

## CHAPTER 13 - The Presidency: Powers and Practice

### OVERVIEW

Presidents have to balance the difficult task of pleasing the activists in their party and the general public. Presidents have a few constitutional powers such as the veto and appointment, but they have also been successful in claiming to have inherent powers. Congress has the power to check several of these powers and has the ultimate check of impeachment. Presidents are often left with the power to persuade important political actors, a power that depends as much on the dignity of the office as specific powers. They tend to propose major initiatives at the beginning of their terms when their popularity is highest.

### OUTLINE

#### I. Presidential Constituencies

##### A. National Constituency

- In theory, the president is the only person elected by all the people, and thus, only the president can persuasively claim to be speaking for the country as a whole and use this national constituency effectively.
- This also means, however, that presidents often get blamed for things over which they have no control.

##### B. Partisan Constituencies

- Presidents must also be attentive to the active members and leaders of their party, who are normally more extreme in their issue positions.

##### C. Partisan Support in Congress

- Members of Congress of the President's party vote with the president about 80 to 90 percent. Opposition party members vote with the President about 40 to 50 percent.
- Political scientists debate the desirability of divided government, with one party controlling the presidency and another party controlling the Congress.

#### II. Separate Institutions Sharing Power

- Over 80 percent of the time, presidents either fail to secure passage of their major legislative agendas or must make important compromises to win congressional approval.
- Presidents can only govern with the help of Congress. The result is, as Richard Neustadt explains, a "government of separated institutions which share power."

##### A. The Power to Inform and Persuade

- One way in which presidents seek to persuade Congress is by the annual State of the Union address.

###### 1. Early Use of Persuasion Power

- The power to persuade is used much more publicly today than it was in the early years of the republic.

###### 2. Modern Persuasion Power

- Teddy Roosevelt brought new meaning to the acceptable president rhetoric (bully pulpit).

- Other modern presidents who were powerful rhetoricians include Franklin Roosevelt (fireside chats), John Kennedy, and Ronald Reagan.

## **B. The Veto Power**

- Prior to the Civil War, each president's average use of the veto was four. Presidents exercise the veto much more frequently today, and since the Kennedy administration, only about 10 percent are overridden by Congress.
- If the president does not sign a bill and 10 days later (not counting Sundays) Congress has adjourned, the bill is pocket vetoed, also called pigeon-holed.
- After making a promise in the 1994 landmark decree "Contract with America," Congress gave the President the line-item veto in January of 1996. In 1998, the U.S. Supreme Court declared the law unconstitutional.

## **C. The Appointment Power**

- Presidents can appoint several thousand individuals to their administration.

### **1. The Cabinet**

- Most of the cabinet consists of the heads of the executive departments. Today there are 15 departments making it hard for the cabinet to provide confidential advice to presidents.

### **2. The White House Staff**

- The growth of the modern presidency can be traced to the Brownlow Report which concluded "the president needs help." Congress enlarged the president's staff; today, over 400 aides mainly close friends or campaign donors assist the president.
- The White House Office is just one section of the large Executive Office of the President (EOP).
- Presidents name one person, the Chief of Staff, to head the White House staff. The most effective are those who are Washington insiders such as Howard Baker, Reagan's Chief of Staff.

### **3. Scandals in the White House Office**

- A loyal staff can sometimes isolate the president from criticism. Sometimes a staff can engage in illegal activities.
- The intensity and significance of White House scandals have escalated in recent decades. Examples include Watergate, the Iran-Contra Affair, and the Clinton/Lewinsky relationship.

## **D. The Power to Recommend**

- The power to recommend gives the president the power of initiation, the power to set the political agenda. Of course, Congress can ignore presidential recommendations or propose its own.

### **1. Early Use of Power to Recommend**

- Prior to the Civil War, the power to recommend was exercised with great restraint.

### **2. Modern Use of Power to Recommend**

- The power to recommend expanded rapidly after the Civil War. Strong presidents like Teddy Roosevelt, Franklin Roosevelt, and Ronald Reagan used the power to set the national agenda.

### **3. Timing Presidential Initiatives**

- Presidents have the best chance of initiating policy in the first months after their election - called the honeymoon - since their popularity is at its peak. This also makes transitions (the first 75 days before inauguration) important.

### **E. The President as Chief of State**

- In many countries the roles of political leader and head of state are separated, but not in the United States.
- These two roles have been described by Walter Bagehot as the efficient aspect and the dignified aspect of government. The latter has always stood in tension with the egalitarian ideals of American democracy. Over the years, presidents have become more and more involved in the efficient aspect of governing, often making it harder to maintain their dignity.

#### **1. The First Lady**

- Historically, the role of the first lady was to reinforce the dignified aspect of the presidency. Some, like Eleanor Roosevelt and especially Hillary Clinton, involved themselves in political and policy processes. First Lady Laura Bush took a more reserved, yet passionate approach, in the first three years. She became both more vocal and active during her husband's reelection campaign. The same approach is what she took during her husband's second term.

#### **2. The Vice President**

- Traditionally, the vice presidency was viewed as a do-nothing office. Its only ongoing constitutional duty was to preside over the Senate and vote in the case of a tie.
- Presidents have not been inclined to delegate power to them since they are guaranteed a four-year term and cannot be fired.
- The process for selecting vice presidents (balancing the ticket) has resulted in presidents and vice presidents not being very close.
- Still, vice presidents are only a heartbeat away from the presidency, and in modern times have become the heirs apparent to the office of the presidency.
- Recently, the office has grown both in terms of the dignified aspect and efficient aspect. Richard Cheney, George W. Bush's vice president, was selected for his familiarity with national security issues and perceived as a major player in foreign policy making. Dick Cheney played a major foreign policy role with the war in Iraq and in homeland security.

### **F. Inherent Executive Power**

- Some presidents have claimed that the executive power clause of Article II is a recognition of inherent presidential powers.

#### **1. Executive Order**

- One example of inherent executive powers is the power to issue directives that have the force of law, called executive orders. The Supreme Court has recognized the constitutionality of these orders.

## **2. Executive Privilege**

- Another example of inherent “executive powers” is the power of the president to deny information to Congress called executive privilege. The Supreme Court has recognized a limited executive privilege as constitutional.

## **3. The Power to Pardon**

- The constitution grants the president the “Power to Grant Reprieves and Pardons for Offenses against the United States.” The president may use this power at his or her discretion, with the obvious exception of cases of impeachment. Pardons have stirred major controversies throughout American history.

## **G. The Impeachment Power**

- The House can impeach and the Senate can convict the president for committing impeachable offenses. Andrew Johnson and Bill Clinton were both impeached, and Richard Nixon resigned in the face of certain impeachment. Neither Johnson nor Clinton was removed from office.

## **III. Presidential Expectations and Presidential Performance**

- The public expects the president to solve problems, but given the limits on presidential powers, this is unlikely. Thus, presidents are faced with the dilemma of either playing politics to get results or appearing helpless.

### **A. Presidential Reputations**

- Presidents take steps to remain influential with beltway insiders. Two things important in this regard are the kind of people working for them and their ability to be on the winning side of issues.

### **B. Presidential Popularity**

- Presidents are also concerned with their popularity with the general public. Their popularity, as gauged by frequent opinion polls, fluctuates greatly.
- Typically, their popularity falls about eight points during their first year in office and fifteen points by the middle of their third year. During their fourth year, their popularity recovers somewhat.

### **C. Great Presidents**

- Why do some presidents fail and others succeed?
- James David Barber argues it is due primarily to presidential character, especially how they like their job and how active they are.
- Presidential success may depend less on personality than on the circumstances under which the newly-elected come into office.