

# Article II.

ARTICLE II OF THE CONSTITUTION ESTABLISHES THE POWERS AND RESPONSIBILITIES OF THE SECOND BRANCH OF GOVERNMENT...

...THE EXECUTIVE.

THE EXECUTIVE BRANCH IS LED BY THE PRESIDENT, WHO BY LAW MUST BE A NATURAL-BORN CITIZEN\* AND AT LEAST 35 YEARS OF AGE, AND HAVE BEEN RESIDING IN THE UNITED STATES FOR AT LEAST 14 YEARS.



THE EXECUTIVE BRANCH ALSO INCLUDES THE PRESIDENT'S CABINET, WHICH CONSISTS OF THE VICE PRESIDENT AND THE HEADS OF THE (CURRENTLY) 15 EXECUTIVE DEPARTMENTS.

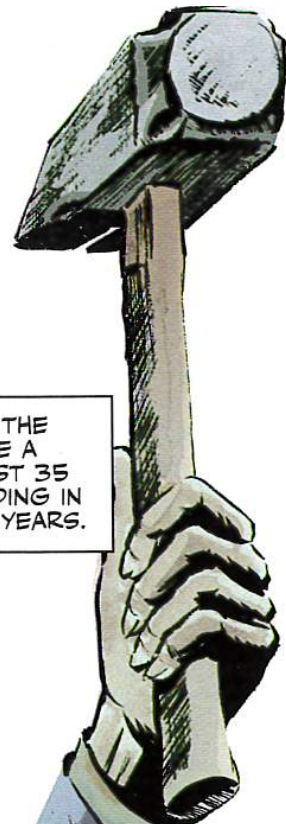
TOGETHER THEIR DUTY IS TO PUT INTO PRACTICE—TO EXECUTE AND ENFORCE—THE LAWS THAT CONGRESS PASSES.

IT'S WORTH REPEATING HERE THAT THE EXECUTIVE BRANCH HAS NO CONSTITUTIONAL POWER TO MAKE OR WRITE LAWS, THOUGH IT MAY INFLUENCE OR ENGAGE CONGRESS TO DO SO.

EXCEPT BY WIELDING THE VETO POWER, WHICH CONGRESS CAN OVERRIDE, THE EXECUTIVE BRANCH IS OBLIGATED TO WORK WITH WHATEVER LEGISLATORS PASS ALONG. THINK OF IT LIKE THIS: IN A SIMILAR WAY, THE POLICE DO NOT MAKE THE LAWS THEY ENFORCE.

LIKewise, CONGRESS HAS NO POWER TO PROSECUTE ITS OWN LAWS, NO MORE THAN A COUNTY SUPERVISOR HAS THE POWER TO TICKET A JAYWALKER OR INVESTIGATE A ROBBERY.

\*THE FRAMERS ADDED THIS REQUIREMENT SO THAT WEALTHY EUROPEAN ROYALTY WOULDN'T CROSS THE OCEAN AND USE MONEY AND INFLUENCE TO TAKE POWER AT THE HIGHEST LEVELS. THERE ARE RUMORS THAT THE MEMBERS OF THE CONFEDERATION CONGRESS ITSELF SOUGHT TO BRING PRINCE HENRY OF PRUSSIA TO SERVE AS AMERICA'S "CONSTITUTIONAL MONARCH."







KEEP IN MIND, TO MANY OF THOSE WHO WROTE THE CONSTITUTION, GIVING REGULAR PEOPLE TOO MUCH POWER...



...WOULD MEAN PUTTING THE NEW COUNTRY AT THE MERCY OF "MOB RULE."



...DEMOCRACIES HAVE EVER BEEN SPECTACLES OF TURBULENCE AND CONTENTION...

PLUS, IN THE LATE 18TH CENTURY, TRAVEL WAS ONLY BY HORSE OR BOAT. ALSO, MEN WERE LARGELY JUDGED BY THEIR REPUTATIONS INSIDE A SMALL CIRCLE OF PEERS. A MAJORITY OF THE FRAMERS HELD THAT THE VOTING PUBLIC COULD BE EXPECTED TO SEND LOCAL LEADERS TO THE HOUSE OF REPRESENTATIVES, BUT UNDERSTANDING NATIONAL ISSUES AND ELECTING THE BEST CANDIDATE FOR PRESIDENT WAS AN ENTIRELY DIFFERENT MATTER.

WHAT'S MORE, BOOKS AND LOCAL NEWSPAPERS WERE THE ONLY FORMS OF MEDIA.

WITHOUT MORE MODERN WAYS TO CONVEY PEOPLE AND IDEAS, NATIONAL ELECTIONS WERE ALSO IMPRACTICAL.

FIRST MODERN RAIL TRANSPORT: 1810S.

SAMUEL MORSE'S TELEGRAPH: 1830S.

FIRST TELEPHONE PATENTS: 1870S.

BEGINNING OF RADIO COMMUNICATION: 1890S.

EARLY FORMS OF THE INTERNET: 1970S.

RISE OF COMMERCIAL TELEVISION: 1930S.



SO THE 1787 CONSTITUTION  
COMES DOWN TO THIS IDEA...

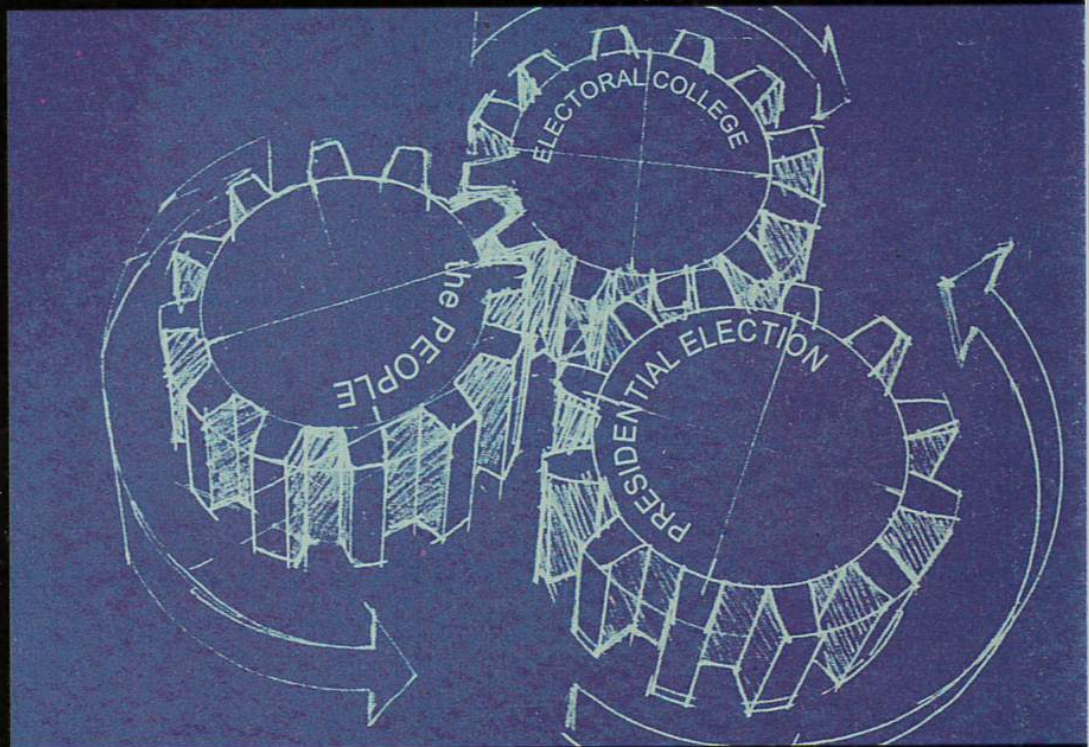
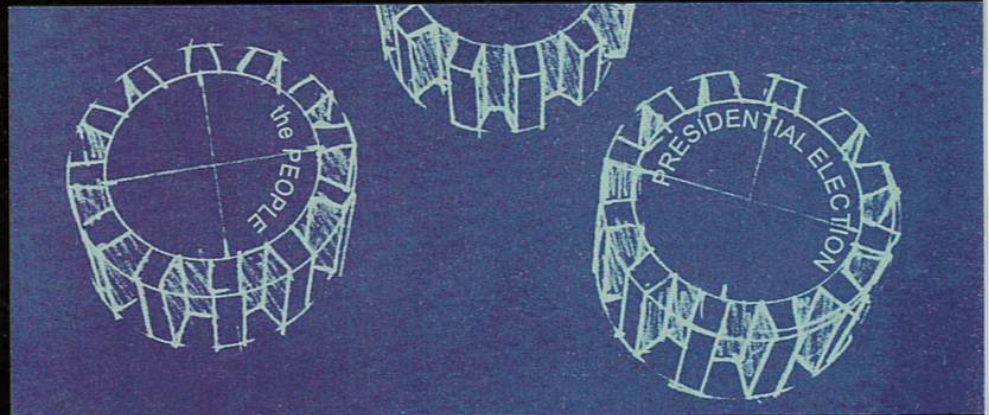
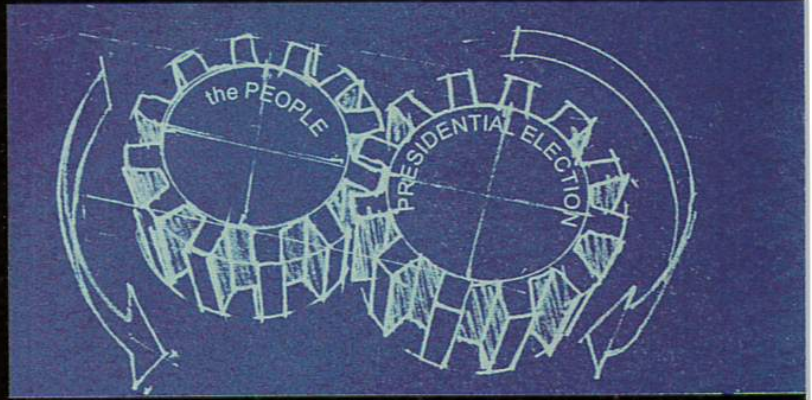
...THAT THE POPULATION  
AS A WHOLE COULDN'T  
AND SHOULDN'T ELECT  
THE PRESIDENT.

