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Separated government

That of the United States is principally a system of separated government which has manifested different institutional paradigms during its two centuries of democratic history (Fabbrini 1993). Whereas after the foundation of the new republic during the 1920s the paradigm favoured the primacy of the legislature, since the 1930s it has seen the progressive affirmation of the primacy of the executive. Therefore, the term American presidentialism should be taken to mean the institutional outcome of the changes that have taken place in the separated government over the last sixty years.

A system of government can be called separated when, to quote the well-known definition by Neustadt (1990: 29, emphasis in the original), it is structured around "separated institutions sharing power". This is made possible because the principal institutions of government (in this case, the Presidency and Congress) are endowed with both reciprocal independence and their autonomous legitimation (which is therefore the basis for their respective processes of institutionalisation). In the case of the Presidency, of course, this legitimation was apparent, rather than real, during the whole of the last century, and it was not until the 1930s that the process was complete. Thus, the simultaneous and separate legitimation of the two institutions of government enabled them to fulfil the functions of both representation and of decision-making that are proper to a system of democratic government.

The point that I wish to make is that the different institutional paradigm of separated government stemmed from the
differing representative capacities of the two institutions in question. The rise of the Presidency during the 1930s derived from its increased representative capacity compared with that of the Congress; and presidential government resulted from this affirmation of the Presidency. Congress accepted the new institutional equilibrium until the 1960s, the decade in which its increased representative capacity, together with the simultaneous imperviousness of an "imperial" Presidency to citizens' demands, induced Congress to challenge presidential supremacy.

For systemic and organizational reasons, however, this challenge proved unable to upset the new equilibrium. A failure which gave rise to constant institutional conflict between the two governmental institutions - the which, between 1968 and 1992, were largely expressions of two different political and party majorities. Although this challenge was unable to reverse the trend towards presidential government, it nevertheless obliged the latter to shift towards "government by the president". Indeed, in order to handle the conflict, the president was forced to increase his personal representative capacity, rather than that of the institution, which he sought to use as the basis for his decision-making capacity. This undertaking, however, proved to be as complex (as regards strategies of action) as it was ineffectual (as regards government performance). Analysis of this process, in both historical and theoretical terms, requires an analysis of the routes to institutionalization followed by Congress and the Presidency that sets them in relation to the equilibria between representation and decision-making displayed by each.

Congressional government

Despite the concern of the Founding Fathers to prevent abuses of legislative power, and despite their deliberate decision to counterbalance the legislature with an executive independent from
it, throughout the first century of the republic. Congress maintained its position as the "centre of governmental power", the focal point for definition of the minor and major problems of policy that concerned the country or sections of it (Dahl 1967). The contradiction between the two roles of the president (on the one hand, leader of 'some' as the head of the executive; on the other, leader of 'all' as the head of state) was resolved in favour of the "ceremonial" role of the president as the head of state - an outcome also made possible by giving a narrow interpretation of the Constitution, which did not hesitate to call Congress "the first branch of government of the United States". Thus the president was prevented from transforming himself into an outright popular leader: to the extent, in fact, that both public and governmental actors regarded the president as invested with less power than that of the Speaker of the House of Representatives, less indeed than certain especially influential senators (Sterling 1966).

Thus the presidencies of Thomas Jefferson (1801-1808), Andrew Jackson (1828-1836) and Abraham Lincoln (1861-1865) - generally considered to be examples of authoritative presidencies - were the exception rather than the rule during the first century of the republic. As well as being the affirmations of particularly "strong" personalities, they were the outcome of an extraordinary period in the political life of the nation: of partisan conflicts in the first case; of social conflicts in the second; and of state conflicts in the third. They are important because they demonstrate the "decision-making vulnerability" of Congress under extraordinary political conditions. Simultaneously, however, this importance is circumscribed by the fact that these presidencies proved unable to establish themselves as "precedents" for later ones in periods of more politically ordinary conditions.

Furthermore, the system for the election of the two bodies of government (Polsby and Wildavsky 1968) had features such that
Congress (and the House of Representatives in particular) was apparently the sole body of representation, in that its legitimation resided in popular will, while the president was obliged to resort to the Constitution in order to justify his institutional salience. The system for selection of the presidential candidate, in fact, was wholly controlled by the congressional elite in the early years of the republic, and by the party elite (with its base in the state legislatures) thereafter. In short, both the external mechanism of the electoral process (the indirectly appointed electoral college) as well as its internal mechanism (the caucus system and the national convention system) enhanced the representative capacity of Congress at the expense of the president's. And hence they also strengthened the institutional interest of the legislature at the expense of the institutional interest of the executive.

Congress employed two main devices of internal organization in order to translate this representativeness into governmental capacity (Lowi and Ginsberg 1990): the committee system and the party caucus system. As regards the former, in 1825 both Houses established a system of standing committees which enabled Congress not only to give more rational organization to its representative activities, but to reinforce its governmental activities as well. For this reason, Congressional government, which consolidated during the 1920s, should be more appropriately called 'committee government' (Wilson 1956: 56). The party caucus system evolved in parallel with the committee system, and each reinforced the other. Right from the first session of the new Congress, members began to form coalitions on the chief policy problems of the moment around two distinct groupings of preferences: groupings which then organized themselves into permanent caucuses. From this point of view, one may assert (Lowi and Ginsberg 1990: 191) that for a century Congress contained a party government to its interior; a party government that acted.
that is, through committee government. The point of linkage between committee government and party caucus government was, for the whole of the century, the Speaker of the House of Representatives, and it was the competition between the parliamentary caucuses for control of the Speakership that transformed the latter into a substantial seat of institutional power (Polsby 1986: 116-9) thereby connecting party power to the influence of the committees.

