



How Congress Lost, Part IV: Washington, Foreign Policy, and the Emergence of Presidential Governance

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Key Points

- The political battles over public credit in 1790–92 demonstrated the potential for strong presidential leadership over domestic affairs. The foreign policy crises of 1793–96 likewise strengthened presidential leadership.
- When Britain and France went to war in 1793, Americans disagreed about how the United States should maintain neutrality. The pro-British faction ultimately triumphed because of institutional advantages inherent to the executive branch.
- Partial to Alexander Hamilton’s pro-British sensibilities, George Washington used the executive branch’s unitary power to set the political agenda in ways that empowered Hamilton.
- James Madison and his allies in the House failed to stop these initiatives, indicating that by 1796, the executive branch was the most dominant one.

The previous report in this series detailed how the Washington administration used the presidency’s constitutional power to dominate domestic policy debates from 1790 through 1792. Treasury Secretary Alexander Hamilton enacted most of his debt-restructuring plan despite fierce opposition from critics. The executive branch’s unitary nature afforded Hamilton a decisive first-mover advantage, which he had anticipated in *Federalist* 78. Since an individual helmed the presidency, the executive could influence the congressional debate by introducing plans to the legislature rather than waiting for Congress to formulate its own.

Likewise, Hamilton relied on the executive’s extensive information-gathering capabilities to create detailed proposals that were crafted to appeal to congressmen’s

political and financial interests. The result was a top-down policymaking process quite different from what James Madison—an erstwhile supporter of the Washington administration who turned into an ardent critic of its policies—had envisioned in *Federalist* 10, which sketched an elaborate bargaining process to achieve common ground in Congress.

Despite the controversies surrounding his administration’s policies, George Washington remained mostly above reproach, though an emergent partisan press began grousing openly about his presidency. Nobody dared oppose him for another term, and the Electoral College unanimously reelected him in 1792. As Washington was settling into his second term, a foreign policy crisis emerged unlike any the country had faced since the end of the American Revolution. In

spring 1793, Great Britain and the French Republic went to war, forcing the United States into a difficult struggle to maintain its neutrality between the two greatest Western powers.

There was no consensus among American policy-makers about what to do. Some, like Hamilton, believed strongly in the benefits of an alliance with Great Britain. Others, above all Madison and Thomas Jefferson, sympathized with the cause of French liberty and demanded that the United States at least drive a hard bargain with the British. These divisions over foreign policy mimicked the economic debates of 1790–92, reinforcing and sharpening the emerging party conflict. Once again, the Hamiltonian position triumphed. By the end of Washington’s administration, the United States had agreed to neutrality almost entirely on British terms.

The pro-British faction did not triumph because of stronger public support. If anything, Americans still detested the British and admired the French for resisting absolutism. Instead, the Hamiltonians triumphed because of the executive branch’s institutional advantages. Because the executive was unitary, it could act more quickly than Congress, shifting the debate to promote terms that Hamilton favored and Washington approved. The executive branch’s striking institutional power would be on full display with the so-called Neutrality Proclamation of 1793 and the Jay Treaty of 1794.

Moreover, the foreign policy crisis during Washington’s second term demonstrated that, while Congress technically holds vast powers to restrict executive action, the political costs of doing so are potentially significant. In 1796, Madison and his allies in the House tried to deny funding for aspects of the Jay Treaty but ultimately failed—not because the treaty had suddenly become popular but because their action’s drama gave too many erstwhile Madisonian allies pause.

All told, by the end of Washington’s presidency, the executive branch had demonstrated itself to be *the* dominant player in American politics—first in the domestic battles of the president’s first term and then in the foreign policy travails of his second. The constitutional power of the presidency was vast, much greater than Madison had initially anticipated.

Before January 1793, Americans’ feelings about the French Revolution were overwhelmingly positive. An early leader in that revolution was the Marquis de Lafayette, a hero of the American Revolution and dear friend of President Washington. Lafayette had even gifted Washington a key to the Bastille after the infamous prison was sacked in July 1789. (It hangs in Mount Vernon’s main hallway to this day.)

But King Louis XVI’s attempt to flee France in summer 1791 precipitated a series of radicalizing events that resulted in his execution in January 1793. The new French Republic, already at war with Austria and Prussia, now faced war against a united Europe, including Great Britain.

This was a moment of genuine difficulty for the American body politic, a conflict between the heart and the pocketbook. Opinions of France would turn markedly negative in the United States over the remainder of the decade, but Americans generally sensed that here was an emergent sister republic that had, like them, overthrown a tyrant. The French deserved American support, especially in their struggles against the corrupt, duplicitous British. Besides, the Americans had signed a treaty of alliance with France in 1778 pledging mutual support. The French had kept their end of the bargain. Were Americans not obligated to do the same?