EVEN TO THIS DAY, WHILE  
MANY OF US THINK WE  
CAST BALLOTS FOR THE  
NATION'S TOP OFFICE...

...WE ACTUALLY VOTE  
FOR **ELECTORS**, WHO THEN  
CHOOSE THE PRESIDENT  
IN AN ENTIRELY SEPARATE  
PROCEDURE, ONE THAT  
TAKES PLACE WEEKS  
AFTER ELECTION DAY.

"WE, THE PEOPLE"  
STILL HAVE ONLY  
AN INDIRECT VOTE.

THE TERM NEVER APPEARS  
IN THE CONSTITUTION, BUT  
THESE ELECTORS, WHO  
REPRESENT THE POLITICAL  
PARTIES OF THE STATES AND  
THE DISTRICT OF COLUMBIA,  
HAVE COME TO BE KNOWN  
AS **THE ELECTORAL  
COLLEGE**.\*

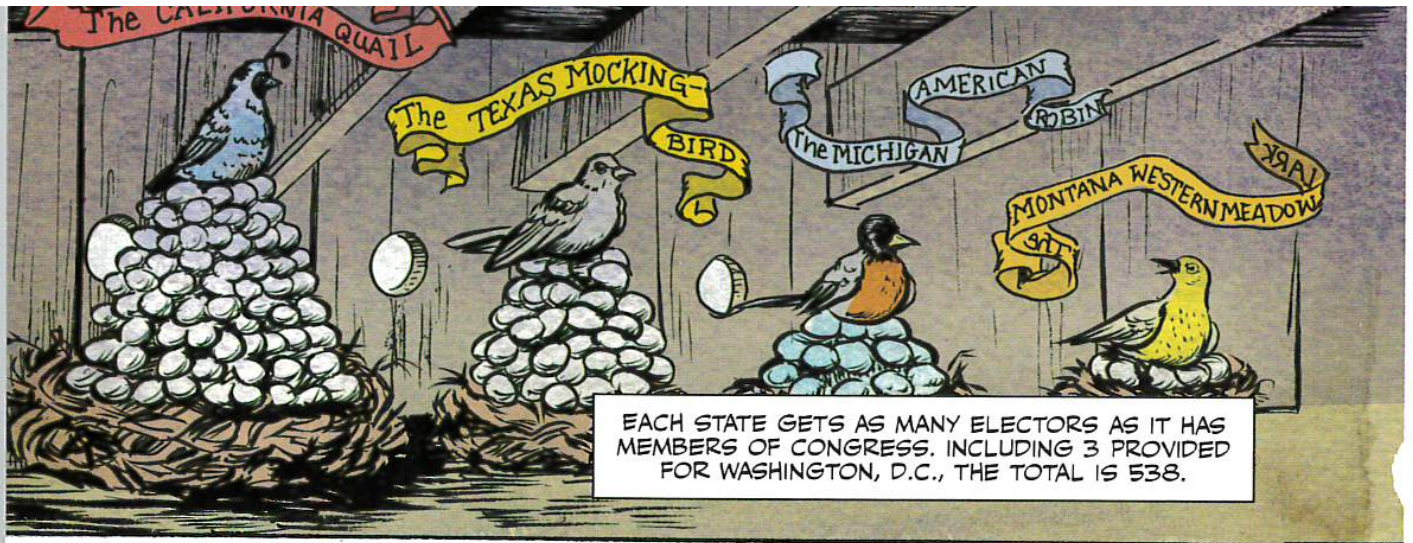


SO AGAIN...THE PRESIDENT IS  
**NOT CHOSEN BY POPULAR VOTE.**

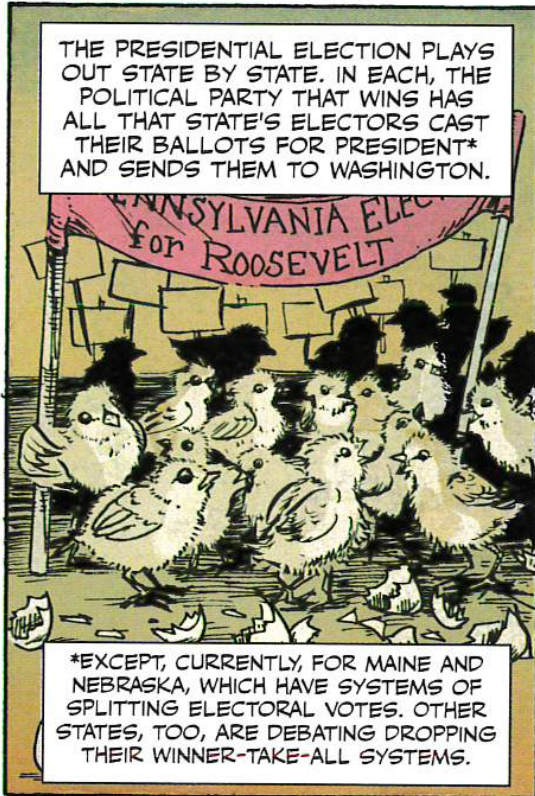
HOW MEMBERS OF THE ELECTORAL COLLEGE ARE  
CHOSEN IS UP TO EACH STATE. ORIGINALLY, IN  
SOME STATES ELECTORS WERE PICKED BY THE  
PEOPLE, IN OTHERS, BY THE STATE LEGISLATURES.  
TODAY SERVING AS AN ELECTOR IS AN HONOR  
TYPICALLY GIVEN TO ACTIVE AND HIGHLY REGARDED  
MEMBERS OF POLITICAL PARTIES.

\*ARTICLE II IS CLEAR ON THIS: TO HELP KEEP THINGS FAIR, NO  
ONE HOLDING FEDERAL OFFICE OR WORKING FOR THE FEDERAL  
GOVERNMENT MAY BE A MEMBER OF THE ELECTORAL COLLEGE.



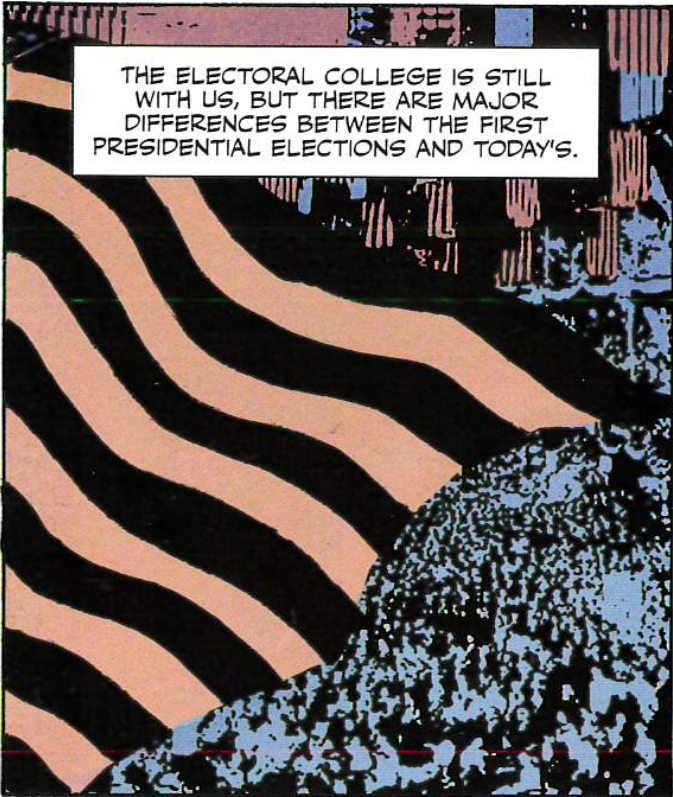


EACH STATE GETS AS MANY ELECTORS AS IT HAS MEMBERS OF CONGRESS, INCLUDING 3 PROVIDED FOR WASHINGTON, D.C., THE TOTAL IS 538.

