/va05.asp (accessed Nov 26 2008).

⁶ Constitution of Delaware, The Avalon Project, http://avalon.law.yale.edu/18th_century/de02.asp (accessed Nov 26 2008).

Georgia limited the governor to hold office only one of every three years⁷, New York senators were not eligible for two consecutive years⁸, North Carolina's governor could only serve three out of every six years⁹, Pennsylvania required congressmen to only serve four out of every seven years¹⁰, and in South Carolina a governor who served two years was ineligible for the next four.¹¹ While exact requirements varied by state, the general sentiment was that, as the Massachusetts constitution put it, "In order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life."¹² Even the federal government as it stood limited the service of elected officials: the Articles of Confederation mandated, "no person shall be capable of being a delegate for more than three years in any term of six years."¹³ The bulk of contemporary legislation in early America, then, favored at least some rotation within an office, if not strict limits on the length of time an individual could serve.

The elimination of term limits in the Constitution, a departure from the common practice of the time, provoked an extraordinary outburst among the opponents of the new system. Already fearful of the greater powers the Constitution endowed to the federal government, anti-

⁷ Constitution of Georgia, The Avalon Project, http://avalon.law.yale.edu/18th_century/ga02.asp (accessed Nov 26 2008).

⁸ Constitution of New York, The Avalon Project, http://avalon.law.yale.edu/18th_century/ny01.asp (accessed Nov 26 2008).

⁹ Constitution of North Carolina, The Avalon Project, http://avalon.law.yale.edu/18th_century/nc07.asp (accessed Nov 26 2008).

¹⁰ Constitution of Pennsylvania, The Avalon Project, http://avalon.law.yale.edu/18th_century/pa08.asp (accessed Nov 26 2008).

¹¹ Constitution of South Carolina, The Avalon Project, http://avalon.law.yale.edu/18th_century/sc02.asp (accessed Nov 26 2008).

¹² Constitution of Massachusetts, Who We Are, <http://www.nhinet.org/ccs/docs/ma-1780.htm> (accessed Dec 14 2008).

¹³ Article V, Articles of Confederation, The Avalon Project, http://avalon.law.yale.edu/18th_century/artconf.asp (accessed Dec 14 2008).

Federalists argued that the new system allowed long-serving officials to become a virtual aristocracy, divorced from the will of the masses. Interestingly, they seemed to use the Federalists' own opinions of mankind against them. It was, after all, James Madison, the Father of the Constitution, who had written, "But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary."¹⁴ Anti-Federalists argued that, indeed, men were not angels, but the proposed Constitution's functionality seemed to require elected officials to be abnormally upright men.

Rebuttals to the exclusion of term limits often dealt with the Framers' implicit assumption that the men elected to office would have an interest in preserving the republican system, and so would avoid usurping authority. Yet, as one individual objected, "Good men will generally govern well with almost any constitution: but why in laying the foundation of the social system, need we unnecessarily leave a door open to improper regulations?"¹⁵ Constitutions, the thought went, should guard against the worst elements of society, rather than hope for the good will of the best. Indeed, government itself tended to be corruptive, so there was no insurance that even a good man, once elected, would continue to act for the best interests of his constituency. As another anti-Federalist wrote,

In a government consisting of but a few members, elected for long periods, and far removed from the observation of the people, but few changes in the ordinary course of elections take place among the members; they become in some measure a fixed body, and often inattentive to the public good, callous, selfish, and the fountain of corruption.¹⁶

¹⁴ James Madison, "Federalist 51," FoundingFathers.info, <http://www.foundingfathers.info/federalistpapers/fedindex.htm> (accessed Dec 14 2008).

¹⁵ Letters from the Federal Farmer #3, Anti-Federalist Papers, Constitution Society, <http://www.constitution.org/afp/afp.htm> (accessed Nov 26 2008).

¹⁶ Letters from the Federal Farmer #11, Anti-Federalist Papers, Constitution Society, <http://www.constitution.org/afp/afp.htm> (accessed Nov 26 2008).

Anti-Federalists believed that it was unlikely that the people would use periodic elections to oust corrupt officials; based on examples of various European governments, it was believed that power was much easier for the common people to give than to revoke.

