

Chp 14: The Presidency in Action

Section 1: Growth of Presidential Power

Key Terms: Executive Article, mass media, imperial presidency

A. Article II of the Constitution

1. Article II is the part of the Constitution that deals with the Executive Branch.
2. Article II is basically just a short outline of powers.
3. A large part of America's early political history deals with defining the extent of the executive power.

B. The Changing View of Presidential Power

1. Why Presidential Power Has Grown

- The presidency is in the hands of one person, rather than many, and many Presidents have worked to expand the powers of their office.
- As the country grew and industrialized, especially in times of emergency, people demanded that the Federal Government play a larger role and looked to the President for leadership.
- Congress has delegated much authority to the President, although presidential control over foreign affairs is greater than it is over domestic affairs. Congress simply continues to assert itself in the implementation of social programs.
- Presidents have the attention and general respect of the media, the public, and their own party.

C. How Presidents Have Viewed Their Power

1. Stronger and more effective Presidents have taken a broad view of the powers of the office.
2. Teddy Roosevelt viewed his broad use of Presidential powers as the "Stewardship Theory", which means that the President should have the power to act as a "steward" over the country.
3. Recent, very strong presidents have given rise to the phrase "Imperial Presidency", which implies that the President becomes as strong as an emperor. The term is often used to refer to the administration of Richard Nixon.
4. Other Presidents have viewed a strong executive as a threat to liberty, and have interpreted the powers of the office narrowly. Ironically, the President most associated with a limited view of the Presidency was Teddy Roosevelt's handpicked successor, William Howard Taft.

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Section 2: President's Executive Powers

Key Terms: oath of office, executive order, ordinance power

A. The President's Executive Power

1. Executing the Law

- The President is responsible for carrying out the nation's laws.
- The President must carry out laws with which he or she disagrees, but nonetheless has discretion in interpreting the laws and deciding how vigorously the laws will be enforced.
- Most of the powers exercised by the President is derived from past precedents as well as congressional authorizations.

B. The Ordinance Power

1. The bureaucracy of the executive branch is under the authority of the President.
2. The President has the authority to issue executive orders, which have the force of law.
3. Executive orders are necessary to the functioning of the executive branch.

C. The Appointing Power

1. The President may appoint a handful of officials on his or her own authority.
2. Most of the important officers appointed by the President, including ambassadors, judges, and cabinet members, must be approved by the Senate. ONLY the Senate can pass on and approve or disapprove presidential nominees. Cabinet: Presidential advisory body, traditionally composed of the heads of the executive departments and other officers the President may choose.
3. Well over half of the officials in the federal work force are selected through civil service examinations, and thus are not under the direct control of the President.

D. The Removal Power

1. Historically, there has been disagreement over whether the President has the power to remove, at will, individuals whom he or she has appointed, with the consent of the Senate.

2. The President's power to remove people from office has generally been upheld by Congress.

3. Exceptions to the removal at will principle are: all federal judges and members of independent regulatory agencies, e.g., Interstate Commerce Commission. President CAN remove members of his cabinet and of course members of his own White House staff. The White House staff, while considered the President's personal staff, has tremendously increased in influence, even more than cabinet members.

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Section 3: Diplomatic & Military Powers

Key Terms: treaty, executive agreement, recognition, *persona non grata*

A. The Diplomatic and Military Powers

1. Treaty: Formal agreement made between two or more sovereign states.
2. Usually acting through the Secretary of State, the President may negotiate treaties, or international agreements.
3. The Senate must approve treaties by a two-thirds vote. Once approved, they become the law of the land with same force as any other law.
4. ONLY the Senate may ratify or disapprove of treaties.
5. A small minority in the Senate has sometimes been sufficient to block approval of a treaty. An example of this is when a small group of Senators blocked our entry into the League of Nations following WW I.
6. A treaty may be abrogated (repealed) by Congress by passing a law contrary to its provisions. An existing law may also be repealed by the terms of a treaty. In case a Federal law and a treaty conflict, the courts take the most recent to be enacted as the law.
7. For the most part, Congress has afforded the President much more control over matters involving foreign affairs than it has over matters involving domestic policy. Much of that philosophy stems from the fact that he is recognized as head of state, Commander-in-Chief, as the chief executive of a major nuclear power, and the perception of his authority, as viewed by foreign nations.

