

# THE PRESIDENT

## TERMS

- executive agreements
- Commander in Chief
- Gulf of Tonkin Resolution
- War Powers Act
- Chief of Staff
- Office of Management and Budget
- cabinet
- impeachment
- secretaries

## THE FORMAL POWERS OF THE PRESIDENCY

The powers delegated in the Constitution to the executive branch are in Article II, section 2, but they are less specific than the formal powers of Congress. The broadly defined powers were intended to give flexibility but have instead resulted in greatly expanded power.

The president is responsible for enforcing the laws, handling foreign policy, and serving as the ceremonial head of state. He is also the administrative head of the government. He can force Congress into session, must brief Congress on the "state of the nation," and can veto legislation and grant reprieves and pardons. But regardless of these expansive powers, he must cooperate with Congress because the powers of the presidency are intermingled with the powers of the legislature. The president's appointments of federal judges, Supreme Court justices, ambassadors, and department secretaries all require Senate approval. The president negotiates treaties, but they must be ratified by two-thirds of the Senate. Because Senate ratification is sometimes difficult to achieve, the broad powers of the president to initiate foreign policy now include executive agreements (which do not require Senate approval). These are agreements between heads of countries; under international and U.S. law they are as binding as a treaty. However, they usually deal with more routine, administrative matters.

## THE PRESIDENT AS COMMANDER IN CHIEF

The president also serves as commander in chief of the armed forces. But the framers created a complex institutional situation regarding armed conflict. Only Congress has the power to declare war, but only the president can make war. In the nuclear age, the power of Congress to declare war could very well be obsolete. Because missiles can destroy cities within minutes of launch, congressional debate of the pros and cons of declaring war seems impractical, if not silly. While the United States has been in numerous wars since 1945, no declarations of war have been made.

While the president is the chief strategist and director of the military forces of the United States, he is at the mercy of Congress for the money to wage war. However, once the president has committed troops in conflict, it is inconceivable that Congress would refuse to fund the weapons needed for the military. For members of Congress such an action would mean political suicide and probably lead to a constitutional crisis within the U.S. government.

In a national crisis, the other branches of government and the American people look to the president for leadership. Initially, presidents will have strong support for their policies. This helps explain why Congress, in 1964, passed the Gulf of Tonkin Resolution, giving the president the broad powers to commit unlimited numbers of troops for an unlimited length of time in the Vietnam conflict. President Johnson was unable to bring that war to a conclusion. Strong criticism of his handling of the war led to a general lack of support for his policies, undermining his ability to govern. The same thing happened to President Carter when he was unable to successfully end the Iranian hostage crisis. George H.W. Bush was president during the Gulf War. His ability to quickly bring the war to

In the post-Vietnam War era, Congress has attempted to place controls on the war-making powers of the president. Congress passed the War Powers Act in 1973 in an attempt to force the president to seek congressional approval before making war. The act specifically limits the president to 10,000 troops for 60 days, with 30 additional days to withdraw the troops, unless Congress grants an extension or declares war. The Supreme Court has never ruled on the War Powers Act, and Congress has never invoked it, although whenever the president commits troops overseas, members of Congress have threatened the president with imposition of the War Powers Act.

## THE INFORMAL POWERS

The presidential powers that are not enumerated in the Constitution are referred to as the informal powers, and they are sometimes more important than the formal ones. How well presidents use the informal powers can determine the success of their presidencies.

Presidents are supposed to be morale builders. President Carter's failure to improve the morale of the country contributed to his reelection defeat. President Reagan was a master at morale building, and this characteristic helps explain why he remained popular with the American people.

Presidents serve as legislative leaders and coalition builders. Failure to set and lead the legislative agenda and build coalitions in Congress can doom presidents, particularly when there is divided government (when one or both houses of the legislature are controlled by the opposition party). George H.W. Bush became the "foreign policy president" when he was unable to get his domestic policy agenda passed in a Democrat-controlled Congress. Ronald Reagan and his advisers were experts in building coalitions with Republicans and Southern conservative Democrats. This coalition of Republicans and southern Democrats gave Reagan his legislative agenda.