The situation in the American case was especially dangerous, because the size of the country would require that most citizens would be located far away from their representatives, and hence have little oversight. People felt that officials

will for the most part of the time be absent from the state they represent, and associate with such company as will possess very little of the feelings of the middling class of people. For it is to be remembered that there is to be a federal city, and the inhabitants of it will be the great and the mighty of the earth.¹⁷

The idea of distance troubled many of those afraid of concentrated power, yet there seemed to be no solution for this problem except to strip the federal government of any real power to govern.

The Anti-Federalists had identified the great paradox of the American system of government: while its institutions could hope to contain the ambition of elected officials, in some measure their good intentions would always be necessary for the system to work. The anti-Federalists thought that this expectation was unreasonable, and that stronger controls should be in place.

Patrick Henry declared, “It is on a supposition that your American governors shall be honest, that all the good qualities of this government are founded; but its defective and imperfect construction puts it in their power to perpetrate the worst of mischiefs, should they be bad men.”¹⁸ It was an argument to which the Federalists had little rejoinder.

One of the greatest thinkers of the day and writer of the Declaration of Independence, Thomas Jefferson, also retained grave doubts about the new Constitution. As a devoted student of European history, Jefferson believed that the precedent of other nations bode poorly for the

¹⁷ Brutus #16, Anti-Federalist Papers, Constitution Society, <http://www.constitution.org/afp/afp.htm> (accessed Nov 26 2008).

¹⁸ Patrick Henry, June 5, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

American experiment. In his initial reaction after reading the manuscript of the new Constitution, Jefferson wrote, “The... feature I dislike, and greatly dislike, is the abandonment in every instance of the necessity of rotation in office, and most particularly in the case of the President.”¹⁹ His especial concern was with the executive, whom he envisioned gaining the powers of a virtual king. He wrote,

What we have lately read in the history of Holland... would have sufficed to set me against a chief magistrate eligible for a long duration, if I had ever been disposed towards one: & what we have always read of the elections of Polish kings should have forever excluded the idea of one continuable for life.²⁰

The history of other states, in other words, indicated that the people were loath to use their power to depose an executive. It is indicative of the strength of the anti-Federalist argument that a person of the stature of Thomas Jefferson would express serious concerns about the re-eligibility of elected Federal officials.

Yet the strong objections of anti-Federalists should not be taken as a sign that the Framers had dismissed the ideas of term limits with little consideration. Indeed, it was one of the most heavily debated changes from the Articles of Confederation. The Framers feared above all that they would be creating a system that “would render the Executive a monarchy, of the worst kind, to wit an elective one.”²¹ Indeed, on several separate occasions individuals proposed amendments that would limit the consecutive service of officials. Based on James Madison’s notes on the Philadelphia Convention, explicit discussion of term limits for elected officials arose on seven days: June 1, June 25, June 26, July 19, July 24, July 25, and August 14. On each of these occasions, the Framers debated, in excruciating detail, the advantages and disadvantages of

¹⁹ Paul Leicester Ford (ed.), *The Works of Thomas Jefferson, Volume V* (New York: The Knickerbocker Press, 1904), 372.

²⁰ *Ibid* 361.

²¹ Charles Pinckney, June 1, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

limiting officials' eligibility. Guided by the principle that "we ought to be governed by reason, not by chance,"²² the Framers hoped to use logical discourse to arrive at the ideal system of government. They debated the length of terms, systems of rotation, and limits on service. Heated and rational arguments on both sides of the issues arose often.

In the end, however, the suggestions of limiting re-eligibility of officials were voted down by a majority of Convention members. How could it be that these men were willing to make such a radical departure from the established precedent of republican rule? As Rufus King admonished, "Experience must be our only guide. Reason may mislead us."²³ There were many essential aspects of the colonists' treasured system of government – such as trial by jury – that as theory may have seemed illogical or unworkable. Thus the safest course would be to adhere as closely to the tried and true system of government as possible. The reason for deviating from the precedent of limited terms must have been compelling indeed to induce such a radical departure. In looking at the reasoning behind the change, it seems that there is no single answer: the Framers were not of one mind but disagreed frequently – they came from different backgrounds and thought in different ways. Rather than attempting to identify a single reason for eliminating term limits, it is important to consider the variety of factors that were involved in the decision.

