



It's the Presidency, Stupid

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Good luck making sense out of what Americans tell pollsters. According to the Pew Research Center, fewer than one in five of us trusts the federal government. Gallup says that nearly three-quarters of us consider our leviathan "the biggest threat to the country in the future." Yet by equally overwhelming margins, Gallup shows Americans agreeing that "the United States has a unique character because of its history and Constitution that sets it apart from other nations as the greatest in the world."

Apparently, we're disgusted and frightened by our government as it actually operates. And yet we're convinced that we've got the best system ever devised by man.

On both counts, no voting bloc is more convinced than American conservatives. Few go quite as far toward constitutional idolatry as former House Majority Leader Tom Delay, who earlier this year proclaimed that God "wrote the Constitution." But the superiority of our national charter, with its separation of powers and independently elected national executive, is an article of faith among conservatives.

So it's about time for some constitutional impiety on the right. F.H. Buckley answers the call in his bracing and important new book, *The Once and Future King*. Buckley, a professor of law at George Mason University and a senior editor at *The American Spectator*, is unmistakably conservative. But that doesn't stop him from pointing out that America isn't so damned exceptional—or from arguing that the revered Constitution has made key contributions to our national decline.

In the conventional narrative, Buckley writes, "our thanks [must] go to the Framers, who gave the country a presidential system that secured the blessings of liberty." A "nice story," he says, but one that "lacks the added advantage of accuracy."

First off, we're hardly "the freest country in the world." As Buckley points out, his native Canada beats the United States handily on most cross-country comparisons of political and economic liberty. In the latest edition of the Cato Institute's *Economic Freedom of the World* rankings, for example, we're an unexceptional 17th. Meanwhile, as Buckley points out, the Economist Intelligence Unit's "Democracy Index" ranks us as the 19th healthiest democracy in the world,

"behind a group of mostly parliamentary countries, and not very far ahead of the 'flawed democracies.'"

There's a lesson there. While "an American is apt to think that his Constitution uniquely protects liberty," the truth "is almost exactly the reverse." In a series of regressions using Freedom House's international rankings, Buckley finds that "presidentialism is significantly and strongly correlated with less political freedom."

In this, Buckley builds on the work of the late political scientist Juan Linz, who in a pioneering 1990 article, "The Perils of Presidentialism," argued that presidential systems encourage cults of personality, foster instability, and are especially bad for developing countries. Subsequent studies have bolstered Linz's insights, showing that presidential systems are more prone to corruption than parliamentary systems, more likely to suffer catastrophic breakdowns, and more likely to degenerate into autocracies. *The Once and Future King* puts it succinctly: "there are a good many more presidents-for-life than prime-ministers-for-life." Maybe what's exceptional about the United States is that for more than 200 years we've "remained free while yet presidential."

Relatively free, that is. The American presidency, with its vast regulatory and national security powers, is, Buckley argues, rapidly degenerating into the "elective monarchy" that George Mason warned about at the Philadelphia Convention. Despite their parliamentary systems, our cousins in the Anglosphere also suffer from creeping "Crown Government" - "political power has been centralized in the executive branch of government in America, Britain, and Canada, like a virus that attacks different people, with different constitutions, in different countries at the same time," he writes.

But we've got it worse, thanks in large part to a system that makes us particularly susceptible to one-man rule. As Buckley sees it, "presidentialism fosters the rise of Crown government" in several distinct ways. Among them: It encourages executive messianism by making the head of government the head of state; it insulates the head of government from legislative accountability; and it makes him far harder to remove. On each of these points, *The Once and Future King* makes a compelling-and compellingly readable-case.

"The character of the presidency is such," the British journalist Henry Fairlie wrote in 1967, "that the majority of the people can be persuaded to look to it for a kind of leadership which no politician, in my opinion, should be allowed, let alone invited, to give. 'If people want a sense of purpose,' [former British Prime Minister] Harold Macmillan once said to me, 'they should get it from their archbishops.'"

Presidential regimes invite executive dominance by combining the roles of "head of state" and "head of government" in one figure. "As heads of government," Buckley writes, "presidents are the most powerful officials in their countries. As heads of state, they are also their countries' ceremonial leaders," and claim "the loyalty and respect of all patriots." Where parliamentary systems cleave off power from ceremony, presidential ones make the chief executive the living

symbol of nationhood: the focal point of national hopes, dreams, fears, and occasionally fantasies. In February 2009, author Judith Warner took to her New York Times blog to confess that "the other night I dreamt of Barack Obama. He was taking a shower right when I needed to get into the bathroom to shave my legs." Warner's email inquiries revealed that "many women—not too surprisingly—were dreaming about sex with the president."

Buckley notes that "Britons tend not to chat with David Cameron in their dreams," which presumably rules out soapy frolicking as well. Nor do Brits tend to look to the prime minister for a sense of national purpose or as a cure for spiritual "malaise." Prime ministers are "more likely to be figures of fun—or the butt of slanging matches during Question Period in the House of Commons." Indeed, the parliamentary practice of Prime Minister's Questions, in which the chief executive is regularly and ruthlessly grilled by the opposition, goes a long way toward explaining why there's no such thing as the Cult of the Prime Minister.

