

# CHAPTER 13

## The Executive Branch and the Bureaucracy

### IN THIS CHAPTER

**Summary:** The office of the president is the most important single position in the government of the United States. The president of the United States has many responsibilities and functions originating in Article II of the Constitution. From the time of George Washington to the present, holders of the office of the president have striven to be more than just a ceremonial head of state. The American president is not just a figurehead but also a personality who commands power and respect.

### Key Terms

impeachment  
executive orders  
electoral college  
executive agreements  
pardons

impoundment  
War Powers Act  
legislative vetoes  
bureaucracy  
Hatch Act

cabinet  
iron triangles  
issue networks

## Constitutional Origins of the Presidency

Delegates to the constitutional convention studied the writings of philosophers Montesquieu and Locke, analyzed the powers of the British monarchs, and studied the role of governors in the American colonial governments. The delegates decided they did not want a king; they wanted power to rest with the people. Debate arose over a single versus a plural executive, and a weak executive appointed by Congress versus a strong executive independent of the legislature. The final compromise created a single executive with powers limited by the checks and balances of the legislative and judicial branches.

## Qualifications

Article II of the Constitution establishes the formal qualifications of the president:

- natural-born citizen
- at least 35 years of age
- resident of U.S. 14 years prior to election

Historically, many candidates who have run for the office of the president have also shared several characteristics:

- political or military experience
- political acceptability
- married
- white male
- protestant
- northern European ancestry

In the 2008 presidential election, Barack Obama presented himself as a new type of presidential candidate.

## Term and Tenure

The concept of a popularly elected president is an American invention. After much debate and compromise, the Founding Fathers created a single executive, elected indirectly through an electoral college for a four-year term. Until the addition of the Twenty-Second Amendment in 1951, the number of terms of the president was unlimited. After Franklin D. Roosevelt won the office an unprecedented four times, the Twenty-Second Amendment was added, limiting the president to two elected terms.

## Succession and Disability

The Constitution provides that if the president can no longer serve in office, the vice president will carry out the powers and duties of the office. The Constitution does not state that the vice president shall actually become president; that tradition began with the death of W. H. Harrison. After the assassination of John F. Kennedy, the Twenty-Fifth Amendment was added to the Constitution, stating that the vice president becomes president if the office of president becomes vacant. That amendment also provides for the new president to nominate a new vice president, with the approval of a majority of both houses of Congress. The first use of the Twenty-Fifth Amendment occurred when Spiro Agnew resigned the vice presidency and was replaced by Gerald Ford in 1973. The following year it was used again when President Richard Nixon resigned; Vice President Gerald Ford became president; and Ford nominated, and Congress confirmed, Nelson Rockefeller as his new vice president.

The Twenty-Fifth Amendment also provides for presidential disability. If the president is unable to perform the duties of his office, the vice president may become "acting president" under one of the following conditions:

- The president informs Congress of the inability to perform the duties of president.
- The vice president and a majority of the cabinet inform Congress, in writing, that the president is disabled and unable to perform those duties.

The president may resume the duties of office upon informing Congress that no disability exists. If the vice president and a majority of the cabinet disagree, Congress has 21 days to decide the issue of presidential disability by a two-thirds vote of both houses.



KEY IDEA

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## Impeachment and Removal

The Constitution allows for the removal of a president from office through the impeachment process. **Impeachment** involves bringing charges of wrongdoing against a government official. The United States Constitution gives the House of Representatives the authority to impeach the president or vice president for "Treason, Bribery or other High Crimes and Misdemeanors." Once charges of impeachment have been levied against the president or vice president, the Senate then sits in judgment of the charges. The chief justice of the Supreme Court presides over the trial. If found guilty of the charges, the official may be removed from office. Conviction requires a two-thirds vote of the Senate.

## The Road to the White House

There are two basic methods of becoming president: succeed to the office or win election to the office. Most presidents have been elected to the office. Many nominees seeking the office have gained political experience through elected or appointed offices—in Congress (mostly the Senate), as state governors, as vice president, or as a cabinet member. Several nominees gained recognition as military leaders.