One of the primary reasons the Framers were comfortable allowing there to be no term limits in the executive case was surprisingly simplistic. It seems that the Founding Fathers assumed that George Washington naturally would be the first president, and that he would be trustworthy and moral. Thomas Jefferson, not a part of the Constitutional Convention, even had the sense that "There is no doubt that Genl. Washington will accept the presidentship, tho' he is

²² Rufus King, July 24, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

²³ John Dickenson, August 13, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

silent on the subject.”²⁴ Other Framers actively worked to ensure that Washington would be their first leader. Alexander Hamilton, in particular, took it upon himself to recruit the reluctant General back to public life, writing, “I take it for granted, Sir, you have concluded to comply with what will no doubt be the general call of country in relation to the new government. You will permit me to say it is indispensable you should lend yourself to its first operations...”²⁵ After receiving a noncommittal letter in return, Hamilton pressed further: “In a matter so essential to the well being of society as the prosperity of a newly instituted government a citizen of so much consequence of yourself to its success has no option but to lend his services if called for.”²⁶ Leaders in the new United States both expected and needed the leadership of a statesman of Washington’s caliber.

There was a hope that if Washington was the first President, the precedent set by him would serve as an effective check on future leaders. Washington himself was extremely conscious that he set an example for the rest of the country, and that his successes or mistakes could become institutionalized. In his Farewell Address he noted, “The precedent must always greatly overbalance in permanent evil any partial or transient benefit.”²⁷ His attention to the far-reaching implications of his actions greatly minimized the threat of tyranny, and this is indicated best by his choice to step down after two terms of service. At the time of the Convention, however, the Framers could not have known exactly how Washington would rule, even if he did accept the position. The situation was neatly summarized by the Revolutionary War hero Marquis de Lafayette, who wrote to Jefferson,

²⁴ Paul Leicester Ford (ed.), *The Works of Thomas Jefferson, Volume V* (New York: The Knickerbocker Press, 1904), 407.

²⁵ Harold C. Syrett and Jacob E. Cooke (eds.), *The Papers of Alexander Hamilton, Volume V June 1788- 1789* (New York: Columbia University Press, 1962), 201-202.

²⁶ *Ibid* 221.

²⁷ George Washington, “Washington’s Farewell Address,” The Avalon Project, http://avalon.law.yale.edu/18th_century/washing.asp (accessed Dec 14 2008).

What do You think of the powers of the president? I am affraid [sic] that our friends are gone a little too far on the other side. But suppose it is the Case, and General Washington is the president, I know him too well not to think He will find the danger, and lesson [sic] the authority Before He Goes over.²⁸

The Framers were not all-powerful: there were many issues brought up at the Convention that simply could not be satisfactorily addressed while still allowing the Constitution to be ratified. This resulted, at times, in some issues being sidestepped entirely. Just as the institution of slavery was put on a back burner to be dealt with at a less contentious time, so, too, was the issue of executive term limits ignored for the time being. The Framers anticipated having a just ruler in Washington, and may have simply been satisfied with getting through the first few years of the republican experiment.

Other factors in the decision to exclude term limits, however, were more deeply considered. One prominent reason was the thought that citizens should be able to choose for themselves the best person to represent them. During the Constitutional debates, James Wilson demanded, “did you suppose the people of Penna. had not good sense enough to receive a good Government?”²⁹ The electoral system places the responsibility for choosing delegates in the hands of the people, and it assumes that they can do so effectively. Roger Sherman was also “agst. the doctrine of rotation as throwing out of office the men best qualified to execute its duties.”³⁰ If the constituents in an elective district chose, as they should, the best man to represent them, that representative still may be the best choice a few years later. The Constitution, then, would be doing those citizens a disservice by forcibly removing that delegate from service. Rufus King argued, “he who has proved himself to be most fit for an Office, ought

²⁸ Julian P. Boyd (ed.), *The Papers of Thomas Jefferson, Vol. 12* (Princeton, NJ: Princeton University Press, 1955), 460.

