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The U.S. Presidency: Office and Powers

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Summary

The President of the United States heads the executive branch of the federal government, which is constitutionally equal to the legislative and judicial branches. While somewhat interdependent upon the other two branches, the President is vested with strong appointive, administrative, legislative, fiscal, and international powers. Initially assisted by a personal secretary and a few functionaries to maintain the White House, the President was granted a modest expansion of his immediate staff in 1929. Ten years later, the Executive Office of the President was established, and continues to consist of several small agencies directly assisting the Chief Executive with matters of policy development, program administration, and operations coordination. Currently, the White House Office, counting the President's closest assistants, employs about 400 individuals; the collective units of the Executive Office of the President have staff levels of approximately 1,600 employees. These are the extended eyes, ears, and hands of the modern President. Constitutional and statutory law provide for succession to the office in the event an incumbent President is unable to discharge his duties or dies.

The U.S. Presidency: Office and Powers

The Constitution of the United States vests all executive power in the President, making this official the head of the executive branch. Two other branches—the legislative and the judicial—are constitutionally equal to the executive. The Constitution also indicates that the President "shall be Commander in Chief of the Army and Navy of the United States." In addition to exercising leadership of the executive branch departments and agencies and the armed forces of the nation, the President has also come to assume other important governmental roles unspecified in the Constitution. For example, acting on behalf of the United States in its external relations with other countries, the President is the head of state. An incumbent President is regarded to be the spokesman for and leader of his political party. Finally, there is little doubt today that the President can play decisive roles as well concerning the national economy, legislating policy, and molding public opinion. After two hundred years of experience, the presidency stands as an office of considerable power and role flexibility. Indeed, it has proven to be extraordinarily adaptive to the changing needs of American government and society.

Background Information

The American presidency was created during the federal constitutional convention of 1787. At that time, the national government of the United States was mandated by the Articles of Confederation. All executive authority was exercised by the Congress of the Confederation through committees and special agents. Dissatisfaction with this arrangement prompted the 1787 convention. The resulting Constitution established the presidency.

Occupants of the office must be a "natural born Citizen," at least 35 years old, and "fourteen Years a Resident within the United States." Selection occurs indirectly through a nationwide popular ballot for so-called electors who, meeting as a special body known as the electoral college, vote to determine a President. This process has been greatly assisted during the past 150 years by the prevalence of strong political parties. The President serves four years and, since the 1951 ratification of the Twenty-Second Amendment to the Constitution, "No person shall be elected to the office of the President more than twice" The Constitution requires that the President be compensated for his services. This salary rate is established by statutory law: the President is currently paid \$200,000 annually. Removal from the presidency shall occur, constitutionally, "on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Impeachment is a political proceeding, conducted by Congress, not the courts. The House of Representatives prepares and approves the charges against the President and the Senate conducts the trial, with the Chief Justice of the Supreme Court presiding.

Presidential Powers

The Constitution vests certain powers in the presidency, but does so within a larger framework of checks and balances among the branches of the federal government. For example, laws made by Congress are subject to presidential veto and to subsequent court review. A presidential veto may constitutionally be overridden by Congress, and a President's actions may come under judicial scrutiny. Nonetheless, the presidency established by the Constitution, while somewhat interdependent upon the other two branches, is vested with strong powers. These include:

- **Appointments**

The President makes about 3,000 civil appointments, including, among others, personal aides, officers of the executive branch, members of temporary study commissions and advisory committees, ambassadors and diplomatic personnel, and judges. While many of these appointments require Senate confirmation, the President has considerable discretion to build his team and otherwise to select individuals for government service whom he deems fit.

- Administration

Determining how to enforce the laws is a major administrative power of the President. He may also effect reorganizations within the executive branch to achieve efficiency and economy in operations, although some such restructuring may require congressional concurrence.

- Legislation

Apart from exercising his veto authority, the President may propose legislation for congressional acceptance, delegate to subordinates powers statutorily bestowed upon him, and issue administrative or implementing directives.

- Fiscal

The President is responsible for the preparation of the executive branch budget and, in cooperation with Congress, determining certain key aspects of fiscal policy, such as management of the national debt, determining tax rates, and improving the country's international trade position.

- International

With regard to the nation's external affairs, the President has the power to make treaties, although they must be approved by the Senate, and to recognize foreign governments through the receipt of ambassadors and ministers. As Commander in Chief, he may also make overseas use of American armed forces. Such deployments, however, may be subject to congressional concurrence.

Presidential Institution

In formulating policy and faithfully executing the law, the President has historically been assisted by a Cabinet. The constitutional basis for the Cabinet derives from the President's authority 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 traditional Cabinet consists of the Vice President and the heads of the major executive branch departments—currently numbering 14 individuals. During the latter half of the present century, Presidents have bestowed Cabinet rank on other officials, such as their budget director, or removed them from this status. However, the value of the Cabinet to Presidents has varied over the years depending upon the extent to which the membership of the group was well regarded by a particular Chief Executive and the availability of other useful sources of advice and assistance.

Throughout the nineteenth century, the President had an office in the White House, where he was assisted by a solitary secretary, a few borrowed agency personnel and some soldiers, and a small staff to maintain the executive residence. In 1929, Congress increased the President's office staff, adding two more secretaries and an administrative assistant. These modest staff arrangements prevailed until 1933 when Franklin D. Roosevelt assumed the presidency and began utilizing various personal advisers and assistants in efforts to combat the Great Depression. To accommodate this increased number of presidential advisers and assistants, an important institutional adjustment was

made in the presidency. In 1939, the Executive Office of the President was established. It consists of a group of agencies immediately serving the President. Among the more enduring of these entities are The White House Office, the Office of Management and Budget, the Council of Economic Advisers, the National Security Council, and the Office of the United States Trade Representative. Sometimes the Executive Office of the President has consisted of a dozen or more units with a total staff of over 5,000 personnel. Within the Executive Office, there have been times when the White House Office, consisting of the President's closest assistants, has employed about 600 individuals. Currently, however, the Executive Office units count staff levels of approximately 1,600 employees, with the White House Office at just under 400 personnel. These individuals are the extended eyes, ears, and hands of the modern presidency.

Inability and Succession

The Constitution provides that, in the event of a vacancy in the presidency due to death or resignation, the Vice President shall succeed to the office. Should there be no Vice President at the time of a vacancy in the presidency, statutory law specifies a line of succession for other officials to act as President. These, in order of progression, include the Speaker of the House of Representatives, the President pro tempore of the Senate (the longest serving majority party member of that body), and members of the traditional Cabinet, beginning with the oldest established department.

Furthermore, the Twenty-Fifth Amendment to the Constitution, ratified in 1967, provides a process by which vacancies in the vice presidency shall be filled. This amendment also specifies that, whenever an incumbent President informs Congress by written declaration "that he is unable to discharge the powers and duties of his office, and until he transmits ... a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President." The Amendment also provides that, whenever the Vice President "and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide," transmit to Congress "their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President." To date, Congress has not established the "other body" referred to in this provision; there has been no occasion when any official other than the Vice President has succeeded to the presidency; and only during a few brief periods of illness or medical treatment have there been occasions for the Vice President, at the President's direction, to assume the role of Acting President.

Selected References

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