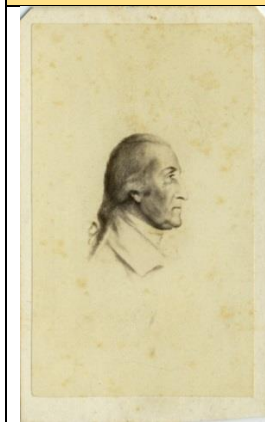


## Chapter 17 -- The Office Of The President Is Defined



**Dates:**  
1787

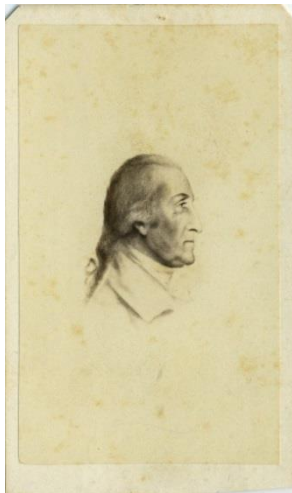
**Sections:**

- A President Of The United States Will Head The Executive Branch
- Presidential Powers Are Defined

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Late July 1787

### A President Of The United States Will Head The Executive Branch



Once again the “Virginia Plan” of May 30 becomes the starting place for discussions, this time on structuring the Executive Branch. It calls for a Council of several men selected by Congress, charged simply with insuring that the laws of the land are being properly carried out.

Then comes Hamilton on June 18 with his radically different approach – insisting that the Executive be one man, titled Governor, serving for life, with powers approaching those of a monarch.

Neither plan feels right to the full body. Somewhere there must be a middle ground between the Executive as fairly minor pawn or mighty king.

A month passes before the ubiquitous Gouverneur Morris of Pennsylvania rises on July 19 with an alternative.

George Washington (1732-1799)

Morris argues that a strong Executive, one man for sure, is needed as a “check” on the Legislative Branch, a final “guardian of the people.”

- The Executive will be titled the President of the United States, and called “His Excellency.”
- His term will be four years, but he is allowed to continue in office for as long as he is re-elected.

This approach sits well with the majority, although several concerns are voiced.

The Anti-Federalist warns that it will become the “fetus of monarchy.”

James Wilson and James Madison worry that a President “directly elected by the people,” might be too prone to short-sighted populist urgings rather than what is best for the long term.

On top of this, a direct election raises the same questions about state sovereignty that arose with the Legislature. Wouldn’t the states with larger populations and therefore more votes dominate the will of their smaller neighbors?

What falls out here is the creation of an “Electoral College” charged with actually choosing the President.

- He will be chosen by “electors” from each State, who will be “named” by the State’s legislature.
- Each State will have a number of electors that match their total seats in Congress.
- Each “elector” will nominate two men for the position, including one not from their home state.
- The man with the most votes will become President; second most will be Vice-President.
- In case of a tie, House members will be called upon to break it.

This approach again involves a balancing act.

The bigger states do end up with more voting power – but this seems less threatening in the Executive Branch than in the Legislature, where new laws are originating.

The will of the masses is to be harnessed by “electors,” chosen by state officials, exhibiting statesmanship and wisdom in casting their two ballots.

Over 60 separate votes are taken at the Convention before the process for electing a President is resolved.

The outcome also leads to the office of the Vice-President – to be filled by the runner-up in the Electoral College voting. The exact duties of the Vice-President are vague all along. Most feel he would act as a “stand-in” in case the President died, until the Electoral College had time to gather and pick a true replacement. Other than that, he is given the mostly ceremonial job of ex-officio President of the Senate, with the power to break tie votes.

But what of the new President himself? It is abundantly clear that he is to be more than a figurehead and less than a monarch. So what exactly are his powers?

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July 26, 1787

### **Presidential Powers are Defined**

Resolving the Executive’s role requires another wrestling match between Federalists and Anti-Federalists.

In the end, the Convention retains the two powers identified in the “Virginia Plan” – to “take care that the laws are faithfully executed” and to make a host of “appointments,” such as ambassadors and federal judges, with the Senate’s consent.

Layered on top of these are a broad range of add-ons. Some are very specific: vetoing bills, writing government checks, granting pardons, making treaties, receiving foreign dignitaries, commissioning officers.

One other power is also much on the mind of the delegates: the role of the President in any future warfare, especially involving a sudden invasion. At the time, this prospect is by no means far-fetched, with the British in Canada and Spain still controlling Florida and all land west of the Mississippi.

The Revolutionary War has proven the futility of hoping for Congressmen from thirteen states to agree on military strategy in timely fashion. Organizing a standing army to speed up action is suggested, but rejected by some who are committed to State militias and fear a military coup. As Madison writes:

*Oppressors can tyrannize only when they achieve a standing army, an enslaved press, and a disarmed populace.*

Of course the “solution” to these concerns is before their very eyes, sitting at the front of the hall, in the person of George Washington – one man with mastery over both military and political affairs. Some, like his aide Hamilton, might wish to make him king; others simply wish that his persona can be cloned over time in future Presidents. But for now it’s clear the delegates intend to look to the Executive to oversee military affairs, if and when war arises.

*The President shall be Commander-in-Chief of the Army and Navy of the United States and of the Militia of the several States when called into the actual service of the United States.*

A final add-on to Presidential powers is remarkably open-ended – to do whatever is required “to preserve, protect and defend the Constitution.” The expectation is for a wise statesman-like President who nudges Congress toward actions in the national interest and vetoes harmful legislation when he senses it.

In the long arc of history to follow, America will occasionally encounter a President who lives up to these wishes.

**The Enumerated Powers Of The President Circa 1787**

<b>Article I</b>	<b>Power To</b>
Section 7, clauses 2-3	Approve or veto Bills and Resolutions passed by Congress
Section 9, Article II	Write checks (via Treasury) pursuant to Appropriations made by Congress
Section 1, last clause	Preserve, protect and defend the Constitution
Section 2, clause 2	Serve as Commander-in-Chief when Congress calls the army to service Require Executive department offers to write up their assigned Duties Grant Reprieves and Pardons for offenses against the United States
Section 2, clause 3	Advise the Congress periodically on the State of the Union
Section 3	Recommend to Congress such measures as he deems wise Convene one or both chambers of Congress on extraordinary occasions Receive Ambassadors and other public Ministers Take care that the Laws are faithfully executed Commission all the Officers of the United States