Yet Great Britain and the United States were still each other’s number one trading partners. In international commerce, little had changed since before the American Revolutionary War. Americans still exported grain, tobacco, and lumber to Britain. And they imported sugar from the British Caribbean, manufactured goods from the home islands, and enslaved people from British outposts in West Africa.

In fact, Hamilton had built his public and private credit systems on this transatlantic trade network. The national government’s new taxes came mostly from tariffs, which predominantly fell on goods from the British Empire. This revenue had enabled Hamilton to pledge an essentially full repayment of the public debts, generating confidence in America’s creditworthiness, which, in turn, the Bank of the United States was employing toward private enterprise.

The outbreak of the French Revolutionary Wars marked the beginning of nearly a quarter century of foreign policy troubles for the United States. A third-rate power at best, the country would find itself

repeatedly caught in the middle of Anglo-French conflicts, which had been ongoing since the 1690s. The United States lacked the economic or military might to make its will felt, a challenge that would bedevil the administrations of Washington, John Adams, Jefferson, and finally Madison, who would take the nation to war in 1812.

In spring 1793, the United States faced a challenge: What should its disposition be toward the warring parties? The 1778 Franco-American alliance included a perpetual, mutual obligation, with the United States guaranteeing to France “the present Possessions of the Crown of France in America” in Article XI. In Article XII, the United States agreed “that in case of rupture between France and England,” this guarantee would take “its full force and effect the moment such War shall break out.”¹ To be sure, Article II called the alliance purely “defensive.” And nobody in their right mind thought the United States should go to war against Great Britain in 1793.

Still, *some* statement of American policy was needed. But that entailed many questions. Who should issue it? How far should the statement go? What was the Franco-American alliance’s status? Should the United States arm its merchant ships? Should it declare war? These were not merely policy questions. They were constitutional ones as well, for whatever actions the government took would set the precedent for future generations.

One of these questions, arguably the most important, was settled by the calendar: Who should issue the statement of American policy? When the United States government learned of the war between Britain and France, Congress was out of session. That left the president, by default—a testament to his greatest constitutional asset, unitary power.

The executive power is vested in a single person, which means the executive branch is *always* “in session.” Congress and the courts must convene and deliberate until their members reach a consensus. However, for the president to fulfill his constitutional duties, he need take only his own counsel. Thus, even though the war-making and peacemaking powers are vested jointly in Congress and the president, the situation’s exigency meant the president alone would decide.

President Washington was deeply aware of the constitutional issues and sought to balance the need for

expediency with respect for his place in the broader constitutional schema. His so-called Neutrality Proclamation of 1793 does not actually include the word “neutrality.” Secretary of State Jefferson, extremely sensitive to the legislature’s role in creating foreign policy, argued against including such a bold word. The proclamation states merely that the nation will “pursue a conduct friendly and impartial toward the belligerent powers,” encourages and exhorts Americans to act accordingly, and warns Americans that the United States government will not protect them if they violate “the law of nations” by “aiding or abetting hostilities against any of the said powers.”²

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For a statement of American policy, this was about as mild as possible. The president did little more than declare the facts on the ground: The United States was not at war with another country, and its citizens should respect this and not expect the government to aid them if they took sides. But the fact that the president *alone* issued the proclamation was too much for some, including Madison.

Already deeply suspicious of creeping executive power, Madison read the proclamation with alarm. On recess from Congress at Montpelier, he wrote to Jefferson that his “dispassionate & judicious” neighbors wondered why the “Authority of the Executive extended by any part of the Constitution to a declaration of the *Disposition* of the U.S. on the subject of war & peace.” (Emphasis in original.) Madison told Jefferson he could offer “no bona fide explanations that ought to be satisfactory”—his roundabout way of saying he disagreed with his friend on the matter.³

If Madison was appalled by the scope of power asserted in the proclamation, his rival Hamilton thought it did not go far enough. In summer 1793, Hamilton took to the pages of the *Gazette of the United States* under

the pseudonym “Pacificus” to argue in a series of essays that the president had broad, constitutionally implied powers to interpret and even abrogate foreign treaties and that he was perfectly correct to issue the “Proclamation of Neutrality,” as Hamilton pointedly called it.⁴ For Hamilton, the power to revise foreign policy to fit changing circumstances was a uniquely presidential authority. Jefferson, aghast that Hamilton would pervert the cabinet’s consensus to agree with his expansive vision of executive power, persuaded Madison to respond. The latter did so in a series of essays, published under the name “Helvidius,” that rejected Hamilton’s bid for broad presidential power and asserted Congress should share in the authority.

