

## 2.4

### Roles and Powers of the President

#### Explain how the president can implement a policy agenda.

The history of the presidency is a history of aggrandizement. We all imagine today a president with far reaching power. When looking at the constitution alone, however, we find a president with significant limits. **The presidency has been enhanced beyond its expressed constitutional powers.**

Here is a list of the president's formal powers as found in Article 2 of the US Constitution:

Commander-in-Chief (Congress declares war); Make treaties (w/ Senate approval); Appoint ambassadors (w/ Senate confirmation); provide a State of the Union Address; Convene special sessions of Congress (Truman was the last to do this in 1948); Receive ambassadors; "Take care that the laws be executed." [To this list many would add the veto once rarely used but now played out more frequently. Fewer than 4% of all presidential vetoes are overridden].

Not impressive by anyone's standards. Yet today many would argue that the U.S. president is the most powerful person in the world. Noted political scientist Richard Neustadt found the modern president's power in his ability to persuade. The unique position the president has to bargain and use his political resources has made any chief executive extraordinarily powerful.

Today the president is powerful due to his ability to politic. This involves applying his influence to important decisions. Logrolling involves trading votes. The prestige of the president applies tremendous pressure on policy decision makers. In addition, the president can muster up public opinion to support his agenda. Presidents can grab headlines to influence the national agenda. This unique ability to persuade has made all presidents, not just the charismatic ones, truly powerful. No one has a bully pulpit like the president.

It should be added that certain powers exercised today by the president are also based upon tradition. These powers are not found in the constitution but are routinely practiced without any reservations. They include:

Executive Orders – These domestic decrees carry the force of law but do not require Congressional passage or approval. The president can change and affect policy details through directives like these. Recent presidents for instance have changed details on various education and health care laws without any assistance from the other branches.

Executive Agreements – These foreign policy decrees carry the force of treaties but do not require the Senate's approval. The president can change and affect foreign policy

without having to bother with the Senate. Recent presidents for instance have made numerous overtures in the Middle East without involving the other branches.

**Executive Privilege** – This privilege allows the president to seek candid and confidential advice without having to disclose details to the general public. Despite promises of transparency all presidents utilize executive privilege to keep many matters of importance outside the purview of the media.

**Signing Statements** – This informal power informs Congress and the public of the president’s interpretation of laws passed by Congress and signed by the president. Invariably it involves an enforcement agenda that may differ from the original statutory intention.

Collectively these informal powers have dramatically increased the influence and authority of the president. Few seem to notice or care. The usurpation of power by modern presidents seem to only invite our chief executive to do it more. For example, presidents have increasingly played a more dramatic role in the legislative process through signing statements. A signing statement is when a bill is signed into law but interpreted by the president differently than originally intended by Congress. In this way the president controls the legislative process. These signing statements often go unchecked. Signing statements are another example of an informal power.

The modern presidency has grown for a number of reasons. One reason the presidency has grown is the increased importance of foreign policy. The president is at the epicenter of American foreign policy decisions. Another reason for the growth of the American presidency is the growth of the federal bureaucracy. Much of this growth has been a result of economic crises. The federal government has built a larger more comprehensive safety net. The president oversees these responsibilities. Do not discount the role technology has played. The president’s ability to use the media to increase the power of the office should be noted. For some, we now have an imperial presidency.

Then again, a limited government is one of our most important maxims. Limiting presidential power, both formally and informally, is no exception. Regardless of how vast presidential power has become, there are both checks and obstacles to the exercise of that power. There are still significant limits on presidential power. Some would argue these checks have made the president “a pitiful helpless giant.”

Here are the primary checks that protect our democracy from unfettered presidential power:

Congress. Examples like the War Powers Act (1974) and the Budget Impoundment Act (1974) continue to limit the president’s war making powers and his power over the budget.

Courts. Examples like US v. Nixon (1974) demonstrate how the courts can limit the president, in this case a limit on executive privilege.

Federalism. The separation of powers between the national and state governments still impose significant limits on a president's reach of authority.

National Elections. The 22<sup>nd</sup> Amendment limits the president to 2 terms. Time becomes a serious limit to presidential success.

Foreign governments. Crises around the world often side track domestic agendas. It is difficult to prepare for the surprises each Administration faces in the area of foreign policy.

Media. Remember the relationship here is love-hate. Presidents rely on the media to bring light to their agenda. They love this. The media also, however, exposes presidents to criticism and bad light. They hate this. The media acts like a junkyard dog around the president and his Administration.

Public Opinion. The biggest constraint on any president is public opinion. History suggests that most presidents' popularity declines while in office, except during reelection campaigns. What this means is that to succeed in office most presidents better work fast and early. FDR was given a 100-day honeymoon. Modern presidents rarely are treated as well.

Impeachment is the most drastic check on presidential power. Impeachment proceedings provide the perfect civics lesson. Impeachments demonstrate our checks and balances system. The House of Representatives is given the formal power to levy charges against an elected official with a simple majority vote. The Senate tries the impeachment case and can vote to remove with a 2/3s vote. Impeachments also teach the separation of power, federalism and partisanship. More importantly, however, impeachments are often fueled by public opinion. Constitutional safeguards protect elected officials from being removed on whim. We have seen a few presidents impeached, but none have been removed.

The powers and functions of a U.S. president have evolved dramatically since George Washington was unanimously selected in 1789. Whether the president is "the most powerful" agent in our democracy or "a pitiful helpless giant" continues to fuel debate. One thing is certain; the presidency has been enhanced beyond its expressed constitutional powers.