Ch. 14 – Presidency In Action

Section 1: The Growth of Presidential Power
Article II

- Article II – Constitution’s Executive Article
- Sets out powers such as:
  - Command Armed Forces, Make Treaties, Send/Receive Diplomats, Etc.
- Powers of the President very sketchy – Article II most loosely drawn part of the Constitution
- Struggle around defining the power of the presidency
Why Presidential Power Has Grown

- Constitution’s formal grants of power to the President has not changed but Presidential power has grown a lot
- Why???
Unity of the Presidency

- There’s only one President.
  - Congress = Two houses
    - THoR – 435 members
    - Senate – 100 members
  - People tend to look to the President for leadership since understanding one person is easier than 535.
  - Use of media is easier for President.
Strong Federal Government

- We have had many crises that have needed a strong government to fix them.
- Also, we have had men in the office that have very specific ideas to what the federal government should do.
  - FDR, Lincoln, Teddy Roosevelt, etc.
- Also, technological and industrial changes needed to be regulated by the govt.
Decisiveness

- War
  - When you’re at war, you want your government to give specific instructions on what to do and why you are doing it.
  - Presidency is unique in being one person who can do that.
Congressional Actions

- Over time, Congress has ceded some power to the Executive Branch in order for it to function.
- Laws passed by Congress tend to only be outlines and the Executive Branch fills in the details.
Presidential Views

- Presidents take 2 views on powers of the Presidency

1. Roosevelt ➔ “Stewardship Theory” – President should have undefined and limitless power unless specifically forbidden by the Constitution.

2. Taft ➔ “Constitutional Theory” – Only exercise those powers specifically granted by the Constitution or through Congressional legislation.
Imperial Presidency?

- Critics of strong Presidential power condemn “Imperial Presidency” – President as Emperor who makes strong actions without consulting Congress or acting in secrecy

- Most modern Presidents

- Worried that Presidents have become isolated policy makers
Chapter 14, Section 2
The President’s Executive Power
Introduction

- The President’s power to execute the law endows him with an enormous amount of authority.
Executing the Law

- President is Chief Executive – executes (enforces, administers, carries out) the provisions of federal law

- 2 constitutional provisions provides these powers
  - 1. oath of office – sworn by President on day he takes office
    - “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.”
  - 2. Constitution’s command that “he shall take that the laws be faithfully executed”
Executing the Law

- President’s power to execute the law covers all federal laws (ex: social security, gun control, minimum wages, affirmative action, immigration, and MANY others)

- In executing & enforcing law, the executive branch also interprets it
  - The Pres. may, & does, use discretion to how vigorously and in what particular way any given law will be applied in practice
  - Congress sets out basic policies; specific details left to be worked out by exec. branch
Introduction to the Ordinance Power

- Job of administering & applying most federal laws is the day-to-day work of all of the many depts, bureaus, offices, boards, commissions, councils, & other agencies that make up the huge executive branch (2.7 million men & women)

- Pres has power to issue executive orders – a directive rule, or regulation that has the effect of law
Ordinance Power

- **Ordinance power** – the power to issue executive orders; comes from 2 sources:
  - 1. The Constitution
The Appointment Power

- President cannot succeed without loyal subordinates that support him
- With Senate’s consent, the Pres. names most of the top-ranking officers of the fed govt.
  1. Ambassadors & other diplomats
  2. Cabinet members & their top aides
  3. The heads of such independent agencies as the EPA & NASA
  4. All federal judges, US marshals, & attorneys
  5. All officers in the armed forces
The Removal Power

- Constitution does not say how or by whom appointed officers may be dismissed
- The Historical Debate:
  1. Should the Senate be responsible for removing offices OR
  2. Should the President (the 1st congress gave the Pres the power to remove any officer he appointed, except federal judges; Congress has tried to restrict this power)
The Removal Power: 
Removal & the Court

- Supreme Court has stated that power of removal was an essential part of the executive power
- In 1935, Supreme Court placed limits on President’s removal power
  - Ruled that Congress has the power to set conditions under which officers might be removed by the President
  - One way around this – dismissals are often called “resignations”
Bell Ringer

- What is an executive order and where does the President get this power?

