
Preface

A User's Guide to The Evolving Presidency

SOMETIMES NEW wine actually does fit into old wineskins. E-mail and text-messaging seem to have restored the lost art of note writing, to the astonishment and delight of the parents of college students. Political websites offer a newfangled way for like-minded activists to find each other and hold old-fashioned meetings. In classrooms, the Web's vast store of information has revived interest in primary and documentary sources, which for so long relegated to textbook summaries important historical texts, such as what James Monroe actually said in announcing his famous doctrine, or how the Supreme Court reasoned in its decision ordering Richard Nixon to turn over the Watergate tapes. But, as many students have found from experience, the Web's very abundance of information can be overwhelming.

This book is my effort to weave together for students of the presidency the virtues of primary and documentary sources with those of careful, reliable editing and close treatment of political and historical context. The documentary record of the presidency is rich and varied, ranging from laws and Supreme Court decisions to speeches and letters. This edition contains fifty-nine documents (four more than in the previous edition), including additions that reflect historically significant recent events, such as Barack Obama's 2015 State of the Union address and the Supreme Court's 2014 decision in *National Labor Relations Board v. Noel Canning et al.* It also fills gaps in the previous edition with the inclusion of excerpts from James Madison's *Notes of the Federal Convention*, George Mason's "Objections to Thus Constitution of Government," Abraham Lincoln's 1861 "Message to Congress in Special Session," Lord Bryce's "Why Great Men Are Not Chosen President," Franklin D. Roosevelt's Executive Order on Japanese American Internment," the Truman Doctrine, and Lyndon B. Johnson "Equality of Result" address.

The emphasis in this edition is still on the founding and the modern presidency, although Thomas Jefferson is represented by two documents, Andrew Jackson by two, and Abraham Lincoln by five. Many documents are printed in full; others have been edited both to highlight those sections that have proven to be of enduring importance and to preserve the flavor of the original. All of the documents are preceded by essays that place them in political and historical context. I have included a URL with each edited document, when available, for access to the complete, unedited text. Because of the ever-changing nature of the Web, however, readers should not assume that documents will always be available at the listed sites. Typing a phrase from the document into an Internet search engine box is a good alternate strategy.

Students and professors will find that *The Evolving Presidency* fits well in a course on the American presidency or American political development. The table of contents is chronological, but courses that are organized into topical units such as the president

and the Constitution, the president and Congress, and presidential elections will benefit from the Topical Guide on pages XX–XX.

The Topical Guide shows that a course unit on, say, the president and the bureaucracy can draw profitably on some or all of the following documents in this book: the Constitution (1787); *The Federalist Papers*, Nos. 69 through 73 (1788); James Madison's Defense of the President's Removal Power (1789); Andrew Jackson's First Message to Congress (1829); the Articles of Impeachment against Andrew Johnson (1868); the Pendleton Act (1883); *Myers v. United States* (1926); *Humphrey's Executor v. United States* (1935); Report of the Brownlow Committee (1937); the Cuban Missile Crisis (1962); Walter F. Mondale's Memo to Jimmy Carter on the Role of the Vice President (1976); George W. Bush's Signing Statement for the Defense Supplemental Appropriations Act (2005); and *National Labor Relations Board v. Noel Canning et al.* (2014). Some of these documents could be used in other units as well, providing ample flexibility for course use. The *Canning* case, for example, would fit well in units on the president and the Constitution, the president and Congress, the president and the courts, or the president and domestic policy.

Librarians and researchers will find *The Evolving Presidency* to be a one-stop guide to the most important documents concerning the highest office in the land. A majority of presidents are represented in this book, several of them more than once. Ten Supreme Court decisions that have shaped the presidency are included. So are documents bearing on vital events in American history, such as the debate on the Constitution, the Civil War, the Great Depression, the civil rights movement, the Watergate scandal, and the war on terror.

