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*The Powers of the President of the United States of America As
Assigned by the Constitution and Its Basic Amendments*

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Assigned by the Constitution and Its Basic Amendments*

By

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B.A.: English Literature and History of the Islamic World in the
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Assigned by the Constitution and Its Basic Amendments*

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Declaration:

I certify that this thesis submitted for the degree of Masters is the result of my own research, except where otherwise acknowledged, and that this thesis (or any part of the same) has not been submitted for a higher degree to any other university or institution.

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Abstract

This thesis examines the American constitutional powers vested with the president as stipulated in Article II of the United States Constitution. The examination takes a historical perspective. Because the early immigrants who colonized the United States had fresh in their memory the tyranny of the British monarchy, having one individual representative to govern the country became a matter of debate. At the early stages of establishing the federation of the United States in 1787, following the War of Independence, the Founding Fathers were preoccupied with the necessity of unifying the states and forming an executive branch. However, having General George Washington in charge, allowed the constitutional Framers and the people who admired him, to reconcile and accept the concept of a single chief of the executive branch. Collectively, they conceded to call him 'The President'. Thus, the Framers drafted Article II of the Constitution, although with certain ambiguity, vesting the president with certain powers. This Article states: the conditions to be available to the president, the oath of office, as well as the functions that the president is expected to perform, all combined shape the constitutional powers of the president.

The United States Constitution confers upon the president the responsibilities of chief of state, chief of the executive, chief diplomat, and commander-in-chief of the armed forces. The president is expected to perform these duties within the framework guaranteeing the separation of powers between the three branches of the government, i.e., the executive, the legislative, and the judicial. By doing so, the Framers of the constitution ensured that the principle of checks and balances operates effectively, and that no one branch will impede the others.

The Constitution, although adopted over two centuries ago, has remained unchanged. However, the powers exercised by the president have changed over the years. Presidents who occupy the Office have always had different inclinations. Some wanted to leave more of a mark than others or depart from their position with a certain amount of fame. Therefore, all approached the presidential office differently while addressing issues and resolving the problems at hand. Some presidents utilized their powers to the ultimate degree, while others were not capable of manipulating these powers effectively. As a result, the approach and nature of change within the presidency varied throughout history.

There are basically two motives that drive the change and development of the presidency. The first applies to all presidents, in that they govern the nation according to their own vision and interpretation of their constitutional powers. And the other involves their responses to crises and emergencies. Once the president is in office, he tends to disrupt the existing administration by trying to persuade Congress and the general public of the viability of his vision in dealing with matters. This notion of order shattering of the political system is a mode used by presidents of establishing legitimacy for themselves. Great presidents managed to disrupt the existing regimes and reconstruct a whole new political system that better served the people and the country. Other presidents maintained existing structures but introduced new arrangements to attend to the problems of their days. With the push-and-pull of these changes, the presidency was developed and particularly throughout the twentieth century, the presidency shifted towards having greater independence. As a result, Congress tries to tighten the use of executive powers. Thus, despite the separation of

powers, the branches of the government, in fact, share powers for the benefit of the nation.

ملخص باللغة العربية:

تبحث هذه الرسالة في الصلاحيات الدستورية لرئيس الولايات المتحدة الأمريكية كما وردت في البند الثاني من الدستور الأمريكي وتعديلاته الأساسية. فمنذ بداية تأسيس الدولة شغل بال "الآباء المؤسسين" (The Founding Father) أمرين أساسيين أولهما توحيد الولايات الأمريكية تحت مظلة واحدة، والثاني أهمية وجود زعيم "رئيس" واحد لقيادة الدولة ذا صلاحيات يحددها القانون. وقد ساهم وجود القائد جورج واشنطن - الذي كان محبوباً من قبل غالبية الشعب الأمريكي - في الاجتماع الدستوري الذي عقد في واشنطن سنة 1787، إلى اتفاق المجتمعين على أن يتم الحكم في البلاد من قبل جهاز تنفيذي يتزعمه شخص واحد يتمثل بشخص الرئيس، حيث حرص معدو الدستور على وضع صلاحيات محدودة له ولكنها غير واضحة تماماً بهدف عدم منح الرئيس صلاحيات تجعل منه طاغية يذكرهم بالملك البريطاني قبل أن تنفصل الدولة الأمريكية عنها في حربها الثورية سنة 1774. فقد عمد "الآباء المؤسسين" للدولة الأمريكية في اجتماعهم من أجل المصادقة على الدستور سنة 1787 إلى تخصيص البند الثاني من الدستور لصلاحيات الرئيس الأمريكي، حيث وضعوا الشروط التي يجب أن يتمتع بها الرئيس الأمريكي، وتقسيم المنصب وكذلك شمل البند في أجزائه المختلفة تعداد الوظائف والمسؤوليات المنوطة به، والتي تشكل مجملها الصلاحيات الدستورية للرئيس الأمريكي.