Between the 1880s and the Second World War, the congressional primacy of separated government was seriously called into question by two basic, interrelated processes: a radical change in the environment and the strong democratization of the system of government. Processes, therefore, that were reinforced by the progressive "delegation of powers" from Congress to the Presidency. When these processes were complete, the "revolutionary" nature of the institutional innovation that they had brought about became evident. At the end of fifty years of change, the functional relationship between the two institutions of government was exactly the reverse of what it had been before. The governmental primacy of the Presidency and the governmental retrenchment of the Congress were unequivocal. Nonetheless, this functional reversal brought with it distinct institutional changes. In fact, although the primacy of the Presidency led to the rapid acceleration of its institutional development (in the form of unprecedented organizational expansion), the reduced power of Congress by no means slowed down its institutional evolution.

This relationship between functions and structure must be framed in the context of a separated government; and hence within the context of the functional duality that it brought about. Since Congress is prima facie a representative institution, the reduction of its "governmental role" could not alter its external nature—that of defining its relation with the people. The effect of Congress's retrenchment was to force it to adjust its internal nature (i.e. to change the distribution of power and its
functioning) but not to alter its functional identity as "representative body". The Presidency, by contrast, underwent radical changes in its functional identity (its external nature) as an effect of its newly-acquired political representativeness; a representativeness, therefore, which was the foundation for its ascent to governmental primacy. This, however, simultaneously induced it to embark on enormous organizational development which altered its internal nature itself. Hence, as it has been aptly put (Mezey 1989: ch. 3), we must refer to Congress in terms of evolution and to the Presidency in terms of transformation. In short, in the two centuries of the republic, whereas Congress has displayed functional continuity accompanied by structural adjustment, the Presidency has conversely displayed functional discontinuity accompanied by a consequent structural discontinuity.

Changes in the environment

Analysis of these processes of transformation must begin with the first of them and with its internal features, which stand chronologically prior to its external ones. The great economic changes brought about by the crisis of the 1880s, the formation of industrial and financial conglomerates (the first great corporations) of such size that they were able forcibly to alter the workings of the market, the birth of powerful organizations of interest which exerted quasi-monopolistic control over one or more resources of crucial importance to the economic system, the revolution in production techniques and the introduction and development of standardized mass production - because of these and other processes the federal government assumed an increasingly active role in society and the market. This was a change of historic proportions in national society as the United States progressively turned into a great industrial power. Although the federal state had made a substantial contribution, together with
the individual states of the union, to the country's territorial and economic expansion, it was now confronted by tasks of outstanding importance (Skowroneck 1982) - especially if these are assessed in terms of the "ideology of the minimal state" that continued to occupy the country's "collective imagination".

In this new structural context, Congress's governmental action rapidly revealed its shortcomings: both in terms of the fragmentary nature of policy directions and the slowness of their formulation. In brief, now that Congressional action was constrained by its representation of consolidated interests, it showed itself unable to give prompt definition to new policy directions, especially when these were demanded by interests in the ascendency. And the weak administrative apparatus, which had proved congenial to congressional government, also swiftly revealed its inability to sustain the expansive impetus of the federal government. It was these institutional limitations of Congress, as well as the growth of the administrative apparatus, that favoured the rise of the Presidency as the central organ of separated government. And it was economic and social change internal to the country that prompted presidents to give a "representative" reinterpretation to their role and a "presidential" one to the prerogatives ascribed to them by the Constitution (Lowi 1985).

In this regard, the reflections of Woodrow Wilson are particularly significant. Twenty-four years after publication of his key work Congressional Government (1885, reprinted in Wilson 1956), Wilson, now in his role as a political leader, published a series of lectures in which he conducted a detailed critique of the government by legislature which he had previously advocated (and eulogized to the point that he proposed its "full ripening" into British parliamentary government). Thus, in Constitutional Government in the United States (1908), Wilson demonstrated that he was aware of the interactions between politics and social change by asserting, with a conviction no less forceful than a quarter of a
century previously, that the system of government indeed required "constitutional reform", but in the opposite direction to that which he had previously argued for.

For the "second" Wilson, the constitutional objective to pursue was endowing the president with *real* independence from the legislature; an independence that would be vulnerable until the president could rely solely on the Constitution to legitimize his role, given his *electoral* subordination to the legislative, federal and state elites. Wilson therefore understood, earlier and better than other commentators, the new tasks set by historical change for the executive and its leader. In this unprecedented context (a) only the Presidency could achieve that administrative cohesion which ensured efficient government intervention in the market; (b) only the president could propose himself as the "point of representation" of general interests and thus as a symbol on national unity, because he was not beholden to any particular group. And it was Wilson again, but this time as president, who arrogated to himself the role of "highestr ontology representative" of the country.

