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# The Presidency in Action

## Chapter Preview

As one of the benefits of his office, President Clinton receives full use of Air Force One, the presidential jet. The jet has been described as an extension of the Oval Office, where the President works, and a mobile East Wing, where he sleeps. The airplane features 85 telephones, four computers, two copying machines, a conference room, a pressroom with TV monitors, and a television system that can receive eight channels at the same time.

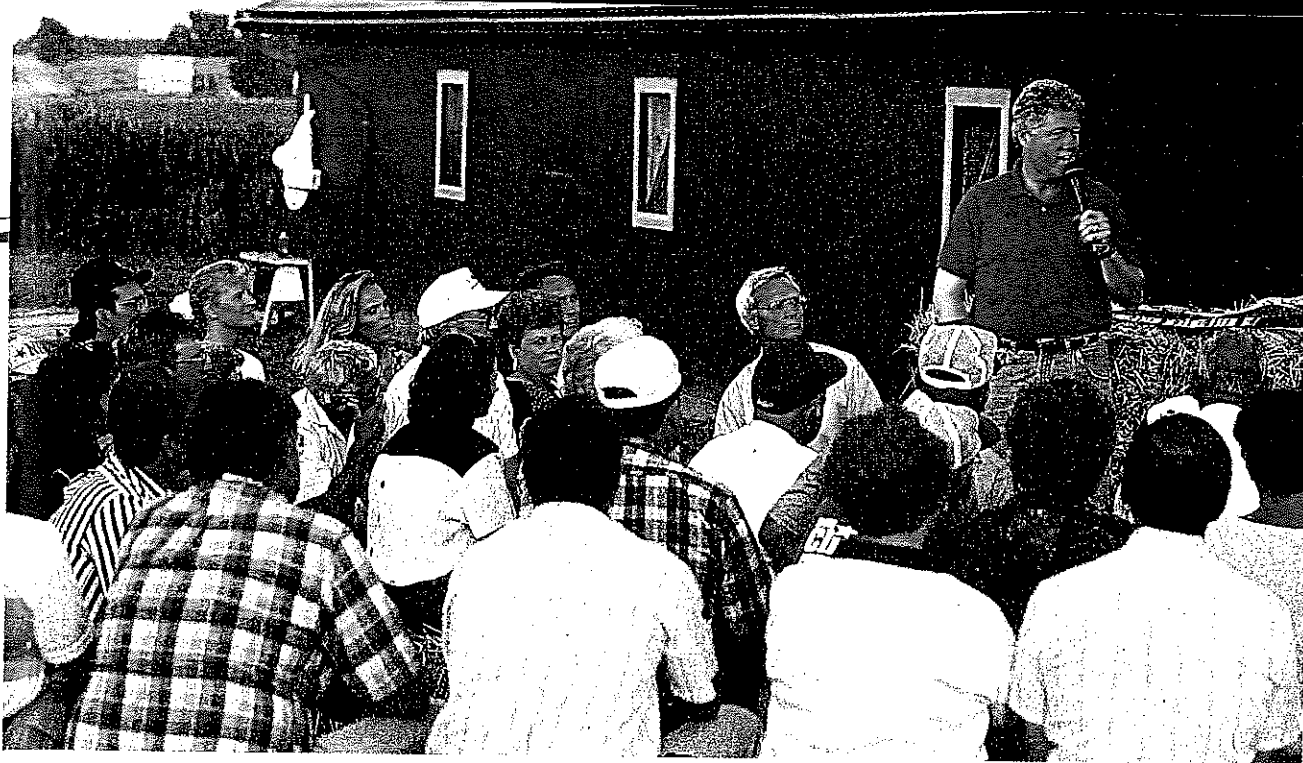
Even when traveling six miles above the earth, the President is never out of touch. Perhaps it was this characteristic of the office that prompted Lyndon B. Johnson to write, "No one can experience with the President of the United States the glory and agony of his office. . . . No one can share the burden of his decisions or the scope of his duties." This chapter is about the scope and growth of those duties and the ways in which they are exercised.

### Before you read this chapter:

- Describe several of the President's many jobs and duties.
- Predict why President Truman displayed a sign on his desk reading, "The buck stops here."

### As you read, focus on the main objective for each section. Understand:

1. The historic and ongoing debate over the scope of presidential power.
2. The nature and extent of the executive power of the President.
3. The President's diplomatic and military powers.
4. The President's legislative and judicial powers.
5. The functions of the executive agencies and the role of the cabinet.



▲ **Communicating with the People** President Clinton speaks with members of a farming community during the 1992 campaign. This method of going directly to the American people is one the President pledged to continue during his administration.

## I The Changing View of Presidential Power

### Find Out:

- What is the historic and ongoing debate over the proper scope of presidential power?
- In what ways has the power grown over time?

### Key Term:

media

The presidency is often called “the most powerful office in the world.” But is this what the Framers had in mind when they created the post in 1787? At Philadelphia, they purposely created a single executive with broad powers. But they also agreed with Thomas Jefferson, who wrote in the Declaration of Independence that “a Tyrant is unfit to be the ruler of a free people.” And so, just as purposely, they constructed a “checked” presidency.

In this section, you will consider the forces that have shaped the growth of presidential power over the past 200 years.

Article II of the Constitution begins in the following way:

“The executive power shall be vested in a President of the United States of America.”<sup>1</sup>

With those few words, the Framers established the presidency. With them, they laid the basis for the vast power and influence the nation’s chief executive has today.

The Constitution does set out several other, and somewhat more specific, grants of presidential power. Thus, as you have read at various points in the book, the President is given the power to command the armed forces, to make treaties, to approve or veto acts of Congress, to send and receive diplomatic representatives, to grant pardons and reprieves, and “to take care that the laws be faithfully executed.”<sup>1</sup>

But, notice that the Constitution deals with the powers of the presidency in very sketchy fashion. Article II reads almost as an outline. It has been called “the most loosely drawn chapter” in

<sup>1</sup>Most of the specific grants of presidential power are found in Article II, Sections 2 and 3. A few are elsewhere in the Constitution, however, such as the veto power, in Article I, Section 7, Clause 2.

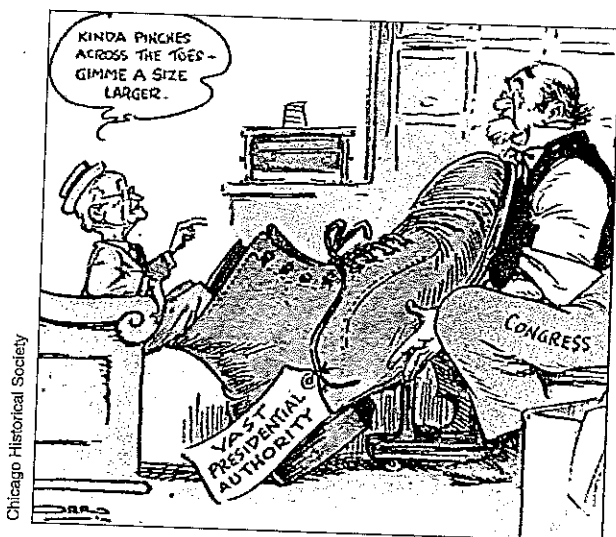
the nation's fundamental law.<sup>2</sup> It does not define "the executive power." The other grants of presidential authority are put in equally broad terms.

Much of the story of the development of the American system of government can be told in terms of the growth of presidential power. A large part of our political history has revolved around a continuing struggle over the meaning of the constitutional phrase "executive power." That struggle has pitted those who have argued for a weaker presidency, subordinate to Congress, against those who have pressed for a stronger, independent chief executive.

That never-ending contest began at the Philadelphia Convention in 1787. At that time, several Framers agreed with Roger Sherman of Connecticut who, according to James Madison's *Notes*,

“considered the executive magistracy as nothing more than an institution for carrying the will of the legislature into effect, and that the person or persons [occupying the presidency] ought to be appointed by and accountable to the legislature only, which was the depository of the supreme will of the Society.”

<sup>2</sup>Edward S. Corwin, *The President: Office and Powers* (New York: New York University Press, 1957), 4th ed., page 3.



Chicago Historical Society

▲ **Interpreting Political Cartoons** The cartoon above comments on the growth of presidential power through the years. Who does the cartoonist blame for allowing this expansion to occur?

As you have seen, those who argued for a stronger executive—led by Alexander Hamilton, James Wilson, and James Madison—carried the day. They persuaded the convention to establish a single executive, chosen independently of Congress and with its own distinct field of powers.

### Why Presidential Power Has Grown

Over the course of American history, the champions of a stronger presidency have almost always prevailed. One of the leading reasons they have is the “unity” of the presidency. The office and its powers are held by one person. The President is the single, commanding head of the executive branch. On the other hand, Congress consists of two houses. Both of them must agree on a matter before the Congress can do anything. Moreover, one of those two houses is made up of 100 separately elected members, and the other has 435 members.

Several other factors have worked to strengthen the role and the powers of the presidency. One highly important one has been referred to a number of times: the influence the Presidents themselves have had on the office.

Yet another influence has been pressures from the increasingly complex nature of the nation's social and economic life. As the United States has become more industrialized and technologically centered, the people have demanded that the Federal Government play a larger role in a long list of areas of public concern, such as transportation, labor-management relations, civil rights, health, welfare, communications, education, and environmental protection. And it has been to the presidency that they have most often looked for leadership in these matters.

Another of these closely related factors has been the frequent need for extraordinary and decisive action in times of national emergency—most notably in times of war. The ability of the President—the single, commanding chief executive—to act in such situations has done much to strengthen the executive power.

