

Sec. 1—The President**Clause 1—Powers and Term of the President**

ultimately rejected the proposal and adopted language vesting in the Senate the power to “advise and consent” with regard to these matters.⁸

Finally, the designation of the executive as the “President of the United States” was made in a tentative draft reported by the Committee on Detail⁹ and accepted by the Convention without discussion.¹⁰ The same clause had provided that the President’s title was to be “His Excellency,”¹¹ and, while this language was also accepted without discussion,¹² it was subsequently omitted by the Committee on Style and Arrangement¹³ with no statement of the reason and no comment in the Convention.

Executive Power: Theory of the Presidential Office

The most obvious meaning of the language of Article II, § 1, is to confirm that the executive power is vested in a single person, but almost from the beginning it has been contended that the words mean much more than this simple designation of locus. Indeed, contention with regard to this language reflects the much larger debate about the nature of the Presidency. With Justice Jackson, we “may be surprised at the poverty of really useful and unambiguous authority applicable to concrete problems of executive power as they actually present themselves. Just what our forefathers did envision, or would have envisioned had they foreseen modern conditions, must be divined from materials almost as enigmatic as the dreams Joseph was called upon to interpret for Pharaoh. A century and a half of partisan debate and scholarly speculation yields no net result but only supplies more or less apt quotations from respected sources on each side of any question. They largely cancel each other.”¹⁴ At the least, it is no doubt true that the “loose and general expressions” by which the powers and duties of the executive branch are denominated¹⁵ place the President in a position in which he, as Professor Woodrow Wilson noted, “has the right, in law and conscience, to be as big a man as he can” and in which “only his capacity will set the limit.”¹⁶

⁸ The last proposal for a council was voted down on September 7. 2 *id.* at 542.

⁹ *Id.* at 185.

¹⁰ *Id.* at 401.

¹¹ *Id.* at 185.

¹² *Id.* at 401.

¹³ *Id.* at 597.

¹⁴ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 634–635 (1952) (concurring opinion).

¹⁵ A. UPSHUR, *A BRIEF ENQUIRY INTO THE TRUE NATURE AND CHARACTER OF OUR FEDERAL GOVERNMENT* 116 (1840).

¹⁶ W. WILSON, *CONSTITUTIONAL GOVERNMENT IN THE UNITED STATES* 202, 205 (1908).