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"Perspectives on the Presidency," from *The Presidency in a Separated System*

Charles O. Jones

Just how powerful is the president? Have the fears of some of the framers—that the president would degrade into an imperial despot—been realized, or does the separation of powers effectively check the president's ability to misuse the powers of office? Charles Jones argues that we should view the president as only one of the players in American government; the presidency exists only as one part of a set of institutions where responsibility is diffused, where the bulk of political activity takes place independent of the presidency, and where the different players and institutions learn to adjust to the others. Consider, for example, that President George W. Bush faced a Senate controlled by the Democrats for most of his first two years in office and had to work with them to achieve some of his major goals such as education reform. Or that President Barack Obama left it to Congress to work out many details of health care reform, in contrast to President Bill Clinton, who unsuccessfully attempted to get Congress to enact a major health care reform plan produced by an administration task force. Ultimately, Jones argues, the president is only a part of a larger "separated system," in which Congress, the courts, and the bureaucracy can shape policy.

The president is not the presidency. The presidency is not the government. Ours is not a presidential system.

I begin with these starkly negative themes as partial correctives to the more popular interpretations of the United States government as presidency-centered. Presidents themselves learn these refrains on the job, if they do not know them before. President Lyndon B. Johnson, who had impressive political advantages during the early years of his administration, reflected later on what was required to realize the potentialities of the office:

> Every President has to establish with the various sectors of the country what I call "the right to govern." Just being elected to the office does not guarantee him that right. Every President has to inspire the confidence of the people. Every President has to become a leader, and to be a leader he must attract people who are willing to follow him. Every President has to develop a moral underpinning to his power, or he soon discovers that he has no power at all.

To exercise influence, presidents must learn the setting within which it has bearing. [Then] president-elect Bill Clinton recognized the complexi-

ties of translating campaign promises into a legislative program during a news conference shortly after his election in 1992:

> It's all very well to say you want an investment tax credit, and quite another thing to make the 15 decisions that have to be made to shape the exact bill you want.
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> It's all very well to say . . . that the working poor in this country . . . should be lifted out of poverty by increasing the refundable income tax credit for the working poor, and another thing to answer the five or six questions that define how you get that done.

For presidents, new or experienced, to recognize the limitations of office is commendable. Convincing others to do so is a challenge. Presidents become convenient labels for marking historical time: the Johnson years, the Nixon years, the Reagan years. Media coverage naturally focuses more on the president: there is just one at a time, executive organization is oriented in pyramidal fashion toward the Oval Office, Congress is too diffuse an institution to report on as such, and the Supreme Court leads primarily by indirection. Public interest, too, is directed toward the White House as a symbol of the government. As a result, expectations of a president often far exceed the individual's personal, political, institutional, or constitutional capacities for achievement. Performance seldom matches promise. Presidents who understand how it all works resist the inflated image of power born of high-stakes elections and seek to lower expectations. Politically savvy presidents know instinctively that it is precisely at the moment of great achievement that they must prepare themselves for the setback that will surely follow.

Focusing exclusively on the presidency can lead to a seriously distorted picture of how the national government does its work. The plain fact is that the United States does not have a presidential system. It has a *separated* system. It is odd that it is so commonly thought of as otherwise since schoolchildren learn about the separation of powers and checks and balances. As the author of *Federalist* 51 wrote, "Ambition must be made to counteract ambition." No one, least of all presidents, the Founders reasoned, can be entrusted with excessive authority. Human nature, being what it is, requires "auxiliary precautions" in the form of competing legitimacies.

The acceptance that this is a separated, not a presidential, system, prepares one to appraise how politics works, not to be simply reproachful and reformist. Thus, for example, divided (or split-party) government is accepted as a potential or even likely outcome of a separated system, rooted as it is in the separation of elections. Failure to acknowledge the authenticity of the split-party condition leaves one with little to study and much to reform in the post–World War II period, when the government has been divided more than 60 percent of the time.

Simply put, the role of the president in this separated system of governing varies substantially, depending on his resources, advantages, and

strategic position. My strong interest is in how presidents place themselves in an ongoing government and are fitted in by other participants, notably those on Capitol Hill. The central purpose of this book is to explore these "fittings." In pursuing this interest, I have found little value in the presidency-centered, party government perspective, as I will explain below. As a substitute, I propose a separationist, diffused-responsibility perspective that I find more suited to the constitutional, institutional, political, and policy conditions associated with the American system of governing.

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The Dominant Perspective

The presidency-centered perspective is consistent with a dominant and well-developed perspective that has been highly influential in evaluating the American political system. The perspective is that of party government, typically one led by a strong or aggressive president. Those advocating this perspective prefer a system in which political parties are stronger than they normally can be in a system of separated elections.

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The party government perspective is best summarized in the recommendations made in 1946 by the Committee on Political Parties of the American Political Science Association.

