

Formal Powers: Executive, Legislative, and Judicial

POWERS

Executive Powers

The president must assure that laws are faithfully executed.

CONSTITUTIONAL FOUNDATION

Article I, Section 1, Clause 1:

The executive power shall be vested in a President of the United States of America

EXAMPLES

Enforcement of the country's civil rights laws has often been the subject of the president's executive powers. In 1948, for instance, President Harry Truman issued an executive order to desegregate the armed forces.

Number of Social Welfare and Civil Rights Executive Orders by President

President	Number of Years Served	Number of Requests
Kennedy	3 years	26
Johnson	5 years	40
Nixon	6 years	35
Ford	3 years	11
Carter	4 years	50
Reagan	8 years	36
Bush	4 years	26
Clinton	2 years	17

*More recent statistics not available.

Legislative Powers

The president advises Congress about important issues in the country and recommends legislation to address these issues.

Article II, Section 3:

He shall, from time to time, give to the Congress information of the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them.

Annually, the president gives State of the Union address to Congress. In this address and in other speeches and communications, the president recommends legislative action.

Requests for Legislative Action During First Year of Term

President	Year	Number of Requests
Kennedy	1961	25
Johnson	1965	34
Nixon	1st term, 1969	17
Nixon	2nd term, 1973	20
Ford	1974	18
Carter	1977	21
Reagan	1st term, 1981	8
Reagan	2nd term, 1985	7
Bush	1989	24
Clinton	1993	30

Judicial Powers

The president nominates judges and grants pardons.

Article II, Section 2, Clause 2:

... he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ... judges of the Supreme Court."

Historic presidential appointments:

In 1981, President Ronald Reagan appointed the first woman Supreme Court justice, Sandra Day O'Connor.

In 1967, President Lyndon Johnson appointed the first African-American Supreme Court justice, Thurgood Marshall.

Article II, Section 2, Clause 1:

he shall have the power to grant reprieves and pardons for offences against the United States ...



Formal Powers of the Executive Branch: Diplomatic and Military

POWERS

Diplomatic Powers

The president makes agreements with foreign countries, appoints ambassadors and other diplomatic personnel, and receives officials from other countries. In doing so, he directs the country's foreign policy.

CONSTITUTIONAL FOUNDATION

Article II, Section 2, Clause 2:

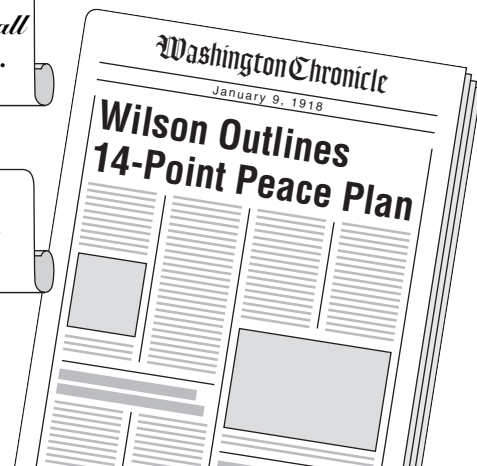
He shall have power, by and with the advice and consent of the Senate, to make treaties . . . [and] shall appoint ambassadors . . .

Article II, Section 3:

. . . he shall receive ambassadors and other public ministers

EXAMPLES

In 1918, President Woodrow Wilson proposed his Fourteen Point Plan to help end World War I. It became the basis for treaty negotiations to end the war.



Military Powers

The president commands the military and appoints military officers. Use of military power is one way in which the president implements foreign policy and maintains national security.

Article II, Section 2, Clause 1:

The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several states . . .

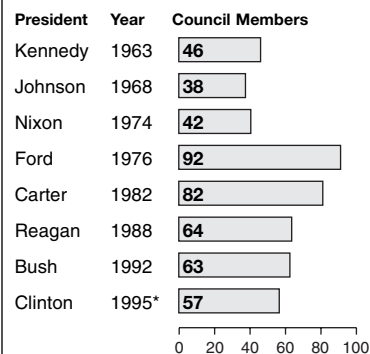
Article II, Section 3:

. . . and he shall commission all the officers of the United States

The National Security Act of 1947 spelled out the president's responsibility to coordinate foreign policy and maintain national security. It also created the National Security Council (NSC), a committee to assist the president in overseeing international security concerns.

Size of President's National Security Council

(at end of each president's last term)



*More recent statistics not available.

Limitations on Powers



Congress

Congress has the power to override the president's veto of a bill. A two-thirds majority of both houses is needed for an override.

Congress also has the power to impeach a president for very serious crimes.

Examples

During President Franklin D. Roosevelt's 12-year presidency, congressional vetoes totaled 635—more than under any other president.

President Andrew Johnson was the only president to be impeached; however, he was not removed from office.

Courts

The Constitution gives the federal courts the power to check the actions of the president. The courts can rule against the constitutionality of legislation that the president has promoted.

The courts can also rule directly against a president.

