

The President and the Constitution. The President and the Constitution: How citizens, congress, the courts and the media influence presidential power is a Special Report by the Washington Times.

However, one cannot expect a document containing only words to cover the entire spectrum of government. Therefore, some of the contours of this high office had to be sketched out in real time, evolving as each presidency understood and applied it. Every chapter in this book was written by a different scholar with the purpose of highlighting the interactions of the commander in chief and the other two branches of government, Congress and the a Supreme Court, as prescribed in the Constitution. You may be surprised to find out that the distinction of powers is at times blurry and difficult to distinguish. For instance, only Congress can declare war but the president is the commander in chief of the armed forces. Who then has ultimate control of the military? The Commerce Clause gives Congress broad powers, but does not implicitly denies the president from launching legislative initiatives himself. The Supreme Court has the final say on whether a law is constitutional or not, but is up to the president whether to enforce it or not. The Constitution gives the president veto powers, but does not specify if that power is limitless; it also sets a presidential term of four years and no more, but is silent about the amount of reelections a president is allowed; it declares that in case the president cannot fulfill his duties the Vice President would take his place, but does not specify if the Vice President is supposed to actually become the new president or if he just takes the duties without the office until a new one is elected. All of these things and more had to be duked out in the course of time. Court decisions, Congressional laws, and Presidential policies have enriched the Constitution, leaving behind a legacy that will continue to shape the direction of this great nation. However, his Presidency may very well stem the tide or even reverse the trend toward the imperial presidency that began in the 19th Century and accelerated during the progressive era and later. Since the Presidency of George Washington, it has been the Presidents themselves who have defined the powers delegated to them in Article 2 of the United States Constitution. They have pushed the limits and challenged t Donald Trump is not the first President to be involved in thorny constitutional issues. They have pushed the limits and challenged the boundaries of the powers given to them by the framers in Sometimes they succeeded and sometimes the Supreme Court pushed back and held their actions unconstitutional. With few exceptions, each President responded to the events and issues of their time by pushing and testing Presidential power. Bush and Barak Obama. However, each administration left its mark on how to interpret the boundaries of executive power. This great book is filled with information that serves as a footnote to Article Two of the Constitution. It places the use of presidential powers in historical context and shows how the powers of the president and the Constitution evolved over time to the way we know it today. Each chapter of the book not only features a different president, but is also written by a different author. Authors range from historians to judges to journalists. While each chapter delves into the individual challenges faced by each president, the unifying themes are readily apparent. For instance, although the presidencies of George Washington and Barak Obama occurred centuries apart, both engaged in fierce Congress over the boundaries of executive power. It is a must read for anyone interested in history or law and it is the essential footnote to Article 2 of the United States Constitution. My complete review is at [http:](http://)

Chapter 2 : The Powers of the President

Article Two of the United States Constitution establishes the executive branch of the federal government, which carries out and enforces federal law. The executive branch includes the President, the Vice President, the Cabinet, executive departments, independent agencies, and other boards, commissions, and committees.