Congress itself has had a major hand in strengthening the presidency, especially as it has passed the thousands of laws that have been an essential part of the historic growth of

the Federal Government. Congress has neither the time nor the technical knowledge to do much more than provide the basic outlines of public policy. It has been forced to delegate substantial authority to the executive branch.

A number of other factors have also fed the growth of the executive power. Among them have been the President's roles as chief legislator, party leader, and chief citizen. Another is the huge amount of staff support a President has. Still another is the unique position from which the President can attract and hold the public's attention, and so gather support for policies and actions. Every recent President, from Franklin Roosevelt to Bill Clinton, has purposely used the **media**—means of communicating with people, such as the press, radio, and television—to that end.

## How Presidents Have Viewed Their Power

What the presidency is at any given time depends, in no small part, on the manner in which the President views the office and exercises its several powers.

Historically, Presidents have held one of two general and contrasting views. The stronger and the more effective of them have taken a broad view of their powers. Theodore Roosevelt defined this position in what he called the stewardship theory:

“My view was that every executive officer . . . in high position, was a steward of the people bound actively and affirmatively to do all he could for the people. . . . I declined to adopt the view that what was imperatively necessary for the Nation could not be done by the President unless he could find some specific authorization to do it. My belief was that it was not only [a President's] right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws. . . . I did not usurp power, but I did greatly broaden the use of executive power. In other words, I acted for the public welfare, I acted for the common well-being of all our people, whenever and in whatever manner was necessary, unless prevented by direct constitutional or legislative prohibition.”<sup>3</sup>

<sup>3</sup>Theodore Roosevelt: *An Autobiography* (New York: Macmillan, 1913), page 389.

Ironically, the strongest presidential statement of the opposing view came from Roosevelt's handpicked successor in the office, William Howard Taft. Looking back upon his presidency, Taft had this to say about Roosevelt's view:

“My judgment is that the view of Mr. Roosevelt, ascribing an undefined residuum of power to the President, is an unsafe doctrine. . . . The true view of the executive function is, as I conceive it, that the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such express grant . . . Such specific grant must be either in the Federal Constitution or in an act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to be in the public interest.”<sup>4</sup>

Recall this point, from Section 1 of the last chapter: The President plays a number of different roles. As you will see in the sections ahead, the presidency can also be described in another quite useful way—by grouping the specific powers of the office under five main headings: the President's executive, diplomatic, military, legislative, and judicial powers.

## Section 1 Review

1. Define: media
2. Around what two competing views of “the executive power” can much of the nation's political history be written?
3. What are three reasons for the historical growth of presidential power?
4. Describe the two major and contrasting views of the presidency.

### Critical Thinking

5. **Identifying Assumptions** (p. 19) Read the statement by Theodore Roosevelt on this page. What does Roosevelt assume about the “needs of the Nation”? Explain why you agree or disagree with this assumption.



<sup>4</sup>*Our Chief Magistrate and His Powers* (New York: Columbia University Press, 1916), pages 139–140, 144.

## 2 The President's Executive Powers

### Find Out:

- What is the scope of the President's executive powers?
- How does the President exercise these powers?

### Key Term:

executive order

Thomas Jefferson wrote this to a friend in 1789: "The execution of the laws is more important than the making of them." Whether Jefferson was altogether right about that or not, in this section you will see that the President's power to execute the law endows him with an enormous amount of power.

### Executing the Law

As chief executive, the President executes—enforces, administers, carries out—the provisions of federal law. The power to do so rests on two brief constitutional provisions. The first of them is the oath of office the President must take:

"I do solemnly swear (or affirm), that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."<sup>5</sup>

The other provision is the Constitution's command that "he shall take care that the laws be faithfully executed."<sup>6</sup>

The President's power to execute the law covers all federal laws. Their number, and the different subject matters they cover, nearly boggle the mind. The armed forces, social security, civil rights, housing, taxes, environmental pollution, collective bargaining, farm price supports, public health, and immigration—these only begin the list; there are scores of others.

<sup>5</sup>Article II, Section 1, Clause 8.

<sup>6</sup>Article II, Section 3; this provision gives the President what is often called the take care power.

The President and the President's subordinates have much to say about the meaning of the law, just as do Congress and the courts. In executing and enforcing law, the executive branch also interprets it. The Constitution requires the President to execute *all* federal laws no matter what the chief executive's own views of any of them may be. But the President may, and does, use some discretion as to how vigorously and in what particular way any given law will be applied in practice.

To look at the point more closely: Many laws that Congress passes are written in fairly broad terms. Congress sets out the basic policies and standards. The specific details, much of the fine print, necessary to the actual, day-to-day administration of the law, are usually left to be worked out in the executive branch.

For example, the immigration laws require that all immigrants seeking permanent admission to this country must be able to "read and understand some dialect or language." But what does this literacy requirement mean in everyday practice? How well must an alien be able to read and write? What words in some language must he or she know, and how many of them? The law does not say. Rather, such answers come from within the executive branch—in this case, from the Immigration and Naturalization Service in the Department of Justice.

### The Ordinance Power

From what has just been said, the President clearly deserves the title of chief administrator as well as chief executive. The job of administering and applying most federal law is the day-to-day work of all of the many departments, bureaus, offices, boards, commissions, councils, and other agencies that make up the huge executive branch of the Federal Government. All of the some three million men and women who staff those agencies are subject to the President's control and direction.

The President has the power to issue executive orders. An **executive order** is a directive, rule, or regulation that has the effect of law. The power to issue these orders, the ordinance power, arises from two sources: the Constitution and acts of Congress.



▲ **Appointing Power** Each President appoints cabinet members whom he feels will support his policies. Here, President Harry Truman meets with his cabinet just before he is inaugurated to his second term in January of 1949.

The Constitution does not mention the ordinance power in so many words, but that power is clearly intended. In granting certain powers to the President, the Constitution obviously anticipates their use. In order to exercise those powers, the President must have the power to issue the necessary orders, as well as the power to implement them. The President must also have the power to authorize his subordinates to issue such orders.<sup>7</sup>

As the number, the scope, and the complexity of governmental problems have grown, Congress has found it necessary to delegate more and more discretion to the President and to presidential subordinates to spell out the policies and programs it has passed. Members of Congress are not, and cannot be expected to be, experts in all of the fields in which they must legislate.

<sup>7</sup>All executive orders are published in the *Federal Register*, which appears five times a week. At least annually, all orders currently in force are published in the *Code of Federal Regulations*. Both of these publications are issued by the National Archives and Records Administration.

## The Appointing Power

A President cannot hope to succeed without loyal subordinates who support the policies of the President's administration.

The Constitution provides that the President

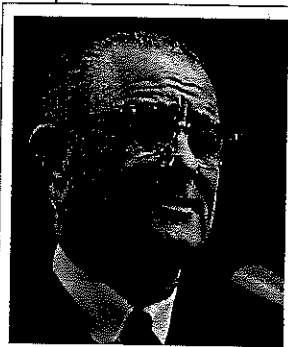
“by and with the advice and consent of the Senate . . . shall appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for . . . but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.”<sup>8</sup>

Acting alone, the President names only a handful of the nearly three million federal civilian employees. Many of that handful fill the top spots in the White House Office, as you will read.

With Senate consent, the President names most of the top-ranking officers of the Federal Government. Among them are ambassadors and

<sup>8</sup>Article II, Section 2, Clause 2. Those whose appointments are “otherwise provided for” are the Vice President, senators; representatives, and presidential electors.

## Von Government



**Lyndon B. Johnson,**  
36th President of the  
United States

### On Working with Congress to Execute the Law

“[A] President must be willing to bypass the Congress and take the issue to the people. By instinct and experience, I preferred to work from within, knowing that good legislation is the product not of public

rhetoric but of private negotiations and compromise. But sometimes a President has to put Congress’ feet to the fire. . . . Sometimes it seemed that the only way to reach the papers and the people was to pick a fight with the Congress, to say mean words and show my temper.”

other diplomats; cabinet members and their top aides; the heads of such independent agencies as the Environmental Protection Agency and the National Aeronautics and Space Administration; all federal judges, attorneys, and marshals; and all officers in the armed forces.

When the President makes one of these appointments, the nomination is sent to the Senate where the support of a majority of the senators present and voting is needed for confirmation. As you may recall, the unwritten rule of senatorial courtesy plays an important part in this process. As noted in Chapter 11, Section 4, that rule applies to the choice of those federal officers who serve within a State—a federal district judge or a federal marshal, for example. The rule holds that the Senate will approve only those federal appointees acceptable to the senator or senators of the President’s party from the State involved.

The practical effect of this custom, which is closely followed in the Senate, is to place a meaningful part of the President’s appointing power in the hands of particular senators.

Of course, not all executive branch employees are chosen by the President and Senate. Well over half of all the federal civilian work force is selected on the basis of competitive civil service examinations. Today, the Office of Personnel Management examines applicants for some two million positions.

### The Removal Power

The power to remove is the other side of the appointment coin, and it is as critically important to presidential success as the power to appoint. Except for mention of the little-used impeachment process,<sup>9</sup> however, the Constitution does not say how or by whom appointed officers may be dismissed, whether for incompetence, for opposition to presidential policies, or for any other cause.

**The Historical Debate** The question was hotly debated in the first session of Congress in 1789. Several members argued that for those offices for which appointment required Senate approval, Senate consent should also be required for removal. They insisted that this restriction on presidential authority was essential to congressional supervision (oversight) of the executive branch. But others argued that the President could not “take care that the laws be faithfully executed” without a free hand to dismiss those who were incompetent or otherwise undesirable.

The latter view prevailed. The 1st Congress gave to the President the power to remove any officer he appointed, except federal judges. Over the years since then, Congress has sometimes tried, with little success, to restrict the President’s freedom to dismiss.

