

EXECUTIVE DEPARTMENT

ARTICLE II

SECTION 1. Clause 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years and, together with the Vice President, chosen for the same Term, be elected, as follows:

NATURE AND SCOPE OF PRESIDENTIAL POWER

Creation of the Presidency

Of all the issues confronting the members of the Philadelphia Convention, the nature of the presidency ranks among the most important and the resolution of the question one of the most significant steps taken.¹ The immediate source of Article II was the New York constitution, in which the governor was elected by the people and was thus independent of the legislature, his term was three years and he was indefinitely re-eligible, his decisions except with regard to appointments and vetoes were unencumbered with a council, he was in charge of the militia, he possessed the pardoning power, and he was charged to take care that the laws were faithfully executed.² But, from when the Convention assembled and almost to its closing days, there was no assurance that the executive department would not be headed by plural administrators, would not be unalterably tied to the legislature, and would not be devoid of many of the powers normally associated with an executive.

Debate in the Convention proceeded against a background of many things, but most certainly uppermost in the delegates' minds was the experience of the states and of the national government under the Articles of Confederation. Reacting to the exercise of powers by the royal governors, the framers of the state constitutions had generally created weak executives and strong legislatures, though

¹ The background and the action of the Convention is comprehensively examined in C. THACH, *THE CREATION OF THE PRESIDENCY 1775-1789* (1923). A review of the Constitution's provisions being put into operation is J. HART, *THE AMERICAN PRESIDENCY IN ACTION 1789* (1948).

² Hamilton observed the similarities and differences between the President and the New York Governor in *THE FEDERALIST*, No. 69 (J. Cooke ed. 1961), 462-470. On the text, see New York Constitution of 1777, Articles XVII-XIX, in 5 F. Thorpe, *The Federal and State Constitutions*, H. Doc. No. 357, 59th Congress, 2d sess. (1909), 2632-2633.