> The party system that is needed must be democratic, responsible and effective. . . .
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> An effective party system requires, first, that the parties are able to bring forth programs to which they commit themselves and, second, that the parties possess sufficient internal cohesion to carry out these programs. . . .
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> The fundamental requirement of such accountability is a two-party system in which the opposition party acts as the critic of the party in power, developing, defining, and presenting the policy alternatives which are necessary for a true choice in reaching public decisions.

Note the language in this summary: party in power, opposition party, policy alternatives for choice, accountability, internal cohesion, programs to which parties commit themselves. As a whole, it forms a test that a separated system is bound to fail.

I know of very few contemporary advocates of the two-party responsibility model. But I know many analysts who rely on its criteria when judging the political system. One sees this reliance at work when reviewing how elections are interpreted and presidents are evaluated. By this standard, the good campaign and election have the following characteristics:

- Publicly visible issues that are debated by the candidates during the campaign.
- Clear differences between the candidates on the issues, preferably deriving from ideology.

- A substantial victory for the winning candidate, thus demonstrating public support for one set of issue positions.
- A party win accompanying the victory for the president, notably an increase in the presidential party's share of congressional seats and statehouses so that the president's win can be said to have had an impact on other races (the coattail effect).
- A greater than expected win for the victorious party, preferably at both ends of Pennsylvania Avenue.
- A postelection declaration of support and unity from the congressional leaders of the president's party.

The good president, by this perspective, is one who makes government work, one who has a program and uses his resources to get it enacted. The good president is an activist: he sets the agenda, is attentive to the progress being made, and willingly accepts responsibility for what happens. He can behave in this way because he has demonstrable support.

It is not in the least surprising that the real outcomes of separated elections frustrate those who prefer responsible party government. Even a cursory reading of the Constitution suggests that these demanding tests will be met only by coincidence. Even an election that gives one party control of the White House and both houses of Congress in no way guarantees a unified or responsible party outcome. And even when a president and his congressional party leaders appear to agree on policy priorities, the situation may change dramatically following midterm elections. Understandably, advocates of party government are led to propose constitutional reform.

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An Alternative Perspective

The alternative perspective for understanding American national politics is bound to be anathema to party responsibility advocates. By the rendition promoted here, responsibility is not focused, it is diffused. Representation is not pure and unidirectional; it is mixed, diluted, and multidirectional. Further, the tracking of policy from inception to implementation discourages the most devoted advocate of responsibility theories. In a system of diffused responsibility, credit will be taken and blame will be avoided by both institutions and both parties. For the mature government (one that has achieved substantial involvement in social and economic life), much of the agenda will be self-generating, that is, resulting from programs already on the books. Thus the desire to propose new programs is often frustrated by demands to sustain existing programs, and substantial debt will constrain both.

Additionally there is the matter of who *should* be held accountable for what and when. This is not a novel issue by any means. It is a part of the common rhetoric of split-party government. Are the Democrats responsible

for how Medicare has worked because it was a part of Lyndon Johnson's Great Society? Or are the Republicans responsible because their presidents accepted, administered, and revised the program? Is President Carter responsible for creating a Department of Energy or President Reagan responsible for failing to abolish it, or both? The partisan rhetoric on deficits continues to blame the Democrats for supporting spending programs and the Republicans for cutting taxes. It is noteworthy that this level of debate fails to treat more fundamental issues, such as the constitutional roadblocks to defining responsibility. In preventing the tyranny of the majority, the founders also made it difficult to specify accountability.

Diffusion of responsibility, then, is not only a likely result of a separated system but may also be a fair outcome. From what was said above, one has to doubt how reasonable it is to hold one institution or one party accountable for a program that has grown incrementally through decades of single- and split-party control. Yet reforming a government program is bound to be an occasion for holding one or the other of the branches accountable for wrongs being righted. If, however, politics allows crossing the partisan threshold to place both parties on the same side, then agreements may be reached that will permit blame avoidance, credit taking, and, potentially, significant policy change. This is not to say that both sides agree from the start about what to do, in a cabal devoted to irresponsibility (though that process is not unknown). Rather it is to suggest that diffusion of responsibility may permit policy reform that would have been much less likely if one party had to absorb all of the criticism for past performance or blame should the reforms fail when implemented.

Institutional competition is an expected outcome of the constitutional arrangements that facilitate mixed representation and variable electoral horizons. In recent decades this competition has been reinforced by Republicans settling into the White House, the Democrats comfortably occupying the House of Representatives, and, in very recent times, both parties hotly contending for majority status in the Senate. Bargains struck under these conditions have the effect of perpetuating split control by denying opposition candidates (Democratic presidential challengers, Republican congressional challengers) both the issues upon which to campaign and the means for defining accountability.

The participants in this system of mixed representation and diffused responsibility naturally accommodate their political surroundings. Put otherwise, congressional Democrats and presidential Republicans learn how to do their work. Not only does each side adjust to its political circumstances, but both may also be expected to provide themselves with the resources to participate meaningfully in policy politics.