One notable instance came in 1867. Locked with Andrew Johnson in the fight over Reconstruction, Congress passed the Tenure of Office Act. The law’s plain purpose was to prevent

<sup>9</sup>Article II, Section 4; see Chapter 11, Section 4.

President Johnson from removing several top officers in his administration, especially the secretary of war, Edwin M. Stanton. The law provided that any person holding an office by presidential appointment with Senate consent should remain in that office until a successor had been confirmed by the Senate. The President vetoed the bill, charging that it was an unconstitutional invasion of executive authority. The veto, which was overridden, and Stanton's removal sparked the move for Johnson's impeachment. Nevertheless, the law was ignored in practice. It was finally repealed in 1887.

**Removal and the Supreme Court** The question of the President's removal power did not reach the Supreme Court until *Myers v. United States*, 1926. In 1876, Congress had passed a law requiring Senate consent before the President could dismiss any first-, second-, or third-class postmaster.

In 1920, without consulting the Senate, President Woodrow Wilson removed Frank Myers as the postmaster at Portland, Oregon. Myers then sued for the salary for the rest of his four-year term. He based his claim on the point that he had been removed in violation of the 1876 law. The Court found the law unconstitutional, however. Its opinion was written by Chief Justice William Howard Taft, himself a former President. The Court held that the power of removal was an essential part of the executive power, clearly necessary to the faithful execution of the laws.

The Supreme Court did place some limits on the President's removal power in 1935, in *Humphrey's Executor v. United States*. President Herbert Hoover had appointed William Humphrey to a seven-year term on the Federal Trade Commission (FTC) in 1931. When Franklin D. Roosevelt entered office in 1933, he found Humphrey in sharp disagreement with many of his policies. He asked Humphrey to resign, saying that his administration would be better served with someone else on the FTC. When Humphrey refused, Roosevelt removed him. Humphrey soon died, but his heirs filed a suit for back salary.

The Supreme Court upheld the heirs' claim. It based its decision on the act creating the FTC.

### Presidents on the Presidency



"[The presidency is] a place of splendid misery."  
—Thomas Jefferson



"The four most miserable years of my life were my four years in the presidency."  
—John Quincy Adams



"Nobody ever left the presidency with less regret."  
—Rutherford B. Hayes



"What is there in this place that a man should ever want to get into it!"  
—James A. Garfield



"I have had enough of it, Heaven knows! I have had all the honor there is in this place, and have had responsibilities enough to kill any man."  
—William McKinley



"I'm glad to be going— this is the loneliest place in the world."  
—William H. Taft



"[The presidency is] a prison."  
—Warren G. Harding



"The first twelve years are the hardest."  
—Franklin D. Roosevelt



"There is no exaltation in the office of the President of the United States—sorrow is the proper word."  
—Harry S. Truman



"No one can experience with the President of the United States the glory and agony of his office."  
—Lyndon B. Johnson

▲ **Interpreting Charts** This chart shows that many Presidents have viewed the presidency as a bittersweet experience. What common theme runs through these quotations?





▲ **Lonely at the Top** The enormous responsibility shouldered by the chief executive is evident in this famous photograph of President John F. Kennedy alone in the Oval Office.

That law provides that a member of the commission may be removed only for “inefficiency, neglect of duty, or malfeasance in office.”<sup>10</sup> The President had given none of these reasons when he removed Humphrey.

The Court further held that Congress does have the power to set the conditions under which a member of the FTC and other such agencies might be removed by the President. It did so because those agencies, the independent regulatory commissions, are not purely executive agencies. You will read more about such agencies in Chapter 15, Section 2.

As a general rule, however, the President may remove those whom the President appoints. Occasionally, the President does have to remove someone; most often, however, what was in fact a dismissal is called a “resignation.”

<sup>10</sup> *Malfeasance* is wrongful conduct, especially by a public officeholder.

## Section 2 Review

1. **Define:** executive order
2. In what way can the executive branch affect the meaning of a particular law?
3. How is the President the chief administrator as well as the chief executive?
4. In what way does the ordinance power enable the President to exercise the executive powers?
5. (a) What officers does the President appoint?  
(b) What is the Senate’s role in the appointment process?

### Critical Thinking

6. **Demonstrating Reasoned Judgment** (p. 19) Explain why you agree or disagree with this statement: The unwritten rule of senatorial courtesy contradicts the principle of separation of powers.

### 3 The Diplomatic and Military Powers

#### Find Out:

- What is the scope of the President's diplomatic powers? How does the President exercise these powers?
- What is the scope of the President's military powers? How does the President exercise these powers?

#### Key Terms:

treaty, executive agreement, recognition

President John F. Kennedy once described the pressures of the presidency in these words:

“When I ran for the presidency . . . I knew the country faced serious challenges, but I could not realize—nor could any man who does not bear the burdens of this office—how heavy and constant would be those burdens.”

When Kennedy made that comment, he had in mind, particularly, the subject of this section: the President's awesome responsibilities as chief diplomat and as commander in chief.

#### The Power to Make Treaties

A **treaty** is a formal agreement between two or more sovereign states. The President, usually acting through the secretary of state, negotiates these international agreements. The Senate must give its approval, by a two-thirds vote of the members present, before a treaty made by the President can become effective.<sup>11</sup> Recall, the Constitution makes treaties a part of the “supreme law of the land.”

The Framers considered the Senate—with, originally, only 26 members—a suitable council to advise the President in foreign affairs. Secrecy was thought to be necessary and was seen as an impossibility in a body as large as the House.

The two-thirds rule creates the possibility that a relatively small minority in the Senate can kill a treaty. To take one example: In 1919 the Senate rejected the Versailles Treaty, the general

peace agreement to end World War I. The treaty included provisions for the League of Nations. Forty-nine senators voted for the pact and 35 against, but the vote was 7 short of the necessary two-thirds. More than once a President has been forced to bow to the views of a few senators in order to get a treaty approved, even when this has meant making concessions opposed by the majority.

At times, a President has had to turn to roundabout methods in order to achieve his goals. When a Senate minority defeated a treaty to annex Texas, President Tyler was able to bring about annexation in 1845 by encouraging passage of a joint resolution—a move that required only a majority vote in each house. In 1898 President McKinley used the same tactic to annex Hawaii, again after a treaty his administration had negotiated had failed to achieve the necessary two-thirds vote in the Senate.

#### Executive Agreements

More and more, international agreements, especially the routine ones, are made as executive agreements. **Executive agreements** are pacts between the President and the heads of foreign states, or their subordinates. Unlike treaties, executive agreements do not require Senate consent.

Most executive agreements either flow out of legislation already passed by Congress or out of treaties to which the Senate has agreed. The President can make these executive agreements

<sup>11</sup>Contrary to popular belief, the Senate does not ratify treaties. The Constitution requires the Senate's “advice and consent” to a treaty made by the President. Once the Senate has approved a treaty, the President ratifies it by the exchange of formal notifications with the other party or parties to the agreement.

Treaties have the same legal standing as do acts passed by Congress. Congress may repeal (abrogate) a treaty by passing a law contrary to its provisions, and an existing law may be repealed by the terms of a treaty. When a treaty and a statute conflict, the courts consider the latest enacted to be the law (*The Head Money Cases*, 1884). The terms of a treaty cannot conflict with the higher law of the Constitution (*Missouri v. Holland*, 1920), but the Supreme Court has never found a treaty provision to be unconstitutional.



▲ **The Art of Diplomacy** In 1945 President Roosevelt met with King Ibn Saud aboard a cruiser to establish closer relations between Saudi Arabia and the United States. Such negotiations typify a crucial role played by the President.

without any congressional action or approval, however.<sup>12</sup>

Dozens of routine executive agreements are made each year. At times, though, they are extraordinary. For example, in the “Destroyer-Bases Deal” of 1940, the United States gave the British 50 “over-age” destroyers in return for 99-year leases to several island bases extending from Newfoundland to the Caribbean.

### The Power of Recognition

When the President receives the diplomatic representatives of another sovereign state, the President exercises the power of **recognition**. That

<sup>12</sup>The Supreme Court has held executive agreements to be as binding as treaties and a part of the supreme law of the land, *United States v. Belmont*, 1937; *Pink v. United States*, 1942.

is, the President, acting for the United States, acknowledges the legal existence of that country and its government. The President indicates that the United States accepts that country as an equal in the family of nations.<sup>13</sup>

Recognition does not mean that one government approves of the character and conduct of another. The United States recognizes several governments about which it has serious misgivings—among the most notable examples of the point today, the People’s Republic of China. The facts of life in world politics make relations with these governments necessary.

<sup>13</sup>Sovereign states generally recognize one another through the exchange of diplomatic representatives. Recognition may be carried out in any of several other ways, however. For example, it may be accomplished by proposing to negotiate a treaty, since under international law only sovereign states can make such agreements.

Recognition is often used as a weapon in foreign relations, too. Prompt recognition of a new state or government may do much to guarantee its life. In the same way, the withholding of recognition may seriously affect its continued existence.

President Theodore Roosevelt's quick recognition of the Republic of Panama in 1903 is one of the classic examples of American use of the power as a diplomatic weapon. He recognized the new state less than three days after the Panamanians had begun an American-supported revolt against Colombia, of which Panama had been a part. Roosevelt's quick action guaranteed their success. Similarly, President Truman's recognition of Israel, within 24 hours of its creation in 1948, helped that new state to survive its turbulent beginnings.

The President may show the United States' displeasure with the conduct of another country by asking for the recall of that nation's ambassador or other diplomatic representatives in this country. The official recalled is declared to be *persona non grata*—an unwelcome person. A similar message can be sent by the recalling of an American diplomat from a post in another country. The withdrawal of recognition is the sharpest diplomatic rebuke one government may give to another and has often been a step on the way to war.