## KEY IDEA

## The Electoral College System

According to the Constitution and the Twelfth Amendment, an **electoral college** elects the president and vice president. Each state chooses a number of electors equal to its number of members in the House of Representatives and Senate in a method set by the state legislatures. In the general election, voters go to the polls and vote for the candidates of their choice. In December, the electors of the respective candidates meet in each state capital to cast ballots for president and vice president. The electoral college then sends the ballots to the president of the Senate, where they are opened before a joint session of Congress and counted. To win the election, a candidate must receive a majority of electoral votes (270). If no candidate for president receives a majority of electoral votes, the House of Representatives chooses the president from among the top three candidates. If no candidate for vice president receives a majority of electoral votes, the Senate chooses the vice president from the top two candidates.

## The Vice Presidency

During much of American history, the office of the vice president has been seen as one to be avoided by ambitious politicians. Constitutionally, the vice president has two duties:

- preside over the Senate, casting tie-breaking votes if necessary
- help determine presidential disability under the Twenty-Fifth Amendment and take over the presidency if necessary

Because the vice president may some day become president, the formal qualifications for vice president are the same as those for the president. The vice president serves a four-year term; however, the number of terms a vice president may serve is not limited. The selection of the nominee for vice president occurs at the national convention when the presidential nominee selects a "running mate." Often the choice of nominee is influenced by the party's desire to balance the ticket, that is, to improve a candidate's chances of winning the election by choosing someone from a different faction of the party or from a different geographic section of the

country. With the assassination of Kennedy and attempts on the lives of Ford and Reagan, more attention has focused on the vice president. Today, the vice president is often given a larger role in government, taking part in cabinet meetings, serving on the National Security Council, and acting as the president's representative on diplomatic missions. More consideration is also given to the background, health, and other qualifications of vice presidents.

## Presidential Powers



Article II of the Constitution outlines the powers of the president. The checks and balances of the other branches of government limit them. The power of the modern presidency comes from the men who have held the office and have shaped the use of these powers. Historians have often rated presidents as strong or weak. After the 1960s and 1970s, Arthur Schlesinger, Jr., argued that the presidency had become so powerful that an "imperial presidency" existed, applying the term to Richard Nixon and his administration in particular. Richard Neustadt contended that the president's powers lie in the ability to persuade others through negotiation, influence, and compromise. From 2002 to 2008 President George W. Bush and Vice President Dick Cheney argued for greatly expanded powers for the presidency in both domestic and foreign affairs.

Presidential powers can be categorized as executive, legislative, diplomatic, military, judicial, and party powers.

### Executive Powers

- enforces laws, treaties, and court decisions
- issues **executive orders** to carry out policies
- appoints officials, removes officials
- assumes emergency powers
- presides over the cabinet and executive branch

### Legislative Powers

- Gives annual State of the Union message (constitutionally required) identifying problems, recommending policies, and submitting specific proposals (president's legislative agenda). Expectations are that the president will propose a comprehensive legislative program to deal with national problems (the Budget and Accounting Act of 1921 requires the president to prepare and propose a federal budget).
- Issues annual budget and economic reports.
- Signs or vetoes bills.
- Proposes legislation and uses influence to get it passed.
- Calls for special sessions of Congress.

### Diplomatic Powers

- appoints ambassadors and other diplomats
- negotiates treaties and **executive agreements**
- meets with foreign leaders in international conferences
- accords diplomatic recognition to foreign governments
- receives foreign dignitaries

### Military Powers

- serves as commander-in-chief of the armed forces
- has final decision-making authority in matters of national and foreign defense
- provides for domestic order

### Judicial Powers

- appoints members of the federal judiciary
- grants reprieves, **pardons**, and amnesty

### Party Powers

- is the recognized leader of the party
- chooses vice-presidential nominee
- strengthens the party by helping members get elected (coattails)
- appoints party members to government positions (patronage)
- influences policies and platform of the party

## Limitations on Presidential Powers

In order to avoid the possibility of abuses by the executive, the Founding Fathers provided for checks upon the powers of the executive.