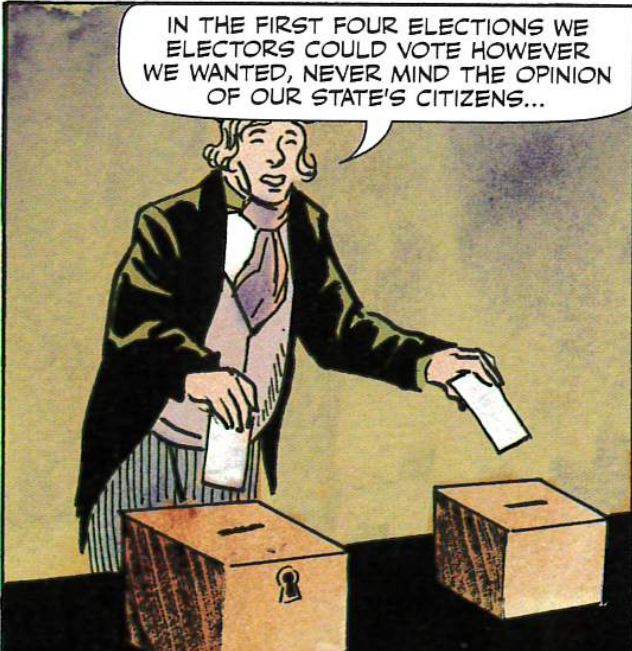


THE PRESIDENTIAL ELECTION PLAYS OUT STATE BY STATE. IN EACH, THE POLITICAL PARTY THAT WINS HAS ALL THAT STATE'S ELECTORS CAST THEIR BALLOTS FOR PRESIDENT\* AND SENDS THEM TO WASHINGTON.

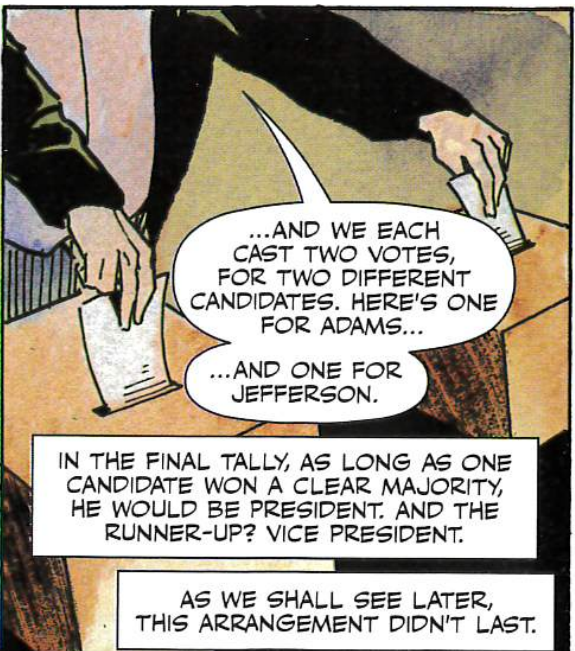
\*EXCEPT, CURRENTLY, FOR MAINE AND NEBRASKA, WHICH HAVE SYSTEMS OF SPLITTING ELECTORAL VOTES. OTHER STATES, TOO, ARE DEBATING DROPPING THEIR WINNER-TAKE-ALL SYSTEMS.



THE ELECTORAL COLLEGE IS STILL WITH US, BUT THERE ARE MAJOR DIFFERENCES BETWEEN THE FIRST PRESIDENTIAL ELECTIONS AND TODAY'S.



IN THE FIRST FOUR ELECTIONS WE ELECTORS COULD VOTE HOWEVER WE WANTED, NEVER MIND THE OPINION OF OUR STATE'S CITIZENS...

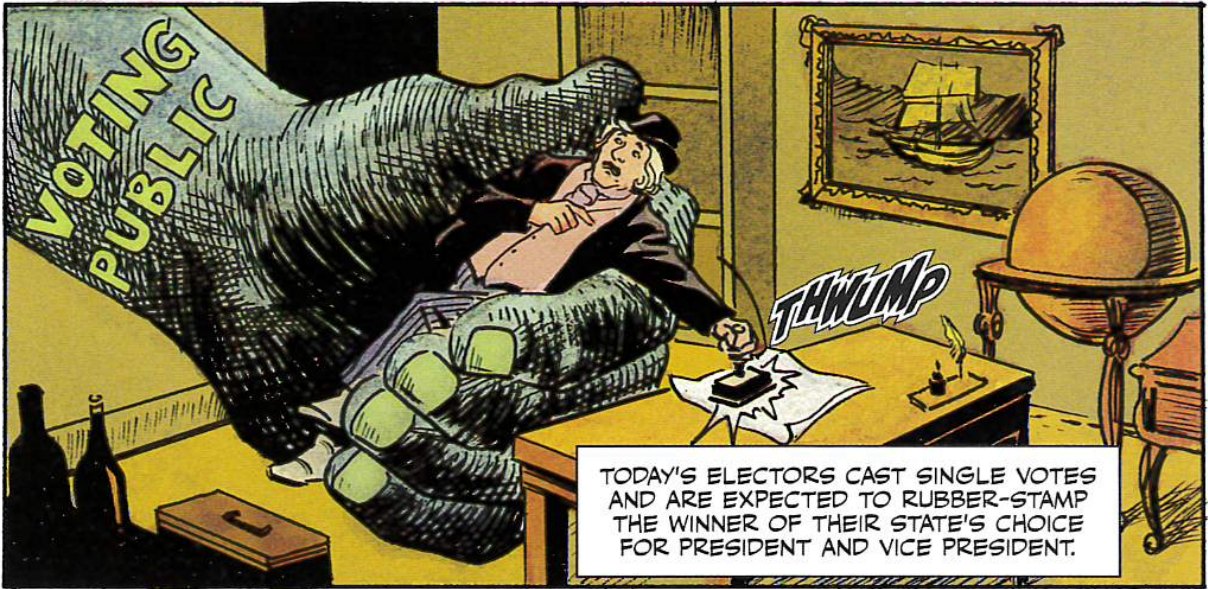


...AND WE EACH CAST TWO VOTES, FOR TWO DIFFERENT CANDIDATES. HERE'S ONE FOR ADAMS...  
...AND ONE FOR JEFFERSON.

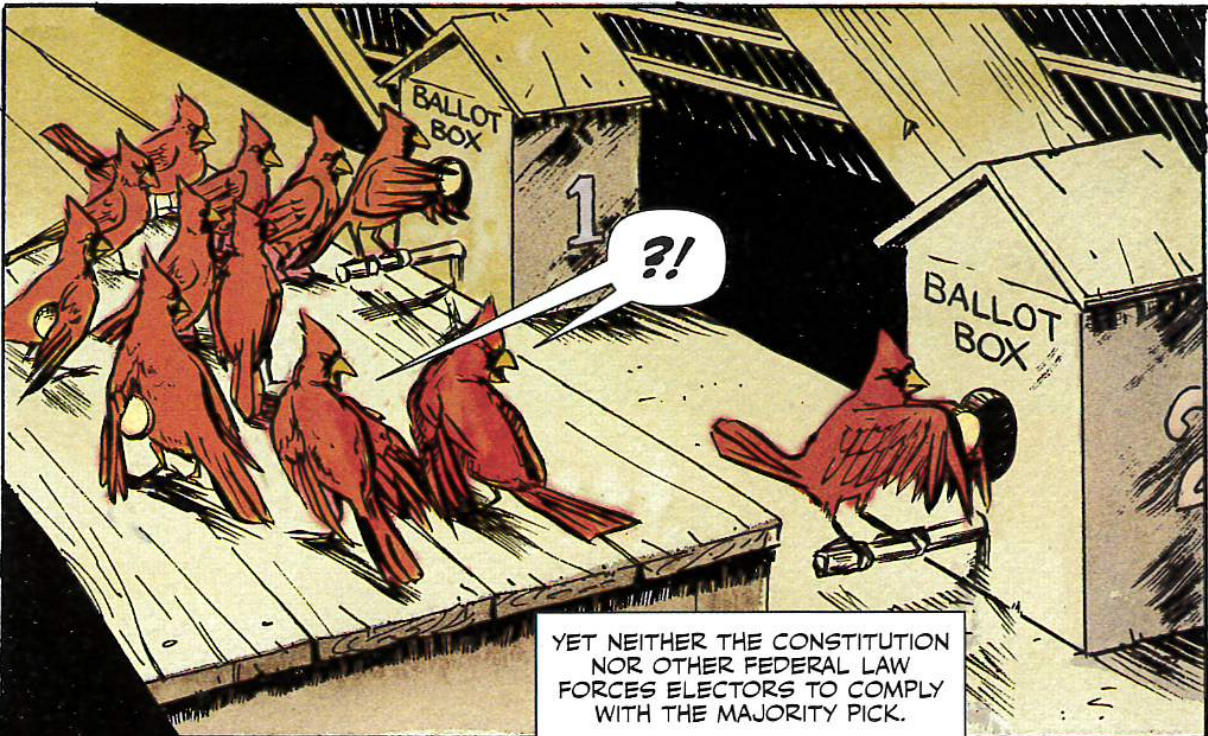
IN THE FINAL TALLY, AS LONG AS ONE CANDIDATE WON A CLEAR MAJORITY, HE WOULD BE PRESIDENT. AND THE RUNNER-UP? VICE PRESIDENT.

