How Congress Lost, Part III: Hamiltonian Energy and the Washington Administration

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Key Points

- When the First Congress convened in 1789, James Madison was convinced it would be the dominant branch of government, and he sought to strengthen executive independence.
- Madison was surprised by Alexander Hamilton's vigorous use of executive influence in his capacity as Treasury secretary.
- Hamilton's domination of the political debate was a consequence of his unique political gifts and the institutional advantages possessed by an executive branch helmed by a single president.
- The period of Hamiltonian dominance in domestic politics, 1790–93, demonstrates that the executive branch would be a much more formidable challenge to the legislature than many, especially Madison, had anticipated at the Constitutional Convention.

When the First Congress was called into session in the spring of 1789, nobody was sure how the new government would function. The Constitution had been debated endlessly since it was released to the public in September 1787, and it had generally been met with approval. Not only did it win ratification (by that point, it had garnered 11 of 13 states' support), but supporters of the Constitution handily won elections to the First Congress. Still, it remained just a theory of how government could work, still to be tested against the rigors of empirical reality.

Throughout the first session of the First Congress in 1789, James Madison was at pains to strengthen the executive branch against what he feared would be legislative encroachment. Convinced by his read of the history and theory of republican politics that Congress would dominate, he wanted to limit the legislative branch's ability to meddle in executive affairs. The framers, in Madison's judgment, had not gone far enough in this respect, and insofar as he could, he would continue the project. On matters like the power to remove public officers, the formation of the Treasury Department, and the powers the Treasury secretary should possess, Madison consistently sided with the executive branch.

And yet by the end of 1790, he had begun to worry about the creeping prospect of monarchy. Why the sudden change of mind? The answer, put simply, was Alexander Hamilton. Named Treasury secretary by George Washington, Hamilton had a capacious view of executive power and a bold plan to modernize the nation's economy. Employing novel executive means toward these commercial ends, Hamilton notched policy victory after victory through 1790 and 1791. From Madison's perspective (one that was later shared by Thomas Jefferson), Hamilton had disrupted the original planning of the constitutional framework, for the executive and not the legislative branch had become the dominant player in politics.

But, again, the Constitution was as yet untried. What might have been planned might not actually happen when theory met practice, and Hamilton's bold leadership demonstrated the potential for strong, even dominant, executive governance in the constitutional system. This report shall demonstrate this point first by elucidating the narrative history of domestic politics from 1789 until 1792, then by developing some theoretical conclusions about the potential of executive power.

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The first session of the First Congress ran from April to September 1789, and it was one of the most productive in American history. The legislature organized the judiciary, which had mostly been left undefined by the Constitution. It enacted a sweeping revenue plan, the first in the nation's history. It submitted the Bill of Rights to the states. And it also created the first executive departments—state, war, and Treasury.

Madison took a prominent role in most of these decisions. Elected to the House from Virginia's Fifth Congressional District, he emerged as the de facto leader of the Federalist faction in the lower chamber. While this group had many overlapping members with the future Federalist Party, it was not the same. Members of this group had been strong supporters of ratification and saw their agenda as enacting laws that would fill in the details left out of the Constitution.

One point of controversy was the question of removing subordinate officers from the executive branch. Who possessed that power? The House had to confront this question as it was designing the State Department, and opinion within the chamber was split. One faction believed the power inherently belonged to Congress, and so the legislature could design any procedure for removals that it preferred. Madison strongly disagreed. He thought that the ability to fire officials was an essential part of the president's broad grant of executive authority and necessary for him to ensure that the laws be faithfully executed.

Madison had another reason for this position. Just as he had been at the Constitutional Convention, he was still worried that the legislative branch could overwhelm the other branches. In a letter written during the debates over the State Department, he wrote to Edmund Pendleton:

> In truth the Legislative power is of such a nature that it scarcely can be restrained either by the Constitution or by itself. And if the federal Government should lose its proper equilibrium within itself, I am persuaded that the effect will proceed from the Encroachments of the Legislative department.[1]

Skeptics worried that giving removal authority to the president would hand him too much authority, but Madison dismissed these anxieties, writing to Randolph, "The danger of undue power in the President from such a regulation is not to me formidable. I see, and *politically feel* that that will be the weak branch of the Government."[2] (Emphasis in original.)