The First World War and - after the interlude of the traditionalist presidencies of Harding (1921-1924) and Coolidge (1925-1928) - the overwhelming crisis of 1929, entailed a radical revision of the institutional equilibria (Toinet 1989) in favour of the executive. Of course, this process was neither linear nor uncontradictory: the first two presidencies of F. D. Roosevelt, the true "founder" of the modern Presidency, were constantly marked - at least until one year before the outbreak of the Second World War - by conflict both with Congress and the Supreme Court. A conflict in which explicitly at stake was definition of the new power hierarchies within the institutions of separated government, and a conflict so fierce that it ended with the transformation of the government system during the crucial years of the 1930s: not coincidentally, in fact, scholars talk of a 'Roosevelt revolution'
How, the dominant role of the United States in international relations during the Second World War consolidated the new power hierarchies that internal changes had institutionalized within separated government. Throughout the nineteenth century, the "international dimension" of the United States had been extremely limited: its geographical isolation, with militarily weak countries just across its borders, a domestic economy rich with resources and possibilities for development, the repression of native Americans, had insulated Washington D.C. from pressures that elsewhere would have pushed for the centralization of political power and its control by the executive. Pressures which resided in the imperatives of international politics and consequently in their military corollaries. Not surprisingly, therefore, the United States, unlike the countries of continental Europe (and in a manner more similar to Great Britain) was able relatively painlessly to develop the political and institutional structures of a "mass" democratic regime. And equally unsurprisingly, it was not until after the Second World War that the United States equipped itself with a permanent military establishment and with a Defense Department to administer it.

In short, the Second World War was a veritable turning point in the country's history: not only because of the legacy that the conflict left behind, with the United States now established as a world military power, but also because of the pressure of an increasingly unified system of international trade which forced the United States definitively to abandon its traditional isolationism. The outbreak of the Cold War between 1946 and 1948 further increased the country's external involvement and, domestically, the Presidency's decision-making supremacy: a supremacy due both to objective factors and to "relational" ones. After all, only the president could guarantee the representation, at once unitary and general, of the country in the international arena.
Democratization

We now turn to the second process of transformation. The Founding Fathers, of course, made no secret of their preoccupation with imposing controls on "the impact of the people on the government" (Wood 1969). For this reason, they not only set clear restrictions on the eligibility to vote (suffrage was at first granted only to white, property-owning males) but, and especially, they devised a complicated electoral system for the selection of a government which would give institutional substance to that preoccupation: a House of Representatives elected by the people counterposed by a Senate elected by the state legislatures, a Supreme Court appointed by the president with the "advice and consent" of the Senate, and above all a president elected by an electoral college in turn composed of electors chosen by the state legislatures. It is evident therefore that, beyond the original intentions of the writers of the Constitution, this system of government was particularly conducive to the supremacy of Congress over the other institutions. Very soon, however, bastions in this "girdle of defensive walls" began to collapse, with inevitable repercussions on the equilibria of the government system itself.

The bastion of the electoral college (Polsby and Wildavski 1988) was first severely undermined in 1800 by the emergence of two political parties with the explicit aim of organizing the elections for Congress. But it was during the presidential elections of 1828 that party competition came to its full maturity (Chambers and Burnham 1975): numerous state constitutions, in fact, were altered to allow electors, and not the state legislatures, to select the members of the presidential electoral college on the basis of competing slates of electors. These changes were induced by the fiercely controversial presidential campaign of 1824 (the first in which certain states elected members of the electoral college by
popular vote): when no candidate obtained the absolute majority of electoral votes, it was Congress that selected the president from the two front runners. And, as is well known, Congress preferred the insider John Quincy Adams (vice-president during the previous Monroe presidency) to the outsider Andrew Jackson (despite his fame as a military hero) - even though Adams had only obtained 30.5 per cent of the popular vote (and 84 electoral votes) compared with Jackson's 43.1 per cent of the popular vote (and 99 electoral votes).

It was the reaction of the Jacksonians to Congress's choice (or better to the choice of the "democratic-republican" party's King Caucus) that triggered the democratization process. First, the property-owning requirement was lifted for the elections of 1828 (although women did not obtain the right to vote until 1920, and blacks not until 1964). Second, the election of the electoral college - now no longer in the hands of the state legislatures - was given a partisan structure whereby votes were pledged to one or other of the presidential candidates. This explains the importance of the competing slates of electors - that is, "lists of grand electors", each with its votes pledged to a particular candidate.

Note, however, that the elections of 1828 saw the creation of a sort of "dual voting system" comprising the formal mechanism of the electoral vote, and the informal one of the popular vote. This duality was entirely coherent with the Constitution: after all, the (small) electors mobilized themselves to choose other (great) electors who, in turn, chose the president. Of course, the ability of the political parties to structure the vote made it possible to resolve the duality: when the grand electors assembled in the capitals of their respective states to select their candidate for the Presidency, they voted on the basis of pledges made to the electors who had chosen them.

A satisfactory state of affairs, therefore? Not at all: the
majoritarian character of the electoral system (the candidate obtaining the majority of popular votes was awarded all the state's electoral votes) gave rise to numerous cases of political incongruence between the popular vote and the electoral vote. Two such cases were particularly scandalous: in 1876 the Republican Rutherford B. Hayes was elected president (by the great electors) despite obtaining only 48 per cent of the popular vote compared with the 51 per cent of his Democratic rival Samuel J. Tilden. In 1888, the Republican Benjamin Harrison was elected president although he had received around 0.6 per cent fewer votes than his rival Grover Cleveland. Many other cases, less sensational but equally significant, can be cited: for instance, the elections of 1880 and 1884, or in more recent times that of 1964 when extremely slight differences in the popular vote resulted in major differences in the electoral vote.

Of course, the innovations introduced into the electoral system were further strengthened by those introduced in the system for the selection of the presidential candidates: it was between the elections of 1828 and 1832 that the new system of the national party convention became institutionalized. This progressively reduced the power of the congressional elites of the two parties. The introduction of the primaries system during the Progressive period gave the presidential electoral system further autonomy from Congress; a process which was only complete much later with the reforms of the 1960s that ratified the primaries (principally "open") as the established system for selecting the presidential candidate (Fabbrini 1986a).