How citizens, congress, the courts and the media influence presidential power is a Special Report by the Washington Times Advocacy Department and the National Constitutional Literacy Campaign. Recent Stories Why a call for civic education and constitutional literacy? Shares Student competitions spark optimism, civic involvement By Julie Silverbrook Every year, thousands of students across the nation take part in civics and history competitions. They work tirelessly to study the United States Constitution, American history and government so they can answer questions in front of panels of esteemed judges or write essays evaluated by experts. Shares Effective civic education produces informed voters By Charles N. Quigley Civic education is the primary way our citizens acquire the knowledge and skills necessary for informed and engaged citizenship. Shares Civic illiteracy and civic disempowerment By Dr. In a republican form of government, the dangers inherent in having an ill-informed electorate are real indeed. Shares A Democratic or Republican election? By Kyle Kondik When the Founding Fathers created our electoral system, they might have been surprised to discover, more than two centuries later, that these two things could be true at the same time: One, that the country had embraced mass democracy, including giving the franchise to men and women of all races, incomes and classes; and two, that despite doing that, the country was still using the Electoral College system that they had implemented at the dawn of the country – a system that was not designed with the intention of promoting mass democracy. Shares Get in the game: Shares Political gridlock, past and present By Dr. Spitzer Election night was a smashing success for congressional Republicans. Protecting our democracy By Sen. Patrick Leahy When the Framers signed the United States Constitution, they created a federal system of government with three co-equal branches, designed to work cooperatively but also designed to serve as checks and balances. As we celebrate the 225th anniversary of the signing of the Constitution, Americans across this great nation take time to reflect on its enduring legacy and the many challenges that our constitutional system of government faces. Mike Lee Perhaps the most famous words spoken on the day we commemorate this week – September 17, -- were those of Benjamin Franklin. After the Constitution had been signed and the convention adjourned, Franklin was asked by a group of curious Philadelphians gathered outside Independence Hall what type of government the delegates had created. Matthew Spalding The greatest political revolution in the United States since the establishment of the Constitution has been the shift of power away from the lawmaking institutions of republican government to an oligarchy of unelected experts who rule over virtually every aspect of our lives. Wydra As we celebrate Constitution Day in the middle of a pitched election fight with deep consequences for the country, there is no better time to think about the president and the Constitution. Shares How courts expand presidential power beyond constitutional limits By Dr. Louis Fisher From to the present time, U. Shares Presidents and the Supreme Court: Some presidents have even relished the fight. Shares The Constitution on the campaign trail in By Julie Silverbrook The United States Constitution establishes the framework for American government and reflects the fundamental principles and values of the nation. It is, therefore, no surprise that it is often a central part of the discussion during presidential election years. Shares By David Keene - The Washington Times The success of the American Republic is directly traceable to the wisdom and work of the 55 men who gathered in Philadelphia in to draft a constitution designed not so much to empower government, but to limit that power. Forrest McDonald, perhaps the most influential of historians on the intellectual origins of the Constitution, claimed it could not have been written by any other 55 men at any other time in history. Shares How social media gives public opinion wings By Shoshana Weissmann Social media has provided a newer, more direct forum in which politicians talk to people. Shares The ever-expanding power of the presidency By Tim Donner With the presidential race upon us now in full force, America is reaffirming its long-standing fascination with these quadrennial elections. Stevens It is a great misfortune that Calvin Coolidge consistently ranks as one of the

worst presidents in American history. Justice Brandeis argued that the Constitution protects Americans "in their beliefs, their thoughts, their emotions and their sensations" and "conferred, as against the government, the right to be let alone" the most comprehensive of rights and the right most valued by civilized men.

Chapter 3 : Article II: The Executive Branch - National Constitution Center

The Constitution of the United States of America is the supreme law of the United States. Empowered with the sovereign authority of the people by the framers and the consent of the legislatures of.

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows: Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote; A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them. Before he enter on the execution of his office, he shall take the following oath or affirmation: The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may 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, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and 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, and which shall be established by law: The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of

adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States. The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Chapter 4 : Powers of the President of the United States - Wikipedia

The president needs two-thirds of both the House and the Senate to approve a constitutional amendment. Even if Congress approved an amendment, 75 percent of the states would need to ratify it.