Madison had legitimate reasons to expect congressional dominance. Theoretically, the legislative branch is above the executive and judicial branches in the sense that it writes the laws that constrain and oblige the other branches. After he was inaugurated president in April 1789, for instance, Washington had little to do but receive visitors, as Congress had not yet created any laws for him to enforce. And from the perspective of republican political thought, Madison expected the legislature to have an advantage because it was to be the branch most directly tied to the people, who were the rightful sovereign in such systems of government. If any branch would break through its constitutional chains, Madison bet it would be the legislative, and so he strove to strengthen the executive's position against what he anticipated would be congressional interference.

Madison and his allies carried the day. The law that created the State Department not only gave the president the power to fire staffers; it also was worded carefully to suggest that this power belonged inherently to the president—rather than having been granted to him by Congress. This was a clear victory for the Federalists, and from Madison's standpoint at the time, it would help protect the president from legislative interference.

Two related issues emerged in debates regarding the Treasury Department. Robert Morris, who served as a senator from Pennsylvania during the First Congress, had been named superintendent of finance by the Continental Congress in 1781, an office intended to provide coherence and stability to the government's chaotic financial situation. But Morris's tenure had been controversial, with many members of the Continental Congress thinking he wielded too much power and, in his capacity as a private merchant, was profiting from his position. Morris quit in 1784, and the office was replaced by a three-member board—the thinking being that distributing the powers among three officials would reduce the chances of corruption. Some in the First Congress wished to apply the same partition to the Treasury Department, but Madison staunchly opposed this, arguing instead that the nation's finances required a singular head who was answerable only to the president. On this matter, he again carried the day.

Most members of Congress also thought that the Treasury secretary should be obligated to report to the legislature on what action should be taken to stabilize the nation's finances. It is important to remember that, in 1789, information was much harder to come by than it is today. This is a main reason for the constitutional requirement of what we today know as the State of the Union address. It was not originally intended as a campaign-style speech. Rather, it was meant as a way for the executive branch to leverage its expansive information-gathering capacities (through tax collectors, prosecutors, land officers, and foreign diplomats) to tell Congress what was happening in the country and recommend policy modifications. This was the animating spirit behind requiring the secretary of the new Treasury Department to submit reports on the nation's finances and how to improve them. Congress had the lawmaking power, but it did not necessarily have the requisite information to make proper use of it.

Yet this seemingly insignificant idea—periodic reports from the Treasury secretary—once again prompted backlash from those worried about an overzealous executive branch. Elbridge Gerry, who would go on to serve as Madison's vice president from 1813 until Gerry's death in 1814, argued that the House, by virtue of its connection to the people, "was a better judge of taxation than any individual," and he fretted that this power would not be limited to "merely giving information."[3] The authority of the person would surely influence the discourse in Congress, and thus be "subversive of the principles laid down in the Constitution."[4] Madison dismissed the objections from the often cantankerous and quixotic Gerry as not worth the worry. "There is a small probability," he admitted, "that an officer may . . . have some degree of influence upon the deliberations of the Legislature." However, the "danger and inconvenience of not having well-formed and digested plans" was "infinitely more to apprehend."[5] The House agreed with Madison, and the future Treasury secretary would be obliged to send Congress detailed reports on how to handle the nation's finances.

By September, Madison was quite satisfied with Congress's work. The legislature had not only done a great deal; it had done so in a spirit of moderation and compromise—which is exactly what he hoped politics would look like in a national republic. And as for the boundaries between the executive and legislative branches, he was especially pleased to see Congress not only respect its proper role but take steps to secure the executive's position.

And yet in just two years' time, Madison would be denouncing the executive branch as a rising monarchical force, threatening to unbalance the equilibrium established among the branches in the Constitution and ultimately destroy free government. The great malefactor in Madison's mind was Hamilton, named Treasury secretary by President Washington. And ironically, it would be the very securities Madison established in 1789 that Hamilton would employ to wield such power. The seemingly paranoid concerns raised by the irascible Gerry in 1789 appeared prescient by 1791: The executive had acquired too much power and was running roughshod over the legislature.