AS WE SHALL SEE LATER, THIS ARRANGEMENT DIDN'T LAST.

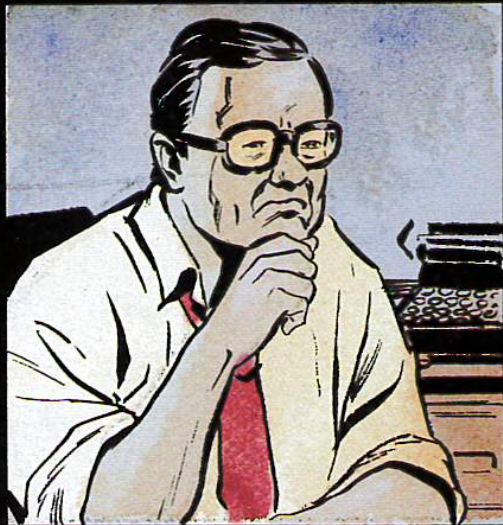




TODAY'S ELECTORS CAST SINGLE VOTES AND ARE EXPECTED TO RUBBER-STAMP THE WINNER OF THEIR STATE'S CHOICE FOR PRESIDENT AND VICE PRESIDENT.



YET NEITHER THE CONSTITUTION NOR OTHER FEDERAL LAW FORCES ELECTORS TO COMPLY WITH THE MAJORITY PICK.



STILL, THE SO-CALLED FAITHLESS ELECTORS—LIKE THE 1976 REPUBLICAN ELECTOR FROM VIRGINIA ROGER LEA MACBRIDE—HAVE NEVER YET CHANGED THE OUTCOME OF AN ELECTION.

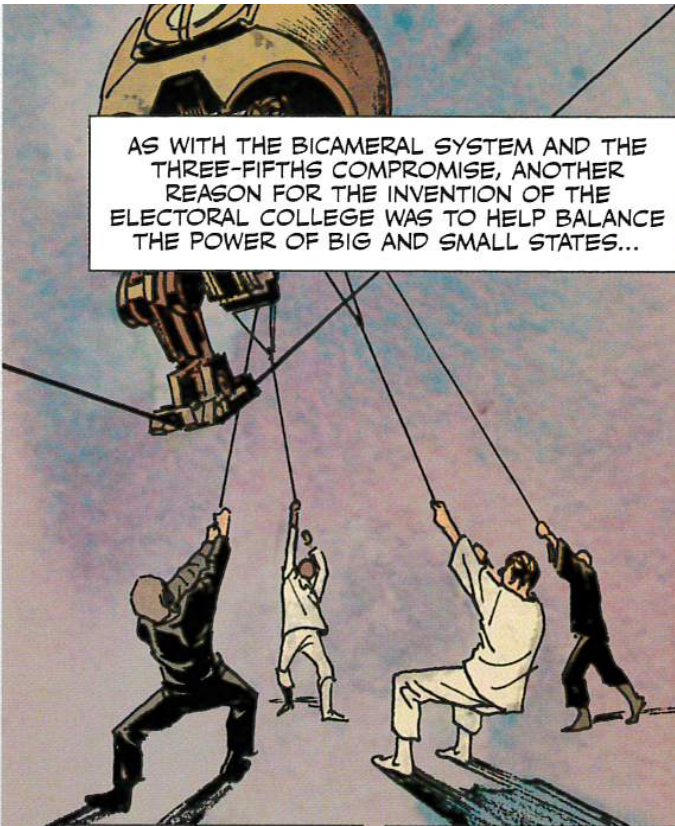


...AND PROSLAVERY AND ANTISLAVERY FACTIONS.

AS WITH THE BICAMERAL SYSTEM AND THE THREE-FIFTHS COMPROMISE, ANOTHER REASON FOR THE INVENTION OF THE ELECTORAL COLLEGE WAS TO HELP BALANCE THE POWER OF BIG AND SMALL STATES...



BECAUSE PRESIDENTIAL ELECTIONS ALL COME DOWN TO STATE-BY-STATE ELECTORAL COLLEGE NUMBERS, FOUR TIMES IN OUR HISTORY CANDIDATES HAVE LOST THE PRESIDENCY EVEN AFTER WINNING THE POPULAR VOTE.



ANDREW JACKSON, 1824.

SAMUEL TILDEN, 1876.

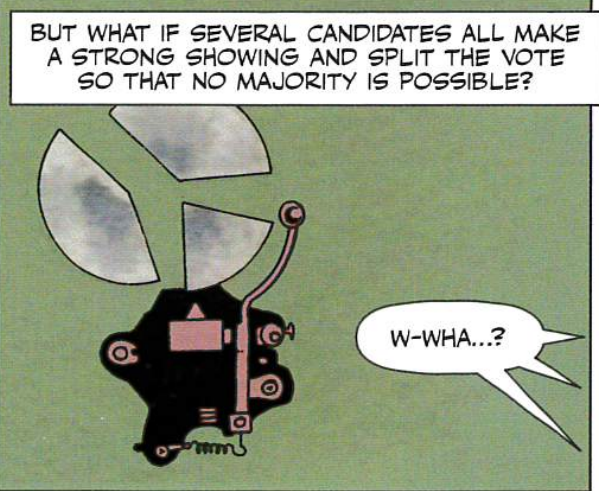
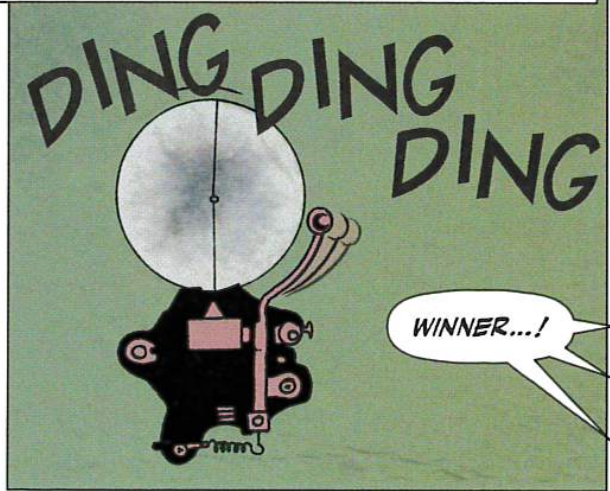
GROVER CLEVELAND, 1888.

AL GORE, 2000.



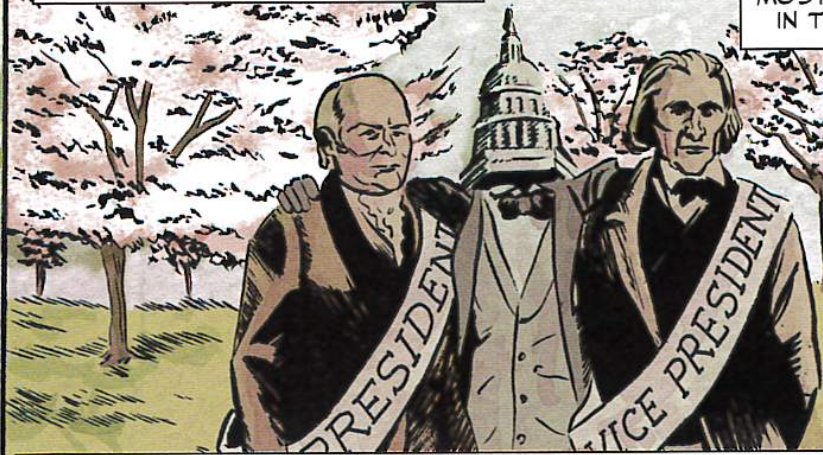
TO WIN THE PRESIDENCY, A CANDIDATE MUST RECEIVE A MAJORITY OF ELECTORAL COLLEGE VOTES—AT LEAST 50% PLUS ONE VOTE. NOT JUST MORE THAN ANY OTHER CANDIDATE!

WITH ONLY TWO CONTENDERS IN A RACE—SAY, ONE REPUBLICAN VERSUS ONE DEMOCRAT—A CLEAR MAJORITY WILL ALMOST ALWAYS EMERGE.





THAT IS EXACTLY WHAT HAPPENED  
IN THE ELECTION OF 1824.