The present-day operational command of the Armed Forces is delegated to the Department of Defense and is normally exercised through the Secretary of Defense. The exact degree of authority that the Constitution grants to the President as Commander in Chief has been the subject of much debate throughout American history, with Congress at various times granting the president wide authority and at others attempting to restrict that authority. In 1794, Washington used his constitutional powers to assemble 12,000 militia to quell the Whiskey Rebellion—a conflict in western Pennsylvania involving armed farmers and distillers who refused to pay excise tax on spirits. According to historian Joseph Ellis, this was the "first and only time a sitting American president led troops in the field", though James Madison briefly took control of artillery units in defense of Washington D. C. George Washington, who had a high degree of autonomy as commander of the armies in France. Roosevelt worked closely with his generals, and admirals, and assigned Admiral William D. Leahy as Chief of Staff to the Commander in Chief. Truman believed in a high amount of civilian leadership of the military, making many tactical and policy decisions based on the recommendations of his advisors—including the decision to use atomic weapons on Japan, to commit American forces in the Korean War, and to terminate Douglas MacArthur from his command. Johnson kept a very tight personal control of operations during the Vietnam War, which some historians have sharply criticized. Bush assembled and led one of the largest military coalitions of nations in modern times. Confronting a major constitutional issue of murky legislation that left the wars in Korea and Vietnam without official declarations of war, Congress quickly authorized sweeping war-making powers for Bush. Bush during the War in Afghanistan and Iraq War achieved mixed results. However, insufficient post-war planning and strategy by Bush and his advisors to rebuild those nations were costly. In times of war or national emergency, the Congress may grant the president broader powers to manage the national economy and protect the security of the United States, but these powers were not expressly granted by the Constitution. The president can issue rules, regulations, and instructions called executive orders, which have the binding force of law upon federal agencies but do not require approval of the United States Congress. Executive orders are subject to judicial review and interpretation. The Budget and Accounting Act of 1921 put additional responsibilities on the presidency for the preparation of the United States federal budget, although Congress was required to approve it. Previous presidents had the privilege of impounding funds as they saw fit, however the United States Supreme Court revoked the privilege in 1957 as a violation of the Presentment Clause. The power was available to all presidents and was regarded as a power inherent to the office. The act also created the Congressional Budget Office as a legislative counterpoint to the Office of Management and Budget. Powers related to legislation The president has several options when presented with a bill from Congress. If the president agrees with the bill, he can sign it into law within ten days of receipt. If the president opposes the bill, he can veto it and return the bill to Congress with a veto message suggesting changes unless the Congress is out of session then the president may rely on a pocket veto. Presidents are required to approve all of a bill or none of it; selective vetoes have been prohibited. In 1996, Congress gave President Bill Clinton a line-item veto over parts of a bill that required spending federal funds. The Supreme Court, in Clinton v. City of New York, ruled the line-item veto unconstitutional. The president may even declare them unenforceable but the Supreme Court has yet to address this issue. The process has traditionally been difficult and relatively rare. The threat of a presidential veto has usually provided sufficient pressure for Congress to modify a bill so the President would be willing to sign it. Much of the legislation dealt with by Congress is drafted at the initiative of the executive branch. If Congress has adjourned without acting on proposals, the president may call a special session of the Congress. Beyond these official powers, the U. S. president has several informal powers. To improve the working relationship with Congress, presidents in recent years have set up an Office of Legislative Affairs. Presidential aides have kept abreast of all important legislative activities. Powers of appointment Before taking office, the president-elect and his transition team must appoint people to more than 6,000 federal positions. Many, but not