Apart from the electoral college, other bastions were crumbling. Indeed one of them, the Senate's constitutional right, by virtue of an "aristocratic principle", to be elected indirectly, collapsed outright (Voll 1985). As early as the 1830s, the Jacksonian wind of electoral change was blowing on the state legislatures and the federal senators. In many states, in fact,
candidates for the state legislatures (mostly bicameral, as at the federal level) were obliged to announce, in the event of their being elected, their choice of candidate for the federal Senate. Thus popular elections at the state level rapidly began to influence the non-popular elections for the national Senate, which still remained formally the province of the respective legislatures. However, it was not until the advent of the Progressive forces at the turn of the century that election of the federal senators became fully democratized. 1913 saw definitive approval of the 17th constitutional amendment, which abolished the right of the state legislatures to elect senators and assigned it directly to the electors - although, by that time, more than half the states had already introduced some sort of functional equivalent to direct election.

Now, there is no doubt that these processes of democratization were desired and encouraged by the parties. The democratization of the electoral college, of the selection of presidential candidates, and of the system of senatorial elections enabled the parties to consolidate their influence in national politics. However, the reforms of the Progressive period seriously compromised this influence. Criticisms of the abuses committed by the party machines, which led to strict legal restrictions being imposed on the exercise of the vote (the so-called "system of 1896"), served to weaken the political parties and also hampered their ability to direct the activities of Congress. Of course, the American political parties, even those of the "nineteenth-century golden age", cannot be equated with those of parliamentary Europe (Vaudagna 1991). In the United States, the dual system (vertical and horizontal) of the separation of powers constantly "worked at their side" as regards their organizational and planning skills; in Europe the system of fusion of powers (in their federal variants as well) constantly stimulated their capacity of cohesion (Pasquino 1986).
Nevertheless, the democratization of national politics, together with the rationalization of the federal government (one need only cite the abolition by the Progressives of the patronage system which distributed public-sector jobs) led to a gradual diminishment of the power of the political parties in precisely the institution that symbolized such power: Congress. The measure emblematic of this process was the seniority system adopted in 1910 by the House of Representatives after the "revolt" by the legislators (many of whom holding progressive views had been elected for the first time in 1908) against the centralist methods of the Speaker - who was known as "Tsar Reed". This regulatory provision abolished the Speaker's authority to appoint the chairmen of the congressional committees: it was now the longest-serving member who automatically took over as chairman. And the reduction in the power of the political parties during the 1920s was further confirmed by the decline in the voting discipline of their parliamentary members (Congressional Quarterly 1982).

Now, although it is true that the strength or weakness of a government institution, in a system of separated government, relates to its "representative capacity" (that is, to the nature of the link between the institution and groups and individuals), the representative capacity of Congress was high throughout the last century, mainly because of the "restrictedly" democratic nature of its rival institution: and this capacity therefore provided Congress with the basis for its governmental primacy. This is why the processes of democratization of the system of government led to a singular historical outcome: the diminishment of Congress's representative capacity. Indeed, during the Great Transformation of the 1930s, and precisely because of its successful and necessary institutionalization (Polsby 1968), the legislature proved more resistant to change (and more reluctant to represent the new demands and new groups that this change created) than the much less institutionalized executive. And because the legislature had come
to structure itself around the political parties, the adversaries of the latter began to identify Congress as the source of the "limitation of democracy" and the Presidency as the source of its expansion. The Progressives thus anticipated a change that gradually came into being during this century, a change which Wilson had well described in his lectures published in 1908 and which F. D. Roosevelt inaugurated in the 1930s: the executive, not the legislature, was the body in which the national interest could represent itself.

The turning point in the history of the federal government, therefore, came with the presidencies of F. D. Roosevelt (especially the first two: 1933-1940). These constituted the response to the set of political and social forces that had acquired increasing national influence over the last fifty years but had to wait until the great crisis of 1929 to achieve decisive impact at the government level (Lowi 1985). Of course, although the 1930s can be rightly viewed as the crucial stage in the nationalization of American politics, they must nevertheless be framed within a process that has continued throughout this century. Hence, while the increased representative capacity of the Presidency ended by justifying its governmental ascendancy, conversely the diminished representative capacity of Congress justified the diminishment of its power (Sundquist 1981).

**Indefiniteness and institutionalization**

Although the rise of the Presidency was driven by processes of environmental change and the democratization of the system of government between the 1890s and the Second World War, it is also true to say that these processes found no impediment in the Constitution. It seems implausible to argue that the presidential transformation of the system of separated government had already been envisaged by the Founding Fathers - then to express surprise
that it should have been "delayed" so long (Lowi and Ginsberg 1990: 259). It should be stressed that the constitutional formulation, because of its *indefiniteness*, provided fertile terrain for this transformation. The term "indefiniteness", though, should not be taken to mean "absence of definition"; it should instead be understood in the literal sense as the "generic delineation" of presidential powers and privileges. Not coincidentally, one of this century's foremost scholars of the Presidency has called article II of the Constitution, the one devoted to the definition and allocation of executive power, "the most loosely drawn chapter of the Constitution" (Corwin 1957: 2).

This constitutional feature ("not clearly expressed") of the executive proved crucial for the development of presidential government, for two principal reasons. First, it did not obstruct the president's demands to endow his actions with greater institutional force. Second, it justified Congress's renunciation of the endowment of its actions with institutional force. Thus presidential government, which achieved full realization in the 1930s, should be interpreted as resulting from the interaction (induced by the environment) between "presidential demands" and "congressional delegations": put more precisely, between the *choice* of presidents to "assume new responsibilities" and the *choice* of congresses to "delegate previous responsibilities".

