***We the People: the Citizen & the Constitution***

2019-2020 High School Hearing Questions

Information, Tips, Analysis, & Resources from the Oregon high school We the People community

Unit Four / Q. 3

**Professor Michael J. Klarman argues that “the immediate backdrop against which the delegates in Philadelphia were designing the executive branch—state constitutions—was one of emasculated executives.”\* Why would this be, and do you agree with this assessment? Why or why not?**

* To what extent did the Framers have to imbue the new executive branch with powers not found in state constitutions?
* What were the Framers’ fears of moving toward a more powerful executive in the U.S. Constitution, and have those fears been realized over the years? Explain your position.

\* Michael J. Klarman, *The Framers’ Coup*: *The Making of the United States Constitution* (New York: Oxford University Press, 2016), 214.

**Collaboration Tips:**

**4** different questions are in this overall question.

Dates/Timespan/Era of this question: **Colonial to Present era**

Historical events/context that connects to this question:

* **Declaration of Independence**
* **Aristotle philosophy**

Sections of the US Constitution that apply: **Article 2**

People/historical figures connected to the question: **Michael J. Klarman**

Source material for this question:

* **State Constitutions**
* **Federalist 78 & 71**
* ***The Framers Coup***

**Comments from Justice Jack Landau:**

*Klarman's assessment seems largely correct. The Framers were suspicious of executive power, which brought to mind royal governors who vetoed legislation enacted by colonial legislatures. The Declaration of Independence listed abuse of the veto power as among the reasons for the revolution. The Articles of Confederation included no provision for an executive at all. It provided for a committee of the states to act when Congress was not in session, but in hardly ever met. The early state constitutions provided for weak executives who were beholden to the legislatures. In eight states, the legislature -- not the people -- chose governors, and most governors served only one-year terms. Pennsylvania's constitution didn't provide for an executive at all. Most state constitutions did not give the governor the power to veto legislation (only Massachusetts and New Hampshire gave the governor the veto power, while the New York Constitution gave the power to a "committee of revision," of which the governor could be a member) or the power to appoint judges. The appointment power was of special concern, as the Framers recalled the ability of the king to corrupt members of Parliament with offers of various government positions.*

*By the time of the Convention, it was clear that a stronger executive power was in order. Everyone agreed that the executive should have power to execute national laws. They also ended up agreeing to give the executive the veto power, to make sure that Congress didn't usurp the power of other branches (or, as Klarman suggests, to make sure that Congress wasn't too responsive to the whims of the people). Still, the executive veto was not absolute; the Framers provided a mechanism for Congress to override it. The Framers also gave the executive the power to appoint various offices, including federal judges. But again, they made the power less than absolute, subject to legislative approval. They also gave the executive the power to act as commander-in-chief of the armed forces, to grant pardons, to call Congress into special sessions, and to make treaties (with the advice and consent of the Senate).*

*The Framers feared that executive power could devolve into monarchy. Randolph, for example, complained that a unitary executive amounted to the "fetus of monarchy" and argued for multiple executives rather than a single president. Williamson similarly worried that an executive would become, in effect, an "elective king."*