The Pacificus-Helvidius debate was the only occasion when Hamilton and Madison opposed each other in the newspapers. Three years of bitter politicking within the government had finally spilled into the public square.

Yet the contest was hardly the stuff of legend. Hamilton, after all, was claiming a power for the president that Washington had declined to assert. Madison, meanwhile, was nitpicking Hamilton’s theories and overlooking the obvious necessity of a public policy statement *before* Congress reconvened. Neither man exhibited anything close to the analytical or rhetorical brilliance they had displayed in the Federalist Papers.

In reality, though it was moderate, sensible, discreet, and strictly limited in its purposes and rhetoric, the Neutrality Proclamation stepped on congressional prerogatives. It is, after all, the job of Congress and the president to declare whether the United States shall “pursue a conduct friendly and impartial” toward foreign powers. The Franco-American alliance of 1778, which was still in effect, left the United States’ status open to internal debate. Congress alone has the power to declare war, and the Senate and president share the peacemaking power.

So the legislature did have a role in this matter. Yet Washington really had no choice. He surely would have welcomed congressional input, but Congress was not scheduled to convene until December 1793. America’s diplomats abroad could not be left in the lurch for so long, nor could its merchants on the high seas. Even calling Congress into a special session would have taken months to reach fruition, as travel was difficult. A statement had to be made, and only the president could make it.

That Washington did so in a mild and moderate manner that the nation generally accepted is a testament to not only his institutional discretion but also his political savvy. If he had acted in keeping with Hamilton’s arguments in the Pacificus essays, Washington would likely have prompted widespread backlash. But the proclamation’s prudence made it acceptable to the broad middle of the country and, by extension, established the precedent that the president has *contingent* authority over matters of war and peace—a power that is not expressly written in the Constitution but that the executive acquired owing to its unitary nature.

Neither France nor Britain would make neutrality easy for the United States. The French diplomat who was sent to the United States in 1793, Edmond-Charles Genêt, sought American assistance for the French fleet. After the Washington administration denied this request, Genêt sought to rally public opinion against it, believing the cause of the French Revolution was even more popular in America than the president was.

This turned out to be a major embarrassment for those in the government who were partial to the French position, and eventually Washington asked for Genêt to be recalled. Unfortunately for the peculiar ambassador, political power in France had shifted while he was in the United States—with the radical Jacobins ascendant over the Girondist faction (to which Genêt belonged). Genêt, fearful for his life should he return to France, was granted sanctuary in the United States, and he eventually married the daughter of New York Gov. George Clinton.

Genêt’s antics were mostly a sideshow in 1793, if nothing else a small illustration of the incompetence of the new French Republic, which Napoleon Bonaparte would eventually overthrow. The British were a much greater threat to American interests, thanks to the Royal Navy dominating the Atlantic trading lanes. The British government authorized the Royal Navy to interdict any vessel caught trading with the French colonies, which outraged the United States.

The British flatly rebuffed American protestations, intent on squeezing the French even if doing so antagonized their former colonies. Moreover, the British negotiated a settlement between Portugal and the Algerian corsairs, which freed the pirates employed by the latter

to move beyond the Mediterranean and begin harassing not only French but also American vessels. Then, in early 1794, the American government heard that Baron Dorchester, the governor of Quebec, had predicted an imminent war with the United States in an address to Native American tribes.

Clearly, something had to be done about the British problem. But the American political class remained divided. The new Republican faction—helmed by Jefferson in the cabinet (although he had stepped down in late 1793) and Madison in the House of Representatives—believed America needed to hit Britain where it hurt: the pocketbook. In early 1794, Madison threw his weight behind a plan to raise import duties on Britain to encourage it to treat the young nation more respectfully. Madison had suggested this plan as early as 1789, but the House had rejected it. Now, with outrage at Britain rising daily, Congress seemed more amenable.

Hamilton was aghast. In spring 1794, he warned President Washington that a trade war would deal

a sudden and violent blow to our revenue which cannot easily if at all be repaired from other resources. It will give so great an interruption to commerce as may very possibly interfere with the payment of the duties which have heretofore accrued and bring the Treasury to an absolute stoppage of payment—an event which would cut up credit by the roots.⁵

With the formidable Jefferson out of the cabinet (replaced in the State Department by former Attorney General Edmund Randolph, an amiable but indecisive man who was no match for Hamilton), the Treasury secretary persuaded Washington to appoint a special minister to Great Britain. While Hamilton's loyalists in Congress wanted him, by this point Hamilton was too polarizing, so the Senate approved the nomination of John Jay, commissioning him on April 19 to travel to Britain and negotiate a deal.

