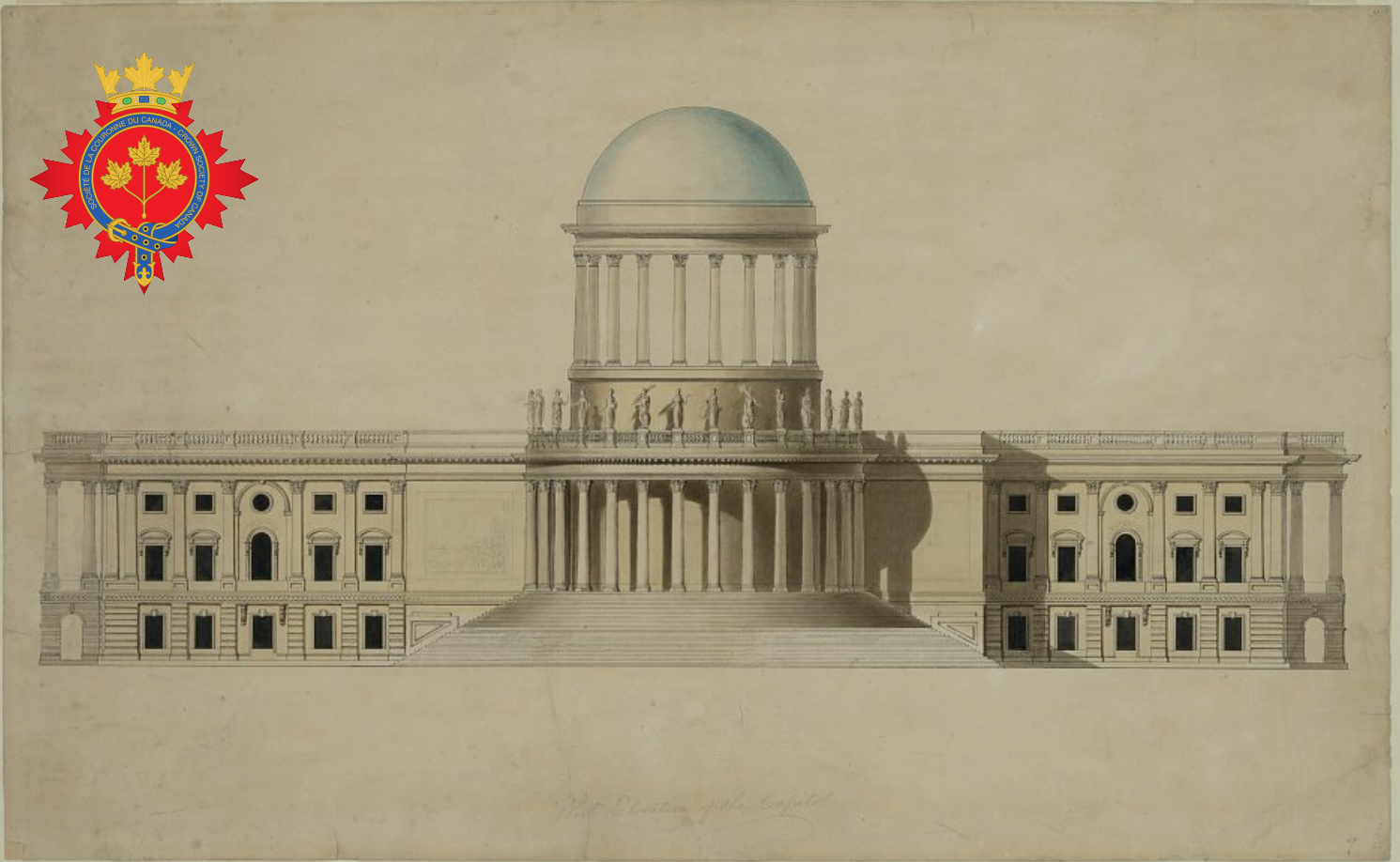




William Thornton

Capitol - Alternate Design (high Dome)

Alternative high-dome design for the U.S. Capitol, William Thornton, c. 1793. Library of Congress, LC-DIG-ppmsca-19858.

THE UNITED STATES, A PRESIDENTIAL REPUBLIC

An anatomy of a system that joins head of state and head of government - and what its weaknesses reveal about the value of the Canadian Crown.