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American politics in the 1790s has been remembered as the Federalist Era, but it might as well be called the Hamiltonian Era. Few figures have dominated the republic as thoroughly as Hamilton did during that period.

It was not simply that Hamilton was brilliant, which he certainly was. He had a peerless ability to produce; nobody else could generate detailed policy proposals as well as polemical essays for the newspapers. Not even Madison, himself a workaholic, could keep up with Hamilton. Jefferson—who would become Hamilton's archnemesis—complained to Madison that "Hamilton is really a colossus to the antirepublican party. Without numbers, he is an host within himself."[6] Hamilton also had a preternatural talent for alienating others in government, for he was impolitic, uncompromising, and indiscreet. Because of these formidable qualities, he reorganized American politics into two factions—those who stood with him and those who stood athwart him.

The debates within this period can be viewed from a variety of lenses—for instance, the proper scope of political economy, the way the Constitution should be interpreted, and the dangers of political corruption in government. They can also be viewed through an institutional lens. Hamilton was a strong believer in an energetic executive branch, and as Washington's first Treasury secretary, he dramatically expanded the executive's boundaries. Hamilton's successes disturbed Madison, who quickly abandoned his previous worry that the legislative branch would dominate the executive and began to fear the rise of monarchy in the United States.

The comity of the first session of the First Congress was shattered when the legislature reconvened in January 1790, at which point Hamilton released his *Report on Public Credit*. This was the first of four reports issued over the next several years, in which Hamilton proposed a fundamental reenvisioning of American economic policy. The secretary's plan was for the United States to bootstrap its way into the first rank of nations by borrowing liberally from British commercial policy while developing domestic industries that had languished when the colonies were under the British mercantile system.

Specifically, Hamilton was first and foremost intent on turning the country's public debt from a problem into a solution. He called for a repayment of all national debts at full face value and the assumption of all state debts by the national government. Part of the justification for these proposals was that most of the debt had been incurred to fight the Revolutionary War, so it was a matter of simple fairness that the national government pay it back. But Hamilton had deeper motives. The country had lacked a uniform currency up to that point, a basic defect that inhibited economic integration across regions. If all public debts were to be paid at full face value by the national government, then government bonds could serve the same function as a currency.

Hamilton also saw how a well-managed debt could yoke the interests of the wealthy to the government. Much of the public debt had been purchased by the monied interests in the eastern cities, and under Hamilton's system, they would have a pecuniary incentive in the new government's success. In this way, Hamilton sought to model the commercial revolution in Great Britain, which had forged a tight and beneficial relationship between the merchant community and the government.

Also drawing from the British example, Hamilton intended to create a national bank. The Bank of the United States would be chartered by the government, hold public revenues, and be obliged to loan the government money, but it otherwise would be privately owned and free to loan money to private enterprises. The bank would serve to further yoke the commercial interests with the government to mutually benefit both, in Hamilton's estimate.[7]

Yet Hamilton was not a knee-jerk disciple of British political economy. Britain's commercial success and burgeoning industrialization had created a movement for free trade, given intellectual heft by the publication of Adam Smith's *The Wealth of Nations* in 1776. By the mid-19th century, Britain would adopt free trade as the sine qua non of its economic policy. Hamilton would tack in the other direction, proposing a protectionist system of bounties and drawbacks to encourage developing American industry and discourage exporting essential raw materials. America was in no condition to compete with foreign industry, as the mercantile system had placed economic restrictions on colonial America for generations. While Hamilton understood the economic value of that trade, he also wanted to secure space outside it for American industry to develop.

The economics of Hamilton's system were brilliant, and for the most part they became the essential components of American political economy until the Great Depression. The problem was the politics. Hamilton's system was extremely one-sided, favoring the commercial interests while burdening the agricultural classes with new taxes to pay interest on the debt. It also sparked political corruption, for many members of Congress were themselves heavily invested in government debt and so had personal incentives to support Hamilton's agenda, even if it was not what was best for their constituents. This was particularly the case for Hamilton's plan to assume state debts.