ANDREW JACKSON, WHO WON THE  
POPULAR VOTE AND RECEIVED THE  
MOST ELECTORAL COLLEGE VOTES  
IN THAT CONTEST, LOST IN 1824.



AND ARTICLE II OF THE CONSTITUTION DECLARES THAT BY  
ONE-VOICE-PER-STATE BALLOT, THE HOUSE OF REPRESENTATIVES  
PICKS THE PRESIDENT, AND THE SENATE THE VICE PRESIDENT.

WINNER OF 1825 HOUSE VOTE FOR PRESIDENT, JOHN QUINCY ADAMS.  
WINNER OF 1825 SENATE VOTE FOR VICE PRESIDENT, JOHN C. CALHOUN.

SINCE THERE IS NOTHING TO  
STOP THIS FROM HAPPENING  
AGAIN, SOME WOULD CALL  
THIS A SERIOUS FLAW IN  
THE SYSTEM.

SHOULD THE PRESIDENT DIE, RESIGN, OR BE  
REMOVED FROM OFFICE BY CONGRESS, THE  
VICE PRESIDENT TAKES OVER...



...AND, LIKE ANY OTHER PRESIDENT,  
TAKES THE OATH OF OFFICE THE  
FRAMERS COMPOSED.

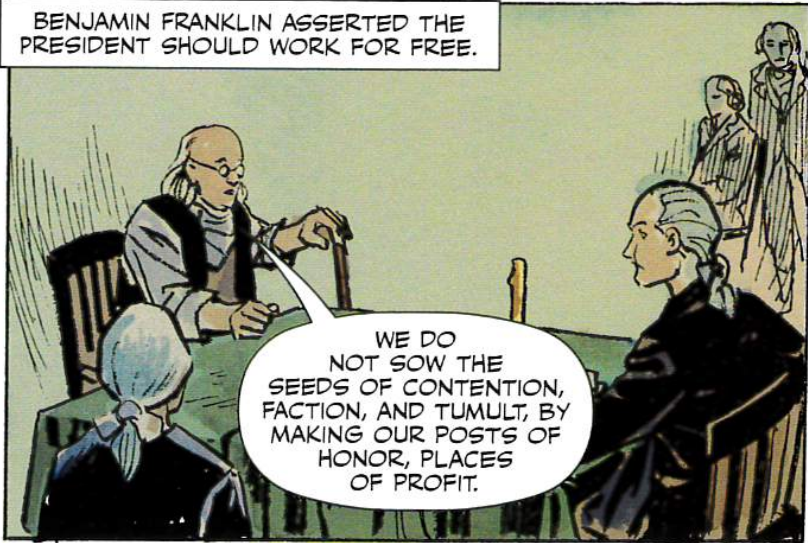
"I DO SOLEMNLY SWEAR THAT I WILL  
FAITHFULLY EXECUTE THE OFFICE OF  
PRESIDENT OF THE UNITED STATES,  
AND WILL TO THE BEST OF MY ABILITY  
PRESERVE, PROTECT, AND DEFEND  
THE CONSTITUTION OF THE  
UNITED STATES."



WHY IS THIS OATH OF OFFICE SO IMPORTANT? BECAUSE ANYONE WHO TAKES IT PROMISES TO  
UPHOLD THE CONSTITUTION...EVEN IF HE OR SHE PERSONALLY DOES NOT AGREE WITH EVERY  
PART OF IT. THE PRESIDENT NEVER HAS THE POWER TO CHANGE OR IGNORE THE CONSTITUTION.



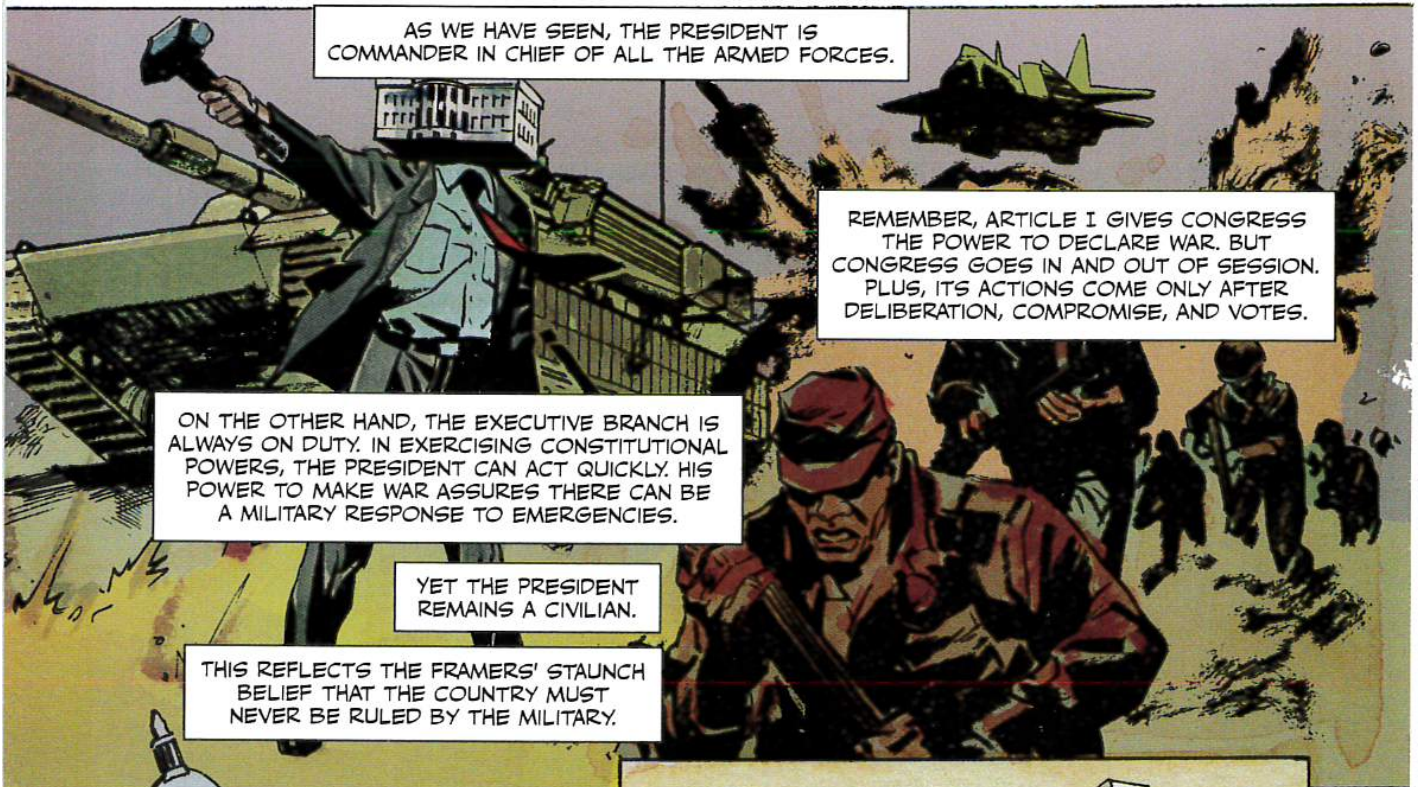
BENJAMIN FRANKLIN ASSERTED THE PRESIDENT SHOULD WORK FOR FREE.



WE DO NOT SOW THE SEEDS OF CONTENTION, FACTION, AND TUMULT, BY MAKING OUR POSTS OF HONOR, PLACES OF PROFIT.

BUT ARTICLE II INSURES THAT THE POSITION IS A PAID ONE. FRANKLIN'S IDEA MAY HAVE BEEN HIGH-MINDED, BUT A PRESIDENTIAL SALARY—CURRENTLY \$400,000 PER YEAR (WHICH THE SITTING CONGRESS CANNOT RAISE OR LOWER)—WAS MEANT TO HELP INSURE THAT NOT JUST RICH PEOPLE WOULD SEEK THE OFFICE. THE SALARY, AND A CONSTITUTIONAL ORDER THAT THE PRESIDENT MUST NOT ACCEPT VALUABLE GIFTS FROM THE GOVERNMENT OR FROM INDIVIDUAL STATES, ALSO HELPS KEEP THE OFFICE IMPARTIAL, FREE FROM FINANCIAL CORRUPTION.

AS WE HAVE SEEN, THE PRESIDENT IS COMMANDER IN CHIEF OF ALL THE ARMED FORCES.



REMEMBER, ARTICLE I GIVES CONGRESS THE POWER TO DECLARE WAR. BUT CONGRESS GOES IN AND OUT OF SESSION. PLUS, ITS ACTIONS COME ONLY AFTER DELIBERATION, COMPROMISE, AND VOTES.

ON THE OTHER HAND, THE EXECUTIVE BRANCH IS ALWAYS ON DUTY. IN EXERCISING CONSTITUTIONAL POWERS, THE PRESIDENT CAN ACT QUICKLY. HIS POWER TO MAKE WAR ASSURES THERE CAN BE A MILITARY RESPONSE TO EMERGENCIES.