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CROWN SOCIETY OF CANADA | BULLETIN 21 - AUGUST, 2026



A republic born of two fears: tyranny and impotence

The American presidency did not appear fully formed on July 4, 1776. It emerged from thirteen years of experiments, failures, and compromises. Revolutionaries feared arbitrary power, but soon discovered that a government too weak to govern could also endanger liberty.

FIRST, NO NATIONAL PRESIDENT

The Declaration of Independence broke with the Crown and made George III the principal accused in a long political indictment. It designed no replacement executive. Under the Articles of Confederation, in force from 1781 to 1789, the common Congress could request funds from the states but lacked ordinary means to raise them and had no national administration capable of enforcing its decisions uniformly. There was no independent federal president, only presidents of Congress whose work was largely procedural. America's first experiment was therefore not a limited presidency but a union without a true common executive. [1]

WHY PHILADELPHIA CHANGED COURSE

At the 1787 Convention, delegates were not simply trying to prevent the return of a king. They also wanted to escape the paralysis experienced under the Confederation, restore public credit, regulate commerce, and give the federal government a genuine capacity to act. A single president was controversial because, to some, it recalled the energy of monarchy. Hamilton defended executive unity in the name of accountability: when authority is divided among several people, each can assign failure to the others; when it is lodged in an identifiable office, the public knows whom to judge. [2]

THIRTEEN YEARS OF CONSTITUTION BUILDING

- 1776** Independence: a break with the Crown, but no new executive.
- 1781** The Articles take effect; Congress still has no national executive.
- 1787** The Convention chooses one President and a bicameral Congress.
- 1789** Washington takes office; practice begins to complete the text.



Washington at the Convention, J. B. Stearns, 1856. National Archives / VMFA.

DISTRUST ALSO RAN AGAINST LEGISLATURES

The founders' political memory was not one-dimensional. Many feared the executive, while others feared the excesses of dominant and changeable legislative assemblies. The Constitution therefore divided power among a bicameral Congress, a president with an independent term, and an independent judiciary. The presidential veto, Senate participation in appointments and treaties, impeachment, and the later development of judicial review were not isolated devices. They organized enduring competition among institutions with separate claims to authority.

A DEMOCRATIC TEXT MARKED BY ITS TIME

The Constitution of 1787 was not the pure application of democratic theory. The representation compromise gave every state two senators regardless of population. The document temporarily protected the transatlantic slave trade and counted enslaved people by the three-fifths formula for representation and taxation. Voting qualifications remained with the states and were highly restrictive. These bargains notably increased the political weight of slaveholding states. Later amendments corrected fundamental injustices, but the architecture still bears the marks of the moment in which it was negotiated.

INSTITUTIONAL DETAIL. In 1789, the title of the new executive was unsettled. The House favoured the plain 'Mr. President,' while the Senate discussed much grander formulas. Even after rejecting monarchy, Americans had to invent a public dignity strong enough to represent the Union without conferring hereditary rank.



Three political functions placed in one person

The President is simultaneously head of state, head of government, and constitutional holder of executive power. The fusion makes the system easy to identify, but it also turns every presidential contest into a struggle over the government's programme, the representation of the nation, and control of the administration.

A NATIONAL ELECTION THAT IS NOT A NATIONAL VOTE

Citizens do not legally elect the President in one national constituency. They participate, state by state, in choosing electors equal to each state's representation in Congress. Forty-eight states and the District of Columbia currently use a general winner-take-all rule; Maine and Nebraska also allocate electors by district. The Constitution does not require winner-take-all. It gives state legislatures authority over the manner of appointing electors. The national result is therefore the sum of fifty-one processes rather than a direct translation of the total popular vote. [4]

TWO DIVERGENCES THAT WERE NOT ACCIDENTS

In 2000 and 2016, the candidate who became President received fewer popular votes nationwide than the principal opponent while winning an electoral majority. This is neither fraud nor an anomaly outside the system. It follows from federal design and state-level allocation. If no candidate wins an electoral majority, the House chooses among the top three, but each state delegation casts one vote. California and Wyoming would then count equally, while the District of Columbia would not participate in the House choice. [4]

A FIXED TERM WITHOUT LEGISLATIVE CONFIDENCE

The President serves four years and does not depend on the confidence of Congress. A president may lose congressional majorities, fail to enact a programme, and still remain fully in office. Conversely, the President cannot dissolve Congress and ask voters to break a deadlock. This independence protects the executive from shifting legislative coalitions, but creates two parallel democratic legitimacies. When the White House and Congress both claim to speak for the people, no higher political arbiter can require the formation of a new majority.