Words generally serve me well, but they are inadequate to express my thanks to those involved in the publication of this book. I especially thank Charisse Kiino, the director of CQ Press's College division, who recognized the book's possibilities at an early stage and advised me well at every step on the way to completion, and Sarah Calabi, CQ Press's always perceptive and encouraging political science acquisitions editor, as well as Catherine Forrest, managing editor; Terri Lee Paulsen, copy editor; and Raquel Christie, editorial assistant; all of whom worked on the book with grace and skill. I also thank David Barrett (Villanova University), Brad Clark (Fort Lewis College), Albert Cover (SUNY Stonybrook), David Crockett (Trinity University), Matthew Dickinson (Middlebury College), Gary Donato (Bentley University), David Greenberg (Rutgers University), Timothy S. Huebner (Rhodes College), Ronald Lee (Rockford University), David Lewis (Vanderbilt University), Lauri McNown (University of Colorado), Andrew Moore (Saint Anselm College), Stephen K. Shaw (Northwest Nazarene University), Brooks D. Simpson (Arizona State University), Robert Speel (Penn State Erie), and Barry Tadlock (Ohio University) for their helpful comments on the previous editions of the book.

Topical Guide to the Documents

	Constitution & history	Pres. elect.	Pres. & public staff	W.H. burrey	Pres. & Congress courts	Pres. & dom. pol.	Pres. & econ. pol.	Pres. & nat'l sec.
1. James Madison's Notes of the Federal Convention	x	x	x					
2. The Constitution	x	x	x	x	x	x	x	x
3. Anti-Federalist Essays: George Mason's "Objections to This Constitution of Government" and Cato's "Letter No. 4"	x		x		x			
4. <i>The Federalist Papers</i> , Nos. 69–73	x	x	x	x	x			x
5. George Washington's First Inaugural Address	x		x					
6. James Madison's Defense of the President's Removal Power	x		x	x	x			
7. The Pacificus-Helvidius Letters	x				x			x
8. George Washington's Farewell Address	x		x					x
9. Thomas Jefferson's First Inaugural Address		x	x					
10. Thomas Jefferson's Letter to the Vermont Legislature	x	x						
11. The Monroe Doctrine	x				x			x
12. The Tennessee General Assembly's Protest against the Caucus System		x						
13. Andrew Jackson's First Message to Congress		x	x	x				x

(Continued)

30.	Report of the Brownlow Committee					x			x	
31.	Franklin D. Roosevelt's Executive Order on Japanese American Internment					x				x
32.	The Truman Doctrine								x	x
33.	<i>Youngstown Sheet & Tube Co. v. Sawyer</i>					x			x	x
34.	Dwight D. Eisenhower's Little Rock Executive Order					x			x	x
35.	John F. Kennedy's Inaugural Address								x	x
36.	The Cuban Missile Crisis: John F. Kennedy's Letter to Soviet Premier Nikita Khrushchev								x	x
37.	Lyndon B. Johnson's "Great Society" Speech								x	x
38.	Lyndon B. Johnson's Gulf of Tonkin Message								x	x
39.	LYNDON B. JOHNSON'S "EQUALITY OF RESULT" SPEECH								x	x
40.	Richard Nixon's China Trip Announcement								x	x
41.	The McGovern-Fraser Commission Report								x	x
42.	The War Powers Resolution								x	x
43.	Proposed Articles of Impeachment against Richard Nixon								x	x
44.	<i>United States v. Nixon</i>								x	x
45.	Gerald R. Ford's Pardon of Richard Nixon								x	x

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Topical Guide to the Documents (Continued)