all, of these positions at the highest levels are appointed by the president with the advice and consent of the United States Senate. These nominations require Senate confirmation, and this can provide a major stumbling block for presidents who wish to shape the federal judiciary in a particular ideological stance. As head of the executive branch, the president appoints the top officials for all federal agencies. These positions are listed in the Plum Book which outlines more than seven thousand appointive positions in the government. Many of these appointments are made by the president. In the case of ten agencies, the president is free to appoint a new agency head. Other agencies that deal with federal regulation such as the Federal Reserve Board or the Securities and Exchange Commission have set terms that will often outlast presidential terms. For example, governors of the Federal Reserve serve for fourteen years to ensure agency independence. The president also appoints members to the boards of directors for government-owned corporations such as Amtrak. The president can also make a recess appointment if a position needs to be filled while Congress is not in session. This use of the spoils system allowed presidents to reward political supporters with jobs. Guiteau, a disgruntled office seeker, Congress instituted a merit-based civil service in which positions are filled on a nonpartisan basis. The president must also appoint his staff of aides, advisers, and assistants. These individuals are political appointments and are not subject to review by the Senate. All members of the staff serve "at the pleasure of the President". The report listed employees. List of people pardoned or granted clemency by the President of the United States Article II of the United States Constitution gives the president the power of clemency. The two most commonly used clemency powers are those of pardon and commutation. A pardon is an official forgiveness for an acknowledged crime. Once a pardon is issued, all punishment for the crime is waived. The person accepting the pardon must, however, acknowledge that the crime did take place. Department of Justice to review all requests for pardons. The president can also commute a sentence which, in effect, changes the punishment to time served. While the guilty party may be released from custody or not have to serve out a prison term, all other punishments still apply. Most pardons are issued as oversight of the judicial branch, especially in cases where the Federal Sentencing Guidelines are considered too severe. This power can check the legislative and judicial branches by altering punishment for crimes. Presidents can issue blanket amnesty to forgive entire groups of people. Presidents can also issue temporary suspensions of prosecution or punishment in the form of respites. This power is most commonly used to delay federal sentences of execution. Pardons can be controversial when they appear to be politically motivated. Foreign affairs Under the Constitution, the president is the federal official that is primarily responsible for the relations of the United States with foreign nations. The president appoints ambassadors, ministers, and consuls subject to confirmation by the Senate and receives foreign ambassadors and other public officials. On occasion, the president may personally participate in summit conferences where heads of state meet for direct consultation. Roosevelt met with Allied leaders during World War II; and every president sits down with world leaders to discuss economic and political issues and to reach agreements. Through the Department of State and the Department of Defense, the president is responsible for the protection of Americans abroad and of foreign nationals in the United States. The president decides whether to recognize new nations and new governments, [41] and negotiate treaties with other nations, which become binding on the United States when approved by two-thirds of the Senate. The president may also negotiate executive agreements with foreign powers that are not subject to Senate confirmation. National Emergencies Act and International Emergency Economic Powers Act The Constitution does not expressly grant the president additional powers in times of national emergency. However, many scholars think that the Framers implied these powers because the structural design of the Executive Branch enables it to act faster than the Legislative Branch. Because the Constitution remains silent on the issue, the courts cannot grant the Executive Branch these powers when it tries to wield them. The courts will only recognize a right of the Executive Branch to use emergency powers if Congress has granted such powers to the president. Lincoln claimed that the rebellion created an emergency that permitted him the extraordinary power of unilaterally suspending the writ. Supreme Court upheld this order in *Korematsu v. Sawyer*, voting that neither Commander in Chief powers nor any claimed emergency powers gave the president the authority to unilaterally seize private property without Congressional legislation. When Richard Nixon tried to use executive privilege as a reason for not turning over subpoenaed audio tapes to a special

prosecutor in the Watergate scandal, the Supreme Court ruled in *United States v. Nixon* that privilege was not absolute. The Supreme Court affirmed this in *Clinton v. Jones*, which denied the use of privilege in cases of civil suits. Some have even spoken of "the imperial presidency", referring to the expanded role of the office that Franklin D. Roosevelt maintained during his term. President Theodore Roosevelt famously called the presidency a "bully pulpit" from which to raise issues nationally, for when a president raises an issue, it inevitably becomes subject to public debate. The Separation of Powers devised by the founding fathers was designed to do one primary thing: Based on their experience, the framers shied away from giving any branch of the new government too much power. The separation of powers provides a system of shared power known as "checks and balances". For example, the President appoints judges and departmental secretaries, but these appointments must be approved by the Senate. The president can veto bills, or deny them. If he does that, the bill is sent back to Congress.

Hillsdale College was founded in by men and women who proclaimed themselves "grateful to God for the inestimable blessings resulting from the prevalence of civil and religious liberty and intelligent piety in the land," and who believed that "the diffusion of sound learning is essential to the perpetuity of these blessings."