### The President's Dominant Role in Military Affairs

The Constitution makes the President the commander in chief of the nation's armed forces.<sup>14</sup> Even though Congress shares the war powers,<sup>15</sup> the President's position in military affairs is as dominant as it is in the field of foreign affairs. In fact, it does not stretch the matter too far to say that the President's powers as commander in chief are almost without limit.

Consider this illustration of the point: In 1907 Theodore Roosevelt sent the Great White Fleet around the world. Several members of Congress objected to the cost and threatened to block the bill to fund the President's project.

To which Roosevelt replied: "Very well, the existing appropriation will carry the Navy halfway around the world and if Congress chooses to leave it on the other side, all right." Congress was forced to give in.

Presidents almost always delegate much of their command authority to military subordinates. They are not required to do so, however. George Washington actually took command of federal troops and led them into Pennsylvania during the Whiskey Rebellion of 1794. Abraham Lincoln often visited the Army of the Potomac and instructed his generals in the field during the Civil War.

Most Presidents have not become so directly involved in military operations. Still, the President always has the final authority over and responsibility for any and all military matters. The most critical decisions are invariably made by the commander in chief. Thus, it was President



▲ **Power of Recognition** Each of the 15 republics of the old Soviet Union became an independent state in 1990. By 1993, the United States had extended diplomatic recognition to most of those states.

<sup>14</sup>Article II, Section 2, Clause 1; see also Chapter 17.

<sup>15</sup>Article I, Section 8, Clauses 11–17; see also Chapter 11, Section 2.

Harry Truman who made the fateful decision to use nuclear weapons against Japan in 1945 and so bring World War II to a close.

**Making Undeclared War** Several Presidents have used the armed forces abroad, in combat, without a declaration of war by Congress. In fact, most Presidents have done so, and on no fewer than 200 occasions.

John Adams was the first to do so, in 1798. At his command, the Navy fought and won a number of battles with French warships harassing American merchantmen in the Atlantic and the Caribbean. Thomas Jefferson and then James Madison followed that precedent in the war against the Barbary Coast pirates of North Africa in the early 1800s. Many other foreign adventures occurred throughout the last century and into the present one. The long military conflicts in Korea (from 1950 to 1953) and in Vietnam (from 1965 to 1973) were the largest of those “undeclared wars.”

More recently, President Reagan used the armed forces in four combat situations. At his command, elements of the Marines and Navy were part of an international peacekeeping force in strife-torn Beirut, Lebanon, from 1982 to 1984. The invasion of Grenada in late 1983 was a joint exercise involving the Army, Navy, and Air Force. The Air Force bombed military targets in Libya in 1986 to punish that nation for its role in international terrorism. And, prompted by Iran’s attacks on shipping in the Persian Gulf, the President ordered the Navy to provide escort protection to oil tankers plying those waters in 1987 and 1988.

President Bush sent the armed forces into battle in Panama and then in Kuwait and Iraq. He ordered the invasion of Panama in late 1989. That brief but bloody operation involved some 25,000 Army, Navy, Marine, and Air Force personnel. It was mounted to oust the dictatorship of General Manuel Noriega and to safeguard the Panama Canal.

The President ordered the armed forces to the Persian Gulf in August of 1990. The next several months saw the largest deployment of American military might since the war in Vietnam. Bush acted in response to Iraq’s invasion of Kuwait on August 2nd and to protect this country’s vital interests in the oil-rich Middle East.

As the American military buildup continued, Iraqi dictator Saddam Hussein ignored the repeated demands of the United States and the United Nations Security Council that Iraq withdraw from Kuwait. Nearly all of the world community joined in support of those demands.

Finally, on January 16, 1991, American warplanes began a sustained bombing of Iraqi positions in Kuwait and of targets in Iraq itself. British, French, Saudi Arabian, and other air forces also took part in that devastating attack. Then, on February 24th, a massive land offensive was launched, led by American ground forces.

Ground fighting in the Gulf War lasted less than 100 hours. Iraqi troops were driven from Kuwait, and much of southern Iraq was occupied by American and other allied troops.

Altogether, more than 500,000 Americans saw duty in the Gulf War. Several thousand remain stationed in the region several months after the conflict—most of them in Saudi Arabia. Though there was no declaration of war, Congress did pass a joint resolution authorizing the use of American military forces in the Gulf.

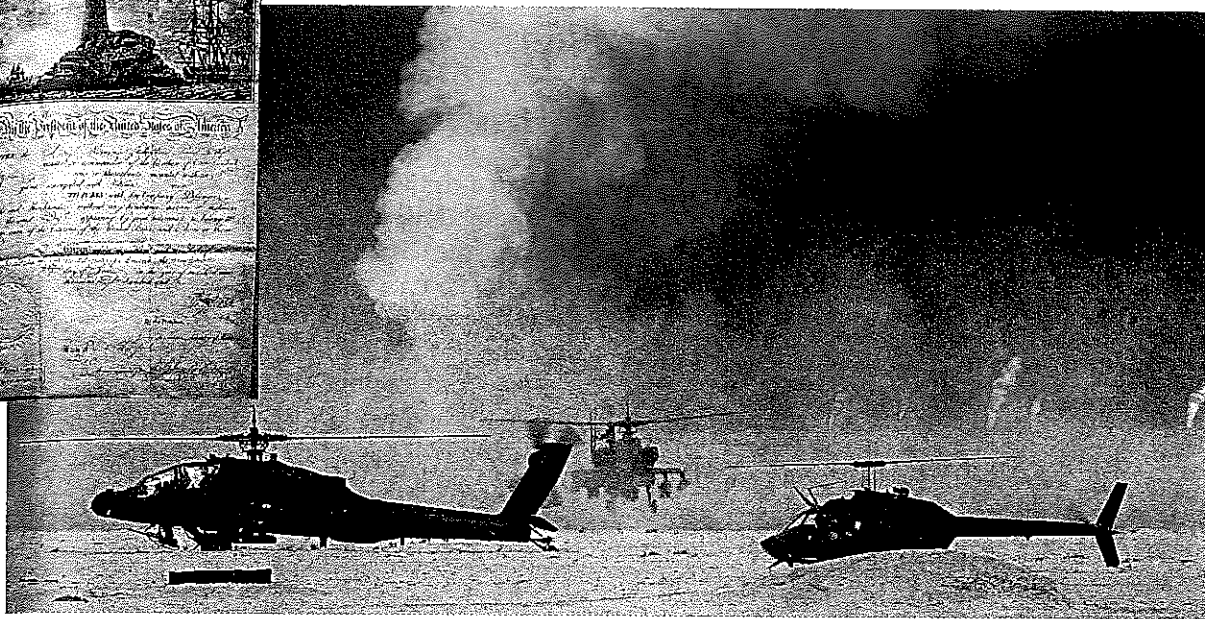
**Wartime Powers** The President’s powers as commander in chief are far greater during a war than they are in more normal times. In fact, presidential wartime authority goes far beyond the traditional military field. Thus, in World War II, for example, Congress gave the President the power to do such things as ration food and gasoline, control wages and prices, and seize and operate certain private industries.

The President may also use the armed forces to keep the domestic peace, as you saw in Chapter 4.<sup>16</sup> When necessary, the President also has the power to call any State’s militia, or all of them, into federal service.<sup>17</sup>

**The War Powers Resolution** In today’s world, no one can doubt that the President must be able to respond rapidly and effectively to threats to this nation’s security. Still, many have long warned of the dangers inherent in the President’s power to involve the nation in undeclared wars. They insist that

<sup>16</sup>Article IV, Section 4.

<sup>17</sup>Article I, Section 8, Clause 15; Article II, Section 2, Clause 1.



▲ **Power During Crisis** Thomas Jefferson issued Mediterranean passports, or “sea letters” (inset), in the early 1800s to safeguard American ships from pirates. In 1990 Congress supported President Bush’s decision to use force to drive the invading Iraqi forces out of Kuwait.

the Constitution never intended the President to have such power.

The nation’s frustrations and growing anguish over the war in Vietnam finally moved Congress to pass the War Powers Resolution of 1973. The act is designed to place close limits on the President’s war-making powers. President Nixon vetoed the measure, calling it “both unconstitutional and dangerous to the best interest of our nation.” Congress overrode the veto.

The resolution’s central provisions require that:

1. Within 48 hours after committing American forces to combat abroad, the President must report to Congress, detailing the circumstances and the scope of his actions.
2. That combat commitment must end within 60 days, unless Congress authorizes a longer period. That 60-day deadline may be extended for as much as 30 days, however, to allow for the safe withdrawal of the American forces involved.
3. Congress may bring an end to the combat commitment at any time, by passing a concurrent resolution to that effect.

The constitutionality of the War Powers Resolution remains in dispute. A determination of

the question must await a situation in which Congress demands that its provisions be obeyed but the President refuses to do so.

### Section 3 Review

1. **Define:** treaty, executive agreement, recognition
2. What powers does the President have in foreign affairs?
3. (a) How does the President usually exercise the power of recognition? (b) How can the power of recognition be used as a weapon?
4. (a) What is the President’s major military power? (b) What limits are placed on that power?
5. (a) For what purpose was the War Powers Resolution designed? (b) What is the controversy surrounding the resolution?

#### Critical Thinking

6. **Determining Relevance** (p. 19) Framers George Mason said, “The purse and the sword must never be in the same hands.” How is this idea reflected in the War Powers Resolution?

## 4 The Legislative and Judicial Powers

### Find Out:

- What is the scope of the President's legislative and judicial powers?
- How does the President exercise these powers?