This was a brilliant maneuver by Hamilton's pro-British faction, enabled again by the presidency's inherent power. Jay's appointment essentially froze Madison's efforts to impose sanctions. After all, with a government minister out of the country and in delicate negotiations, Congress could not alter the status quo.

This was one more bold illustration of the president's power to seize the initiative from a naturally deliberative Congress. Maybe Madison's sanctions package could have passed, but that would have taken time and extensive negotiations. Hamilton, by swooping in quickly with his idea to select Jay, managed to forestall that scenario.

Furthermore, Jay was Hamilton's ideological ally. The Treasury secretary believed the United States' long-term interests lay in a commercial alliance with Great Britain. What Hamilton wanted above all else from Jay was to prevent the war against France from undermining that prospect. Additionally, he wanted Jay to help the British see such an alliance was in their own interests.

Randolph officially authorized Jay to open talks with European diplomats in London regarding an armed league of neutrality. This was essentially a bluff to make the British more amenable to the American position. But Hamilton undercut it, telling George Hammond, the British minister to the United States, that "it was the settled policy of this government in every contingency even in that of an open contest with Great Britain, to avoid entangling itself with European connexions." Hamilton's true agenda was not to vigorously defend American neutrality but rather to continue good relations with Britain at virtually any cost.⁶

Hamilton got exactly that. Jay secured precious little from the British while offering them a great deal. The British agreed to back off in the Northwest Territory (which they had already agreed to do in the 1783 Treaty of Paris). They gave the United States limited access to its possessions in the East Indies and a tiny allowance for its West Indian colonies (but with such stipulations that the Senate rejected the provision). The United States received no formal concessions regarding its trading rights as a neutral nation, instead agreeing to settle outstanding claims about British seizures through third-party mediation. In return, Jay pledged that his government would not pursue the discriminatory policies that Madison and Jefferson had proposed.

To say the treaty was unpopular is a massive understatement. It might have doomed Jay's presidential prospects—which, as he was a Federalist from New York not named Alexander Hamilton, had been pretty good. In fact, Jay's treaty so outraged people that he was burned in effigy in many American towns.⁷

Ultimately, the treaty passed in the Senate by a single vote. The treaty's long-term effects were more positive than the initial public reaction to it. After all, it brought nearly 20 years of peace between the United States and Great Britain. And while Hamilton did not get his dream of showing Britain how essential America was to British prosperity, the door at least opened to that possibility in the future.

Institutionally, the Jay Treaty is yet another striking indication of the executive branch's power. The government had a legitimate policy debate over how to handle the Anglo-French conflict. All the major players were committed to neutrality by 1794, so the question boiled down to how toughly the United States should respond to British policy. Madison and Jefferson were on one side of the debate, while Hamilton was on the other.

Hamilton did not win the debate because public support was manifestly stronger for his position. If anything, the public outcry about the Jay Treaty indicated he had less popular backing than his opponents. Rather, Hamilton and the pro-British side triumphed because they enjoyed the confidence of President Washington, whose office distinctly advantaged their faction. As a unitary government agent, Washington could once again take the initiative before Congress finished its work—by sending out a minister who presented to the Senate a take-it-or-leave-it deal. (Washington himself did not much care for the Jay Treaty, but he still submitted it to the Senate.)

The politics surrounding the Jay Treaty starkly illustrated the practical limits of Congress's greatest leverage over the executive—the power of the purse. Congress can, in theory, cut off funding for any executive activity it does not like. But this is easier said than done, as Madison learned in 1796.

In a last-ditch response to the Jay Treaty's ratification, Madison's congressional faction attempted numerous dilatory tactics in the House. They demanded documents related to the treaty's negotiation, which Washington denied by asserting executive privilege (the first such assertion). House Republicans pressed on, proposing to deny funding to the commissions that were to arbitrate commercial disputes under the Jay Treaty. Madison supported this measure, drawing derision from those who believed he was betraying his commitment to the Constitution's original meaning.

Undaunted, Madison and his allies believed they had the votes to pass it. But the measure was defeated.