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies. The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, 3 for six Years; and each Senator shall have one Vote. Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen. The Senate shall chuse their other Officers, and also a President pro tempore , in the Absence of the Vice President, or when he shall exercise the Office of President of the United States. The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. Judgment in Cases of impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators. T he Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, 5 unless they shall by Law appoint a different Day. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide. Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills. Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days Sundays excepted after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law. To borrow Money on the credit of the United States; 3: To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; 4: To establish an

uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States; 5: To provide for the Punishment of counterfeiting the Securities and current Coin of the United States; 7: To establish Post Offices and post Roads; 8: To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries; 9: To constitute Tribunals inferior to the supreme Court; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress; To exercise exclusive Legislation in all Cases whatsoever, over such District not exceeding ten Miles square as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines , Arsenals, dock-Yards, and other needful Buildings;â€”And To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight , but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person. No Bill of Attainder or ex post facto Law shall be passed. No Capitation , or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. No Tax or Duty shall be laid on Articles exported from any State. No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: No Money shall be drawn from the Treasury, but in Consequence of Appropriation s made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time. No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument , Office, or Title, of any kind whatever, from any King, Prince, or foreign State. No State shall, without the Consent of Congress, lay any Duty of Tonnage , keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows 2: Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President. The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States. In Case of the Removal of the President from Office, or of his

Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, 9 the Same shall devolve on the VicePresident, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected. The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them. Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may 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, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment. He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur ; and he shall nominate, and 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, and which shall be established by Law: The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session. Section 3 He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment , he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour , and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;â€”to all Cases affecting Ambassadors, other public Ministers and Consuls;â€”to all Cases of admiralty and maritime Jurisdiction ;â€”to Controversies to which the United States shall be a Party;â€”to Controversies between two or more States;â€”between a State and Citizens of another State; 10 â€”between Citizens of different States, â€”between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction , both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make. The Trial of all Crimes, except in Cases of Impeachment , shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof. A Person charged in any State with Treason , Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime. No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any

other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress. The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State. Section 4 The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive when the Legislature cannot be convened against domestic Violence. All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States. The Word "the", being interlined between the seventh and eight Lines of the first Page, The Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page.

Chapter 6 : Article II - The United States Constitution

This fact, together with the president's pledge to "the best of my ability to preserve, protect and defend the Constitution," suggests a special connection between the president and the Constitution.

The Institutions of Foreign Policy The Powers of the President In contrast to the many powers it gives Congress, the Constitution grants few specific powers to the president. Indeed, most of Article II, which deals with the executive branch, relates to the method of election, term and qualifications for office, and procedures for succession and impeachment rather than what the president can do. The powers of the president are not limited to those granted in the Constitution. Presidential authority has expanded through the concept of inherent powers see the section on inherent powers later in this chapter as well as through legislative action.

Treaty power The president has the authority to negotiate treaties with other nations. These formal international agreements do not go into effect, however, until ratified by a two-thirds vote of the Senate.

Appointment power The president selects many people to serve the government in a wide range of offices: More than 2, of these positions require confirmation approval by the Senate under the "advice and consent" provision of the Constitution. Confirmation hearings can become controversial, as did the hearing for Clarence Thomas, President George H. Such appointments are considered patronage.

Legislative powers The president is authorized to proposed legislation. If the president rejects a bill, it takes a two-thirds vote of both houses, which is difficult to achieve, to accomplish a veto override. Other specific powers The president can call Congress into special session and can adjourn Congress if the House and the Senate cannot agree on a final date. The power to grant pardons for federal crimes except impeachment is also given to the president. President Gerald Ford pardoned former President Richard Nixon for any crimes he may have committed while in office, and he was able to do so because Nixon resigned before impeachment charges were brought.