THE VICE PRESIDENT AT THE JUNCTION OF BRANCHES

The vice-presidency shows that separation of powers is never a perfect wall. The Vice President belongs to the executive and becomes President upon death, resignation, or removal, but also presides over the Senate and may break a tie. Under the Twenty-Fifth Amendment, the office also has a central role in presidential incapacity: together with a majority of the principal officers of the executive departments, the Vice President may declare that the President is unable to discharge the office. The procedure is deliberately difficult because it must address real incapacity without becoming an indirect mechanism of political removal.

AN OFFICE LARGER THAN THE WORDS OF 1787

Article II charges the President with faithful execution of the laws, command of the armed forces, treaty negotiation subject to Senate consent, nomination of many officers and judges with Senate advice and consent, and pardons for federal offences outside impeachment. Around that core grew the Cabinet, executive orders, the National Security Council, and a vast administrative state. The American Cabinet advises the President; it is not a collective government responsible to Congress in the Canadian sense. [3] [5]

THE NATIONAL SYMBOL BECOMES THE PARTISAN LEADER

The same officeholder campaigns for a party, directs the executive, receives ambassadors, commands the armed forces, and formally embodies the nation. Speaking as head of state does not erase the fact that the President is the political leader who defeated the opposing camp. The fusion gives the mandate force, but makes truly common symbolic space difficult to sustain. A ceremony, crisis, or national commemoration is still led by the most partisan figure in the constitutional system.

THE PARDON POWER EXPOSES AN UNRESOLVED BOUNDARY

Presidential clemency is a valuable means of mercy, but the Constitution places it very broadly in personal presidential judgment. It excludes only impeachment and does not reach state offences. Whether a President may pardon himself or herself remains unresolved: no President has issued a self-pardon and no federal court has directly ruled on one. The silence is revealing. Where executive authority is vested in one person, some of the most consequential limits may become justiciable only after a crisis. [5]

EXPANSION THROUGH PRACTICE

Executive orders, proclamations, and administrative directives organize the executive and implement law without requiring Congress to enact every measure. They are not an unlimited legislative power: they must rest on constitutional or statutory authority, courts may review them, Congress may change the statutory foundation, and a successor may often revoke them. Yet as legislative bargaining becomes harder, the political incentive to govern through these instruments grows. The restraint then operates after action, through a court or the next administration, rather than beforehand through day-to-day responsibility to the House.

REFORM AFTER 2020. The Electoral Count Reform Act of 2022 states that the Vice President performs solely ministerial duties when presiding over the electoral count. It does not replace the Electoral College; it narrows the procedure so that an executive officer cannot plausibly claim unilateral authority to decide which votes count. [7]



When protections against abuse become mechanisms of stalemate

The American separation of powers has a genuine virtue: a presidential victory does not automatically deliver Congress and the courts to the winner. Yet the same architecture can prevent political defeat from producing a prompt change of government. It protects against domination, but can make conflict endure.

DUAL LEGITIMACY

Political scientist Juan Linz formulated a now-classic criticism: the President and Congress can each claim an independent democratic legitimacy, while no ordinary political rule establishes which must yield. The problem is not that conflict is undemocratic. It is that two equally constitutional mandates can become incompatible for years. Midterm elections may reject the presidential party without replacing the President; a presidential election may endorse a programme without delivering the legislative majorities required to enact it. [8]

THE BUDGET TURNS DISAGREEMENT INTO SHUTDOWN

The executive cannot spend without appropriations enacted by Congress. This protects a vital principle: the legislature controls the purse. Yet when no funding compromise is enacted, parts of the administration must cease operating. The Government Accountability Office records twenty shutdowns lasting at least one full day from 1977 through 2019. The lapse from December 22, 2018, to January 25, 2019, lasted thirty-five days, the longest in history, and an estimated 340,000 employees were furloughed for all or part of it. The impasse removes neither President nor Congress; it transfers the cost of their conflict to the administration and public. [6]

IMPEACHMENT IS NOT A CONFIDENCE VOTE

The House may impeach a President and the Senate may convict, but the mechanism addresses grave constitutional misconduct rather than ordinary loss of political support or policy failure. Conviction requires two-thirds of senators present. That high threshold protects a fixed term against routine partisan removal. It also leaves a broad space between full political confidence and impeachable misconduct in which a weakened executive remains in office without a prompt replacement mechanism.