Example

The Supreme Court ordered President Richard M. Nixon to stop withholding his "secret" tapes from the special prosecutor's investigation of the Watergate break-in and cover-up.

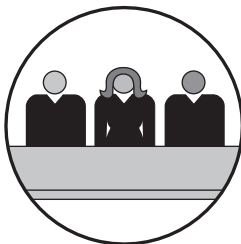


Bureaucracy

Bureaucrats who have power and connections in Congress, especially with committee chairpersons, can help delay action on a president's programs.

Bureaucrats may also limit the president unintentionally by:

- failing to provide important information
- misinterpreting instructions
- failing to complete assigned tasks in timely fashion



Example

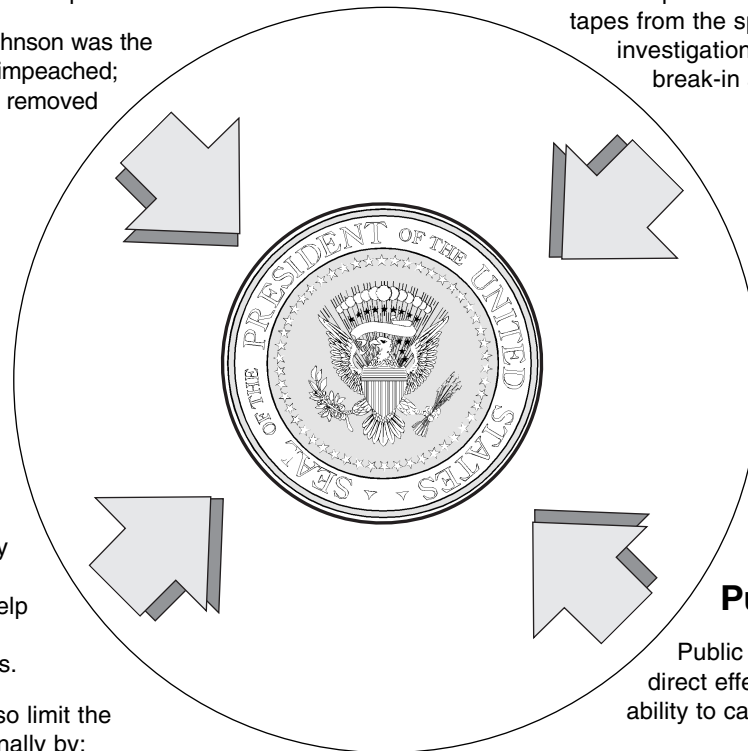
In the fall of 1978, Jimmy Carter faced many serious problems simultaneously including the U.S. hostages in Iran, civil conflict in Nicaragua, and negotiations with the U.S.S.R. over the SALT II Agreement. The bureaucracy and White House staff were overloaded and failed to resolve all these problems.

Public Opinion

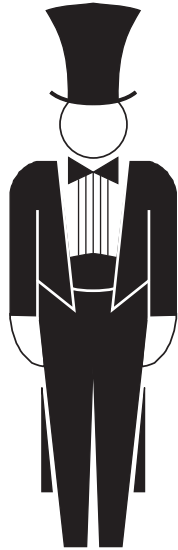
Public opinion can have a direct effect on a president's ability to carry out policies.

Example

Public concern over the Vietnam War affected presidential policy regarding that war.



Presidential Roles



Chief of State

In this ceremonial role, the president is the symbol of the United States and its people. He represents our nation at home and abroad.



Chief Executive

The president is responsible for executing the nation's federal laws. Interpretation of the laws is inevitable in this task.



Chief Administrator

The president oversees the executive branch, which comprises more than three million people who administer and apply federal laws.



Chief Legislator

At the beginning of each Congress, the president recommends legislation that he believes is necessary in the State of the Union Address.

The president also has the power to check Congress with a veto. A line-item veto was passed in the 104th Congress, allowing the president to veto parts of bills.

Presidential Roles



Chief Diplomat

In his role as chief diplomat, the president directs the foreign policy of the nation by making decisions regarding U.S. relations with foreign nations.



Commander-in-Chief

As head of the U.S. armed forces, the president has significant powers.

All military officers, during war or peace, take their orders from the president. The president does not lead troops into battle, but is in constant contact with military leaders.

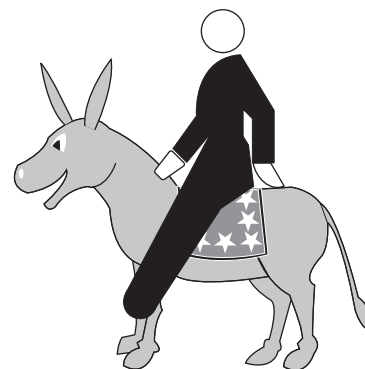
He can commit troops to battle for 60 days, but he cannot declare war; only Congress has that power.



Chief Economic Planner

Although not outlined in the Constitution, this role has grown since the passage of the Employment Act of 1946, which required presidents to submit an annual economic report to Congress.