We know that the Philadelphia delegates wanted an independent executive, and we also know from the written record of their debates (Farrand 1966) that none of them (not even Hamilton) desired an "institutionally predominant" executive. However, although they agreed in principle on the need to defend the executive against the "hegemonic purposes" of the legislature, they were much less in agreement over the precise definition to give to "the terms" of this defence. Furthermore, in the knowledge that the first president was certain to be George Washington, they decided, consciously or otherwise, to postpone definition of these "terms"
to the presidential office, under the guidance of the hero of the war against the English. Thus the final draft of the Constitution carefully avoided giving definition to these terms: in short, it was not formally concerned with constraining the president to legally prescribed behaviour (Dahl 1967: ch. 10).

Hence the uncertainty of the text, and hence the extraordinary nature, for the scholar, of the extra-textual history of the American Presidency: a history, in fact, which yields important insights into the dynamics of institutional change in a democratic regime. We know that every institution changes, in the medium-long term, according to the interaction between external pressures and the choices of its principal "internal" actors (March and Olsen 1989). But we also know that these choices are in turn constrained by the specific conditions that organize the institution and within which the actors in question operate (Fabbrini 1988b). The Presidency was able to transform itself into the "predominant institution" precisely because its chief actors, the presidents, were able to exploit an internal default condition (Olstrom 1991) which was particularly advantageous to them. In short, the Presidency transformed itself on the basis of the action of specific actors (in this case, the "modern" presidents) who exploited the processes of change pressing for transformation of some kind in order to pursue expansive strategies which proved reconcilable with the internal and external constraints on that institution.

There was nothing deterministic in this transformation, therefore. The form that it took resulted from the choices made by the chief players in the game of government, by the presidents first and foremost, but within a given system of constraints. The point that I wish to make is that this transformation came about without "constitutional traumas", although with fierce "political conflicts", precisely because of the nature of these constraints: presidential choices were not constrained by "positive legal
prescriptions" ("an individual action is permissible only if there exists a law which expressly authorizes it"), but by "a general principle of legality" ("an individual action is permitted unless there is a law which expressly and unequivocally forbids it"). The importance of the indefiniteness of the Constitution was that it did not set rigid behavioural restraints on congresses and presidents. Thus the latter were able to take advantage of favourable conditions to promote the institutional "expansion" of the executive and hence of their personal fortunes.

Of course, the ascendancy of the Presidency within the system of separated government resulted from an institutionalization which was both extensive (i.e. an organizational enlargement) and intensive (i.e. a deepening of jurisdiction). Without this institutionalization, the Presidency could not have replaced Congress as the central component in the system of separated government. Subsequently, however, this successful institutionalization was the cause of its governmental primacy being called into question. Why? The answer is to be found in the characteristics of the institutionalization process.

We know that institutions are the response to problems of collective action: they tend to rise and to consolidate when multi-actor action requires coordination. From this point of view, in the 1930s, the Presidency, unlike Congress, had no such problems to resolve: in that period it was a largely individual body, which undergone an organizational rather than institutional process of development (Rockman 1992). Nevertheless, if one accepts Huntington's (1968: 25) general definition to the effect that "institutionalization is the process whereby organizations and procedures acquire validity and stability", and if one accepts his assertion (Ibid.) that "(t)he level of institutionalization of any organization and procedure can be measured on the basis of its flexibility, complexity, autonomy, coherence", then one may plausibly argue that the Presidency too has undergone a process of
institutionalization: to the extent that, although this process may not have been triggered by a problem of collective action, its subsequent development was certainly due to the need to resolve the problems of collective action that previous organizational development had engendered.

If this is plausible, then one can appropriately use the term "Presidency" only when referring to the twentieth century and, conversely, "President" when referring to the nineteenth. Not by chance, the Constitution makes no mention of "Presidency" and invariably uses the term "President". Nevertheless the increased representative capacity of the latter could never have converted into increased governmental capacity without the institutional development of the former. Hence it was the increased influence of the "President" that led to the development of the "Presidency"; and consequently it was the development of the "Presidency" that led to presidential government. In other words, without the institutionalization of the Presidency qua office the affirmation of the president qua personification of that office could never have come about.

But the more the Presidency became institutionalized the more it strengthened the borders that separated it from the other institutional actors and, especially, from groups and individuals. After all, a process of institutionalization is principally a process of distinction and, consequently, of separation. Thus the successful institutionalization of the Presidency due to the indefiniteness of the Constitution - an institutionalization which was the response to a demand for representation that Congress was unable to satisfy - came in fact to hamper its future representative capacity in the 1960s and the early 1970s.

**Presidential government**

Let us return to the interaction between "presidential
demands" and "congressional delegations", beginning with the former. The constitutional area which best symbolizes the indefiniteness of the constraints on presidential behaviour is that of the so-called "inherent powers" of the executive. Of course, this issue has generated conflicts not only in the constitutional experience of the United States: but it is the American Constitution that has provided these conflicts with particularly fertile ground. Indeed the ink was not yet dry on the Constitution before the theory of the executive's "inherent powers" began to divide the political elite who had written it. The heated debate between Hamilton and Madison during the second Washington Presidency was precisely over the definition of the default condition on presidential behaviour. Whereas Hamilton claimed that "if the Constitution does not prohibit the president from doing something, then he can do it", Madison was convinced this theory instead reflected a "monarchical vision" of the Presidency. The singular aspect of the affair, however, was the behaviour of Jefferson (Banning 1976) who, as Hamilton's principal adversary, urged Madison to intervene against Hamilton and "finally cut him to pieces" (in doctrinal terms, of course). On becoming president (1801-1808), however, he had no qualms over resorting to the very same theory of "inherent powers" (to justify his "presidentialist" decisions in foreign policy, in particular) (Tucker and Hendrickson 1990).