Inherent powers Inherent powers are those that can be inferred from the Constitution. Based on the major role the Constitution gives the president in foreign policy that is, the authority to negotiate treaties and to appoint and receive ambassadors , President George Washington declared that the United States would remain neutral in the war between France and Great Britain. To conduct foreign policy, presidents also have signed executive agreements with other countries that do not require Senate action. The Supreme Court ruled that these agreements are within the inherent powers of the president. Under executive privilege, the president decides when information developed within the executive branch cannot be released to Congress or the courts. A claim of executive privilege is based on the separation of powers, the need to protect diplomatic and military secrets, and the notion that people around the president must feel free to give candid advice. Many presidents have invoked executive privilege including Bill Clinton during the Monica Lewinsky scandal and George W. Bush during the investigation into the firing of a number of U. As commander in chief of the armed forces, presidents have sent American troops into combat or combat situations without congressional authorization. The experience of the Vietnam War led to the War Powers Act , which requires the president to consult Congress and to withdraw troops after 60 days unless Congress specifically approves their continued deployment. Congress authorized the use of force in Iraq in As opposition to the war grew, however, Congress found it difficult to compel the president to change policy by any means short of cutting off all funding for the conflict. Inherent powers allow a president to respond to a crisis. Presidential actions based on inherent powers can be limited by legislation or declared unconstitutional by the Supreme Court. Delegation of powers Congress has given power to the executive branch in the area of domestic policy. President Franklin Roosevelt asked for and received extraordinary authority to do what he thought was necessary to bring the country out of the Depression. Congress has created new cabinet departments and federal agencies that have given the president and the executive branch broad powers to address problems such as education, welfare, the environment, and, most recently, homeland security. The trend throughout the 20th century has been to increase presidential powers at the expense of Congress.

Chapter 7 : The Presidents and the Constitution: A Living History by Ken Gormley

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided. The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

Constitution grants Congress the power to declare war. The President, meanwhile, derives the power to direct the military after a Congressional declaration of war from Article II, Section 2 , which names the President Commander-in-Chief of the armed forces. These provisions require cooperation between the President and Congress regarding military affairs, with Congress funding or declaring the operation and the President directing it. Nevertheless, throughout the 20th and 21st centuries, Presidents have often engaged in military operations without express Congressional consent. Commander in Chief The questions of whether the President possesses authority to use the military absent a Congressional declaration of war and the scope of such power, if it exists, have proven to be sources of conflict and debate throughout American history. In general, scholars express various views on the amount of power that the President actually has and the amount of power that the Constitution promises to the holder of that position. The War Powers Resolution requires that the President communicate to Congress the committal of troops within 48 hours. Further, the statute requires the President to remove all troops after 60 days if Congress has not granted an extension. This resolution, however, has not been as effective as Congress likely intended see the "War Powers Resolution" section in the Commander in Chief Powers article. The terrorist attacks against the World Trade Center on September 11, further complicated the issue of war powers shared between the President and Congress. When the United States invaded Afghanistan, the U. The military then placed these "detainees" at a U. Consequently, the Bush Administration and military believed that the detainees could not avail themselves of habeas corpus and certain protections guaranteed by the U. As the military held many of these prisoners at the base for years without bringing formal charges against them, the prisoners found counsel within the United States to file habeas corpus petitions within U. A series of cases then came before the U. The Court then instructed the district courts to hear the petitions. The Supreme Court deferred to the lower appeals courts, which found that due to the Detainee Treatment Act, " courts do not have the authority to hear lawsuits like the one[s] filed [here]. Lincoln claimed that the rebellion created an emergency that permitted him the extraordinary power of unilaterally suspending the writ. Supreme Court upheld this order in *Korematsu v. Harry Truman* declared the use of emergency powers when he seized private steel mills that failed to produce steel because of a labor strike in With the Korean War ongoing, Truman asserted that he could not wage war successfully if the economy failed to provide him with the material resources necessary to keep the troops well-equipped. Sawyer , voting that neither Commander in Chief powers nor any claimed emergency powers gave the President the authority to unilaterally seize private property without Congressional legislation.