- https://www.youtube.com/watch?v=JUDSeb2zHQ0
Chapter 14 – The Presidency in Action

Section 3: Diplomatic & Military Powers
The Power to Make Treaties

- Treaty – Formal agreement between 2 or more sovereign states
  - Negotiated by President through Secretary of State
  - Requires 2/3 vote of approval by Senate
- Senate does not ratify treaties – “Advice & Consent”
  - President ratifies after approved
The Power to Make Treaties

- If Treaty & Federal Law conflict → last enacted is law
- Treaty cannot conflict with Constitution but none have been found unconstitutional
Executive Agreement

- Many agreements, especially routine ones are Executive Agreements
  - Pact between President and foreign head of state or between their subordinates
  - Can be made without Congressional consent but usually come from Congressional legislation or current treaty
The Power of Recognition

- When Pres. receives diplomats from another sovereign states he exercises his **power of recognition**:
  - President, acting for U.S., acknowledges the legal existence of that country & its gov’t, accepts it as an equal
  - Does not mean that it approves the character/conduct of a country
    - China
The Power of Recognition

- Often used as weapon – T. Roosevelt (Panama) & Truman (Israel) → Guaranteed success of the nations

- Show displeasure by declaring a *Persona Non Grata*
  - Declaring a nation’s ambassadors or diplomats unwelcome=Very harsh
Military Powers - Commander in Chief

- Congress has War Powers but Pres. dominates Military policy
  - almost no limit
- T. Roosevelt – sent Great White Fleet around the world. Congress objected
- Presidents can delegate power to military subordinates
Making Undeclared War

- Can the Pres. declare war without Congressional consent?
  - Many people say NO but History proves otherwise
  - John Adams → 1st to send troops w/ out declaration
  - James Madison & Jefferson followed
- Korea & Vietnam – most extensive “Undeclared Wars”
Congressional Resolutions

- Congress has not declared war since WWII
- Enacted 8 Joint Resolutions allowing Pres. to use military force internationally
Congressional Resolutions

1. 1955 – Eisenhower wanted to guard Taiwan against China
2. 1957 – Eisenhower allowed to check Soviet Union in Middle East
3. 1962 – Kennedy - Cuban Missile Crisis
4. 1962 – Kennedy - military response with construct of Berlin Wall
Congressional Resolutions

5. 1964 – Johnson - defeat Communism is SE Asia


7. 2001 – W. - Post 9/11 War in Afghanistan, Philippines, Georgia, & Yemen

Other Uses of Military Power

- President have deployed armed forces without Congressional Resolution
  - 4 Examples
    1. Truman – Korean War
    2. Reagan – Invasion of Grenada in 1983 to settle coup
    3. Bush Sr. – Invasion of Panama to oust a dictatorship
    4. Clinton – Troops to the Balkans because of ugly Civil War
National frustrations with Vietnam led Congress to pass the War Resolution Act of 1973

- Place limits on Pres. war making powers – 3 Provisions
War Powers Resolution

1. Within 48 hrs. of sending troops, President must report to Congress with details
2. Combat commitment must end within 60 days unless Congress agrees to a longer period (Can be extended 30 days)
3. Congress can end combat commitment anytime with concurrent resolution

**Constitutionality of War Powers Resolution is still being debated**
Legislative and Judicial Powers

- How are the President’s legislative powers an important part of the system of checks and balances?
- What are the President’s major judicial powers?
Legislative Powers

**Recommending Legislation**
- The Constitution provides that the President shall report to Congress on the state of the Union and recommend necessary legislation.
- This power is often called the *message power*.

**The Veto Power**
- All legislation passed by Congress is sent to the President for approval.
- If the President disapproves of a bill, he can veto it. That veto can only be overturned by a two-thirds vote of both houses of Congress.
The Line-Item Veto and Other Legislative Powers

The Line Item Veto

- A line-item veto measure would allow the President to reject specific dollar amounts in spending bills enacted by Congress.

- In 1996, Congress passed the Line Item Veto Act; however, it was struck down by the Supreme Court in 1998.

Other Legislative Powers

- According to Article II, Section 3 of the Constitution, only the President can call a Congress into special session.
Judicial Powers

- The Constitution gives the President the power to “...grant reprieves and pardons for offenses against the United States, except in cases of impeachment.” —Article II, Section 2, Clause 1

- A **reprieve** is the postponement of the execution of a sentence.

- A **pardon** is legal forgiveness for a crime.

- These powers of **clemency** (mercy or leniency) may be used only in cases of federal crimes.

- A **commutation** is to lessen/postpone/remove a given sentence.

- **Amnesty** is pardoning an entire group or class of people.