THE RIGIDITY OF THE CALENDAR

A fixed calendar makes succession predictable, but adapts poorly to political rejection between presidential elections. Until 1933, a new President took office only on March 4. The Twentieth Amendment moved inauguration to January 20 to shorten the outgoing officials' tenure without eliminating the lame-duck principle. Continuity is achieved through elapsed time, not through a separate head of state able to oversee the immediate formation of a new government.

APPOINTMENTS EXTEND THE STAKES OF EACH VICTORY

Federal judges are nominated by the President, confirmed by the Senate, and hold office during good behaviour. Their independence protects adjudication from elections. It also makes each vacancy, especially on the Supreme Court, a political event capable of extending an administration's influence for decades. When the Senate and presidency are opposed, the power to confirm or delay appointments becomes another instrument in the contest between rival mandates.

PERSONALIZATION IS STRUCTURAL

Because the presidential election gives one person administrative leadership, international direction, military command, and national representation, politics is readily narrated as the action of an individual. Parties, Congress, states, and agencies remain powerful, but the public often credits or blames Presidents for outcomes they do not control alone. Campaigns respond with promises that may exceed the authority actually available. The danger is not only an over-powerful President. It is an over-sized public expectation of an office that the checks and balances then prevent from acting alone.

WHAT CRITICISM MUST NOT ERASE

The United States has survived wars, depressions, scandals, and transfers of power under the same Constitution. Courts, federalism, a free press, elections, and Congress have often constrained the executive. Serious analysis should not turn all friction into failure. The comparative question is narrower: should partisan direction of government and the permanent dignity of the state be vested in one person, while separate institutions try to contain that person for a fixed term? Canada answers no. That answer is an advantage of constitutional design, not decorative nostalgia.

A CHECK OFTEN OPERATES AFTER THE EVENT

Many American checks are reactive. A court must await a dispute; a congressional investigation takes time; corrective legislation must pass both houses and may encounter a veto. Meanwhile, the President still speaks for administration and nation. Canada also uses courts and parliamentary scrutiny, but confidence adds an immediate question: is there still a majority willing to sustain the ministry?

A SYSTEM CAPABLE OF REPAIR. The 2022 electoral-count reform clarified ambiguities that had become dangerous. The need for legislation shows both American adaptability and the cost of a succession process dispersed among states, Congress, courts, and the vice-presidency. [7]



Separating the enduring state from the government of the day

Canada does not eliminate partisan conflict or governmental concentration. It does, however, draw a distinction a presidential republic cannot: enduring state authority belongs to the Crown, while the Prime Minister and ministers hold it temporarily and remain politically responsible for its exercise.

THE CROWN IS NOT THE CABINET

Section 9 of the Constitution Act, 1867 vests executive authority in the Crown. In practice, it is exercised on the advice of the Prime Minister and ministers. This arrangement does not create two competing governments. It separates the continuous legal source of authority from the political decision-makers who must defend its use in the House of Commons. A Prime Minister is therefore neither head of state nor personal owner of executive power. The Prime Minister leads a ministry that acts in the name of the Crown and may end without changing the identity of the state itself. [9] [10]

CONFIDENCE SUPPLIES A POLITICAL REMEDY

A Canadian government must retain the confidence of the elected House. If it loses confidence on a decisive matter, it must normally resign or request dissolution. The rule does not prevent crises, but turns them into institutional choices: formation of another government capable of securing confidence, or a return to the electorate. The head of state has no rival programme. The constitutional task is to ensure that there is always a Prime Minister and a government in place. [10] [11]

TRANSITION WITHOUT A VACANCY IN SOVEREIGNTY

When a Prime Minister resigns, the Governor General accepts the resignation and invites the person best placed to command House confidence to form a government. Ministers take oaths, instruments are signed, and administration continues under the same Crown. The sequence makes an abstract point visible: governmental power changes hands, but the state does not fall vacant. Continuity depends on neither the departing Prime Minister's personality nor the successor's.

A FEDERAL CROWN, NOT MERELY AN OTTAWA INSTITUTION

The Crown lies within Canadian federalism. The same Sovereign is King of Canada, but authority is exercised in distinct legal capacities: the Crown in right of Canada and the Crown in right of each province. Lieutenant governors represent the King in the provinces and perform the constitutional acts required for responsible government there. This plurality prevents Canadian sovereignty from being reduced to the federal administration. It gives each province its own constitutional head without creating eleven rival presidencies or eleven elections for heads of state.