Although in this affair the "practice of Jefferson" confirmed the "theory of Hamilton", and although, as we have seen, particularly tenacious presidents proved able to expand their power in other matters, throughout the last century conditions were nevertheless anything but favourable to such expansion. Not until this century did it become clear that, although Hamilton had been defeated on the doctrinal front, he took full revenge on Madison along the historical dimension. All the presidents from Wilson and, especially, F. D. Roosevelt onwards exploited the new domestic and
international conditions to justify their exercise of powers which, although unwritten, "came with the territory" - to use a current expression.

Hamilton's revenge, it should be added, owed a great deal to judicial power. Two sentences by the Supreme Court were of especial importance in creating the "legal premises" for this recourse (Fisher 1991). With the first, *In re Neagle* (1890), the Court gave broad interpretation to the executive duties of the president in domestic policy, while the second, *United States vs. Curtiss-Wright Corporation* (1936) legitimated the president as the only federal organ of foreign policy. The implications of the theory of "inherent powers" were not only external, however, although it is in the area of foreign policy that modern presidents have most forcefully claimed their freedom from the institutional constraints of separated government. And here one may cite their increasingly frequent recourse to two executive instruments *par excellence*: executive orders (in domestic policy) and executive agreements (in foreign policy).

A sensational challenge was raised against these presidential claims by the *Steel Seizure Case* of 1952, when the Supreme Court attempted to restrict the expansion of "presidential prerogatives". On that occasion the Court managed to quash Truman's executive order bringing the steel industry under the control of the federal government, a measure that Truman sought to justify on the grounds that it was necessary for the country's "war requirements" in Korea. The repeal, however, was unable to halt "presidential greed" by putting a stop to the "abuse" of the executive order. The same applied to executive agreements in foreign policy: here too the Supreme Court handed down an important sentence, although this was one that operated in reverse. In *U.S. vs. Pink* (1942), the Court recognized as constitutional the government's decision to draw up agreements, and not treaties, with foreign countries; a decision much to the executive's liking.
because it could evade the control procedures that Senate applied to diplomatic treaties. And this provided the president with unprecedented opportunities for autonomous action in foreign policy (Scigliano 1971).

I now turn to what I have called "congressional delegations". Here too, of course, the historical turning point came in the 1930s. However, as early as the First World War it became clear that Congress could not concern itself with anything but general legislative matters, because it was unable to govern a complex and turbulent society and economy by means of legislation. Although the observer is struck by the vast number of programmes and administrative agencies approved and instituted by Congress in the 1930s under pressure from F. D. Roosevelt, the same observer should remember that the main institutional impetus to presidential government came a decade before the New Deal when the Budget and Accounting Act was approved in 1921 (Wildavsky 1988: 60-63).

This law symbolized the process whereby powers were delegated from Congress to the Presidency; a process, as we have seen, engendered by the Constitution's indefiniteness concerning the legislative responsibility of the executive. Indeed, section 3 of article II runs: "He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient". This formulation has been used to justify diametrically opposed forms of presidential behaviour. Throughout the last century it was used by the Congress to restrict the president to a wholly secondary role in legislation: indeed, most presidents did not even bother to go to Capitol Hill to inform the legislators about the "state of the Union": they instead sent a written message which was read out by the Speaker of the House of Representatives or by the vice-president in his capacity as chairman of the Senate. During this century, by contrast, it has been Congress which has urged the president to assume, on the basis of this formulation,
powers of legislative initiative by setting the parameters of the federal budget (Mervin 1987).

Congress certainly did not renounce its essential power - i.e. the power deriving from its holding the purse-strings - when it passed this law, but presidential budget proposals nevertheless defined the terms of the exercise of such power. And more in general, the law formalized a role for the president (one unprecedented in American history) as legislative leader in the absence of which it would be improper to talk of "presidential government". Of course, the president's success in his new role was guaranteed by the fact that he was recognized as the leader of his own party in Congress (Blond and Fleisher 1990: ch. 4). Furthermore, the affirmation of this new presidential role led to reinterpretation of the old instruments available to the president; in particular his power of veto (Spitzer 1986).

The use of the presidential veto (both the "regular" one and the so-called 'pocket veto') increased dramatically with F. D. Roosevelt, continued with Truman, and then, with subsequent presidents, became the executive's routine weapon of legislative belligerence. The use of the veto increased the president's threat potential in his dealings with the legislature (Nelson 1989: 1112). Simultaneously, if we exclude the atypical Ford presidency of 1974-1976 (Ford was not elected president but came to office as a replacement first for vice-president Agnew and then for president Nixon), congressional rejections of presidential vetoes became increasingly infrequent. Certainly, the number of presidential vetoes increased in ratio to the number of laws passed by Congress; nevertheless, this increase cannot be properly understood unless it is placed in relation to the legislative role that Congress finally assigned to the president.

Why did Congress delegate its traditional responsibilities to the president? Not only for the objective reasons that I discussed earlier: this delegation was also the result of a
sequence of choices made by the legislators themselves. "Responsibility involves blame": faced with the difficulties of governing fast-developing processes and with the possibility of being blamed for decisions or non-decisions made in these difficult circumstances, the legislators found it convenient to transfer "responsibility and blame" to the president. In short, the basis could not have been laid for presidential government without the complicity of Congress, and precisely in the area of legislative powers. Thus, between the 1930s and the 1960s, there occurred a sort of division of labour between the two bodies of separated government: with the Presidency responsible for defining the policy directions of legislation and Congress responsible for defining their budgetary contents.