46. Walter F. Mondale's Memo to Jimmy Carter on the Role of the Vice President	x	x	x			
47. Jimmy Carter's "Crisis of Confidence" Speech	x					x
48. Ronald Reagan's First Inaugural Address	x					x
49. <i>Clinton v. City of New York</i>		x			x	x
50. Articles of Impeachment against Bill Clinton	x				x	x
51. <i>Bush v. Gore</i>	x	x			x	x
52. George W. Bush's War on Terrorism Address	x				x	x
53. The Bush Doctrine						x
54. George W. Bush's Signing Statement for the Defense Supplemental Appropriations Act	x				x	x
55. <i>Hamdan v. Rumsfeld</i>	x				x	x
56. Barack Obama's Campaign Speech on Race in America	x	x				x
57. Barack Obama's Health Care Address	x					x
58. <i>National Labor Relations Board v. Noel Canning et al.</i>	x				x	x
59. Barack Obama's State of the Union Address	x					x

James Madison's Notes of the Federal Convention*

(1787)

“LADIES AND GENTLEMEN, the *presidents* of the United States.”

A typographical error, right? Not if certain delegates to the Constitutional Convention had had their way. The question of whether the national executive should be unitary—a person—or plural—a group of people—occasioned the convention's first serious debate about the nature of the executive in the new plan of government the delegates were creating.

The convention came into being because on February 21, 1787, the Confederation Congress passed a resolution calling for “a Convention of delegates who shall have been appointed by the several states to be held in Philadelphia for the sole and express purpose of revising the Articles of Confederation.” The government that had been created by the Articles in 1781 was widely regarded as having a number of weaknesses, including insufficient powers and the absence of an executive branch.

The convention met from May 25 to September 17, 1787. The delegates went far beyond their charter, drafting an entirely new plan of government that, if approved by nine of the thirteen states, would replace the Articles.

The presidency is the Constitution's most original feature. Yet although Virginia delegate James Madison often is referred to as “the father of the Constitution,” his paternity does not extend to the executive branch. As Madison readily admitted, his views about the executive were vague and variable. Like most of the delegates, he feared both executive power and executive weakness, regarding the former as the seed of tyranny and the latter as the wellspring of anarchy.

In advance of the convention, Madison penned the Virginia Plan, a draft for an entirely new government that was presented to the delegates by his state's governor, Edmund Randolph, on May 29. The plan included a provision for a “National Executive,” as well as a “National Legislature” and a “National Judiciary,” but it said nothing about whether the executive would be unitary or plural. The convention accepted the Virginia Plan as its working document, and then reconstituted itself as a Committee of the Whole House to review it thoroughly.

The debate on the executive began on June 1, when Pennsylvania delegate James Wilson “moved that the Executive consist of a single person.” In his daily

*Go to http://avalon.law.yale.edu/subject_menus/debcont.asp.

notes on the convention, Madison recorded “a considerable pause” in the debate as the delegates considered the magnitude of the decision Wilson was asking them to make.

Concern that a unitary executive would be “the foetus of monarchy,” in Randolph’s phrase, prompted some convention members to propose alternatives. Randolph favored “three members of the Executive to be drawn from different portions of the Country.” Roger Sherman of Connecticut urged leaving the decision to the legislature, which at different times might prefer that “a person or persons” execute its decisions, depending on circumstances. Massachusetts delegate Elbridge Gerry wanted to attach a council to any executive the convention decided to create “in order to give weight & inspire confidence.”

In the end, Wilson’s argument that a unitary executive would give “most energy dispatch and responsibility to the office” prevailed. A plural executive could not lead, act promptly in time of crisis, or be held accountable, he contended. Seven state delegations voted in favor of Wilson’s motion, with only three opposed. Madison records that Virginia delegate George Washington, the most esteemed person in the country, voted aye. Washington and his fellow delegates knew that if a new plan of government were adopted, the first unitary executive would be him.

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Tuesday, May 29

. . . *Resolutions proposed by Mr. [Edmund] Randolph [of Virginia] in Convention . . .*

7. Resd. that a National Executive be instituted; to be chosen by the National Legislature for the term of—— years, to receive punctually at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the Magistracy, existing at the time of increase or diminution, and to be ineligible a second time; and that besides a general authority to execute the National laws, it ought to enjoy the Executive rights vested in Congress by the Confederation. . . .