Much of the above suggests that the political and policy strategies of presidents in dealing with Congress will depend on the advantages they have available at any one time. One cannot employ a constant model of the activist president leading a party government. Conditions may encourage

the president to work at the margins of president-congressional interaction (for example, where he judges that he has an advantage, as with foreign and defense issues). He may allow members of Congress to take policy initiatives, hanging back to see how the issue develops. He may certify an issue as important, propose a program to satisfy certain group demands, but fail to expend the political capital necessary to get the program enacted. The lame-duck president requires clearer explication. The last months and years of a two-term administration may be one of congressional initiative with presidential response. The point is that having been relieved of testing the system for party responsibility, one can proceed to analyze how presidents perform under variable political and policy conditions.

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In a separated system of diffused responsibility, these are the expectations:

- Presidents will enter the White House with variable personal, political, and policy advantages or resources. Presidents are not equally good at comprehending their advantages or identifying how these advantages may work best for purposes of influencing the rest of the government.
- White House and cabinet organization will be quite personal in nature, reflecting the president's assessment of strengths and weaknesses, the challenges the president faces in fitting into the ongoing government, and the political and policy changes that occur during the term of office. There is no formula for organizing the presidency, though certain models can be identified.
- Public support will be an elusive variable in analyzing presidential power. At the very least, its importance for any one president must be considered alongside other advantages. "Going public" does not necessarily carry a special bonus, though presidents with limited advantages otherwise may be forced to rely on this tactic.
- The agenda will be continuous, with many issues derived from programs already being administered. The president surely plays an important role in certifying issues and setting priorities, but Congress and the bureaucracy will also be natural participants. At the very least, therefore, the president will be required to persuade other policy actors that his choices are the right ones. They will do the same with him.
- Lawmaking will vary substantially in terms of initiative, sequence, partisan and institutional interaction, and productivity. The challenge is to comprehend the variable role of the president in a government that is designed for continuity and change.
- Reform will be an especially intricate undertaking since, by constitutional design, the governmental structure is antithetical to efficient goal achievement. Yet many, if not most, reforms seek to achieve efficiency within the basic separated structure. There are not many reforms designed to facilitate the more effective working of split-party government.

DISCUSSION QUESTIONS

1. The conventional wisdom is that presidential power increases, often dramatically, during war and other national crises. How was President Barack Obama's ability to exercise power affected by the economic and financial crises occurring as he took office?

2. How do President Obama's first two years—declining popularity, Democratic majorities in Congress, and much partisan conflict between Republicans and the president—affect your view of Jones's argument?

3. How can Jones's view of the presidency be squared with the popular view that the president is the most powerful person in the world?

DEBATING THE ISSUES—PROSPECTS, POSSIBILITIES AND PERILS IN OBAMA'S SECOND TERM

After a rocky first term, with both major policy success and major controversies (at times on the same issue), Obama was reelected by a comfortable 51–47 percent margin. He became the third consecutive two-term president. What are the prospects for Obama's second term? What issues will he push, and how likely is he to succeed? Or is he destined for failure, like so many other second-term presidents?

Conventional wisdom holds that second terms are fraught with peril, a view confirmed by scandals and crises in earlier presidencies: George W. Bush suffered from extremely low popularity stemming from the Iraq War, lost control of Congress, and had no success pushing Social Security reform. Clinton was impeached, Reagan suffered through Iran-Contra, and Nixon resigned over Watergate. Is this just a sequence of coincidences, or is there a reason why presidents seem to stumble in their second terms?

There are a number of possible explanations (assuming, of course, that the underlying pattern of failure is actually true): lame-duck status, departure of key personnel after the first term, reliance on second-tier policy ideas not pushed in the first term, congressional resistance, and public weariness, to name a few.

The readings here offer different perspectives on Obama's second term. Clymer, writing in the *New York Times*, notes the pattern of second term failures (going back to FDR's disastrous proposal to pack the Supreme Court), but also points out that not all presidents suffer. Eisenhower had some notable second-term successes, particularly (in Clymer's view) his decision to send the U.S. military into Little Rock, Arkansas, to enforce a school desegregation order. Reagan got a major tax reform law passed in 1986. Clinton, who was the first Democratic president since Truman to face a Republican Congress, nevertheless achieved some notable policy successes prior to his impeachment. Even George W. Bush pushed through the Troubled Asset Relief Program in the fall of 2008.

Cavanaugh, writing in the libertarian journal *Reason*, is worried that Obama's popular-vote majority will embolden the president to push aggressively in a second term. Freed from the fear of electoral repudiation, Obama can to pursue an even grander agenda, with the result that we will have more government and less freedom.

Amar takes a middle position, arguing that second terms hold both peril and promise, and that presidents must deal with long-term shifts in public attitudes that they cannot control. He provides some basic guidelines for a second-termer—designate a successor, don't be afraid to "go bold," and seek structural reforms that make it more difficult to obstruct your agenda.