A HEAD OF STATE WHO OWES NO OFFICE TO A PARTY

The King and his representatives can perform constitutional acts, recognize public service, receive ambassadors, and represent national continuity without winning a primary, leading a party, or promising a programme. This neutrality is precisely what a governing presidency cannot reproduce. Even a President devoted to unity remains the victor of a partisan contest and the political head of an administration.

RESERVE POWERS LIMITED BY THEIR PURPOSE

The Governor General almost always acts on advice. Discretionary powers are not a licence to replace elected judgment with personal preference. Their purpose is to preserve the conditions of responsible government: a ministry in office, parliamentary confidence, continuity, and, when appropriate, access to the electorate. Their rarity is a strength. A credible constitutional arbiter does not govern from day to day; residual authority remains for the exceptional case in which ordinary ministerial advice cannot settle the situation. [11]

A REAL ADVANTAGE, NOT A MAGICAL PROMISE

Canadian parliamentarism also has party discipline, concentration in Cabinet and the Prime Minister's Office, disputed prorogations, and difficult minority governments. The Crown abolishes none of these tensions. Its benefit is more exact: the person who leads the majority is not also the sole constitutional embodiment of the state; a ministry can be replaced without re-electing a presidency; and a locus of authority remains that does not belong to the victorious party.

THE DEMOCRATIC OBJECTION PROPERLY FRAMED

The Sovereign is not elected to govern. Ministers answer to Parliament, obtain supply, and retain confidence. Democratic legitimacy therefore belongs to responsible decisions. An elected head of state would receive a rival mandate - precisely the fusion Canada avoids.

MARCH 14, 2025, RIDEAU HALL. Governor General Mary Simon welcomes Mark Carney during the swearing-in of the 30th Canadian ministry. Political responsibility changes hands within hours while the Crown's legal continuity remains intact. Photo: Rideau Hall / OSGG.



Why constitutional monarchy serves Canada better

The point is not to deny American democracy. It is to compare the institutional costs of two choices: combining national representation and political direction in a presidency, or separating them between a non-partisan Crown and a responsible government.

THE PRESIDENCY OFFERS CLARITY, BUT CARRIES TOO MUCH

A presidential election identifies a visible executive for four years. Yet it burdens one victory with three meanings: choosing a programme, choosing the administration, and choosing the human symbol of the nation. The Electoral College can also produce a winner different from the nationwide popular-vote leader and then translate that result into control of a vast personal executive. Checks and balances restrain the office, but their cost is often stalemate rather than immediate political accountability.

THE CROWN TURNS POWER INTO TEMPORARY OFFICE

In Canada, the Prime Minister governs but is not the state. Powers are exercised legally in the name of the Crown, politically on the advice of responsible ministers, and democratically under scrutiny of the House. That chain makes authority both continuous and revocable. A ministry may lose confidence, resign, or request an election without placing the functions of head of state in contest.

NEUTRALITY IS NOT USELESSNESS

A non-partisan head of state neither replaces elected representatives nor blocks their ordinary policies. Instead, the office protects common ground: oaths, assent to laws, transitions, honours, and representation of the state do not become symbolic property of the governing party. The separation is especially valuable in a plural, bilingual, multinational federation where political unity cannot reasonably be equated with one camp's victory.

	UNITED STATES	CANADA
Head of state	Elected President, also head of government	The King, separate from partisan government
Executive	Personal fixed term of four years	Ministry responsible to the House
Deadlock	President and Congress remain in office	Resignation, new ministry, or dissolution
Election	Electoral College, state-based process	Election of MPs; government from confidence
Transition	Fixed constitutional calendar	Crown continues through change of ministry
National symbol	Joined to partisan executive leadership	Removed from partisan competition

THE TEST OF A TRANSITION

When a government loses political authority, who still represents the state? In Canada, the answer belongs to neither the departing nor incoming party: the Crown endures, then entrusts government to those who can answer to the House.

Constitutional monarchy benefits Canada precisely because it is limited. It gives the state an enduring head without giving the Sovereign a partisan programme; gives government the means to act without allowing it to possess the state; and lets Parliament withdraw confidence without turning every crisis into a collision between fixed mandates. The Crown is not the opposite of parliamentary democracy. It is the institution that makes its continuity, neutrality, and transitions more secure.

Text: Steve Lambert. Research and fact-checking: August 2026.