

Moral Reasoning 74:
The Theory and Practice
of Republican Government

Lecture 14:
The Revolt against Executive Power in the
American Revolution (II)

Professor Daniel Carpenter
Harvard University

Major Themes

- I. Revolution
- II. The Mixed Character of
Republicanism
- III. The Declaration through Lens of
Republicanism
- IV. Fear of Executive Power in the
Creation of State Constitutions

IV. The Revolt Against Executive Power
in the State Constitutions

1776-77: the “republican moment” in the states.

Most intensive outpouring of constitutional
creation in history to its time.

General feature: elevation of legislature,
diminution of executive. Status of judiciary
ambiguous.

All state constitutions were **written**, published and
distributed widely.

Elevation of Legislative, Emasculation of Executive

PA, GA, VT: unicameral legislature

All states: executive councils/boards, sharing power with governor. These councils chosen by legislature.

Multiple executive, appointed by legislature.

Governor just the chairman of an executive board.

Annual election of executive, in all states but PA, SC, DE, NY.

PLAN OR FRAME OF GOVERNMENT FOR THE COMMONWEALTH OR STATE OF PENNSYLVANIA (1776)

SECTION 1. The commonwealth or state of Pennsylvania shall be governed hereafter by an assembly of the representatives of the freemen of the same, and a president and council, in manner and form following-

SECT. 2. The supreme legislative power shall be vested in a house of representatives of the freemen of the commonwealth or state of Pennsylvania.

SECT. 3. The supreme executive power shall be vested in a president and council.

SECT. 4. Courts of justice shall be established in the city of Philadelphia, and in every county of this state.

SECT. 5. The freemen of this commonwealth and their sons shall be trained and armed for its defence under such regulations, restrictions, and exceptions as the general assembly shall by law direct, preserving always to the people the right of choosing their colonels and all commissioned officers under that rank, in such manner and as often as by the said laws shall be directed.

Abolition of Plural Officeholding

Recall long tradition of concern about multiplication of office and plural office-holding. (E.g., Duke of Buckingham.)

New state constitutions proscribe this, and prevent multiple office holding.

VA Constitution (1776): Nor shall any person exercise the powers of more than one of them [powers] at the same time."

NC Constitution (1776): "no person in the State shall hold more than one lucrative office at any one time." (Art. 35)

John Adams' Views

Sees the essence of the historical moment [*Thoughts on Government* (1776)]:

You and I . . . have been sent into life at a time when the greatest lawgivers of antiquity would have wished to live. How few of the human race have ever enjoyed an opportunity of making an election of government, more than of air, soil, or climate, for themselves or their children! When, before the present epoch, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive?

Adams' Push for New Institutions

Congress in Philadelphia: Adams argues that if independence declared, colonists must form new and legitimate governments

Need conventions separate from the legislature.

Argues this again when Mass (1778, 1780) revisits its Constitution.

Adams:

Need Independent Judicial Power

Thoughts on Government (1776): The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checks upon that. The judges, therefore, should be always men of learning and experience in the laws, of exemplary morals, great patience, calmness, coolness, and attention. Their minds should not be distracted with jarring interests; they should not be dependent upon any man, or body of men. To these ends, they should hold estates for life in their offices; or, in other words, their commissions should be during good behavior, and their salaries ascertained and established by law.
