



What the 1787 Convention Almost Created

Most Americans would be amazed at the government that was almost established at the Constitutional Convention of 1787 in Philadelphia. In no area is that more evident than in the debates over the mode of election of the president of the United States.

On Thursday, July 26, 1787, after over a week of fierce debates, the 55 (give or take) state representatives present that day came to a consensus on how the executive would be elected and for how long he would serve. The basic points of the agreement were:

- He would be chosen by the national legislature
- He would serve a term of seven years
- He would be ineligible for reelection
- He would be subject to impeachment and removal from office
- He would appoint all officers except judges
- He would have power to carry out all laws passed by the legislature

The delegates wanted to hammer out a system whereby the executive would be independent of the legislature, but not so independent as to create an embryonic despot. They wanted the president to have sufficient power to carry out his constitutional duties without sacrificing his accountability to the people of the states.

A basic rehearsal of how they came to the compromise described above is helpful in recognizing not only how they arrived at the agreement that day 227 years ago, but how little the office eventually ratified resembles that plan.

First, on June 1 and 2, the method of election set out in the Virginia Plan was adopted with only two states — Pennsylvania and Maryland — opposing. James Wilson in particular spoke out against such a scheme, preferring, he declared, an “election by the people.”

Such an arrangement was uncommon, however, as the executives of only three states — New Hampshire, Massachusetts, and New York — were elected popularly. Wilson, then, proposed that the president be chosen by electors chosen by the people.

One of the more insightful remarks made during the debates on the mode of presidential election was by Elbridge Gerry of Massachusetts. Gerry said that he believed that empowering the national legislature to elect the president would create constant intrigues for executive favor. Furthermore, he feared that such a scheme would end up “stripping the states of their power.” He was no more fond of Wilson’s proposal either. Gerry considered the people at large to be “too little informed of personal characters” to be relied on to choose wise electors.





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He added, some days later, during a heated debate on the subject, “The ignorance of the people would put it in the power of some one set of men dispersed through the union and acting in concert to delude them in any appointment.”

Wilson’s proposal was defeated. The convention voted to set the term office at seven years and to deny any president reelection.

About a week later, Elbridge Gerry moved that the president be elected by the state governors. He warned that allowing the national legislature to elect the president would “give birth to both corruption between the executive and legislature previous to election and to partiality in the executive afterwards to the friends who promoted him.” Gerry fared about as well as Wilson, and his motion was defeated, as well.

Around July 24, the delegates returned to the question of reelection. Oliver Ellsworth of Connecticut spoke up, saying that the president should be reelected “if his conduct proved him worthy of it. And he will be more likely to render himself worthy of it if he be rewardable with it.”

This theory was antithetical to the principles of the recent War for Independence, however. Patriots were wary of turning reelection to office into a reward, fearing those disposed to tyranny would seek office for the purpose of gaining access to power.

The Articles of Confederation — the document that the delegates had ostensibly been called together to amend, not replace — forbade any representative from serving more than three years in a six-year period.

In 1782, a Committee of Congress (on which both Alexander Hamilton and James Madison served) reported:

The truth is, the security intended to the general liberty in the Confederation consists in the frequent election and in the rotation of the members of congress, by which there is a constant and effectual check upon them. This is the security which the people in every state enjoy against the usurpation of their internal government and it is the true source of security in a representative republic.

Back in Philly, Gouverneur Morris argued that if the president wasn’t eligible for reelection, the rotation would “produce instability of councils.”

George Mason of Virginia had an answer for that. In his record of the convention, James Madison writes of Mason’s speech:

Having for his primary object, for the pole-star of his political conduct, the preservation of the rights of the people, he held it as an essential point, as the very palladium of civil liberty, that the great officers of state and particularly the executive, should at fixed periods return to that mass from which they were at first taken, in order that they may feel and respect those rights and interests which are again to be personally valuable to them.

Later, during the Virginia ratifying convention, Mason would make a similar declaration, stating, “Nothing so strongly impels a man to regard the interest of his constituents as the certainty of returning to the general mass of the people, from whence he was taken where he must participate [in] their burdens.”

After a short statement by Benjamin Franklin, the convention adopted the resolution forbidding presidential reelection and setting seven years as the term of office.



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As evident in the above narration, the term of office and mode of electing the president agreed to on July 26 was completely abandoned by the time the final draft was adopted on September 17.

The analogy to what could result from a modern constitutional convention is apt.

Although committing to confine itself to a particular agenda, the product could be a constitution that resembles the current one very little.

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