Congress's renunciation of some of its legislative prerogatives interwove (in the sense that it was both cause and effect) with the president's radical "enlargement" of his traditional executive and military powers. The presidentialization of separated government thus came to coincide with "president as head of government", as opposed to "president as head of state". Or better, with presidential government, the president used his prerogatives (military, judicial and diplomatic) as head of state to justify the redefinition to his advantage of the prerogatives (executive, military and legislative) as head of government. In short, the dual constitutional connotation of the president was resolved in favour of his role as "head of the executive" in presidential government, while it was resolved in favour of his role as "head of the state" in congressional government. The American experience seems to prove that it is difficult to establish a balanced relationship between the two aspects of the presidential role.

The post-war period
After the Second World War, Congress responded to new environmental challenges and to the governmental ascendancy of the Presidency by adjusting both its functions and its internal organization. Two phases seem particularly significant in this regard (Polsby 1983): a first phase (1946-1964) of "cooperative adjustment", and a second one (after 1964) of "conflictual adjustment".

As regards functional adjustment, because the primacy of the Presidency had been embodied in the progressive erosion of congressional control over "legislative powers", Congress reacted by strengthening its powers of information (specifically those known as "powers of oversight"). It should be pointed out that corresponding to the erosion of Congress's powers in macro-legislation was an extension of its powers in micro-legislation (an expansion favoured by the consolidation of such legislative practices as 'logrolling' and 'porkbarreling'); powers, these latter, which proved, among other things, to be functional to the transformation of legislators into ombudsmen, especially the members of the House of Representatives.

Of course, although it is true that Congress progressively lost the initiative in promoting legislation and defining its contents, it is also true this happened to varying extents in the internal and external mechanisms of public policy. The influence of Congress on domestic policy continued to be greater than its influence on foreign policy. Among other things, as Huntington (1965: 24) has pointed out, this functional evolution of Congress towards "oversight" or supervision was apparently coherent with more general changes under way in the modern state; changes which raised complex problems in order "to control, check, supplement, stimulate, and ameliorate (the state) bureaucracy". Not surprisingly, therefore, the main post-war procedural innovations of Congress were aimed at strengthening its powers of supervision: consider, for instance, its (controversial) recourse to the
legislative veto or to committee clearance in order to monitor the "legislative" decisions delegated to the various executive agencies. But consider too its recourse (much less controversial) to hearings and investigations - two procedures which proved to provide effective supervision. Of course, the effectiveness of such congressional action also stemmed from its judicial implications: that is, from the fact that the committees and sub-committees were able, either directly or through the courts, to subpoena any government official resistant to "loyal collaboration" with Congress.

Thus, sustained by the reorganization of the committee system, and linked with the Presidency through the New Deal coalition that formed around the Democratic Party, throughout the first two post-war decades (1946-1964) Congress apparently found no difficulty in undertaking functional adjustment in relatively "cooperative" terms. Such cooperation, though, did not concern specific legislative directions, but rather general institutional equilibria. At the policy level, clashes between Congress and the president were anything but rare, and they came about precisely because of the spurious character of the New Deal coalition. The point is that, throughout this period, Congress accepted the "new principle" that the power to take the legislative initiative belonged to the president and, with it, the institutional practice whereby the Presidency was identified with the "government".

Conflicts over policy arose from the fact that the congressional leadership comprised powerful committee chairmen (the so-called 'barons' or 'old bulls'); powerful by virtue of the seniority system which, by rewarding length of service, led to the over-representation of the safe one-party regions of the (rural) Democratic South and of the Republican (rural) areas of the North-East and Mid-West. This was a true oligarchy which coalesced cyclically into a conservative coalition (Schneider 1978) and sought to cut back the Presidency's policy, rather than
The attitude of Congress towards the Presidency changed noticeably in the second phase (after 1964) (Shepsle 1989). Its adjustment now became more conflictual in character as, on the basis of its increased representative capacity, it tried to regain a "governmental" form of legislative initiative for itself (Rieselbach 1986). The signal that there were pressures in the country towards a more "activist" Congress in policy-making had already been broadcast by the elections of 1958, when the mainly progressive Democrats won 16 new seats in the Senate and 51 new seats in the House. But it was during the 1960s and the early 1970s that the impetus towards greater congressional activism became most marked. This impulse was not without its contradictions, however: both because it was born, in the early 1960s, of the necessity to render Congress receptive to the political changes urged by the Democratic presidencies of Kennedy and Johnson, and because it was driven, in the early 1970s, by the necessity to use Congress to halt the "imperial thrust" of Johnson and, especially, Nixon: a thrust initiated precisely by the Democratic Party itself. The joint outcome of the revision ('reapportionment' and 'redistricting') of Congressional electoral districts and of the Republican debacle after the Watergate scandal (in the 1974 mid-term elections 75 new Democrats were elected), was the entry of a new generation of liberal legislators to Congress in the early 1970s who brought with them a new "functional" agenda and a new "organizational perspective".