He concluded with an exhortation, not to suffer the present opportunity of establishing general peace, harmony, happiness and liberty in the U. S. to pass away unimproved.

It was then Resolved—That the House will tomorrow resolve itself into a Committee of the Whole House to consider of the state of the American Union.—and that the propositions moved by Mr. Randolph be referred to the said Committee.

Adjourned. . . .

Friday, June 1

. . . The Committee of the whole proceeded to Resolution 7. “that a national Executive be instituted, to be chosen by the national Legislature-for the term of——years &c to be ineligible thereafter, to possess the executive powers of Congress &c.”

Mr. [Charles Cotesworth] PIN[C]KNEY [of South Carolina] was for a vigorous Executive but was afraid the Executive powers of the existing Congress might extend to peace & war &c., which would render the Executive a monarchy, of the worst kind, to wit an elective one.

Mr. [James] WILSON [of Pennsylvania] moved that the Executive consist of a single person.

Mr. C[h]arles PIN[C]KNEY [of South Carolina] seconded the motion, so as to read "that a National Ex. to consist of a single person, be instituted.

A considerable pause ensuing and the Chairman asking if he should put the question, Doctr. [Benjamin] FRANKLIN [of Pennsylvania] observed that it was a point of great importance and wished that the gentlemen would deliver their sentiments on it before the question was put.

Mr. [John] RUTL[E]DGE of [South Carolina] animadverted on the shyness of gentlemen on this and other subjects. He said it looked as if they supposed themselves precluded by having frankly disclosed their opinions from afterwards changing them, which he did not take to be at all the case. He said he was for vesting the Executive power in a single person, tho' he was not for giving him the power of war and peace. A single man would feel the greatest responsibility and administer the public affairs best.

Mr. [Roger] SHERMAN [of Connecticut] said he considered the Executive magistracy as nothing more than an institution for carrying the will of the Legislature into effect, that the person or persons ought to be appointed by and accountable to the Legislature only, which was the depository of the supreme will of the Society. As they were the best judges of the business which ought to be done by the Executive department, and consequently of the number necessary from time to time for doing it, he wished the number might not be fixed but that the legislature should be at liberty to appoint one or more as experience might dictate.

Mr. WILSON preferred a single magistrate, as giving most energy dispatch and responsibility to the office. He did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers. Some of these prerogatives were of Legislative nature. Among others that of war & peace &c. The only powers he conceived strictly Executive were those of executing the laws, and appointing officers, not appertaining to and appointed by the Legislature.

Mr. [Elbridge] GERRY [of Massachusetts] favored the policy of annexing a Council to the Executive in order to give weight & inspire confidence.

Mr. RANDOLPH strenuously opposed a unity in the Executive magistracy. He regarded it as the foetus of monarchy. We had he said no motive to be governed by the British Governmt. as our prototype. He did not mean however to throw censure on

that Excellent fabric. If we were in a situation to copy it he did not know that he should be opposed to it; but the fixt genius of the people of America required a different form of Government. He could not see why the great requisites for the Executive department, vigor, despatch & responsibility could not be found in three men, as well as in one man. The Executive ought to be independent. It ought therefore in order to support its independence to consist of more than one.

Mr. WILSON said that unity in the Executive instead of being the fetus of monarchy would be the best safeguard against tyranny. He repeated that he was not governed by the British Model which was inapplicable to the situation of this Country; the extent of which was so great, and the manners so republican, that nothing but a great confederated Republic would do for it.

Mr. Wilson's motion for a single magistrate was postponed by common consent, the Committee seeming unprepared for any decision on it; and the first part of the clause agreed to, viz—"that a National Executive be instituted."

Saturday, June 2

. . . **Mr. RUTL[E]DGE & Mr. C. PIN[C]KNEY** moved that the blank for the no. of persons in the Executive be filled with the words "one person." He supposed the reasons to be so obvious & conclusive in favor of one that no member would oppose the motion.