Perhaps the president's most important informal powers are as a policy persuader and communicator to Congress and the American people. Clinton and Reagan were superior communicators. The ability of a president to communicate well with the American people is a very powerful tool for pressuring Congress. Communicating with Congress is also important. Having the congressional

leadership down to the White House for lunch and a photo opportunity is another way that presidents try to persuade members of Congress to pass their legislative agenda.

## EXECUTIVE OFFICE OF THE PRESIDENT

*EOP* The Executive Office of the President helps carry out the president's administrative responsibilities. It is made up of more than half a dozen agencies involved in the day-to-day operations of the White House and is basically divided into three areas: domestic, foreign, and military affairs. It is staffed by hundreds of personnel located in the White House and the Executive Office Building. All are directly responsible to the president or his designees.

- The Chief of Staff is the top aide to the president. He or she is a person in whom the president has complete trust and is probably a longtime associate and friend. Considered one of the most powerful persons in Washington, the Chief of Staff is responsible for managing the Executive Office and can control access to the president, thus potentially controlling the information that the president receives. Some presidents, such as Bill Clinton, permitted easy access; others, such as Richard Nixon, tended to insulate themselves. Whoever the president chooses as Chief of Staff can have a tremendous impact on presidential effectiveness. Clinton's first Chief of Staff, Thomas McClarty, a Washington outsider and Clinton friend, ran an undisciplined White House, prone to many errors. He was replaced by a Washington insider, former Congressman Leon Panetta, who established order and discipline, emerging as a key policy player in the Clinton administration.
- The National Security Council is headed by the National Security Advisor, who has direct access to the president in matters relating to military and foreign policy. The NSC has been involved since the late 1940s in the decision-making process during national emergencies. President Kennedy used the NSC during the Cuban missile crisis, President Reagan during the Iran-Contra affair, and President Bush during the Gulf War. Unlike the State Department, the NSC is largely free from con-

- The **Domestic Policy Council** assists the president in formulating policies relating to energy, education, agriculture, natural resources, economic affairs, health and human resources, welfare reform, drug abuse, and crime.
- The **Office of Management and Budget** is responsible for preparing the budget of the United States and can be used to control and manage the executive agencies for the president. The OMB has enormous power because of its ability to allocate money to the cabinet departments through the budget process of the executive branch. Increasing or decreasing a department's budget affects how it carries out its responsibilities.
- The **Council of Economic Advisors** is responsible for helping the president make national economic policy. The Council is usually made up of the economists and advises the president on policies that are designed to increase prosperity.
- The **U.S. Trade Representative** is responsible for negotiating complex trade and tariff agreements for the president. Trade agreements such as GATT and NAFTA are negotiated by the Trade Representative on behalf of the president, with the guidance of the White House.

## THE CABINET

The cabinet is not mentioned in the Constitution but was created through custom and usage. Each cabinet department was instituted by an act of Congress to help administrate the responsibilities of the executive branch.

Each cabinet secretary is appointed by the president and confirmed by the Senate. Secretaries can be dismissed at the president's will. Cabinet secretaries are supposed to run their departments and carry out the president's policies. Those who disagree with presidential policy are expected to resign. Secretaries tend to be lightning rods to be used for deflecting criticism and are responsible for explaining and promoting presidential policies. Over time, secretaries tend to represent their own departments more than the president's policies. They are expected to fight for their department's budget, jurisdiction, and personnel. This creates competition and friction between departments and accounts for why presidents usually do not hold full cabinet meetings. Presidents just don't have the time or inclination to listen to the bickering and arguing between department heads.

Still, despite these institutional shortcomings, cabinet secretaries do rule over vast departmental bureaucracies—each containing numerous powerful government agencies. With the recent addition of the Department of Homeland Security, there are now 15 cabinet departments. After the September 11th attacks, it was felt that a cabinet-level department was necessary to counter possible threats to the United States, and more than 22 agencies were consolidated into the new department, making it the third-largest executive branch department. Agencies as disparate as the Bureau of Citizenship and Immigration Services (formerly the INS), the Coast Guard, and the Secret Service were consolidated to shape a coherent agenda to protect the United States against potential attacks. The Department of Homeland Security has four functions: to protect the borders; to support local agencies like police and fire departments; to detect chemical, biological, and nuclear weapons; and to analyze intelligence. Homeland Security is the first top-level government position created since the Energy Department was formed in 1977 and the first large-scale government reorganization since Harry Truman created the Department of Defense in 1947.