YET THE PRESIDENT REMAINS A CIVILIAN.

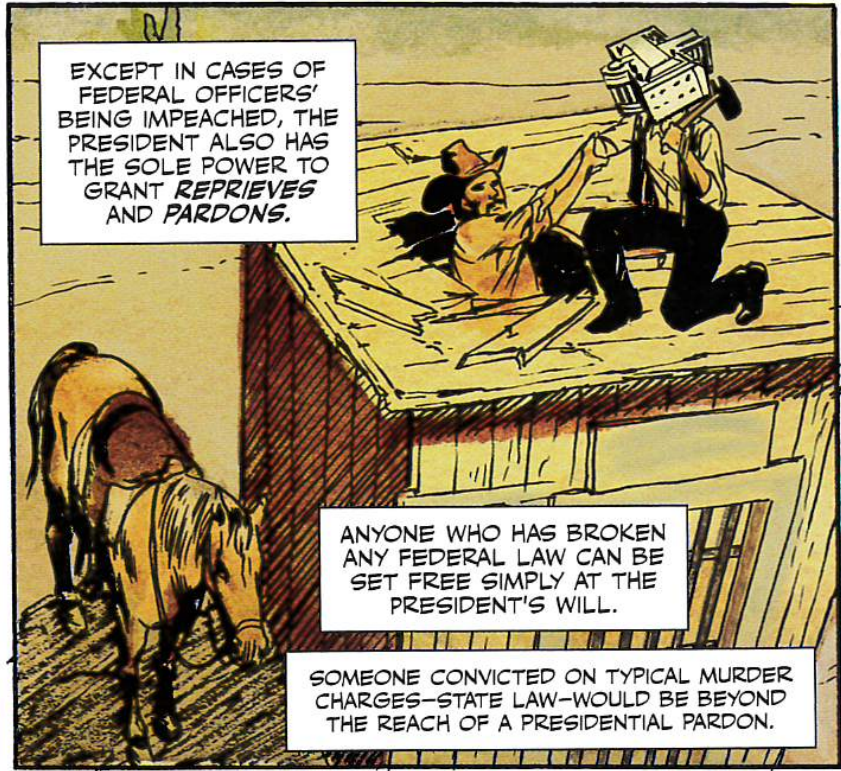
THIS REFLECTS THE FRAMERS' STAUNCH BELIEF THAT THE COUNTRY MUST NEVER BE RULED BY THE MILITARY.

CONGRESS CONTROLS HOW MUCH MONEY GOES TO THE ARMED FORCES AND THEIR OPERATIONS.



AGAIN, WITH THESE OVERLAPPING WAR POWERS, THERE IS ALWAYS THE POTENTIAL TO BRING THESE TWO BRANCHES OF GOVERNMENT INTO A CONFLICT





EXCEPT IN CASES OF FEDERAL OFFICERS' BEING IMPEACHED, THE PRESIDENT ALSO HAS THE SOLE POWER TO GRANT **REPRIEVES** AND **PARDONS**.

ANYONE WHO HAS BROKEN ANY FEDERAL LAW CAN BE SET FREE SIMPLY AT THE PRESIDENT'S WILL.

SOMEONE CONVICTED ON TYPICAL MURDER CHARGES—STATE LAW—WOULD BE BEYOND THE REACH OF A PRESIDENTIAL PARDON.



MANY PRESIDENTIAL PARDONS HAVE BEEN HIGH-PROFILE AND CONTROVERSIAL.



PRESIDENT ANDREW JOHNSON PARDONS CONFEDERATE GENERAL ALBERT PIKE, ACCUSED OF TREASON, IN 1865.



RICHARD NIXON PARDONS THE UNION ORGANIZER JIMMY HOFFA, CONVICTED OF ATTEMPTED BRIBERY, IN 1971.



SUCCESSOR GERALD FORD PARDONS RESIGNED PRESIDENT RICHARD NIXON FOR THE WATERGATE SCANDAL, IN 1974.



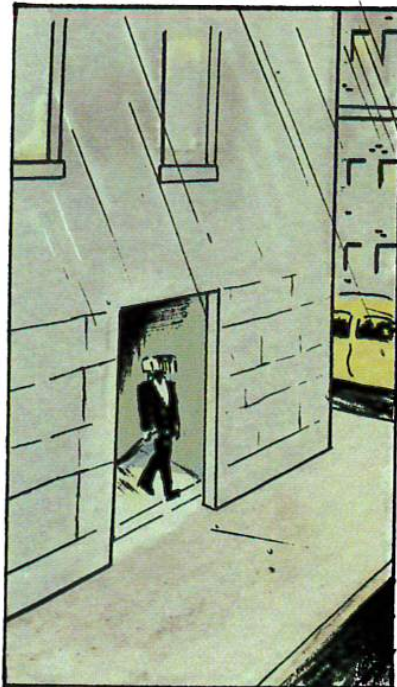
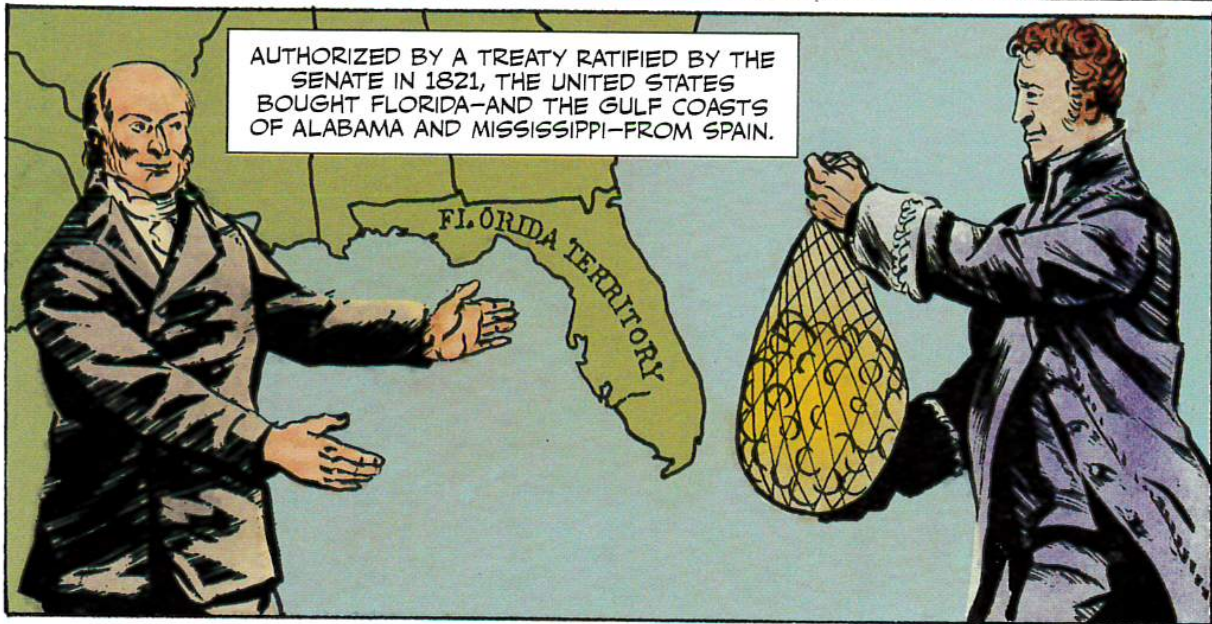
GEORGE H. W. BUSH PARDONS HIS SECRETARY OF DEFENSE, CASPAR WEINBERGER, FOR LYING TO INVESTIGATORS ABOUT THE IRAN-CONTRA SCANDAL, IN 1992.