### Key Terms:

reprieve, pardon, commutation, amnesty

As you know, the Federal Government is built on the principles of the separation of powers and checks and balances. Each branch has formal powers with which it can check, delay, or block actions by the other branches. In this section you will consider the President's constitutional powers in the legislative and the judicial domains.

### The President in the Legislative Field

With his legislative powers—and the skillful playing of his roles as chief of party and chief citizen—the President can have a considerable influence on Congress. The President is in effect, then, the nation's chief legislator.

**Power to Recommend Legislation** The Constitution says that the President

“... 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. . . .”<sup>18</sup>

Soon after the beginning of each congressional session, the President delivers his State of the Union message to Congress. This is followed by the proposed budget and the annual Economic Report. At times, the President also submits special messages on certain subjects to Congress. In all of them the legislators are called on to enact those laws the President thinks are necessary to the welfare of the nation. Many recommendations are shared with the public.

<sup>18</sup>Article II, Section 3; see also Chapter 12, Section 1.

**The Veto Power** The Constitution says that “every bill” and “every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President.”<sup>19</sup>

As noted in Chapter 12, the Constitution presents the President with four options when the Congress passes a measure. First, the President may sign the bill, thus making it law. Second, the President may veto<sup>20</sup> the bill.

As a third option, the President may allow the bill to become law by not acting on it, neither signing nor vetoing it, within 10 days (not counting Sundays). This rarely happens.

The fourth option, the pocket veto, can be used only at the end of a congressional session. If Congress adjourns within 10 days of sending a bill to the President and the chief executive does not act on it, the measure dies.

The veto power allows the President, the only representative of all the people, to act as a check on Congress. Often, just the threat of a veto is enough to defeat a bill or to bring about changes in the measure.

The historical record of presidential vetoes, and the fact that they are rarely overridden, can be seen in the table on page 367.

Bills must be vetoed in their entirety. The President has no “item veto,” as do most State governors; see Chapter 24, Section 2. With that power, specific items can be eliminated from an appropriations measure or an objectionable provision removed from a bill the President might otherwise wish to become law.

On the other hand, some observers worry that the power could be used as a weapon to punish or pressure the President's opponents in Congress by specifically targeting parts of legislation that directly affect them. Nevertheless, every President since Woodrow Wilson has favored a constitutional amendment to add the item veto to the President's arsenal of legislative powers.

<sup>19</sup>Article I, Section 7, Clauses 2 and 3. Notice that in practice, joint resolutions proposing constitutional amendments and concurrent resolutions, which do not have the force of law, are not sent to the President.

<sup>20</sup>*Veto*, from the Latin, “I forbid.”

## Presidential Vetoes

President	Regular Vetoes	Pocket Vetoes	Total	Vetoes Overridden
Washington (1789-97)	2	—	2	—
Madison (1809-17)	5	2	7	—
Monroe (1817-25)	1	—	1	—
Jackson (1829-37)	5	7	12	—
Van Buren (1837-41)	—	1	1	—
Tyler (1841-45)	6	4	10	1
Polk (1845-49)	2	1	3	—
Pierce (1853-57)	9	—	9	5
Buchanan (1857-61)	4	3	7	—
Lincoln (1861-65)	2	5	7	—
Johnson (1865-69)	21	8	29	15
Grant (1869-77)	45	48	93	4
Hayes (1877-81)	12	1	13	1
Arthur (1881-85)	4	8	12	1
Cleveland (1885-89)	304	110	414	2
Harrison (1889-93)	19	25	44	1
Cleveland (1893-97)	42	128	170	5
McKinley (1897-1901)	6	36	42	—
Roosevelt (1901-09)	42	40	82	1
Taft (1909-13)	30	9	39	1
Wilson (1913-21)	33	11	44	6
Harding (1921-23)	5	1	6	—
Coolidge (1923-29)	20	30	50	4
Hoover (1929-33)	21	16	37	3
Roosevelt (1933-45)	372	263	635	9
Truman (1945-53)	180	70	250	12
Eisenhower (1953-61)	73	108	181	2
Kennedy (1961-63)	12	9	21	—
Johnson (1963-69)	16	14	30	—
Nixon (1969-74)	26	17	43	5
Ford (1974-77)	48	18	66	12
Carter (1977-81)	13	18	31	2
Reagan (1981-89)	39	39	78	9
Bush (1989-93)	37	9	46	1
	1,456	1,059	2,515	102

Source: Congressional Research Service, Library of Congress. The Presidents not listed vetoed no measures.

▲ **Interpreting Tables** Why is the veto power an effective tool in the American system of checks and balances?

**Other Legislative Powers** Only the President has the authority to call special sessions of Congress, as you read in Chapter 10, Section I. The President also has the power to adjourn (prorogue) Congress when the Senate and House cannot agree together on an adjournment date—something that has never happened.

## Judicial Powers

The President has the constitutional power to

“ . . . grant reprieves and pardons for offences against the United States, except in cases of impeachment.”<sup>21</sup>

<sup>21</sup>Article II, Section 2, Clause I.



A **reprieve** is the postponement of the execution of a sentence. A **pardon** is legal forgiveness of a crime.

The President's power to grant reprieves and pardons is absolute—except in cases of impeachment, where they may never be granted. These powers of clemency—of mercy, leniency—may be used only in cases involving federal offenses, however. The President has no such authority with regard to those who violate State law. As you will read in Chapter 24, Section 2, each State governor generally possesses the powers of clemency.

Presidential pardons are usually granted after a person has been convicted in court. The President may pardon a federal offender before that person is tried, however. In fact, a pardon may be issued even before that person has been formally charged.

Pardons in advance of a trial or charge are rare. The most noteworthy pardon, by far, was granted in 1974. In that year, President Gerald Ford gave “a full, free and absolute pardon unto Richard Nixon for all offenses against the United States which he . . . has committed or may have committed or taken part in during the period from January 20, 1969, through August 9, 1974.” Of course, Ford's pardon referred to



▲ **Judicial Power of Pardon** Gerald Ford felt it necessary to grant a presidential pardon to Richard Nixon following his resignation from office.

the series of events that are known today as the Watergate scandal.

To be effective, a pardon must be accepted by the person to whom it is granted. When one is granted before charge or conviction, as in Mr. Nixon's case, its acceptance is regularly seen as an admission of guilt by the person to whom it is given.

The pardoning power includes the power to grant conditional pardons if the conditions are reasonable. It also includes the power of **commutation**—that is, the power to commute (reduce) the length of a sentence or a fine imposed by a court.

The pardoning power also includes the power of **amnesty**—in effect, a general pardon offered to a group of law violators. Thus, in 1893 President Benjamin Harrison issued a proclamation of amnesty forgiving all Mormons who had violated the antipolygamy laws in the federal territories. And in 1977 President Jimmy Carter granted a blanket pardon to Vietnam War draft evaders.

## Section 4 Review

1. **Define:** pardon, amnesty, reprieve, commutation
2. (a) Why does the Constitution give certain legislative powers to the President? (b) What are they?
3. (a) What vote is required for Congress to override a presidential veto? (b) In what way is the threat of a veto at times an important presidential tool?
4. Under what circumstances may a President pardon someone?
5. What is the difference between a pocket veto and an item veto?

### Critical Thinking

6. **Predicting Consequences** (p. 19) How might (a) the President and (b) a member of Congress answer this question: Would giving the President the item veto have any significant effect on the separation of powers between the two branches?

# Debating Key Issues

## Should the Government Limit Individual Liberties During Wartime?

### *Korematsu v. United States*

After the Japanese bombing of Pearl Harbor, Hawaii, on December 7, 1941, and after Japanese conquests in the Pacific, near-hysteria gripped the West Coast of the United States. Many people feared that Japan would attack the region. In addition, many became suspicious and fearful of Japanese people who lived in the United States. At the time, approximately 112,000 people of Japanese descent lived in the States bordering the Pacific Ocean. Of these, about 70,000 were American citizens.

In February 1942, President Franklin D. Roosevelt issued Executive Order 9066. This order authorized the secretary of war and certain military officers to exclude anyone they deemed necessary from designated military areas. The order was made to protect the country from possible espionage and sabotage. The following month, the commander of the West Coast Defense Area designated the entire West Coast, up to 40 miles inland, as Military Area I. He ordered the exclusion of all persons of Japanese descent from the area. These people, whether American citizens or not, were to report for "relocation" to designated centers outside Military Area I.

Toyosaburo Korematsu was a law-abiding American citizen living in the San Francisco area who saw no reason for leaving his home. He refused to report for relocation and was later arrested. At his trial in federal court he was convicted for violation of the military order. Korematsu appealed to the United States Court of Appeals, which upheld the decision of the lower court. At this point Korematsu appealed to the United States Supreme Court.

*Review the following evidence and arguments presented to the U.S. Supreme Court:*

### Arguments for Korematsu

1. Because Executive Order 9066 denied Korematsu liberty without due process, it was in violation of his 5th Amendment rights.
2. The exclusion order was based purely on a racial classification, which is forbidden by the Constitution.
3. Martial law was not declared in the area. Therefore, the President illegally delegated power governing civilians to the military.

### Arguments for the United States

1. The danger of sabotage and espionage justified the denial of liberty to American citizens.
2. Because the United States had been attacked by Japan, it was logical that people of Japanese ancestry would be suspect. This was not racial prejudice.
3. War had been declared. The President, as commander in chief, had the right to issue such orders to military personnel.



### Getting Involved

1. **Identify** the constitutional grounds on which each side based its arguments.
2. **Debate** the opposing viewpoints presented in this case.
3. **Predict** how you think the Supreme Court ruled in this case and why. Refer to the Supreme Court Glossary that begins on page 764 to read about the decision. Discuss the impact of the Court's decision on the right of American citizens to equal protection.