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In a private note to Jefferson, Madison bemoaned “the unsteadiness, the follies, the perverseness, & the defections among our friends” as the reason the funding plan failed.⁸ Yet he was missing the institutional forest for the political trees. Yes, on close examination, Madison's plan might have seemed like hardball politics to block a controversial treaty. But taking a broader view, Madison was asking Congress to defund a commission created by law. That was a dramatic step, and many members of Congress who opposed the treaty held back, appreciating that the institutional stakes were larger than they seemed to an angered and frustrated Madison.

This failed effort in the House would form an important precedent. While Congress can technically block the executive branch by closing the purse strings, doing so is a drastic measure, for it could take money from legally authorized actions. The executive branch, in acting first on the conflict with Great Britain, enjoyed therefore the additional advantage created by the natural limitations on Congress's ability to respond through its control of funding.

Washington's presidential tenure was in many respects unhappy. A unifying force throughout his public life before the presidency, he had agreed to serve in the hope of continuing in that capacity for his country. But by the time he left office, the nation was deeply divided between two factions. This to him felt like a failure.

But in historical retrospect, Washington's administration was an enormous success. It not only

established a firm basis for public finance but also maintained American neutrality during the outbreak of war between Britain and France. These were significant and long-lasting policy victories.

Washington also provided important institutional lessons about presidential power. His administration demonstrated that the presidency could be an influential, even hegemonic force in American politics. By the time Washington left office in March 1797, presidential governance was no longer a Hamiltonian hypothesis from *Federalist* 70; it was a fact of American political life. The president's job was to not merely enforce laws and check congressional excesses but also direct and guide the legislature in creating the laws.

The reason the president could do that, as the Washington administration demonstrated in domestic and foreign affairs, was the branch's unitary nature. All executive actions were on behalf of a single person, which gave the executive an efficiency that meant it could frame the political debate, promote policies designed to secure passage in Congress, and block alternatives from serious consideration. Thus, the domestic policy debate over the public debts in 1790–92 paralleled the foreign policy debate of 1793–96: The Washington administration won time and again because it expertly employed its institutional advantages.

Ever since, Washington's tenure has stood as a model of strong presidential leadership, and rightly so. But for most of the next 100 years, it would be an exception, not the rule. As subsequent administrations would show, the president's personal disposition and path to acquiring office affect the presidency. Washington took a firm hand in governance because he thought it appropriate. He could do so because he was independent of the political process. He was, after all, the most preeminent American of his age, "first in war, first in peace, and first in the hearts of his countrymen," as Henry Lee would later eulogize him.⁹

In these ways, Washington differed dramatically from his successors. Many subsequent presidents deferred to Congress, and almost all of them lacked such a high stature as Washington's to free them from the political process.

As the next report in this series demonstrates, the presidential power would effectively be diminished after Washington. Presidents Jefferson, Madison, and James Monroe would hesitate to wield the sweeping influence that Washington felt compelled to exercise. Presidents John Adams and John Quincy Adams would find their actions sharply curtailed by party politics. The early American presidency, as it developed among its first six occupants, was a highly contingent institution. The man would have to meet the moment in just the right way to wield power effectively.

About the Author

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Notes

1. Treaty of Alliance, February 6, 1778, <https://www.archives.gov/milestone-documents/treaty-of-alliance-with-france>.
2. George Washington, "Neutrality Proclamation, 22 April 1793," April 22, 1793, Founders Online, <https://founders.archives.gov/documents/Washington/05-12-02-0371>.
3. James Madison, letter to Thomas Jefferson, June 13, 1793, Founders Online, <https://founders.archives.gov/documents/Madison/01-15-02-0028>.
4. Alexander Hamilton, "Pacificus No. I, [29 June 1793]," Founders Online, June 29, 1793, <https://founders.archives.gov/documents/Hamilton/01-15-02-0038>.
5. Alexander Hamilton, letter to George Washington, April 14, 1794, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-16-02-0208-0002>.
6. George Hammond and Alexander Hamilton, "Conversation with George Hammond, [1–10 July 1794]," Founders Online, July 1–10, 1794, <https://founders.archives.gov/documents/Hamilton/01-16-02-0529>.

7. John Jay “was quoted as saying he could find his way across the country by the light of his effigies burning.” National Archives and Records Administration, “Drawing of John Jay Being Hanged in Effigy, ca. 1794,” https://www.archives.gov/exhibits/treasures_of_congress/Images/page_4/17b.html.

8. James Madison, letter to Thomas Jefferson, May 1, 1796, Founders Online, <https://founders.archives.gov/documents/Madison/01-16-02-0218>.

9. Henry Lee, “Funeral Oration on the Death of General Washington,” National Library of Medicine, <https://www.nlm.nih.gov/exhibition/georgewashington/education/materials/Transcript-Funeral.pdf>.

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