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Does separation of powers lead to a monarchical presidency?

By Ilya Somin

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In [this USA Today column](#) and in [an important recent book](#), my George Mason colleague Frank Buckley argues that parliamentary systems curb abuses of executive power better than presidential ones do and that the latter tend to create a system where the president becomes like a king:

The idea that President Obama acts as if he is the king of the United States or a tyrant, instead of president, has become a cliché over the past five years....

Unlike real kings, American presidents are elected, but they nevertheless enjoy powers a king would envy. George Mason, who declined to sign our Constitution in 1787, predicted this. He said U.S. presidents would be “elected monarchs.”

And just as Mason predicted, we’re seeing something like monarchical government under President Obama. In truth, however, the expansion of presidential power has been going on in one way or another under most of the presidents who came before....

The problem with presidents goes beyond the United States. The libertarian [Cato Institute](#) rates the U.S. as the world’s 17th most economically free nation. All the democracies ahead of it are parliamentary governments....

It’s easy to see why there are presidents for life but not prime ministers for life. The American system of separation of powers, which divided the responsibilities of Congress and the presidency, was supposed to protect freedom by preventing power from being concentrated in a single branch of government. But that’s not how it turned out. Like a boomerang that swings back and strikes the person who launched it, the separation of powers has served to prevent Congress from reining in an imperial president.

Think of parliamentary non-confidence motions. With one majority vote, a government can be pushed from office by the House of Commons, and compare it with the cumbersome impeachment procedure of the U.S. Constitution requiring a

two-thirds vote in the Senate after a majority vote in the House. Here's a trivia question: How often has a U.S. president been removed from office: Never.

Frank makes an interesting case for his position. But in the article (though not as much in the book), he ignores a crucial advantage of separation of powers systems in curbing executive abuses: divided government. When, as is often the case, the legislature is controlled by a different party than the president, it has strong incentives to investigate and curb presidential abuses. Divided government led to the fall of Richard Nixon. When faced with a hostile Congress in more recent years, both George W. Bush and Barack Obama were forced to exercise greater restraint than before.

Under divided government, the legislature has an incentive to limit the power of the president and the executive bureaucracy he controls. That is one of the reasons why [comparative evaluations of the effects of constitutions find that presidential systems have smaller governments and lower levels of government spending than parliamentary ones.](#)

In a parliamentary system, by contrast, whichever party or coalition has a majority of the legislature also automatically controls the executive. That leads to greater legislative toleration for abuses of power, and higher levels of government spending and intervention. Frank is right to suggest that the president, as an individual, is more difficult to depose than a prime minister. But the executive as a whole is subject to stronger constraints in a presidential system than a parliamentary one. In addition, an independent president can serve as a check on *legislative* power. That isn't possible in system where control of the legislature and the executive is automatically concentrated in the same hands.

Frank overstates the extent to which US presidents have actually escaped legislative constraint. It is true that none has ever been forcibly removed. But one (Nixon) was forced to resign to avoid impeachment and conviction, and two others (Andrew Johnson and Bill Clinton) were seriously damaged by impeachment proceedings that stopped just short of conviction – in Clinton's case for a relatively minor offense. Numerous other presidents have been reduced to "lame duck" status by a combination of unpopularity and congressional hostility.

It is true, as Frank notes, that the US has fallen behind several parliamentary democracies in the Cato Institute economic freedom index in recent years. But it is also true that [the US was consistently in the top two to five nations on that list from 1980 until the early to mid-2000s,](#) usually trailing only such mini-states as Singapore and Hong Kong. The US achieved that level, despite the fact that many of the other leading contenders were small democracies that could economize on defense spending in part by free-riding on US expenditures. Given the strong US performance in the index over a long period of time, it is unlikely that its recent decline was due to presidentialism, which was present throughout that period.

Frank's analogy of the president to a monarch has some merit, but in a different way than he intends. The president is far from being an absolute monarch like Louis XIV or the czar of Russia. He does, however, have similarities to George III and other constitutional monarchs who were tightly constrained by parliament and found it difficult to undertake major policy initiatives

parliament disapproved of. The oppressive policies the American colonists revolted against were mostly instituted by the parliamentary government of Lord North, rather than the king.

Frank also argues that presidential systems unduly insulate the president from criticism because he is the symbolic leader of the nation, as well as the chief executive:

Finally, there's the difference between a parliamentary system that separates the head of state (the queen) from the head of government (the prime minister) and a presidential system that unites both in the president. Politicians should be figures of ridicule and not of royal reverence.

This concern has theoretical merit. But, in practice, most Americans are easily able to separate out the symbolic aspects of the presidency from the president's role as policymaker and partisan leader. The latter is routinely the object of condemnation and ridicule, even as the former enjoys a large measure of bipartisan respect. Certainly, it's hard to argue that the last three or four presidents – including Obama – have managed to avoid widespread public criticism and ridicule, to say nothing of nasty partisan attacks that go far beyond that.

Despite these reservations about his thesis, I actually agree with Frank that recent presidents have accumulated excessive power and that Congress should do more to rein in the executive. But most of that growth is not the result of a special defect of the presidency, but rather the consequence of the more general growth of government. Congress' power has increased enormously over the last century, as well, to the point where it spends some one quarter of US GDP, for example. Executive and legislative power have similarly expanded under most parliamentary regimes. In parliamentary systems, as in the US, [governments often engage in massive electronic surveillance of their citizens](#), with little or no oversight. In both systems, unelected bureaucrats often make more law than legislatures.

None of this proves that presidentialism is always superior to parliamentary government. As I explained in [an earlier critique of Frank's argument](#), there are situations where it is not. But the claim that presidential systems uniquely turn the executive into an unconstrained monarch is ultimately unpersuasive.