- Congressional checks
  - override presidential vetoes; requires a two-thirds vote of both houses of Congress.
  - power of the purse; agency budgets must be authorized and appropriated by Congress. In 1974 Congress passed the Congressional Budget and **Impoundment Control Act**, which denied the president the right to refuse to spend money appropriated by Congress and gave Congress a greater role in the budget process.
  - power of impeachment.
  - approval powers over appointments.
  - legislation that limits the president's powers (for example, the **War Powers Act** limited the president's ability to use military force).
  - **Legislative vetoes** to reject the actions of the president or executive agency by a vote of one or both houses of Congress without the consent of the president; declared unconstitutional by the Supreme Court in 1983.
- Judicial checks—Judicial review of executive actions
- Political checks
  - public opinion
  - media attention
  - popularity

## Presidential Character

Political scientist James David Barber examined the importance of a president's personality and character, classifying presidents into four distinct types based on their childhood and other experiences. Barber measured each president's assertiveness in office as active or passive, and how positive or negative his feelings were about the office itself. His classifications were:

- *active-positive*—takes pleasure in the work of the office, easily adjusts to new situations and is confident in himself (FDR, Truman, Kennedy, Ford, Carter, Bush)
- *active-negative*—hard worker but doesn't enjoy the work, insecure in the position, may be obsessive or antagonistic (Wilson, Hoover, LBJ, Nixon)

- *passive-positive*—easygoing, wanting agreement from others with no dissent, may be overly confident (Taft, Harding, Reagan)
- *passive-negative*—dislikes politics and tends to withdraw from close relationships (Coolidge, Eisenhower)

## The Bureaucracy

A **bureaucracy** is a systematic way of organizing a complex and large administrative structure. The bureaucracy is responsible for carrying out the day-to-day tasks of the organization. The bureaucracy of the federal government is the single largest in the United States, with 2.8 million employees. Bureaucracies generally follow three basic principles:

- *hierarchical authority*—similar to a pyramid, with those at the top having authority over those below
- *job specialization*—each worker has defined duties and responsibilities, a division of labor among workers
- *formal rules*—established regulations and procedures that must be followed

### History and Growth

- *beginnings*—standards for office included qualifications and political acceptability
- *spoils system*—practice of giving offices and government favors to political supporters and friends
- *reform movement*—competitive exams were tried but failed due to inadequate funding from Congress
- *Pendleton Act*—Civil Service Act of 1883, passed after the assassination of Garfield by a disappointed office-seeker; replaced the spoils system with a merit system as the basis for hiring and promotion
- *Hatch Act of 1939, amended in 1993*—prohibits government employees from engaging in political activities while on duty, running for office or seeking political funding while off duty, or if in sensitive positions, may not be involved with political activities on or off duty
- *Civil Service Reform Act of 1978*—created the Office of Personnel Management (replaced the Civil Service Commission) to recruit, train, and establish classifications and salaries for federal employees

### Organization

The federal bureaucracy is generally divided into four basic types:

- *cabinet departments*—15 executive departments created to advise the president and operate a specific policy area of governmental activity (Department of State, Department of Labor, Department of the Interior); each department is headed by a secretary, except the Department of Justice, which is headed by the attorney general
- *independent executive agencies*—similar to departments but without cabinet status (NASA, Small Business Administration)
- *independent regulatory agencies*—independent from the executive; created to regulate or police (Securities and Exchange Commission, Nuclear Regulatory Commission, Federal Reserve Board)

- *government corporations*—created by Congress to carry out business-like activities; generally charge for services (Tennessee Valley Authority, National Railroad Passenger Corporation [AMTRAK], United States Postal Service)

