

Op-Ed Piece
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The Framers Were Not Stupid!

Since the Framers of our State Constitution are no longer around to defend themselves I have decided to step up to the plate on their behalf and scream what I believe they would say today if still in our midst: "We are not stupid! We knew what we were doing! Read the damn Constitution!"

I am amazed at people in politics today who seem to do everything in their power to convince the good citizens of West Virginia that our Constitution is a mess, incapable of deciphering its complex and hidden meanings without the help of at least ten attorneys all armed with tarot cards. Please dear God....will somebody just read the darn document and grasp how smart these Framers were!

Here in a nutshell is the Constitution as it relates to our current "crisis". First it requires that all officers elected under the Constitution must discharge the duties of their respective offices unless or until they are removed from that office. It requires our State Senate to choose a Senate President from the Senate and for more than a decade that individual has been Senator Earl Ray Tomblin from Logan County.

And most relevant the Framers in writing our Constitution provided that in the event of a vacancy in the office of the Governor the executive powers of that office will temporarily be given to the "individual" who occupies the office of Senate President until such time as a new Governor takes office. The loan of these executive powers to one singular individual, i.e. the Senate President, cannot last for more than one year. And during that year a new Governor needs to be elected and take office.

Please note the Framers did not loan the Executive Powers of the Governor to the legislative branch of government. They did not loan the powers to the State Senate. They simply selected one and only one individual from government and temporarily gave that individual the Executive Powers to exercise in the absence of a singular individual occupying the Office of Governor.

Under the Constitution the Senate President would continue to hold the office of Senate President and would continue to perform the duties of both Senator and Senate President. On those occasions when Executive Powers needed to be exercised this one individual would exercise those powers. If he (or she) wished to veto a bill passed by the legislature he could. If he wished to sign a bill he could. If the National Guard needed to be called out for an emergency the individual to whom the Executive Powers were on loan would make that call. Otherwise the life of our government would go on as normal, and the citizens of West Virginia would elect a new governor within a year of the vacancy.

It is really that simple. The Executive Powers of our State Government rest with one individual: the Governor. When there is not a Governor for any reason the Executive Powers

must rest with some other individual. The Framers needed to pick an individual to entrust with those powers on a temporary basis and they picked the President of the Senate, probably a pretty high profile position back in the day of no radio or television.

Most importantly they did not place those powers with another branch of government so as to create a crisis of separation of powers as claimed by some today. There is no separation of powers issue, and to suggest so is insulting to the intellect of the Framers of our Constitution. Our Framers insured that the Executive Powers of our government would always rest with a singular individual, even one that held those powers on a temporary basis. That is the bedrock of an Executive Branch of government and the concept of executive powers. The fact that the singular individual that they chose happened to hold a position within the legislative branch of government is irrelevant as they were not loaning the powers to a branch of government but rather to an individual. And they insured that those powers would always remain in "check" by the work of our other two branches of government.

I am not sure why Senator Tomblin abandoned his job as Senate President upon receiving on loan the Executive Powers until such time as a new governor is elected. The Framers clearly wanted all elected officials including the Senate President to discharge the duties of their offices unless removed from office. Senator Tomblin has not been removed from the Office of Senate President. Indeed the predicate for the loan of the Executive Powers to him rests upon his occupation of that office.

Can we please therefore get back to running the government the way the Framers intended? Senator Tomblin needs to go back to his job as Senate President and run the Senate. The voters need to elect a new Governor. And in the meantime Senator Tomblin the "individual" needs to use his intellect and wisdom to on occasion exercise the Executive Powers on loan to him as he and he alone deems appropriate for the State of West Virginia. Perhaps then our Framers can rest in peace.