The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. Taxonomy upgrade extras.

After many votes, the House of Representatives chose Jefferson, and soon thereafter the amendment was speedily approved. The 25th amendment superseded this clause regarding presidential disability, vacancy of the office, and methods of succession

Section 1 The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows: Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President. The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States. No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States. In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected. The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them. Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and 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, and which shall be established by Law: The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3 He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United

States. For instance, the authority to negotiate treaties has been assigned to the President alone as part of a general authority to control diplomatic communications. Thus, since the early Republic, the Clause has not been interpreted to give the Senate a constitutionally mandated role in advising the President before the conclusion of the treaty. Also of substantial vintage is the practice by which the Senate puts reservations on treaties, in which it modifies or excludes the legal effect of the treaty. The President then has the choice, as with all treaties to which the Senate has assented, to ratify the treaty or not, as he sees fit. The question of whether the President may terminate treaties without Senate consent is more contested. In *Goldwater v. Carter*, President Carter gave notice to Taiwan of the termination of our mutual defense treaty. The Court of Appeals for the District of Columbia held that the President did have authority to terminate the treaty, but the Supreme Court in *Goldwater v. Carter*, vacated the judgment without reaching the merits. The treaty termination in *Goldwater* accorded with the terms of the treaty itself. Holland suggests that the Treaty Clause permits treaties to be made on subjects that would go beyond the powers otherwise enumerated for the federal government in the Constitution. *Covert*, however, the Court held that treaties may not violate the individual rights provisions of the Constitution. A still-debated question is the extent to which the Treaty Clause is the sole permissible mechanism for making substantial agreements with other nations. In fact, the majority of U. The Supreme Court has endorsed unilateral executive agreements by the President in some limited circumstances. For instance, in *United States v. Belmont*, the Court upheld an agreement to settle property claims of the government and U. The Court has never made clear the exact scope of executive agreements, but permissible ones appear to include one-shot claim settlements and agreements attendant to diplomatic recognition. With so-called congressional-executive agreements, Congress has also on occasion enacted legislation that authorizes agreements with other nations. It is sometimes argued in favor of the substantial interchangeability of treaties with so-called congressional-executive agreements that Congress enjoys enumerated powers that touch on foreign affairs, like the authority to regulate commerce with foreign nations. But, unlike legislation, international agreements establish binding agreements with foreign nations, potentially setting up entanglements that mere legislation does not. *Neilson*, the Supreme Court has distinguished between treaties that are now called self-executing and treaties that are non-self-executing. Self-executing treaties have domestic force in U. Non-self-executing treaties require additional legislation before the treaty has such domestic force. *Texas*, the Court suggested there may be a presumption against finding treaties self-executing unless the treaty text in which the Senate concurred clearly indicated its self-executing status. Appointments

The remainder of Paragraphs 2 and 3 of Article II deals with the subject of official appointments. With regard to diplomatic officials, judges and other officers of the United States, Article II lays out four modes of appointment. The text, however, raises the questions: *Chadha*, may implicitly have given the Buckley formulation more substance. Distinguishing inferior from principal officers has also sometimes proved puzzling. Perhaps the greatest source of controversy regarding the Appointments Clause, however, surrounds its implications, if any, for the removal of federal officers. *United States*, and, indeed, may not reserve for itself any direct role in the removal of officers other than through impeachment, *Bowsher v. The Court* has since held, in that vein, that officers of the United States may not be shielded from presidential removal by multiple layers of restrictions on removal. Thus, inferior officers appointed by heads of departments who are not themselves removable at will by the President must be removable at will by the officers who appoint them. *Free Enterprise Fund v. Accounting Oversight Board*