Mr. RANDOLPH opposed it with great earnestness, declaring that he should not do justice to the Country which sent him if he were silently to suffer the establishmt. of a Unity in the Executive department. He felt an opposition to it which he believed he should continue to feel as long as he lived. He urged 1. that the permanent temper of the people was adverse to the very semblance of Monarchy. 2. that a unity was unnecessary a plurality being equally competent to all the objects of the department. 3. that the necessary confidence would never be reposed in a single Magistrate. 4. that the appointments would generally be in favor of some inhabitant near the center of the Community, and consequently the remote parts would not be on an equal footing. He was in favor of three members of the Executive to be drawn from different portions of the Country.

Mr. [Pierce] BUTLER [of South Carolina] contended strongly for a single magistrate as most likely to answer the purpose of the remote parts. If one man should be appointed he would be responsible to the whole, and would be impartial to its interests. If three or more should be taken from as many districts, there would be a constant struggle for local advantages. In Military matters this would be particularly mischievous. He said his opinion on this point had been formed under the opportunity he had had of seeing the manner in which a plurality of military heads distracted Holland when threatened with invasion by the imperial troops. One man was for directing the force to the defence of this part, another to that part of the Country, just as he happened to be swayed by prejudice or interest.

The motion was then postpd. the Committee rose & the House Adj. . . .

Monday, June 4

The Question was resumed on motion of Mr. PINCKNEY 2ded. by WILSON, "shall the blank for the number of the Executive be filled with a single person?"

Mr. WILSON was in favor of the motion. It had been opposed by the gentleman from Virga. [Mr. Randolph] but the arguments used had not convinced him. He observed that the objections of Mr. R. were levelled not so much agst. the measure itself, as agst. its unpopularity. If he could suppose that it would occasion a rejection of the plan of which it should form a part, though the part was an important one, yet he would give it up rather than lose the whole. On examination he could see no evidence of the alledged antipathy of the people. On the contrary he was persuaded that it does not exist. All know that a single magistrate is not a King. One fact has great weight with him. All the 13 States tho agreeing in scarce any other instance, agree in placing a single magistrate at the head of the Govern. The idea of three heads has taken place in none. The degree of power is indeed different; but there are no co-ordinate heads. In addition to his former reasons for preferring a unity, he would mention another. The tranquility not less than the vigor of the Govt. he thought would be favored by it. Among three equal members, he foresaw nothing but uncontroled, continued, & violent animosities; which would not only interrupt the public administration; but diffuse their poison thro' the other branches of Govt., thro' the States, and at length thro' the people at large. If the members were to be unequal in power the principle of the opposition to the unity was given up. If equal, the making them an odd number would not be a remedy. In Courts of Justice there are two sides only to a question. In the Legislative & Executive departmts. questions have commonly many sides. Each member therefore might espouse a separate one & no two agree.

Mr. SHERMAN. This matter is of great importance and ought to be well considered before it is determined. Mr. Wilson he said had observed that in each State a single magistrate was placed at the head of the Govt. It was so he admitted, and properly so, and he wished the same policy to prevail in the federal Govt. But then it should be also remarked that in all the States there was a Council of advice, without which the first magistrate could not act. A council he thought necessary to make the establishment acceptable to the people. Even in G. B. the King has a Council; and though he appoints it himself, its advice has its weight with him, and attracts the Confidence of the people.

Mr. [Hugh] WILLIAMSON [of North Carolina] asks Mr. WILSON whether he means to annex a Council.

Mr. WILSON means to have no Council, which oftener serves to cover, than prevent malpractices.

Mr. GERRY was at a loss to discover the policy of three members for the Executive. It wd. be extremely inconvenient in many instances, particularly in military matters, whether relating to the militia, an army, or a navy. It would be a general with three heads.