The president must also submit an annual proposed federal budget to Congress.



Chief of Party

Political parties expect the president to be faithful to his party. Thus, the president may:

- Campaign on behalf of party members
- Attend fundraisers
- Appoint members of his party to federal jobs

The president also selects his party's national chairperson.

The Job of the President

Washington Chronicle

HELP WANTED

UNITED STATES OF AMERICA SEEKS

President

AS THE LEADER

OF THE WORLD'S ONLY SUPERPOWER, YOU WILL:

Duties

- ☆ Represent the nation at home and abroad, serving as a figurehead for the U.S.
- ☆ Execute all of the nation's laws
- ☆ Oversee the executive branch—more than three million staff members in various departments, agencies, and offices
- ☆ Recommend and push for legislation annually in a State of the Union Address
- ☆ Direct U.S. policy with foreign nations
- ☆ Serve as commander-in-chief of the U.S. armed forces, working with top military officials
- ☆ Submit an economic report and proposed federal budget to Congress annually
- ☆ Lead your party by attending fundraisers and campaigning on behalf of party members; select party's national chairperson

Qualifications

- ☆ Must be a natural-born citizen
- ☆ Must be at least 35 years old
- ☆ Must have lived in the U.S. for at least 14 years

Salary and Benefits

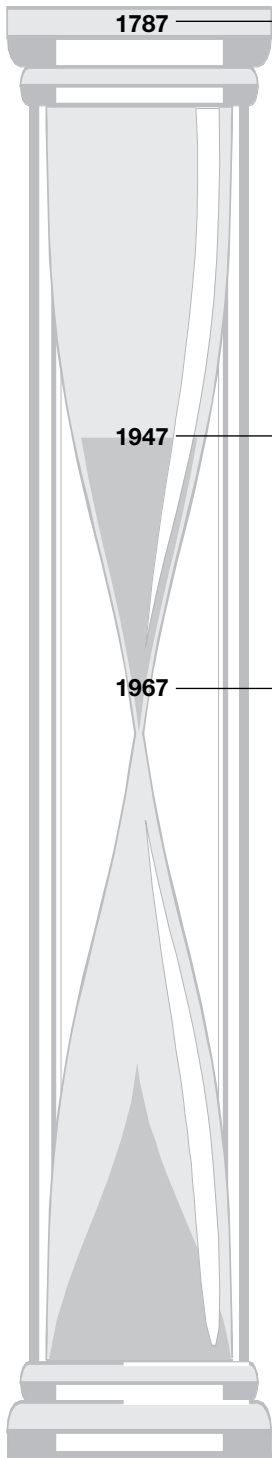
- ☆ \$400,000/year non-negotiable. Fixed by Congress, cannot be decreased or increased during your service
- ☆ \$50,000/year for expenses related to official duties
- ☆ \$119,000/year for travel and entertainment expenses
- ☆ Pension for you and spouse varies according to cost of living
- ☆ Free office space and mailing services; budget of \$96,000 for office help
- ☆ Use of Air Force One, helicopters, limousines
- ☆ Residence in 132-room White House, which includes swimming pool, tennis courts, movie theater, bowling alley, and 80-person household staff
- ☆ Free medical and dental care

Duration of Position

- ☆ Position lasts four years, after which you may reapply
- ☆ Maximum of two full terms
- ☆ In the event of your death or resignation, the vice president succeeding you may serve the rest of your term and an additional two terms, for a total of no more than ten years.

Presidential Election and Succession

The rules regarding presidential succession have been refined in the 200 years since the Constitution, which instituted somewhat vague rules, was ratified.



1787 — U.S. Constitution's rules regarding succession

Art. II, Sec. 1, Cl. 6 sets forth the rules:

1. Vice president assumes the presidency if the president becomes incapacitated.
2. The second part of Clause 6 is unclear. It states that Congress may appoint a successor if both president and vice president become incapacitated. But it doesn't specify how Congress should do this:



... the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

This part of the clause was modified by the 25th Amendment in 1967.

1947 — Presidential Succession Act

If both positions, the president and vice president, are vacated, the speaker of the House becomes president.

The president pro tempore of the Senate would take over if the speaker was unable. The list of succession would continue with the Cabinet members starting with the secretary of state.

1967 — The 25th Amendment

Clarification of the Constitution on Succession:



Section 1: *In case of the removal of the President from office or his death or resignation the Vice President shall become President.*



Section 2: *Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.*

In Case of the President's Disability



Amendment 25,
Sections 3 and 4:

The vice president becomes acting president if:

The president informs Congress of an inability to fulfill the obligations of the office.

OR

The vice president and a majority of the Cabinet or another body authorized by law inform Congress that the president is disabled.

Two rules governing the president returning to work

1. The president can at any time inform Congress that he/she is no longer disabled and resume his/her duties.
2. The vice president and Cabinet or other authorized body can declare that the president is not capable of resuming his/her duties. In this case, the vice president would remain acting president.