The Recess Appointments Clause was included in Article II in the apparent anticipation that government must operate year-round, but Congress would typically be away from the capital for months at a time. Over the ensuing decades—and extending to modern times when Congress itself sits nearly year-round—the somewhat awkward wording of the Clause seemed to pose two issues that the Supreme Court decided for the first time in *First*, does the power of recess appointments extend to vacancies that initially occurred while the Senate was not in recess? As a result, in the particular case, the Court ruled against the President, because the relevant recess was too short. *Davis and Jacob E. McGinnis*

The practice and jurisprudence of the Treaty and Appointments Clauses err when they depart, as they too often do, from the original meaning of the Constitution. Shane Article II of the U. Constitution is plainly critical to establishing two fundamental institutional relationships:

Chapter 9 : The Morning Call - We are currently unavailable in your region

Article II, Section I of the Constitution provides that "(t)he executive power shall be vested in a President of the United States of America." And that's mostly it, as far as the Constitution goes.

Johnson became the first president impeached by the House, but he was later acquitted by the Senate by one vote. The Constitution gives the House of Representatives the sole power to impeach an official, and it makes the Senate the sole court for impeachment trials. The power of impeachment is limited to removal from office but also provides for a removed officer to be disqualified from holding future office. Fines and potential jail time for crimes committed while in office are left to civil courts. Origins Impeachment comes from British constitutional history. And the founders, fearing the potential for abuse of executive power, considered impeachment so important that they made it part of the Constitution even before they defined the contours of the presidency. Constitutional Framing During the Federal Constitutional Convention, the framers addressed whether even to include impeachment trials in the Constitution, the venue and process for such trials, what crimes should warrant impeachment, and the likelihood of conviction. Rufus King of Massachusetts argued that having the legislative branch pass judgment on the executive would undermine the separation of powers; better to let elections punish a President. A bad one ought to be kept in fear of them. Presidents, some delegates observed, controlled executive appointments which ambitious Members of Congress might find desirable. Delegates to the Convention also remained undecided on the venue for impeachment trials. The Virginia Plan, which set the agenda for the Convention, initially contemplated using the judicial branch. Again, though, the founders chose to follow the British example, where the House of Commons brought charges against officers and the House of Lords considered them at trial. Ultimately, the founders decided that during presidential impeachment trials, the House would manage the prosecution, while the Chief Justice would preside over the Senate during the trial. The founders also addressed what crimes constituted grounds for impeachment. Treason and bribery were obvious choices, but George Mason of Virginia thought those crimes did not include a large number of punishable offenses against the state. But subsequent experience demonstrated the revised phrase failed to clarify what constituted impeachable offenses. Individual Members of the House can introduce impeachment resolutions like ordinary bills, or the House could initiate proceedings by passing a resolution authorizing an inquiry. The Committee on the Judiciary ordinarily has jurisdiction over impeachments, but special committees investigated charges before the Judiciary Committee was created in 1795. The committee then chooses whether to pursue articles of impeachment against the accused official and report them to the full House. If the articles are adopted by simple majority vote, the House appoints Managers by resolution to manage the ensuing Senate trial on its behalf. These Managers act as prosecutors in the Senate and are usually members of the Judiciary Committee. The number of Managers has varied across impeachment trials but has traditionally been an odd number. The Use of Impeachment The House has initiated impeachment proceedings more than 60 times but less than a third have led to full impeachments. Just eight—all federal judges—have been convicted and removed from office by the Senate. Senator William Blount of North Carolina in 1798 have also been impeached. Blount, who had been accused of instigating an insurrection of American Indians to further British interests in Florida, was not convicted, but the Senate did expel him. Other impeachments have featured judges taking the bench when drunk or profiting from their position. For Further Reading Farrand, Max, ed. *The Records of the Federal Convention of 1787*. New Haven and London: Yale University Press, 1967. *The Age of Impeachment: American Constitutional Culture Since 1787*. University Press of Kansas, 1997. *The Impeachment and Trial of Andrew Johnson*. Mercer University Press, 1997. *House of Representatives, 93rd Cong.* University of Chicago Press, 1974. *Government Printing Office, Office of the Historian:*