وعلى الرغم من أن الصلاحيات تؤهل الرئيس أن يكون رئيساً للدولة، ورئيساً للجهاز التنفيذي، والرئيس الدبلوماسي للدولة وكذلك القائد الأعلى للقوات المسلحة، إلا أن مؤسسو الدولة حرصوا على فصل السلطات ما بين فروع الحكومة الثلاث التنفيذية والتشريعية والقضائية، بحيث يشكل كل فرع منها رقيب على الفرعين الآخرين، وبحيث يعمل نظام الرقابة والتوازن بين الفروع الثلاثة بشكل فعال. ومن الملاحظ أن فصل الصلاحيات يعني أيضاً تقسيم المهام والوظائف المناطة بالفرعين التنفيذي

والتشريعي، حيث يعنى الفرع التشريعي بشكل أساسي في الشؤون الداخلية للبلاد خاصة وأنه يمثل كافة الشعب كونه منتخباً انتخاباً مباشراً من قبلهم، بينما يعنى الفرع التنفيذي بشكل أكبر في الأمور الخارجية للبلاد إضافة إلى مشاركة الكونجرس "الفرع التشريعي" في الشؤون الداخلية.

بقيت صلاحيات الرئيس المنصوص عليها في الدستور كما هي منذ أكثر من مائتي عام دون أن يدخل عليها أي تحديث أو تطور، إلا أنه بوجه عام حدث تطور وتغيير في ممارسة الصلاحيات الرئاسية، كان حصيلة اهتمام الرؤساء عند توليهم للمنصب، التميز كل عن سابقه في ترك أثر وإنجازات يتذكره بها الشعب على مدى العصور. لذلك عمد البعض عند توليهم للمنصب إلى إحداث تغيير في ممارستهم لصلاحياتهم الرئاسية فاستخدم بعض الرؤساء صلاحياتهم الدستورية بكاملها بينما لم تكن للبعض الآخر الدراية الكافية التي تمكنهم من التحكم والتعامل مع هذه الصلاحيات، مما اظهر تباين واختلاف في ممارسة الصلاحيات الرئاسية من رئيس إلى آخر ومن حقبة زمنية إلى أخرى.

المحرك الذي يدفع بالرؤساء إلى إحداث تطور في الصلاحيات الرئاسية هو تحليلهم الخاص ونظرتهم الشخصية للصلاحيات كما جاءت في الدستور، خاصة كيفية معالجتهم للأزمات التي يواجهونها. فعند تولي الرئيس لمهامه يبدأ بعضهم بإيجاد أسلوب جديد لإدارة دفة الحكم ويعمل على إقناع "الكونجرس" والشعب عامة باستراتيجيته، ومواجهته للأزمات والصعاب، جاعلاً منه الأفضل. ليكون بذلك قد عمل على إلغاء النظام السابق وإنشاء نظاماً جديداً يحكمون بموجبه البلاد، بينما يعلق رؤساء آخريين بين استمرارهم لنظام الحكم الموجود وبين رؤيتهم الخاصة لما يجب أن يكون ولكنهم لم يستطيعوا أن يحدثوا التغيير الذي يطمحون إليه. إن النجاح والإخفاق من قبل الرؤساء المتعاقبين على الحكم أدى إلى تطور الرئاسة الأمريكية وخاصة في القرن العشرين حيث شهدت ميولاً كبيراً نحو الاستقلالية مما أدى إلى تنبه الكونجرس وتضييق الخناق عند الضرورة مما يؤكد أنه وبالرغم من فصل السلطات إلا أن فروع الحكومة تتحلى بمشاركتها للسلطة.

