



AMERICAN CONSTITUTIONALISM  
 VOLUME I: STRUCTURES OF GOVERNMENT  
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Supplementary Material

Chapter 2: The Colonial Era – Separation of Powers

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*Richard Jackson, An Historical Review of the Constitution and Government of Pennsylvania* (1759)<sup>1</sup>

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This pamphlet by Richard Jackson was published to coincide with Benjamin Franklin's mission to London, where he hoped to win support for tax and political reform in Pennsylvania. The colonial assembly had long been blocked in their efforts to have the proprietors of the colony bear a larger share of its taxes. The assembly sought to go over the head of the proprietary governor by appealing directly to the Penn family to shoulder more of the tax burden or, failing that, by appealing to the king to change or replace the existing charter. Neither appeal was successful, but the *Historical Review* described how the governor now served "two masters": the Penn family that appointed him and the assembly that paid him. No matter who appointed the governor, as long as the colonial assembly retained the power of the purse and could determine whether to fund the governor's salary, expenses, and program, it could bend the governor to its will. A few years later, Thomas Pownall (1722–1805), who had served as a governor of both Massachusetts and South Carolina, published a call for reforming the governments of the colonies. Among his complaints was the power that the colonial legislatures had over governors. In effect, "the scepter is reversed." As a consequence of the assemblies' tight control over the purse strings, "almost every executive power of the crown lodged in its governor, is, where money is necessary, thus exercised by the assembly and its commissioners."<sup>2</sup>

Given how important the colonists thought it was for the governor's salary to be under the control of the legislature, why would Article II of the U.S. Constitution prohibit Congress from changing the president's salary during his term of office or offering him any other form of payment? Is this provision consistent with the colonists' understanding of the utility of the legislature's power of the purse in a system of constitutional checks and balances?

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It is by this Time apparent enough, that though the *proprietary* and popular interests spring from one and the same Source, they divide as they descend: That every proprietary Governor, for this Reason, has two Masters; one who gives him his Commission, and one who gives him his Pay: That he is on his good Behavior to both: That if he does not fulfill with Rigor every proprietary Command, however injurious to the Province or offensive to the Assembly, he is recalled: That if he does not gratify the Assembly in what they think they have a right to claim, he is certain to live in perpetual Broils, though uncertain whether he shall be enabled to live at all. And that, upon the whole, to be a Governor upon such Terms, is to be the most wretched Thing alive.

Sir *William Keith*<sup>3</sup> could not be ignorant of this: And therefore, however he was instructed here at Home, either by his Principal or the Lords of Trade, resolved to govern himself when he came upon the Spot, by the governing Interest there.—So that his Administration was wholly different from that of his two Predecessors.

With as particular an Eye to his own particular Emolument he did indeed make his first Address to the Assembly.—But then all he said was in popular Language.—He did not so much as name the *Proprietary*: And his Hints were such as could not be misunderstood, that in case they would pay him well, he would serve them well.

The Assembly, on the other Hand, had Sense enough to discern, that this was all which could be required of a Man who had a Family to maintain with some Degree of Splendor, and who was no richer than Plantation Governors usually are: In short, they believed in him, were liberal to him, and the

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<sup>1</sup> Excerpt taken from Richard Jackson, *An Historical Review of the Constitution and Government of Pennsylvania* (London: R. Griffiths, 1759), 7–9, 71–72.

<sup>2</sup> Thomas Pownall, *The Administration of the Colonies* (London: J. Dodsley and J. Walter, 1765), 53.

<sup>3</sup> Lieutenant Governor of Pennsylvania, 1717–1726.



Returns he annually made them were suitable to the Confidence they placed in him.—So that the proper Operation of one Master-Spring kept the whole Machine of Government, for a considerable Period of Time, in a more consistent Motion than it had ever known before.

Of all political Cements reciprocal Interest is the strongest: And the Subjects Money is never so well disposed of, as in the Maintenance of Order and Tranquility, and the Purchase of good Laws; for which Felicities *Keith's* Administration was deservedly memorable.

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