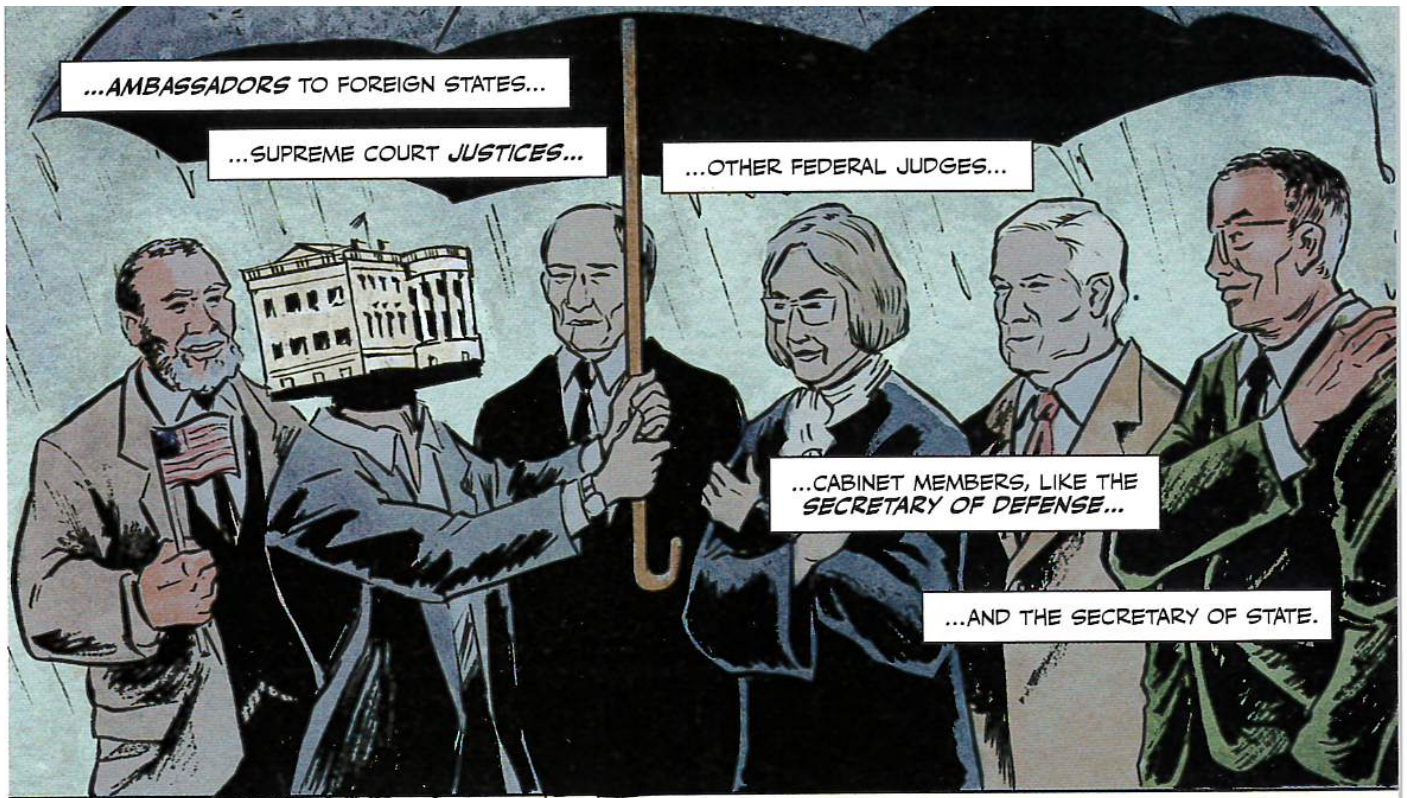
BILL CLINTON PARDONS THE BILLIONAIRE BUSINESSMAN MARC RICH FOR TAX EVASION AND ILLEGAL OIL TRADING WITH IRAN, IN 2001.











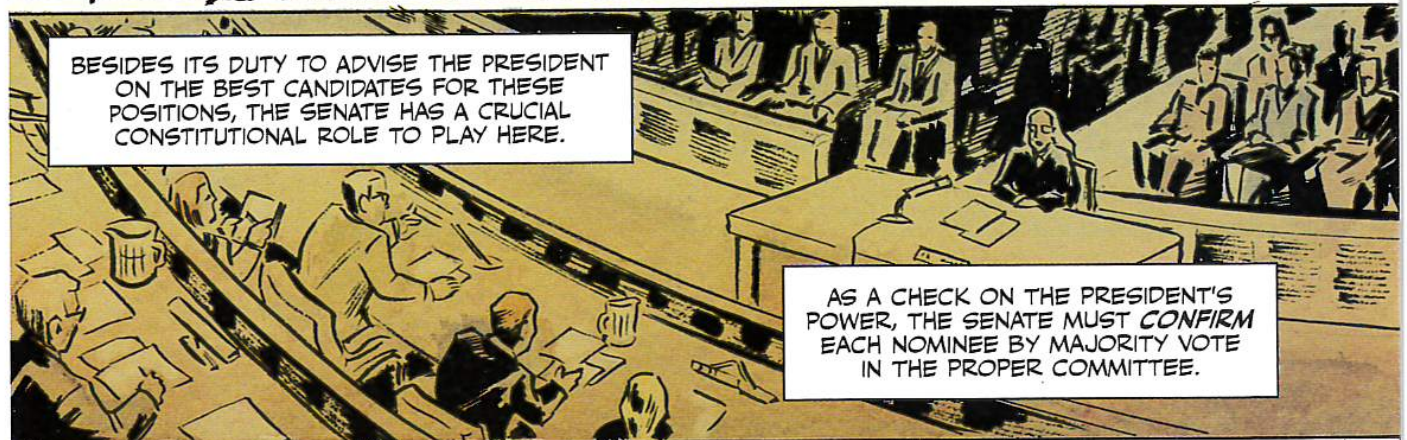
...AMBASSADORS TO FOREIGN STATES...

...SUPREME COURT JUSTICES...

...OTHER FEDERAL JUDGES...

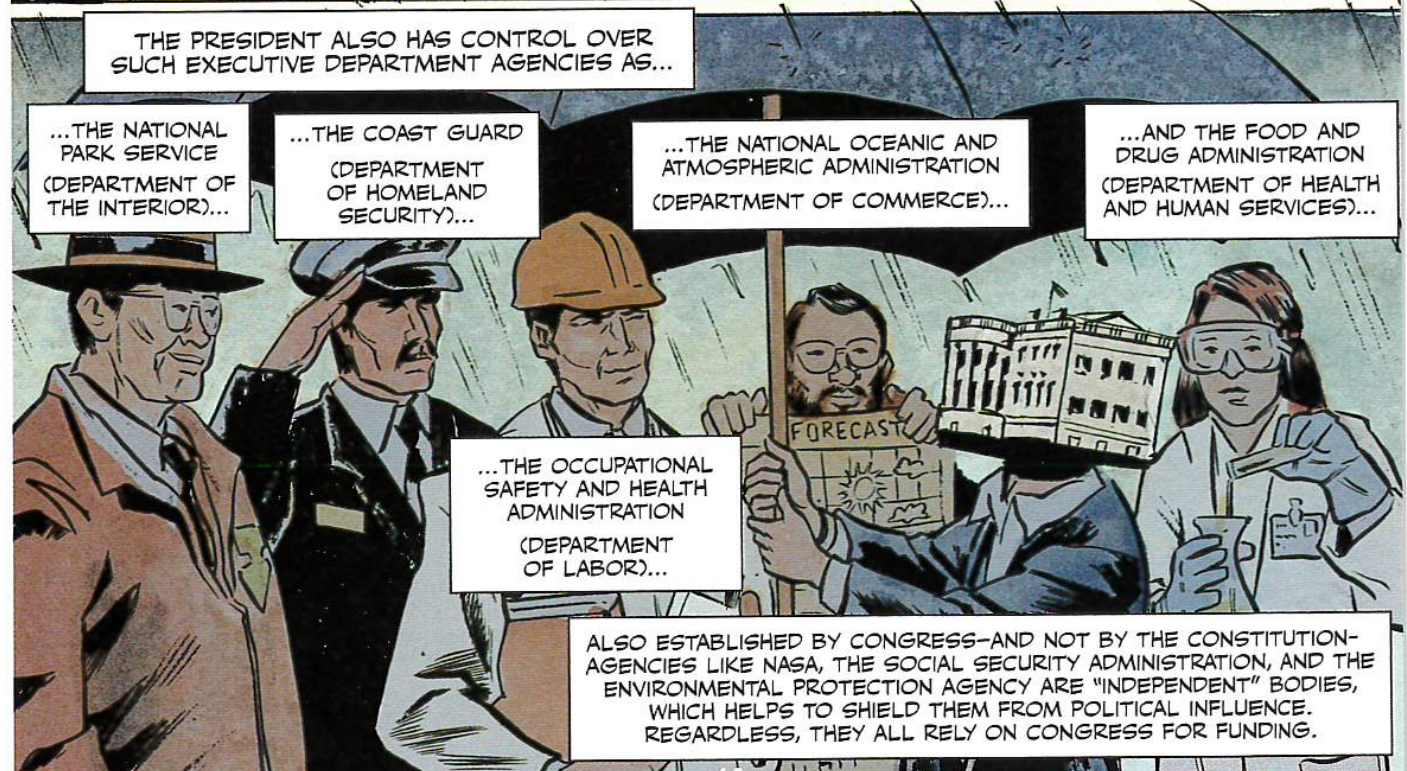
...CABINET MEMBERS, LIKE THE SECRETARY OF DEFENSE...

...AND THE SECRETARY OF STATE.



BESIDES ITS DUTY TO ADVISE THE PRESIDENT ON THE BEST CANDIDATES FOR THESE POSITIONS, THE SENATE HAS A CRUCIAL CONSTITUTIONAL ROLE TO PLAY HERE.

AS A CHECK ON THE PRESIDENT'S POWER, THE SENATE MUST CONFIRM EACH NOMINEE BY MAJORITY VOTE IN THE PROPER COMMITTEE.



THE PRESIDENT ALSO HAS CONTROL OVER SUCH EXECUTIVE DEPARTMENT AGENCIES AS...