## IMPEACHMENT

The Constitution gives Congress the power to remove the president from office for "treason, bribery, or other high crimes and misdemeanors." The Constitution does not define high crimes and misdemeanors, leaving those definitions to politicians. The only direction in the Constitution is that the House of Representatives impeaches the president (or brings the charges) by a simple majority vote, and if the impeachment passes, the Senate holds a trial with the Chief Justice of the Supreme Court presiding. Removal of the president requires a two-thirds vote of the Senate. The entire process in Congress has been developed as a result of guesswork, custom, and usage.

Because the definition of an impeachable offense is left to the House, impeachment is a highly charged political process. Most constitutional scholars place the standard for impeachment as an act against the government or the Constitution, but there seems to be political disagreement over what standard should be used. Conservatives seem to have one standard, while liberals seem to have another. Every impeachment, or near-impeachment, has divided the Congress along party lines, and some scholars have accused members of Congress of using the process to try to undo the result of an election.

No president of the United States has been removed from office. The Senate failed to remove Andrew Johnson for his violation of the Tenure in Office Act by one vote. This act was later invalidated by the Supreme Court. Richard Nixon resigned as a result of the Watergate scandal. He knew that the Senate would convict if given the opportunity to vote. The impeachment of President Clinton for

lying under oath was very political. All parties knew before the trial began that there was little chance of a Senate conviction. The general consensus was that, while Clinton's behavior had been improper and had brought dishonor to the Office of the President, his conduct had not risen to the level of an impeachable offense.

Federal judges are appointed for life and can be removed only by the impeachment process. Only seven federal judges have ever been removed by the Senate. One of them is Alcee Hastings, who was impeached for bribery and perjury, and is now a member of the same House of Representatives who voted for his impeachment.

Reading Assignment : The President / Important Concepts

Name \_\_\_\_\_ Hr \_\_\_\_\_

Formal Powers

- 1) List the formal constitutional powers of the President:
- 2) The President must cooperate with \_\_\_\_\_.
- 3) Most Presidential appointments require \_\_\_\_\_ approval.
- 4) A President negotiates a treaty with another country. This procedure must be \_\_\_\_\_ by \_\_\_/\_\_\_ vote of the Senate.
- 5) If ratification of a treaty is not probable, a President may resort to an \_\_\_\_\_ because this process does not require \_\_\_\_\_ approval.

**The President as Commander in Chief**

- 6) Only \_\_\_\_\_ has the power to declare war.
- 7) The US has been in many wars since 1945, however no \_\_\_\_\_ of war have been made.
- 8) Why is the President at the mercy of Congress when it comes to waging war?
- 9) Once a President commits troops, why does Congress normally fund the war effort?
- 10) In a national crisis, which branch of government do the American people look to for leadership?
- 11) Explain the Gulf of Tonkin Resolution-
- 12) Explain the War Powers Act-
- 13) How effective has the War Powers Act been in preventing extended conflicts?

## Informal Powers

- 14) Informal presidential powers are also referred to as \_\_\_\_\_ powers.
- 15) Presidents are supposed to be \_\_\_\_\_ builders.
- 16) Explain divided government \_\_\_\_\_
- 17) The president's most important informal powers are:  
a) \_\_\_\_\_ b) \_\_\_\_\_
- 18) Which two presidents were considered superior communicators?

## Executive Office of the President

- 19) Explain the basic responsibility of the EOP. \_\_\_\_\_
- 20) Describe the roles of each of the following members of the EOP
- a) Chief of Staff
  - b) National Security Council
  - c) Office of Management and Budget
  - d) Council of Economic Advisors

## The Cabinet

- 21) All Cabinet Secretaries are appointed by \_\_\_\_\_ and confirmed by the \_\_\_\_\_.
- 22) Describe the role and expectations of Cabinet Secretaries

23) How many cabinet departments do we have?

24) List the four functions of the Department of Homeland Security

a)

b)

c)

d)

### **Impeachment**

25) Which branch can impeach the President?

26) Explain the constitutional process of impeachment

27) Impeachment or removal of the president requires a 2/3 vote of the \_\_\_\_\_

28) Has any president been removed from office?

29) Which two presidents have been impeached?

30) Federal Judges hold their positions for how long?

31) How many Federal Judges have been removed from office?