As regards the former, the 1970s saw approval of a range
of laws (viz., War Powers Act, Campaign Finance Act, Budget and Accounting Act, Ethics of Government Act, Freedom of Information Act, Foreign Commitments Resolution) which, as well as strengthening Congress's powers of oversight, sought to restore some of its lost powers of "legislative direction". The attempt was unsuccessful, however, because Congress was unable to reverse a trend favourable to the Presidency, which continued to enjoy strong systemic support. Nevertheless, the crisis of the "imperial Presidency" - made official between 1968 and 1973 by Johnson's decision not to seek a second mandate and by Nixon's resignation at the beginning of his second term of office - gave opportunities for action to a Congress which, now receptive to political change because many of its members had been replaced (Ornstein 1975), increased its representative capacities.

As the expression of an urban or suburban electorate, deeply shocked by the war in Vietnam and hostile to a Presidency perceived as increasingly the prisoner of a "complex of industrial and military interests" (and hence scarcely representative), this new group of legislators rapidly identified the "barons" of the congressional committees as the major obstacle to an "activist" revival of Congress. And this, therefore, gave origin to pressures for the radical democratization of the legislature. A democratization which moved in two directions: firstly, towards the formal redistribution of Congress's internal powers from the committees to the sub-committees; secondly, towards the less formal redistribution of the internal power of the parties in Congress by introducing the practice whereby the caucus (for the Democrats) or the conference (for the Republicans) monitored elections to posts in the internal or external party leadership. And, in contrast with what had happened at the beginning of the century, both these reform processes came into conflict with the seniority system that preserved the link between the committee system and that of the congressional parties. By now seniority no longer guaranteed
democratization but restricted it.

The new democratization had a paradoxical outcome: although it strengthened the influence on policy-making of Congress members, it weakened the influence on decision-making exercised by Congress as an institution. Democratization, in fact, had taken concrete form in the decentralization of Congress's internal power, and this had weakened its capacity for action vis-à-vis the Presidency (Sheppard 1985). Furthermore, the strong individualization of the action of single representatives, due to their vigorous use of their incumbency resource, exposed them to the pressures and influence of the organized interest groups (the so-called Political Action Committees - PACs) active in individual districts and states. After all, increasingly costly electoral campaigns, in the absence of effective legal or party constraints, inevitably forced many individual representatives to rely more and more heavily on the PACs for their funding. Thus, with the end of the 1970s, not only were the "reform enthusiasms" of Congress extinguished (and its "governmental ambitions" accordingly diminished) but its representative capacity itself was reduced as well (Lowi 1992).

However, a new phenomenon arose with the 1980s and came to interweave with this dual process: the partisan division between a House with a Democratic majority and Presidency with a Republican one. Of course, this (party) divided government had its roots in the 1960s, its official date of birth being the elections of 1968. It was with the presidencies of Reagan and Bush, though, that this conflict reached its climax. The divided government gave rise to a singular paradox. On the one hand it obliged single representatives (Democrats in particular) to individualize their action, with the result that they were isolated from national events (and therefore exposed to the influence of the PACs). On the other hand it forced the parties to coordinate themselves at the institutional level (of Congress) in order to sustain their conflict with the rival
Thus Congress (and the Democratic Party) sought to counteract the decentralization of its system of committees and sub-committees with the centralizing capacities of the caucus system of the congressional parties. Apart from strengthening the congressional organizations of the two parties, this partisan conflict also led to a revival in the role of the (Democratic) Speaker, who was assigned the task of giving substance to a government "alternative" to the presidential one. The culmination of this strengthening process came with the election to the Speakership of Jim Wright on the retirement of Tip O'Neill in 1987 (but then Wright was forced to resign in 1989 on the accusation of corruption - the first case of its kind in the history of Congress).

**Government by the president**

Events since the 1960s reveal the difficulties encountered by Congress in reestablishing its authority over decision-making, despite its increased representative capacity. This has been due to both systemic factors ("you cannot govern with the legislature") and ones more properly organizational in character and operating within Congress. Congress's increased representative capacity has been converted into the more marked decentralization ("democratization") of its internal decision-making process; a decentralization, however, inadequately opposed by the revival of the centralizing initiative of the congressional political parties. This is because the two processes (decentralization and centralization) have achieved different levels of institutionalization: high in the former case, because decentralization has produced visible benefits for individual legislators (by strengthening their incumbency); low in the latter case, because the decline of the parties (due precisely to individual incumbency) has reduced incentives for their
institutional strengthening (because incumbency has forced individual representatives to rely more heavily on their PACs than on their parties). For this reason, the two processes have not been able to achieve reciprocal balance.

In sum, although the representativeness recovered during the 1960s and consolidated by its subsequent internal decentralization, induced Congress to press, via the incentives of separated government, for the renewal of its "government role", such claims soon revealed themselves to be unrealistic, mostly because they were not backed by internal centralization. Hence derives the schizophrenia of the parties, and hence, especially, the political paradox of the American legislature: which now exercises its (actual) function of oversight in the belief that it is also performing the (less actual) function of decision-making. The outcome, in the 1970s, was an increase in inter-institutional conflict between the two bodies and, during the 1980s, the progressive paralysis (stalemate) of governmental activity.

It was this open institutional conflict between Presidency and Congress that forced the president to seek a form of personal legitimation independent of that accorded to the executive institution. The result has been not only the plebiscitary evolution of presidential action during the 1980s, but also and especially the president's attempt to legitimate himself as the sole effectively representative elected official. Thus, although the competition for representativeness between executive and legislature has led to their reciprocal paralysis, the president as politica persona has been encouraged to affirm his personal representativeness, thereby shifting "presidential government" towards "government by the president" - which is as symbolically effective as it is operationally ineffectual. After all (Sundquist 1966), the presidencies of Regan and Bush have proved that it is impossible to resolve by personal effort the institutional problems of a separated government which may become a divided government.
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