Presidents can isolate themselves in a cocoon of sycophants, even putting protesters in "Free-Speech Zones," where their signs can't offend the liege. And the exaggerated ceremony of the office "tends to make criticism of a president seem like lese-majeste," as Justice Samuel Alito learned when he dared mouth the words "not true" while Obama was pummeling the Supreme Court in his 2010 State of the Union address.

"Thin-skinned and grandiose" characters do better in presidential regimes, Buckley writes, whereas "delusions of Gaullist grandeur are fatal for Prime Ministers." In the U.K., they have to face the music in person each week. The aforementioned Harold Macmillan admitted that the very prospect used to make him physically sick.

The prime minister's Question Time is but one facet of the superior executive accountability offered by parliamentary systems, Buckley argues. Such systems, he maintains, also do a better job of restraining executives' proclivity for launching wars.

It's a counterintuitive claim. In the U.K., warmaking is a royal prerogative exercised by the prime minister, and parliamentary approval is optional. In the U.S., Congress has the power to declare war and the power of the purse, which Jefferson looked to as an "effectual check to the Dog of war."

That's the theory, anyway. In practice, Buckley shows, "the absence of the separation of powers in parliamentary regimes and the government's day-to-day accountability before the House of Commons make it far more difficult for a prime minister to disregard Parliament's wishes." Meanwhile, U.S. congressmen reliably punt on questions of war and peace and hardly ever object to funding wars they never approved.

Buckley over-eggs the pudding a bit when he writes that "if one really wants a militaristic government and imperialism, presidential regimes are the way to go." The British Empire

managed well enough, having at one time or another made war on all but 22 countries around the world.

Even so, our countries' respective debates over whether to bomb Syria made for an instructive contrast. Last September, Secretary of State John Kerry kept insisting that "the president has the power" to wage war "no matter what Congress does." When the House of Commons rejected airstrikes, Kerry's counterpart across the pond simply said, "Parliament has spoken."

Finally, parliamentary systems do better on the ultimate question of accountability: They make it easier to "throw the bum out" if all else fails. "Prime ministers may be turfed out at any time by a majority in the House of Commons"; they can also be replaced by their party without bringing down the government. Presidents serve for fixed terms, and since we've never, in 225 years, successfully used the impeachment process to remove one, anyone who's not demonstrably crazy or catatonic gets to ride out his term. We're stuck with the guy, thanks to our peculiar system of separated powers.

That system isn't all it's cracked up to be. It's not even what the Framers wanted, Buckley argues. Madison's Virginia Plan featured an executive chosen by the legislature. The Framers repeatedly rejected the idea of a president elected by the people—that option failed in four separate votes in Philadelphia.

What they envisioned was something much closer to parliamentarianism. As the Convention drew to a close, most of the Framers thought they'd settled on a system where presidential selection would usually be thrown to the House, since, after Washington, they didn't expect "national candidates with countrywide support would emerge." It was only after the Convention that Madison became the "principal apologist" for the emerging system of strong separation of powers.

Buckley is relentless in cataloging that system's defects. It's made the executive the most dangerous branch, he writes, fostering one-man rule when "deadlocks produced by divided governmentâ€¦encourage a power-seeking president to disregard the legislature and rule by decree."

Still, is there anything that separationism is good for? It stands to reason that the lack of separated powers in parliamentary regimes makes it easier to get big, bad things done.

Buckley acknowledges the point, but counters that it's also easier to get them undone, and that with a fiscal apocalypse looming, reversibility is more important. That's a plausible thesis, but I'd have liked to see more actual evidence on how well parliamentary regimes do at repealing bad laws and programs.

Buckley also spends comparatively little time on the relationship between regime choice and size of government. He notes that in the 1990s, presidential regimes had lower per-capita spending

than parliamentary ones, but "since then, the gap has narrowed considerably—and this is before the bill for Obamacare comes due." But the U.S. still spends less on average than other wealthy democracies, including most first-world parliamentary regimes. And as far as "the bill for Obamacare" goes: Without the separation of powers, there's little doubt the U.S. would have had nationalized health care long before 2009. As Yale's Theodore Marmor, a leading scholar on the politics of the welfare state, argued in *Social Science & Medicine* in 2011, if the U.S. "had a Westminster-style parliamentary system, it is likely that America would have adopted national health insurance over 60 years ago when President Harry Truman proposed it."

Some scholars have found that presidential systems' apparent advantage on government expenditures vanishes under close scrutiny. But even if the tradeoff is higher government spending in exchange for somewhat greater freedom and a more restrained and accountable chief executive, it's not a trade we have the power to make. "All of this is irreversible," Buckley warns the reader in the book's very first chapter. In the last chapter, he notes that it's "a bit late in the day to adopt the parliamentary form of government the Framers had wanted" before halfheartedly outlining a few reforms he admits won't solve the fundamental problem.

Nobody likes hearing that sort of thing. But personally, I value an accurate diagnosis even if it doesn't come with a magic cure-all. Buckley's *Once and Future King* makes a powerful case that we're even worse off than we thought.