Hamilton's opponents—primarily Jefferson and Madison—were left reeling. As the Treasury secretary scored victory after victory, they were at a loss about what to do in response. From their perspective, this was incipient monarchy. Madison shared with Jefferson his notes from the Constitutional Convention, during which Hamilton had praised the British system and sought to strictly curtail public input into the government. And both were convinced that Hamilton sought to recreate the British system in the United States. As Jefferson privately complained to Washington:

> I told [the president] that tho' the people were sound, there was a numerous sect who had monarchy in contemplation. That the Secy. of the Treasury was one of these. That I had heard him say that this constitution was a shilly shally thing of mere milk and water, which could not last, and was only good as a step to something better. . . . It was natural for us be jealous: and particular when we saw that these measures had established corruption in the legislature, where there was a squadron devoted to the nod of the treasury, doing whatever he had directed and ready to do what he should direct. . . . I told him there was great difference between the little accidental schemes of self interest which would take place in every body of men and influence their votes, and a regular system for forming a corps of interested persons who should be steadily at the orders of the Treasury.[8]

Jefferson's story was not exactly correct. Hamilton had no long-term agenda in creating a hereditary monarchy. He had something else altogether in mind. The secretary believed that the executive branch should be the dominant force in American politics, that it should be the locus of the best and brightest (the "natural aristocracy," or those endowed with personal qualities suited for leadership, as the framers understood it), and that it should dictate the questions for the legislature to consider. Under the energy and genius of Hamilton, it did precisely that in the first half of the 1790s. Hamilton was able to leverage the uniform and singular quality of the executive branch into an agenda-setting power that realigned American politics for a period around the questions that he himself saw fit to ask.

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How could Madison—later in life hailed as the "Father of the Constitution"—so fundamentally misjudge the relationship between the executive and legislative branches? One might simply answer: the genius of Hamilton. No doubt, the Treasury secretary remains a singular figure in American politics, but Hamilton's energy and brilliance were insufficient to transform politics. He also could rely on inherent institutional advantages the president possessed—advantages that Madison had failed to anticipate.

A careful read of Hamilton's *Federalist* 70 illuminates the central advantage possessed by the executive—its unitary nature. The executive office has a single head who can speak with one voice, an advantage that no other branch has. As Hamilton wrote, "Decision, activity, secrecy, and dispatch will generally characterize the proceedings of one man, in a much more eminent degree, than the proceedings of any greater number; and in proportion as the number is increased, these qualities will be diminished."[9] So long as Hamilton had the confidence of the president—which he did on economic matters—he was the agent of one-third of the whole government on matters of policy.

Hamilton employed the advantage of executive unity in three important ways. First, it was Hamilton who could *first* offer authoritative proposals to solve the problem of public finance. Ideas had been bouncing around Congress throughout 1789, but a legislative-derived solution to the problem was a long way off. Any proposal would have had to be a consequence of bargaining between multiple factions within Congress, à la what Madison anticipated in *Federalist* 10. Hamilton was able to beat Congress to the punch by formulating his own policies and then promulgating them with all the prestige that comes from the executive branch. Whatever debate Congress might have had on public finance, Hamilton fundamentally altered its trajectory by giving it specific proposals to consider. Political scientists understand this as the power to set the agenda. Congress remained the ultimate arbiter of what would be decided, but it was Hamilton who framed the choice—not between competing proposals (for none existed with the level of sophistication offered by Hamilton) but between his own ideas and the status quo.

Ironically, Madison facilitated this advantage when he supported giving the Treasury secretary the power to submit plans in the first place. Skeptics of executive power like Gerry warned that this was dangerous, but Madison waved the concerns away, arguing that the executive would be of assistance. One year later, he was aghast at the extent to which Hamilton had used this power to reframe the entire debate over American economic policy.