B. Executive Agreements

1. Executive Agreement: A pact between the President and the head of a foreign state, or between two subordinates.
2. The executive agreement came about in response to the actions of the Senate over the

League of Nations. The executive agreement has the same force as a treaty, except that Senate approval is not required.

3. The main difference between a treaty and an executive agreement is that it lasts only as long as the executives who made the deal are in office. Today, most routine international agreements are made by executive agreement.
4. An example of an executive agreement is just prior to WW II, Congress refused to approve arms sales to England to help protect them from Germany. Congress wished to remain isolationist, even though the vast majority of the American public wanted to support England. FDR used an executive agreement to trade some old destroyers for bases in England in what was called the "Destroyers-for-bases" Deal.

C. The Power of Recognition

1. Presidents have the power of recognition. Recognition is the exclusive power of a President to recognize or acknowledge the legal existence of a country and establish formal diplomatic relations with foreign states.
2. Diplomatic recognition is a powerful weapon because recognition, or the lack of it, often determines the future of a new foreign government. Examples: Teddy Roosevelt's quick recognition of Panama in 1903 and FDR's quick recognition of Israel in 1948.
3. The President may show displeasure with a foreign government by asking them to withdraw their diplomatic representatives. The official is declared *persona non grata* (unwelcome person). In international diplomacy, the worst thing a country can do is withdraw recognition of another country.

D. Commander-in-Chief

1. The President shares the war powers with Congress but has almost no limits on his or her role as commander-in-chief.
2. Presidents usually delegate much of their command authority to military subordinates while retaining final authority in military matters.
3. Only Congress can declare war, but Presidents have often used the military without formal declaration of war.
4. There have been numerous undeclared wars in the country's history, including the Korean Conflict, the Vietnam War, and Desert Storm 1 & 2.
5. In wartime, the President's powers as commander-in-chief have often been expanded to include nonmilitary matters.
6. The President may use the armed forces, including State militias, to keep the peace in times of domestic upheaval.
7. In reaction to the Vietnam War, Congress passed the War Powers Resolution Act of 1973.

- The War Powers Resolution Act of 1973 requires the President to inform Congress of any commitment of American troops abroad within 48 hours.
- It requires the President to gain congressional approval if the commitment lasts longer than 60 days. If Congress does not approve a commitment longer than 60 days, the President must withdraw the troops. The President may take up to 30 days to safely withdraw the troops.
- The constitutionality of the War Powers Resolution remains in dispute.

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Section 4: Legislative & Judicial Powers

Key Terms: line-item veto, reprieve, pardon, clemency, commutation, amnesty

A. Legislative Powers

1. The President uses the “message power” to influence legislation:

- The State of the Union Message is the only speech required by the Constitution. The President reports on the state of the nation and suggests the future direction of national policy, including laws. The State of the Union message is given before a joint session of Congress. The federal budget is a detailed estimate of federal income and outgo during the coming fiscal year, and a work plan for the execution of public policy.
- The President’s Budget Message follows the State of the Union by a few weeks. In this message, the President tells Congress the specific budget items and amounts he will be requesting in the budget.
- In the Annual Economic Report, the President reports to Congress the state of the economy and requests specific legislation.

2. The President also recommends specific legislation to Congress.

3. The President has the power to veto (Latin for “I forbid”) legislation. The President may only veto the entire bill, not a portion of a bill.

- Several Presidents have asked Congress to grant them the “Line Item Veto”, or the power to veto individual parts of a bill. This would give the President the power to cut riders from appropriations bills.

- Congress granted Bill Clinton the line item veto in 1996. This was one of the tools that allowed him to balance the Federal budget.

- The Supreme Court declared the line item veto unconstitutional in *Clinton v*

New York City, 1998. They ruled that the Constitution did not allow the veto of only a part of a bill. This would require a Constitutional amendment.

4. The President may call special sessions of Congress.
5. The President may also adjourn Congress if the two houses cannot agree on a date for adjournment (prorogue).

B. Judicial Powers

1. The President may grant clemency (mercy or leniency) in cases involving federal law. Governors may grant clemency in cases involving state law.
 - A reprieve is an official postponement of execution of a sentence.
 - A pardon is a release from the punishment or legal consequences of a crime.
2. The President may also commute sentences & grant amnesty.
 - Commutation is the power to commute (reduce) the length of a sentence or fines imposed for a crime committed.
 - Amnesty is a general pardon offered to an individual or group of law violators.