## 5 The Executive Office of the President and the Cabinet

### Find Out:

- For what reason is the Executive Office of the President described as umbrella-like?
- What are some of the key components of the Executive Office?
- How has the cabinet and its current role evolved?
- How are cabinet members selected?

### Key Terms:

federal budget, cabinet

Why did Harry Truman say that being President “is like riding a tiger”? And why did he have a small sign on his desk that read “The buck stops here”? Lyndon Johnson also commented on what it is like to sit in the White House:

“No one can experience with the President of the United States the glory and agony of his office. No one can share the majestic view from his pinnacle of power. No one can share the burden of his decisions or the scope of his duties. A Cabinet officer, no matter how broad his mandate, has a limited responsibility. A Senator, no matter how varied his interests, has a limited constituency. But the President represents all the people and must face up to all the problems. He must be responsible, as he sees it, for the welfare of every citizen and must be sensitive to the will of every group. He cannot pick and choose the issues. They all come with the job.”<sup>22</sup>

You will examine the federal bureaucracy, that huge complex of agencies that make up the bulk of the executive branch, in the next chapter. But first, in this section, you will take a look at the two agencies that are specially designed to help the President meet the immense responsibilities of his office: the Executive Office of the President and the cabinet.

<sup>22</sup>Lyndon Johnson, *The Vantage Point* (New York: Holt, Rinehart and Winston, 1971), page 2.

## The Executive Office of the President

The Executive Office of the President has been called the President’s “right arm.” It is an umbrella agency: a complex of several separate offices, staffed by most of the President’s closest advisers and assistants.

Created by Congress in 1939, the Executive Office has been reorganized in every administration since then, including President Clinton’s.

The “nerve center” of the Executive Office of the President—in fact, of the entire executive branch—is the White House Office. It houses the President’s key personal and political staff. Most of them have offices in one of the two wings on either side of the White House. They occupy most of the crowded West Wing, which the public seldom sees and where the legendary Oval Office and the Cabinet Room are located. Some of them work in the East Wing, where public tours of the White House begin.

In recent years, the chief of staff of the White House Office has been among the most influential of these presidential aides. The chief of staff is usually one of the President’s closest advisers and directs the operations of the whole presidential staff. A number of other top officials in the office, assistants and special assistants to the President, aid the chief executive in such vital

### Size of the Executive Office of the President, 1970–1992

Year	Employees
1970	4,742
1975	1,918
1980	1,886
1985	1,526
1987	1,553
1988	1,554
1992	1,861

*Source: Statistical Abstract of the United States; Office of Personnel Management*

### Shrinking of the Executive Office

The dramatic decrease in employees from 1970 to 1975 resulted from the termination of the Office of Economic Opportunity, which had employed roughly 2,600 people.

areas as foreign policy, defense, the economy, political affairs, congressional relations, and contacts with the news media and the public.

The White House staff also includes the counsel to the President, the press secretary, the President's physician, and a deputy assistant to the President who serves as chief of staff to the First Lady. Altogether, the White House staff now numbers more than 350 men and women who, in a very real sense, work for the President.

### The National Security Council

Most of the President's major steps in foreign affairs are taken in close consultation with the National Security Council (NSC). It meets at the President's call, often on short notice, to advise him in all domestic, foreign, and military matters that bear on the nation's security.

The President chairs the Council. Its other members are the Vice President and the secretaries of state and defense. The director of the Central Intelligence Agency (CIA) and the chairman of the Joint Chiefs of Staff also attend its meetings.

The NSC has a small staff of foreign and military policy experts. They work under the direction of the President's assistant for national security affairs, who is often called the President's national security adviser.

The super-secret Central Intelligence Agency does much of its work at the direction of the NSC.

The National Security Council is a staff agency. That is, its job is to advise the President in all matters affecting the nation's security. However, during the Reagan administration in the 1980s, the NSC's staff actually conducted a number of secret operations. The most spectacular of them involved the sale of arms to Iran and the use of some of the proceeds from those sales to aid the Contra rebels in Nicaragua. Congress had prohibited military aid to the Contras, and the disclosure of the NSC's activities produced the Iran-Contra scandal of 1986-1987.

### The Office of Management and Budget

The Office of Management and Budget (OMB) is the largest and, after the White House Office,

the most influential unit in the Executive Office. The OMB is headed by a director who is appointed by the President and confirmed by the Senate. The OMB's major task is the preparation of the federal budget, which the President must submit to Congress in January each year.

The budget-making function is far more than a routine bookkeeping chore. It is the preparation of an annual statement of the public policies of the United States expressed as dollars and cents.

The **federal budget** is a financial document, a detailed estimate of federal income and outgo during the coming fiscal year.<sup>23</sup> More than that, the federal budget is a carefully drawn work plan for the conduct of government and the execution of public policy.

The many steps by which each fiscal year's budget is built is a lengthy process. In fact, it begins more than a year before the start of the fiscal year for which the budget is intended. In its first stages, each federal agency prepares detailed estimates of its spending needs for the upcoming 12-month period. Those proposals are reviewed by the OMB, usually in a series of budget hearings at which agency officials defend their requests. Following that review, the revised—and usually lowered—spending estimates are fitted into the President's overall program. They become a part of the budget document the chief executive presents to Congress.

The OMB is much more than a budget-making agency. It also monitors the spending of the funds Congress appropriates. That is, it oversees the execution of the budget. The President's close control over the preparation and execution of the budget is a major factor in the President's ability to command the huge executive branch.

Beyond its budget chores, the OMB is a sort of presidential odd-job agency. It makes studies of the organization and management of the executive branch and keeps the President up to date on the work of all its agencies. The OMB checks and clears agency stands on all legislative matters

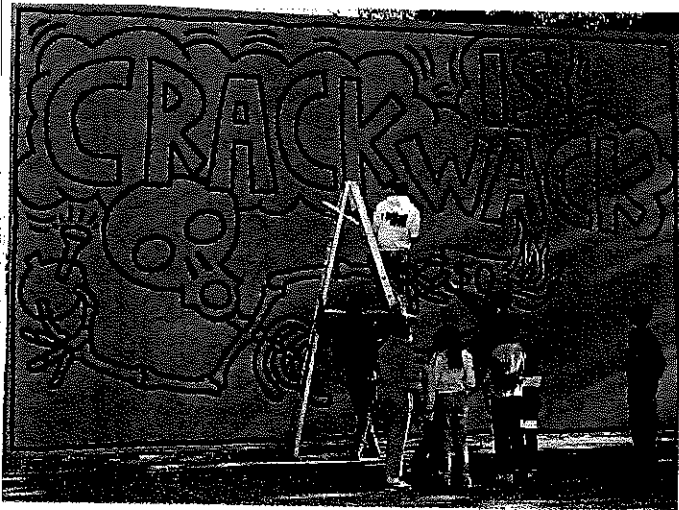
<sup>23</sup>A fiscal year is the 12-month period used by a government and the business world for its record-keeping, budgeting, revenue-collecting, and other financial management purposes. The Federal Government's fiscal year now runs from October 1 through the following September 30.

to be certain that they agree with the President's own positions. It also helps the President prepare the hundreds of executive orders he must issue and the veto messages he occasionally sends to Congress and does much more to live up to the word *management* in its title.

### The Office of National Drug Control Policy

The Office of National Drug Control Policy is the newest of the major units within the Executive Office. It was established in 1989, and its existence dramatizes the nation's concern over drugs. The office is headed by a director who is appointed by the President, subject to the approval of the Senate.

The news media regularly identify the director as "the nation's drug czar." To this point, at least, the office has two major responsibilities: (1) to prepare an annual national drug control strategy, which the President sends on to Congress; and (2) to coordinate the efforts of the more than 50 federal agencies participating in the war on drugs.



▲ **The War on Drugs** The campaign against illicit drug use in the United States was supported by the Office of National Drug Control Policy. This street mural by artist Keith Haring graphically communicates its antidrug message.

### The Council of Economic Advisers

Three of the country's leading economists, chosen by the President with the consent of the Senate, make up the Council of Economic Advisers. It is the chief executive's major source of information and advice on the state of the nation's economy.

The Council also helps the President prepare his annual Economic Report to Congress. That report, together with a presidential message, goes to Capitol Hill in late January or early February each year.

### Other Units in the Executive Office

Several other agencies in the Executive Office house key presidential aides who give the President the assistance he must have in order to meet his many and wide-ranging responsibilities.

**THE OFFICE OF POLICY DEVELOPMENT.** This unit advises the President in all matters of domestic concern. It is headed by the deputy assistant to the President for domestic policy.

**THE NATIONAL SPACE COUNCIL.** This group advises the President on the nation's civil and military efforts in outer space. The Vice President chairs the council, and its other members include the secretaries of state, defense, commerce, and transportation; the administrator of the National Aeronautics and Space Administration; and the directors of the CIA and OMB.

**THE COUNCIL ON ENVIRONMENTAL QUALITY.** The council aids the President in all environmental policy matters and in the writing of the annual "state of the environment" report to Congress. The council's three members are named by the President, with the Senate's consent. They work closely with the Environmental Protection Agency and various agencies in the Departments of the Interior, Agriculture, and Energy.

**THE OFFICE OF UNITED STATES TRADE REPRESENTATIVE.** This agency advises the chief executive in all matters of foreign trade. The trade representative, appointed by the President and confirmed by the Senate, carries the rank of ambassador and represents the President in foreign trade negotiations.

**THE NATIONAL CRITICAL MATERIALS COUNCIL.** This group is composed of three members appointed by the President with the consent of the Senate. They advise the chief executive on policies relating to such "critical materials" as oil, natural gas, copper, aluminum, titanium essential to the nation's security and well-being.

