

Evolutionary Powers of the Presidency

Not mentioned in the Constitution...



Executive Privilege

- **Power claimed by the President to resist and refuse to give Congress, the courts, or private parties information or records which have been requested or subpoenaed.**
 - When the President orders government witnesses not to testify before Congress.
- Based on the constitutional doctrine of separation of powers, always controversial, subject to interpretation, and often litigated.

Agenda Setting

- The President sets legislative priorities and usually has legislative agenda (i.e. New Deal, New Frontier, Great Society...)
- President influences what Congress does and the issues Senators and Representatives are discussing with their constituents.
- President also shapes foreign policy. He gets daily intelligence briefings which Congress does not. Congress often defers to the President in the area of foreign policy.

Executive Orders

- ***Legally binding order given by the President to Federal Administrative Agencies.***
- **Generally used to direct federal agencies and officials in their execution of congressionally established laws or policies.** Have been used to guide agencies in directions contrary to Congressional intent.
- **Do not require Congressional approval but have the same legal weight as laws passed by Congress**

Executive Orders

authority to issue Executive Orders can be found in the Article II, Section 1 of the Constitution.

Section 3 of Article II further directs the President to "take Care that the Laws be faithfully executed"

Controversial because... they allow the President to make major decisions, even law, without the consent of Congress.

Veto Power

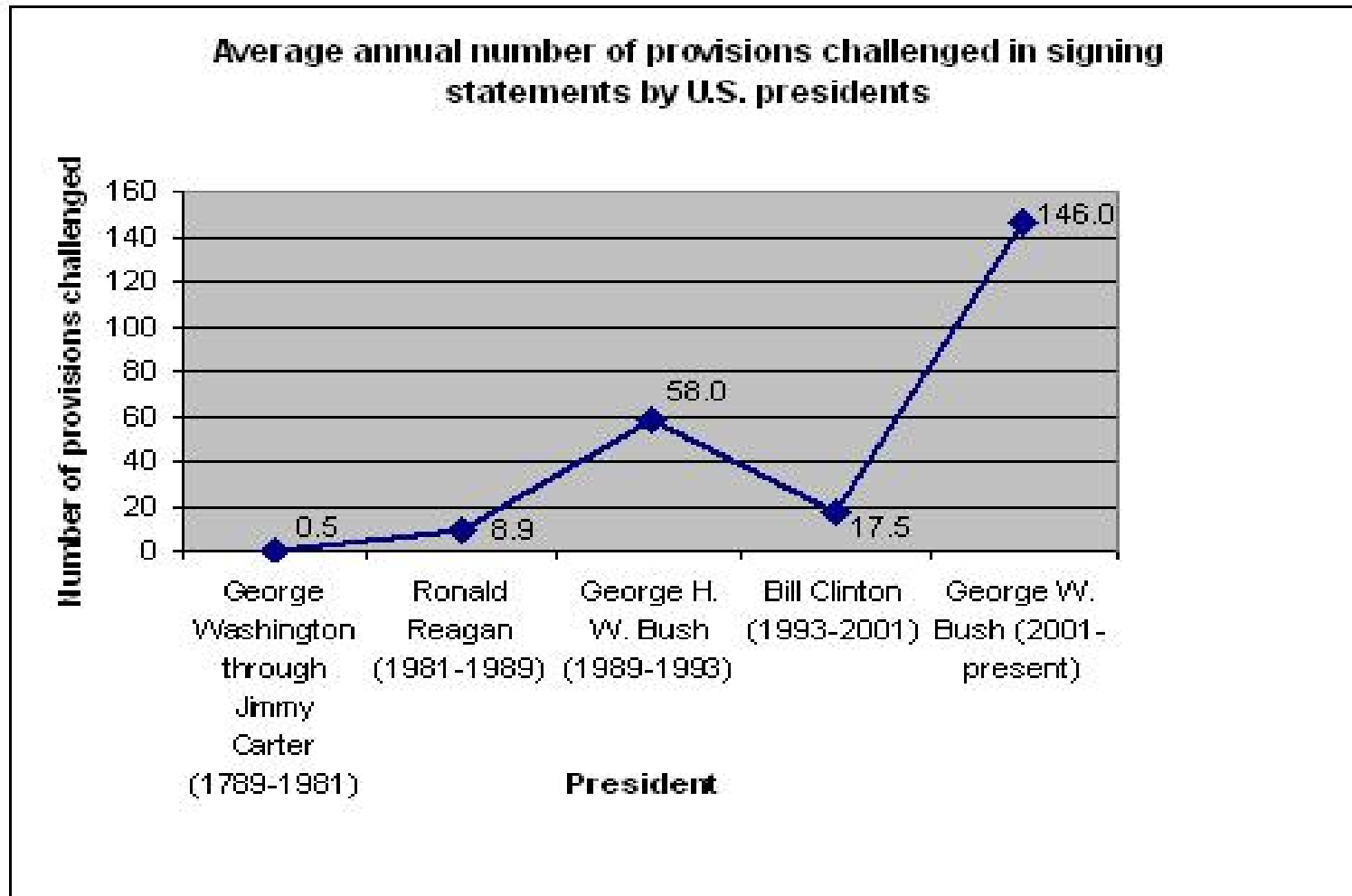
- The word “veto” does not appear in the Constitution. Congress required to present legislation to President for approval (Article 1, Section 7).
- Veto can be overridden with 2/3 majority in each House of Congress.
- ✓ Presidential veto - standard veto
- ✓ Pocket Veto- failure to sign a bill – BUT If Congress is in session and President fails to sign bill, it becomes law without signature.
- ✓ Line-Item Veto- void pieces of legislation rather than entire bill. Power granted temporarily during Clinton years (1996), but declared unconstitutional by Supreme Court (*Clinton v. City of New York*) in 1998.

Signing Statements

When a President sign bills into law, they sometimes issue written statements expressing their views on those bills called presidential “signing statements.”

- Presidents often use these statements to express their intention not to enforce parts of legislation they consider unconstitutional.
- Since the Reagan era, scholars, jurists, and others have debated whether presidential signing statements should be considered as legislative history for purposes of interpreting federal statutes.

Signing Statements



Examples of Signing Statements

- **Dec. 30, 2005:** US interrogators cannot torture prisoners or otherwise subject them to cruel, inhuman, and degrading treatment.
- **Bush's signing statement:** The president, as commander in chief, can waive the torture ban if he decides that harsh interrogation techniques will assist in preventing terrorist attacks.
- **Aug. 5, 2006:** The military cannot add to its files any illegally gathered intelligence, including information obtained about Americans in violation of the Fourth Amendment's protection against unreasonable searches.
- **Bush's signing statement:** Only the president, as commander in chief, can tell the military whether or not it can use any specific piece of intelligence.