...THE NATIONAL PARK SERVICE (DEPARTMENT OF THE INTERIOR)...

...THE COAST GUARD (DEPARTMENT OF HOMELAND SECURITY)...

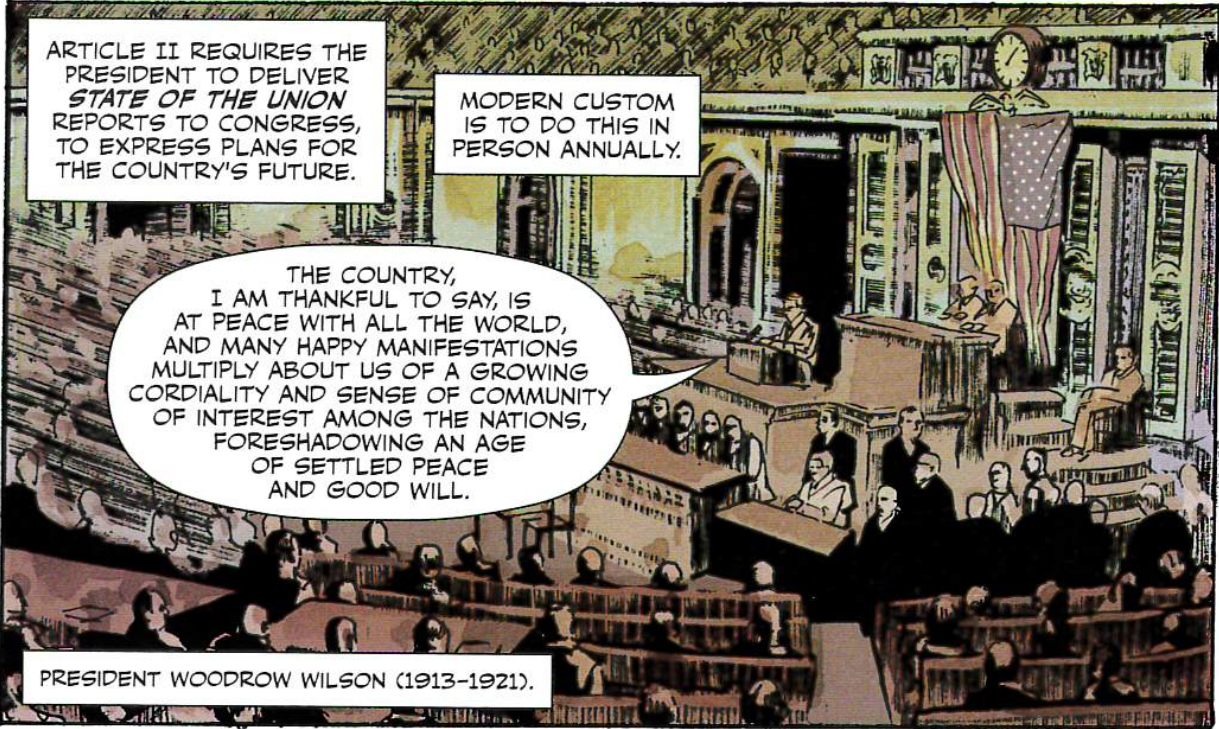
...THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (DEPARTMENT OF COMMERCE)...

...AND THE FOOD AND DRUG ADMINISTRATION (DEPARTMENT OF HEALTH AND HUMAN SERVICES)...

...THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (DEPARTMENT OF LABOR)...

ALSO ESTABLISHED BY CONGRESS—AND NOT BY THE CONSTITUTION—AGENCIES LIKE NASA, THE SOCIAL SECURITY ADMINISTRATION, AND THE ENVIRONMENTAL PROTECTION AGENCY ARE "INDEPENDENT" BODIES, WHICH HELPS TO SHIELD THEM FROM POLITICAL INFLUENCE. REGARDLESS, THEY ALL RELY ON CONGRESS FOR FUNDING.



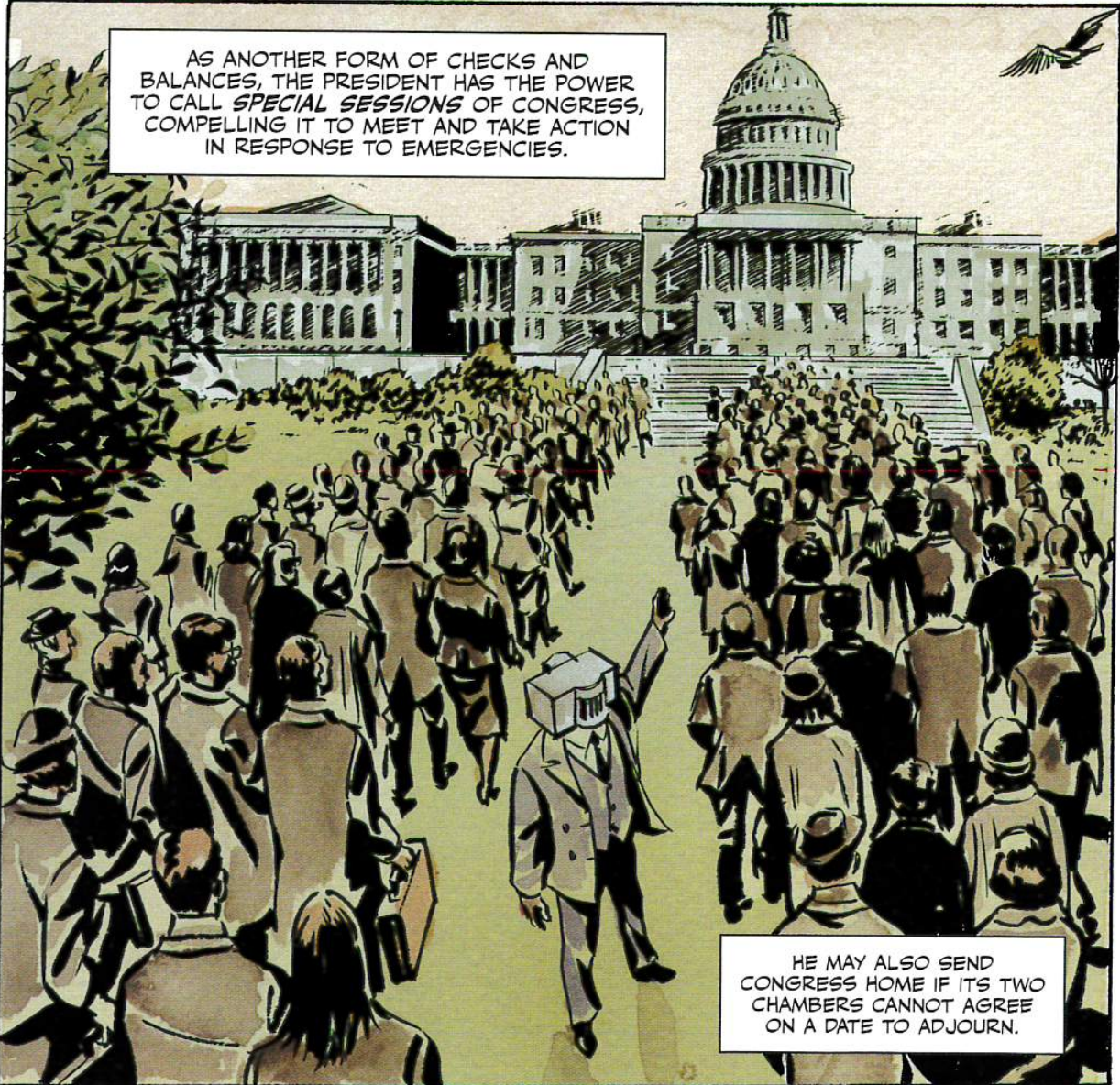


ARTICLE II REQUIRES THE PRESIDENT TO DELIVER *STATE OF THE UNION* REPORTS TO CONGRESS, TO EXPRESS PLANS FOR THE COUNTRY'S FUTURE.

MODERN CUSTOM IS TO DO THIS IN PERSON ANNUALLY.

THE COUNTRY, I AM THANKFUL TO SAY, IS AT PEACE WITH ALL THE WORLD, AND MANY HAPPY MANIFESTATIONS MULTIPLY ABOUT US OF A GROWING CORDIALITY AND SENSE OF COMMUNITY OF INTEREST AMONG THE NATIONS, FORESHADOWING AN AGE OF SETTLED PEACE AND GOOD WILL.

PRESIDENT WOODROW WILSON (1913-1921).



AS ANOTHER FORM OF CHECKS AND BALANCES, THE PRESIDENT HAS THE POWER TO CALL *SPECIAL SESSIONS* OF CONGRESS, COMPELLING IT TO MEET AND TAKE ACTION IN RESPONSE TO EMERGENCIES.

HE MAY ALSO SEND CONGRESS HOME IF ITS TWO CHAMBERS CANNOT AGREE ON A DATE TO ADJOURN.