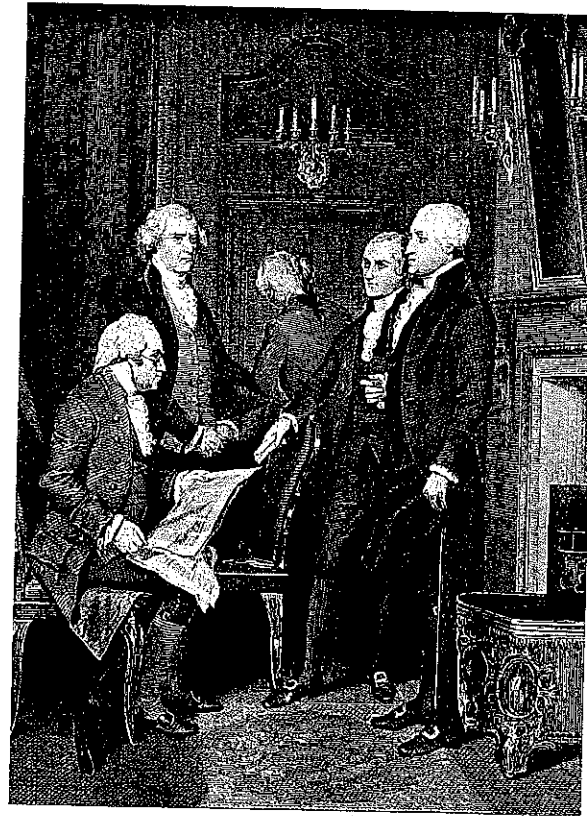
**THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.** The President's major adviser in all scientific, engineering, and other technological matters bearing on national policies and programs is the Office of Science and Technology Policy. Its director, who is chosen by the President and confirmed by the Senate, is drawn from the nation's scientific community.

**THE OFFICE OF ADMINISTRATION.** This is the general housekeeping agency for all the other units in the Executive Office. It provides them with the many support services they must have in order to do their jobs. The list of those things is almost endless: clerical help, data processing, library services, transportation, and much more.

## The Cabinet

The **cabinet** is an informal advisory body brought together by the President to serve his needs. The Constitution makes no mention of it,<sup>24</sup> nor did Congress create it. Instead, the cabinet is the product of custom and usage.

At its first session in 1789, Congress established four executive posts: secretary of state, secretary of the treasury, secretary of war, and attorney general. By his second term, Washington was regularly seeking the advice of the four outstanding people he had named to those offices: Thomas Jefferson in the Department of State, Alexander Hamilton at the Treasury, Henry Knox in the War Department, and Edmund Randolph, the attorney general. So the cabinet was born.



▲ **The First Cabinet** The nation's first cabinet included President George Washington (right); Secretary of State Thomas Jefferson (second left); and Secretary of the Treasury Alexander Hamilton (second right).

By tradition, the heads of the now 14 executive departments form the cabinet. In the Bush administration, the director of the OMB, the counsel on Domestic Policy, and the United States trade representative also had cabinet rank. In addition, every Vice President since Alben Barkley, who served under Truman, has been a regular participant at cabinet meetings. A number of other aides are usually there, as well—in particular, the White House chief of staff.

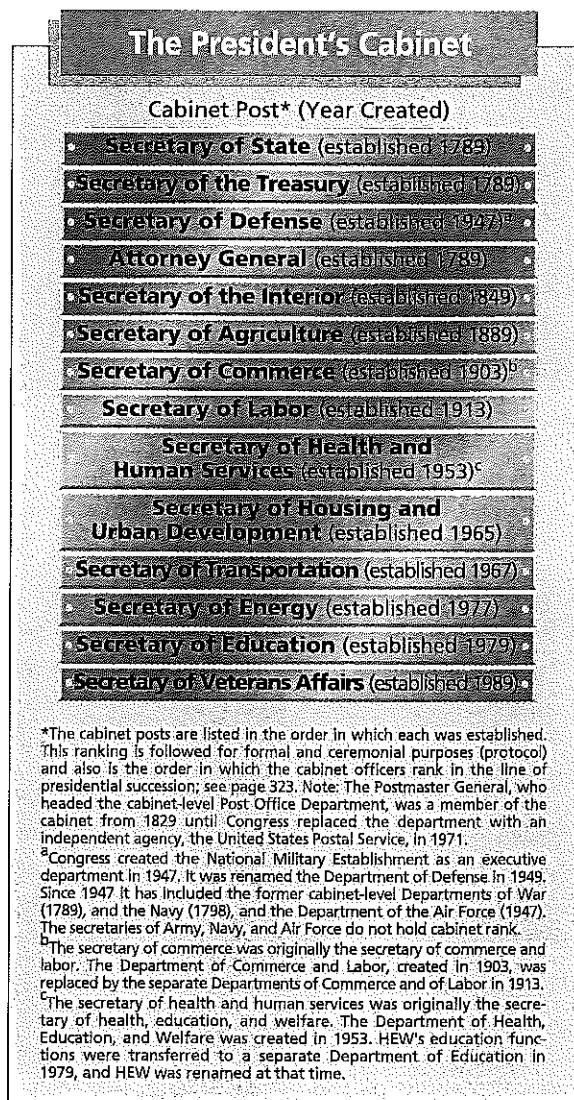
**Choosing Cabinet Members** The President appoints the head of each of the 14 executive departments. Each of these appointments is subject to confirmation by the Senate, but rejections have been exceedingly rare. The Senate generally respects the personal choice of the President. You may recall from Chapter 11, Section 4 that of the more than 600 presidential

<sup>24</sup>The closest approach to it is in Article II, Section 2, Clause 1, where the President is given the power to "require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices." The cabinet was first mentioned in an act of Congress in 1907, well over a century after its birth.

appointments made since 1789, only 12 have been turned down by the Senate.<sup>25</sup>

Many factors influence these presidential choices. Republican Presidents do not often pick Democrats, and vice versa. One or more of a new President's appointees usually come from

<sup>25</sup>The most recent rejection occurred in 1989, when the Senate refused to confirm President Bush's selection of John Tower as secretary of defense.



▲ **Interpreting Charts** Cabinet posts are listed in the order in which they were established. What does this order tell you about presidential succession?

among those who played a major role in the recent presidential campaign.

Of course, professional qualifications and practical experience are also taken into account in the selection of cabinet secretaries. Geography also plays a part. In broad terms, each President tries to give some sectional balance to the cabinet. Thus, the secretary of the interior often comes from the West, where most of the department's work is carried out.

Many interest groups care about who are appointed to head certain departments, and these groups influence some of the choices. Thus, the secretary of agriculture almost always has a background closely related to agriculture. The secretary of the treasury usually comes from the financial community, the secretary of commerce from the ranks of business, and so on.

Considerations of sex and race, an appointee's stand on the "hot" issues of the day, management abilities and experience, and other personal characteristics—these and a host of other factors play a part of the decision mix in selecting cabinet members.

### Women and Minorities in the Cabinet

Up to the Clinton administration, only ten women, five African Americans, and two Hispanics had served in the cabinet. Franklin Roosevelt appointed the first woman, Frances T. Perkins, secretary of labor from 1933 to 1945. Lyndon Johnson named the first African American, Robert C. Weaver, as the first secretary of housing and urban development (HUD) in 1966. The Ford cabinet was the first to include both a woman (Carla Hills, secretary of HUD) and an African American (William T. Coleman, secretary of transportation); both were appointed in 1975. Jimmy Carter appointed the first (and so far only) African-American woman to the cabinet; Patricia Roberts Harris was named secretary of HUD in 1977 and then secretary of health and human services (HHS) in 1979. Ronald Reagan appointed the first Hispanic cabinet member; Lauro F. Cavazos became secretary of education in 1988.

The Bush cabinet included one African American (Louis Sullivan, secretary of HHS), two women (Elizabeth Dole, secretary of labor, 1989–1991, and her successor, Lynn

Martin), and two Hispanics (Lauro Cavazos, secretary of education, 1989–1991, and Manuel Lujan, secretary of the interior).

## The Cabinet's Role

Cabinet members have two major jobs. Individually, each is the administrative head of one of the executive departments. Together, they are advisers to the President.

How the President uses the cabinet is something for each President to decide. A number of Presidents have given great weight to the cabinet and to its advice; others have given it only a secondary role. The Bush cabinet wields more power and apparently has more influence with the President than any cabinet since the Eisenhower presidency in the 1950s. On the other hand, John Kennedy described his cabinet meetings as “a waste of time.”

Kennedy's view notwithstanding, most Presidents have held regular cabinet meetings—where reports are made and discussed, and advice is offered to the chief executive. That advice need not be taken, of course. Abraham Lincoln once laid a proposition he favored before his cabinet. Each member opposed it, whereupon Lincoln declared: “Seven nays, one aye: the ayes have it.”

William Howard Taft put the role of the cabinet in its proper light years ago:

“The Constitution . . . contains no suggestion of a meeting of all of the department heads in consultation over general governmental matters. The Cabinet is a mere creation of the President's will. It exists only by custom. If the President desired to dispense with it, he could do so.”<sup>26</sup>

No President has ever gone so far as to suggest eliminating the cabinet. However, several Presidents have leaned on other, unofficial advisory groups, and sometimes more heavily than on the cabinet. Andrew Jackson began the practice when he became President in 1829. Several of his close friends often met with him in the kitchen at the White House and, inevitably,



▲ 1966: Noteworthy Cabinet Appointment  
President Lyndon Johnson congratulates Robert C. Weaver, the first African American in the nation's history to be named to a cabinet post.

came to be known as the Kitchen Cabinet. Franklin Roosevelt's Brain Trust of the 1930s and Harry Truman's cronies in the late 1940s were in the same mold.