Second, Hamilton leveraged the executive branch's superior information-gathering power to influence Congress. The reports he released on public finance and taxation between 1790 and 1792 were incredibly detailed, based in no small part on the information collected through the various executive agents spread across the entire country. If members of the legislature wanted to challenge Hamilton on the specifics, they struggled to do so effectively. The facts on the ground, reported to the executive from multiple agents, were released *through* Hamilton. Many skeptics of his policies, including Madison, doubted Hamilton's estimates of the cost of assuming state debts, but there was no alternative standard that had as much credibility as Hamilton's estimate.

Third, Hamilton delivered economic plans that he knew members of Congress would be partial to. No doubt, the secretary thought that his plans were in the nation's best interests, but he *also* recognized that many members of Congress would benefit mightily from his plans. His economic program enormously favored the commercial class, particularly owners of government debt, who were disproportionately represented in Congress, and thus created a large pool of potential allies. This merging of Hamilton's vision of the public interest with the private interests of members of Congress proved a fearsome combination for his plan's opponents, and it helps explain why Jefferson and Madison began complaining about corruption. Hamilton did not have access to the type of patronage that the British crown could deploy, but he crafted his policies in a way that served as an effective workaround to the problem.

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This period of Hamiltonian domination was relatively brief. After an initial string of policy victories, culminating in the Bank of the United States being chartered in 1791, the secretary's influence over domestic policies began to decline as an opposition faction organized, first around Madison and then around Jefferson.

One way through which his opponents struck back was by building up congressional capacity. This took the form of the legislature's first standing committee, the House Ways and Means Committee. Conceived by Hamilton's opponents as a way to avoid "refer[ing]" questions on taxing and spending "to the Secy. of T. as heretofore," as Madison told Jefferson in 1794, it was formally established in 1795 under the direction of Albert Gallatin, a member of the House from Pennsylvania who would go on to serve as Jefferson's and Madison's Treasury secretary.[10] The committee's original purpose was to enable Congress to develop its own plans rather than rely on the executive branch for input, thus serving as a counterbalance to the executive's inherent advantage in possessing greater access to relevant information.

Taken together, the surprising executive domination in 1790–92 is not all that surprising. It was, rather, a combination of the advantages that the unitary executive possesses combined with the political instincts and policy genius of Hamilton. Far from undermining the constitutional structure, the Treasury secretary demonstrated that, under the right leadership, the executive branch could drive the policy debate, even as Congress remained the final arbiter over what became the law.

In the winter of 1793, American policymakers' attention shifted suddenly from domestic to foreign affairs. The Republic of France executed King Louis XVI in January, which drew Great Britain into the coalition of nations lined up against it. American merchants would find themselves in the middle of a great, globe-spanning war that would last for the better part of 20 years. The United States government would have to tread a dangerous, fraught path of neutrality. Even though he was Treasury secretary, Hamilton leapt to the forefront of the debate, articulating a bold vision of executive power and demonstrating in new ways just how powerful the executive could be. That will be the subject of the next report in this series.

About the Author

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Notes

1. James Madison, letter to Edmund Pendleton, June 21, 1789, Founders Online, https://founders.archives.gov/documents/Madison/01-12-02-0152.
2. James Madison, letter to Edmund Randolph, May 31, 1789, Founders Online, https://founders.archives.gov/documents/Madison/01-12-02-0122.
3. Joseph Gales, ed., *The Debates and Proceedings in the Congress of the United States; with an Appendix, Containing Important State Papers and Public Documents, and all the Laws of a Public Nature; with a Copious Index* (Washington, DC: Gales and Seaton, 1834), 1:603.
4. Gales, ed., *The Debates and Proceedings in the Congress of the United States*, 1:604.
5. Gales, ed., *The Debates and Proceedings in the Congress of the United States*.
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8. Thomas Jefferson, "Notes of a Conversation with George Washington," October 1, 1792, Founders Online, https://founders.archives.gov/documents/Jefferson/01-24-02-0393.
9. *Federalist*, no. 70 (Alexander Hamilton), Founders Online, https://founders.archives.gov/documents/Hamilton/01-04-02-0221.
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