²⁹ James Wilson, Aug. 14, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

³⁰ Roger Sherman, June 1, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

not to be excluded by the constitution from holding it.”³¹ Term limits, many of the Framers thought, would unnecessarily limit the choice of voters, perhaps to the detriment of representatives’ quality.

Another point of view was that re-election would be a positive source of stability. The Framers feared the fickle passions of the mob, and their efforts to thwart the will of the majority are embodied throughout the Constitution. The Senate, in particular, was conceived as a body of enlightened citizens who would act in the best long-term interests of the nation. This chamber would benefit especially from being able to hold office over a long period of time, in keeping with their extended influence over the legislature. As James Madison argued:

This reflection wd. naturally suggest that the Govt. be so constituted, as that one of its branches might have an oppy. of acquiring a competent knowledge of the public interests Another reflection equally becoming a people on such an occasion, wd. be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence agst. this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose agst. impetuous councils.³²

Keeping their office for a long period, then, would discourage giving weight to political fads, and instead focus Senators on working for long-term stability. As a counterpoint to the fear of the tyranny of entrenched leadership, Senators being permanently re-eligible would provide protection against the tyranny of the mob-like majority.

The Framers thought that the possibility of re-election also encouraged better service during each term of office. The broad concept that re-election would lead to better representation took several forms in practicality. First, if elections were considered as a sort of performance review, good work in office would lead to re-election, forming a self-perpetuating

³¹ Rufus King, July 19, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

³² James Madison, June 26, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

cycle. As Roger Sherman phrased it, “Frequent elections are necessary to preserve the good behavior of rulers. They also tend to give permanency to the Government, by preserving that good behavior, because it ensures their re-election.”³³ Since the Constitution provided for regular and frequent elections, representatives would be forced to be mindful of their constituents throughout their term of office. Madison went so far as to describe the possibility of re-election as “the principal motive to the faithful discharge of its duties.”³⁴ Roger Morris felt that term limits “will destroy the great incitement to merit public esteem by taking away the hope of being rewarded with a reappointment. It may give a dangerous turn to one of the strongest passions in the human breast. The love of fame is the great spring to noble & illustrious actions.”³⁵ The Framers assumed that office-holders would naturally seek re-election, and that they would see good representation as the means to that end.

The Framers also believed that the possibility of re-election enhanced the prestige of the office, and would encourage more well-qualified men to consider serving. The Framers gave great consideration to how rulers would behave after their rule was over. The idea of a former ruler simply living in society without power was highly problematic for the Framers. They believed that he could be shamed by his service, or by losing the privileges he had become accustomed to holding. Madison wrote that during the debates “it was contended that the prospect of necessary degradation would discourage the most dignified characters from aspiring

³³ Roger Sherman, June 26, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

³⁴ Julian P. Boyd (ed.), *The Papers of Thomas Jefferson, Vol. 12* (Princeton, NJ: Princeton University Press, 1955), 272.

³⁵ Roger Morris, July 19, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

to the office.”³⁶ No true statesman, in other words, would want to experience the ignominy of being stripped of his title.

Not providing a method of re-election could divorce the officeholder’s interests from those of his constituents. Knowing the fixed limit of his term in office, he might be encouraged to act in a way to benefit himself rather than the citizens. Roger Morris argued that term limits “will tempt him to make the most of the short space of time allotted him, to accumulate wealth and provide for his friends.”³⁷ With his eyes on the time after his term of office, the officeholder would seek to curry favor and establish connections to help him succeed as a private citizen. He would be less interested in working for his constituents, and “more indifferent to the importance of a place which he would soon be obliged to quit forever.”³⁸ The ability to be re-elected would keep the officeholder’s interests in line with those of the people.

James Madison foresaw several other problems with an officeholder not seeking the approval of citizens as expressed through votes. He believed that a person forced to leave office by law could easily “stimulate ambition to violent efforts for holding over the constitutional term.”³⁹ Strict laws, then, could increase the possibility of extralegal action in the interest of maintaining power. Madison also thought that executives, in particular, would be interested in eventually becoming members of the legislature, the most powerful branch. Limiting the term of the executive’s service, then, could create problems in the separation of powers. Madison wrote that term limits “would render the officer... more ready to yield to the encroachments of the

³⁶ Julian P. Boyd (ed.), *The Papers of Thomas Jefferson, Vol. 12* (Princeton, NJ: Princeton University Press, 1955), 272.