## Section 5 Review

1. Define: federal budget, cabinet
2. In what way is the Executive Office of the President an umbrella agency?
3. Name the different components of the Executive Office of the President and their roles.
4. (a) How was the cabinet created? (b) Who are its members?
5. What two major jobs do the cabinet members have?

### Critical Thinking

6. Identifying Central Issues (p. 19) In what ways is the budget-making power a major administrative tool for the President?

<sup>26</sup> *Our Chief Magistrate and His Powers* (New York: Columbia University Press, 1916), pages 29–30.



# Critical Thinking

## Making Comparisons

**M**aking comparisons means identifying how different ideas, objects, people, or situations are alike and/or different. Mastering this skill is key to the process of decision making. The decisions you make as a citizen—such as the ones you make in a voting booth, for instance—are among the most important decisions you will make in your life.

For example, making comparisons between different presidential leadership styles can help you decide what kind of leader you want for your President. As you know, the ability to lead is a critically important quality in a President. If a President cannot lead the people and the Congress, his or her administration will be crippled. Follow the steps below to practice making comparisons.

**1. Identify the basis on which you will make the comparison.** Have you ever heard the expression “comparing apples to oranges”? It refers to the impossibility of comparing items that are fundamentally different. Making a comparison is possible only on the basis of a concept or characteristic that each item shares in common. Read

each of the statements below. (a) What is the subject of each statement? (b) On what basis can you compare the differing views of each President?

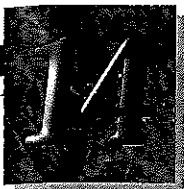
**2. Determine the ways in which each item is alike.** Making comparisons includes finding ways in which two items are the same. (a) Are any of the statements below similar in their views on public opinion? (b) If so, in what ways are they similar?

**3. Determine the ways in which each item is different.** Of course, the other purpose of making comparisons is to identify differences between items. In what ways do each of the statements below differ from one another?

**4. Summarize the comparison between the items.** Once you have identified the similarities and differences between the items, you can complete the comparison. (a) How do the three Presidents quoted below compare in their views of popular opinion and the presidency? (b) In your opinion, which President has the view that is most unlike the others?

### Presidential Leadership Styles

Harry Truman	Theodore Roosevelt	Woodrow Wilson
“A man who is influenced by the polls or is afraid to make decisions which may make him unpopular is not a man to represent the welfare of the country.”	“I did not ‘divine’ how the people were going to think; I simply made up my mind what they ought to think, and then did my best to get them to think it.”	“If he rightly interprets the national thought and boldly insists upon it, he is irresistible; and the country never feels the zest of action so much as when its President is of such insight and calibre.”



## Chapter-in-Brief

Scan all headings, photographs, charts, and other visuals in the chapter before reading the section summaries below.

**Section 1 The Changing View of Presidential Power (pp. 353–355)** The powers of the President have grown since 1787. The fact that the presidency consists of one person has given the office great stature—and power. Also, as American economic and social life has become more complex, people have looked to the President for more and more leadership.

Historically, the actions of those Presidents who favored a stronger presidential role have helped expand the powers of the office.

**Section 2 The President's Executive Powers (pp. 356–360)** The President is responsible for executing federal laws. But the meaning of many laws is vague, and enforcing them is a matter of interpretation. So, the President enjoys some special powers to help him execute and enforce laws.

The President can issue executive orders, which have the force of law. And the President may appoint subordinates—and dismiss those whom he no longer wants.

**Section 3 The Diplomatic and Military Powers (pp. 361–365)** The President presides over relations with other countries. This duty requires that the President possess certain powers. Thus, only the President may negotiate treaties, and only the President may recognize the existence of foreign countries. The President alone may appoint ambassadors and other diplomatic officers.

Though Congress shares some powers in military affairs, the President is the undisputed leader. For example, though Congress can declare war,

a President can—and on 200 occasions has—carried out military action without the consent of Congress. Congress has tried to contain the President's power through the War Powers Resolution, but its success has been limited.

**Section 4 The Legislative and Judicial Powers (pp. 366–368)** As part of the system of checks and balances, the President holds several legislative and judicial powers.

The President may recommend legislation, and he may veto bills passed by Congress. Congress may override a veto, but rarely does so.

In the judicial field, a President may delay the carrying out of a sentence (a reprieve), legally forgive a convicted person (a pardon), lessen a convicted person's sentence (commutation), or offer a general pardon to a group of law violators (amnesty).

**Section 5 The Executive Office of the President and the Cabinet (pp. 370–375)** As the President performs his vital responsibilities, he relies on the assistance and guidance of key advisors and agencies.

The Executive Office of the President acts as the President's "right arm." It includes the White House Office. A key member of this office is the Chief of Staff. Other offices of the Executive Office support the President's foreign policy efforts, the administration of the budget, and numerous other endeavors.

The cabinet is not mentioned in the Constitution. Yet it has played an important role in every administration.

The cabinet has two major roles. Each cabinet member serves as head of an executive department, such as Defense or the Treasury. Collectively, the cabinet serves as an advisory body to the President.



# Chapter Review

## Vocabulary and Key Terms

media (p. 355)  
executive order (p. 356)  
treaty (p. 361)  
executive agreement (p. 361)

recognition (p. 362)  
reprieve (p. 368)  
pardon (p. 368)  
commutation (p. 368)

amnesty (p. 368)  
federal budget (p. 371)  
cabinet (p. 373)

**Matching:** Review the key terms in the list above. If you are not sure of a term's meaning, look up the term and review its definition. Choose a term from the list above that best matches each description.

1. the collective term for the press, radio, and television; a powerful tool through which the President attracts and holds public attention
2. a directive, rule, or regulation made by a President and/or the President's subordinates that has the force of law
3. the official postponement of the execution of a sentence in a crime
4. the power to reduce the length of a sentence in a crime
5. a formal agreement made between or among sovereign states

**True or False:** Determine whether each statement is true or false. If it is true, write "true." If it is false, change the underlined word or words to make the statement true.

1. A pardon enables the President to release a person from the punishment or legal consequences of a crime.
2. A reprieve is a general pardon issued to a group of law-breakers.
3. An executive agreement has the force of law but does not require the approval of the Senate.
4. An executive order is a pact between the President and the head of a foreign state or the President's subordinates.

**Word Relationships:** Replace the underlined definition with the correct term from the list above.

1. Different Presidents have relied on the presidential advisory body composed of heads of the executive departments for different purposes.
2. A formal agreement made between or among sovereign states requires the approval of the Senate.
3. A financial document, a detailed estimate of federal income and outgo in the coming fiscal year, is a carefully drawn plan for the conduct of government.
4. By exercising the exclusive power of the President to establish formal diplomatic relations with foreign states, the President accepts a country as an equal in the family of nations.

## Main Ideas

### Section 1 (pp. 353–355)

1. What were the differing views of the presidency held by the Framers?
2. Which view has prevailed and for what reasons?
3. How have Presidents themselves viewed their powers?

### Section 2 (pp. 356–360)

4. For what reason does the presidential power to execute the law grant the President such power?
5. How do the President's executive responsibilities relate to administrative responsibilities?

6. What is the extent of the President's control over the personnel of the President's administration?
7. For what reason does the President have the ordinance power?

### Section 3 (pp. 361–365)

8. Through what means can the President make agreements on behalf of the country with foreign states?
9. What is the power of recognition and how can the President use it as a diplomatic tool?
10. Describe the President's role in the military affairs of the country.

### Section 4 (pp. 366–368)

11. How do the President's legislative and judicial powers serve the principle of separation of powers?
12. What are the President's primary legislative powers?
13. What are the President's primary judicial powers?

### Section 5 (pp. 370–375)

14. What agencies work directly with the President to give assistance and advice?
15. What responsibilities does the cabinet have that the Executive Office of the President does not?
16. How have Presidents differed in their reliance on the cabinet?

## Critical Thinking

1. **Making Comparisons** (p. 19) Compare the cabinet of today with the first cabinet under President Washington. (a) How are the two alike? (b) How are they different? (c) Why do you think cabinet membership has grown since Washington's first term of office?
2. **Identifying Central Issues** (p. 19) Article II of the Constitution, which covers the powers of the executive, has been called the most loosely drawn chapter in the Constitution. Why might the Framers have created Article II in this way?

3. **Drawing Conclusions** (p. 19) The text cites the unity of the presidency as a key reason for the growth of presidential power. Assuming this is true, what does that fact suggest about the American people's view of political leadership?

4. **Demonstrating Reasoned Judgment** (p. 19) The text states that the President's powers in the field of military affairs is nearly without limit. What are the benefits and drawbacks of this fact?



## Getting Involved

1. **Writing Your Opinion** You have just been elected President of the United States. Write a diary entry in which you explain how you intend to lead the nation in the four years ahead. Open with a statement in which you summarize your beliefs about the proper role of the President in the American political system. Then, explain how you intend to fulfill this role. Write one paragraph each on such topics as your cabinet and Executive Office, your constitutional powers, and your overall view of presidential power. Conclude by expressing what you predict will be your greatest challenge in office. Revise to correct for errors, and draft a final copy.
2. **Class Debate** Hold a class debate on the following topic: *Resolved*, That the Constitution be amended to forbid the President to use the armed forces in combat without a declaration of war by Congress. Choose teams to debate each side of the topic. The rest of the class should evaluate each team's presentation.
3. **Gathering Information** (a) What sources might you consult to learn about how different Presidents have viewed their use of military power? (b) What sources might you use to learn about the historical view of Congress on this issue? Use the Government Resources Handbook on page 690 to identify possible sources.