## KEY IDEA

### Influences on the Federal Bureaucracy

- *executive influences*—appointing the right people, issuing executive orders, affecting the agency's budget, reorganization of the agency
- *Congressional influences*—influencing appointments, affecting the agency's budget, holding hearings, rewriting legislation or making legislation more detailed
- *iron triangles (subgovernments)*—iron triangles are alliances that develop between bureaucratic agencies, interest groups, and congressional committees or subcommittees. Because of a common goal, these alliances may work to help each other achieve their goals, with Congress and the president often deferring to their influence.
- *issue networks*—individuals in Washington—located within interest groups, congressional staff, think tanks, universities, and the media—who regularly discuss and advocate public policies. Unlike iron triangles, issue networks continually form and disband according to the policy issues.

## The Executive Office of the President (EOP)

The Executive Office of the President includes the closest advisors to the president. Although it was established in 1939, every president has reorganized the EOP according to his style of leadership. Within the executive office are several separate agencies.

- *White House Office*—personal and political staff members who help with the day-to-day management of the executive branch; includes the chief of staff, counsel to the president, press secretary
- *National Security Council*—established by the National Security Act of 1947; advises the president on matters of domestic and foreign national security
- *Office of Management and Budget*—helps the president prepare the annual federal budget
- *Office of Faith-Based and Community Initiatives*—created by George W. Bush to encourage and expand private efforts to deal with social problems
- *Office of National Drug Control Policy*—advisory and planning agency to combat the nation's drug problems
- *Office of Policy Development*—gives the president domestic policy advice
- *Council of Economic Advisors*—informs the president about economic developments and problems
- *Office of U.S. Trade Representative*—advises the president about foreign trade and helps negotiate foreign trade agreements
- *Office of Administration*—provides administrative services to personnel of the EOC and gives direct support services to the president
- *Council on Environmental Quality*—coordinates federal environmental efforts and analyzes environmental policies and initiatives
- *Office of Science and Technology Policy*—advises the president on the effects of science and technology on domestic and international affairs; it also works with the private sector and state and local governments to implement effective science and technology policies
- *Office of the Vice President*—consists of the vice president's staff



## Executive Departments

- *State* (1789)—advises the president on foreign policy, negotiates treaties, represents the United States in international organizations
- *Treasury* (1789)—collects federal revenues; pays federal bills; mints coins and prints paper money; enforces alcohol, tobacco and firearm laws
- *Defense* (1789)—formed from the Department of War and the Department of the Navy (1789) but changed to the Department of Defense in 1947; manages the armed forces, operates military bases
- *Interior* (1849)—manages federal lands, refuges, and parks; operates hydroelectric facilities; manages Native American affairs
- *Justice* (1870)—provides legal advice to the president, enforces federal laws, represents the United States in court, operates federal prisons
- *Agriculture* (1889)—provides agricultural assistance to farmers and ranchers, inspects food, manages national forests
- *Commerce* (1903)—grants patents and trademarks, conducts the national census, promotes international trade
- *Labor* (1913)—enforces federal labor laws (child labor, minimum wage, safe working conditions), administers unemployment and job training programs
- *Health and Human Services* (1953)—administers Social Security and Medicare/Medicaid programs, promotes health care research, enforces pure food and drug laws
- *Housing and Urban Development* (1965)—provides home financing and public housing programs, enforces fair housing laws
- *Transportation* (1967)—promotes mass transit programs and programs for highways, railroads, and air traffic, enforces maritime law
- *Energy* (1977)—promotes development and conservation of fossil fuels, nuclear energy, research programs
- *Education* (1979)—administers federal aid programs to schools, engages in educational research
- *Veterans' Affairs* (1989)—promotes the welfare of veterans of the armed forces
- *Homeland Security* (2002)—prevents terrorist attacks within the United States, reduces America's susceptibility to terrorism, minimizes damage and helps recovery from attacks that do occur; includes Coast Guard, Secret Service, Border Patrol, Immigration and Visa Services, and Federal Emergency Management Agency (FEMA)