³⁷ Roger Morris, July 19, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

³⁸ Julian P. Boyd (ed.), *The Papers of Thomas Jefferson, Vol. 12* (Princeton, NJ: Princeton University Press, 1955), 272.

³⁹ *Ibid* 272.

Legislature of which he might again be a member.”⁴⁰ Madison did not conceive of the president as the head of a party that also existed in Congress; rather, he believed that the branches should have somewhat antagonistic roles. A president willing to yield to the legislature in order to smooth his transition back to its chambers would not be properly executing his duties.

Ultimately, the Framers had great faith in the ability of institutions to prevent corruption and tyranny from developing among re-eligible officeholders. The entire Constitution was designed to prevent immoral actions, and even to channel man’s selfish impulses toward achieving the ‘greater good.’ As Madison described,

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust.⁴¹

These precautions are evident throughout the document the Framers designed. Perhaps the most important institution was the system of regular, frequent election for offices. The Framers had tremendous faith in the ability of elections to keep representatives honest. Madison wrote of elected officials, “I do not conceive they will so soon forget the source from whence they derive their political existence.”⁴² Representatives would be discouraged from acting solely in their personal interests because the system of government in which they operated was an elective one, and any powers they possessed could easily be taken away. Madison also believed that “by this government, powers are not given to any particular set of men, they are in the hands of the people.”⁴³ It would be inappropriate to speak of the federal government’s powers as if it simply owned this authority; all the power, ultimately, is derived from the collective will of the citizens.

⁴⁰ Ibid 12 272-273.

⁴¹ James Madison, “Federalist 57,” FoundingFathers.info, <http://www.foundingfathers.info/federalistpapers/fedindex.htm> (accessed Dec 14 2008).

⁴² Gallard Hunt (ed.), *The Writings of James Madison, Vol. V* (New York: G.P. Putnam’s Sons, 1904), 137.

⁴³ Ibid 129.

The elective basis for rulers would necessarily limit the power that could be exercised by the people's delegates.

In addition to the institution of elections, the Constitution provided many other checks on the power of any individual or any body. One highly discussed example is the role of the Senate as proscribed by Article I. During the Constitutional Debates, Madison, thinking of the length of terms for Senators, "did not conceive that the term of nine years could threaten any real danger."⁴⁴ It was important, in the spirit of republicanism, that Senators be chosen by election rather than life-long appointment, but the length of the term was virtually irrelevant. Madison believed that between the forces of the House of Representatives, the executive, the judiciary, and public opinion, Senators would be forced to act in the best interests of the nation. The system of staggered elections would also help keep the Senate from becoming an entrenched aristocracy. James Wilson argued that, "as 1/3 would go out triennially, there would be always three divisions holding their places for unequal terms, and consequently acting under the influence of different views, and different impulses."⁴⁵ Staggered elections would cause conflicting opinions even within the Senate body, and the Framers believed that the best laws would win out in this marketplace of ideas.

When attempting to remedy the problems of the Articles of Convention, the Framers tried to create an institution that would guide the ambitions of men toward moral actions. They had a keen awareness of the defects of human nature, but believed that systems of government could overcome these inherent failings. Contrary to their concerns about power-hungry leaders, however, the Framers chose not to include a limit on how long politicians could hold an office.

⁴⁴ James Madison, June 26, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

⁴⁵ James Wilson, June 26, Notes on the Debates in the Federal Convention, The Avalon Project, http://avalon.law.yale.edu/subject_menus/debcont.asp (accessed Dec 14 2008).

As a group, the men showed myriad motivations: belief that re-eligibility would promote good service, fear of the interplay between the branches, or even simple faith that leaders would execute their duties faithfully. Their complex (or at times strikingly simplistic) motivations serve as a lesson for modern Constitutional scholars that determining the Framers' intent often provides few easy answers.

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