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Chapter I

Introduction

I.1. Background

The formation of the presidency of the United States of America was a controversial issue for the Founding Fathers. As early as the beginnings of writing the Constitution, the fear of having a royal tyranny was overwhelming. The dwelling on the necessity of having a president as the leader of the country constituted a dilemma, for there were conflicting views regarding the nature of the presidency. It was difficult to convince the people of the concept of one president to control the government and lead the nation. The conclusion to have a single executive was ultimately adopted because the alternative, which was a form of executive by committee, had anti-republican implications. This was unacceptable to the framers of the Constitution. The argument was that “clear-cut lines of accountability would be impossible in a plural executive, since its various members could continually disclaim responsibility for any action in particular.”¹ The same argument was used successfully to prevent the establishment of a council with whom the president would have to share power. The emergence of the presidency and the constitutional prerequisites, were fundamental issues discussed by the Founding Fathers. Therefore, defenders of the Constitution, (i.e., Alexander Hamilton, James Madison, and John Jay), wrote under the pseudonym name of the Publius in the Federalist Papers - the articles which

¹Marc Landy and Sidney M. Milkis. *Presidential Greatness*. (Lawrence: University Press of Kansas, 2000), p. 13.

analyzed and interpreted the constitution - the importance of having a federation headed by a single executive, the president.

At the end of the Constitutional Convention of 1787, the Constitution was adopted by all the states to form a federation. Thus, the establishment of the presidency was also adopted de facto. Moreover, the Constitution granted powers to the president, which enabled him to control the executive branch and to share powers with the other two branches of the government, i.e. the legislative and the judicial. The authors of the American Constitution wrote in Article II of the document rather blurred functions to be performed by the president. Article II “provides for a small number of expressed powers for the office of the president which is often called the ‘most loosely drawn chapter of the Constitution.’”² The framers believed that the functions needed to be flexible because the executive branch would have to grow as the government adjusted to developments. Thus, the office of the president has been shaped and defined by those individuals who occupied the office subsequently.

To ensure that tyranny would not be exercised by the president and to guarantee the limitation of powers vested in him, the framers of the Constitution placed significant weight on the issue of separation of powers and the fusion of functions across the offices and institutions of President, Congress, and Judiciary. The Founding Fathers made sure that none of the three institutions of the government would contravene or impede the other two. By so doing, the founders paved the way for the checks and balances apparatus to act efficiently. Although the branches of the government,

² Review: “*The Presidency*”. Copyright © 2001 W. W. Norton & company.
www.wwnorton.com/nrl/polsci/weir3/browse/chapter_assignments/14/chp14.html.

particularly the legislative (Congress) and the executive (President), operate independently from one another, they still depend on each other to create policy. Therefore, it is essential that the separate branches of government cooperate in order for the government to function properly.

Throughout history, the American president has occupied a special place in the political system. As head of state, the president is a symbol representing the nation and in addition, he leads the nation through the exercise of his powers and authority. For that reason, political scientists often distinguish between the terms of authority and powers in various ways. On one hand, "Presidential authority is a narrow legal concept that pertains to what a president can or cannot do." While on the other hand, "Presidential power is a broader concept, referring to the president's ability to get others to do what is desired."³ Some presidents, by the use of the Constitutional powers, have managed to succeed in achieving their goals while others have not.

The use of the presidential powers could be viewed in many ways, such as described by Arthur Schlesinger, who noted that it "eventually led to the 'Imperial Presidency', which initially evolved for a clear and identifiable reason, but then grew due to other secondary factors."⁴ The most dominant factor is the way in which power is used in response to the demand or pretext of an emergency or crisis. With the progression of the twentieth century, the role of the president became increasingly center-stage and more powerful, regardless of whether or not there was a crisis. The reasons for the strengthened capacity can be linked to several factors, most importantly: the increased

³ "The Presidency". www.westviewpress.com/bosso/imchapter9.html.

⁴ Will Steineker, 2001. "Arthur Schlesinger, from the Imperial Presidency." <http://fshuntington.edu/jlewis/Sy1/amerpol/201serow6studtOutlines.htm>.