

FACTFILE: GCE GOVERNMENT & POLITICS

THE EVOLUTION OF THE US PRESIDENCY



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To understand the growth of presidential power in the United States, we must remind ourselves of the type of presidency that the Founding Fathers envisaged.

The prevailing intention of the Founding Fathers was that the Presidency as an institution should be relatively weak. Its primary purpose would be to act as a restraint on the popularly elected legislature, protecting against the 'tyranny of the majority'. However, since the first inauguration in 1789, the holders of the post have sought to

develop the scope of the office. Nineteenth century Presidents such as Jackson and Lincoln did much to enhance the scope of the role, however, it is the 1930s which is heralded as the decade in which the modern Presidency came into being and Presidents thereafter have sought to exploit their powers and resources to the full.

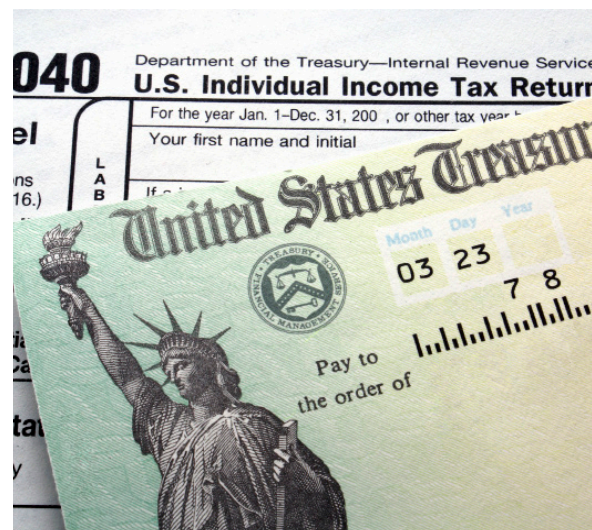
When studying the Presidency, it is often helpful to separate the President's domestic policy role from their foreign policy role.



Domestic transformation

During the early years of the twentieth century the United States was establishing itself as the world's dominant [economic power](#). Its huge growth was accompanied by an inevitable expansion in bureaucracy and government to manage this transformation. The sixteenth amendment (1913) enabled the federal government to levy income taxes, thus giving them enormous financial muscle with which to fund programmes.

The expansion in the scope of the President's role was epitomised by Franklin D Roosevelt's approach to the Great Depression. Roosevelt spearheaded a massive programme of government intervention called the 'New Deal' and took measures to reinvigorate the American economy. This was a departure from the laissez faire approach that



many previous Presidents had taken. In his [inauguration speech](#) he called for “broad executive power to wage a war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe”.

Although often [ruled unconstitutional by the Supreme Court](#) and lambasted by prominent critics for acting dictatorially, the New Deal, its associated programmes and ‘Alphabet Agencies’ appeared to be successful. It made sense to have a centralised Executive co-ordinating the economy rather than a Congress whose members often had parochial rather than national interests as their priority. Since then it has been generally accepted that it is necessary to give the Executive the main responsibility for directing the economy and proposing a legislative programme for Congress to consider. However, this is constitutionally problematic. Article One of the Constitution is quite clear in its assertion that Congress holds the power of the purse. Therefore, to avoid legal challenges, Congress passed the Employment Act in 1949 which, in essence, gave (and continues to give) the Executive express permission to direct the economy on Congress’s behalf.



FDR said that his approach “may call for temporary departure from that normal balance of public procedure”. It was the drift away from laissez faire that established the position of the President as Chief Legislator, proposing a package of legislation for Congress to consider annually in his State of the Union address to a full Congress. It is important that we remember that this does not make the President pre-eminent in law making but rather it gives them the opportunity to implement the policies on which they were elected. The President has to rely on sympathetic members of Congress to introduce bills on their behalf. Presidents’ overall

success rate in legislative terms is still comparatively low in comparison to the British system. Whilst the British Prime Minister governs through Parliament, the President must govern with Congress.

Whilst the scope of the Presidency’s role has increased, there has been no addition to the position’s constitutional powers. Instead, what we have seen is an improvisation and, at times, [exploitation of the powers and resources of the Presidency](#).

The President also has a number of sources of support in terms of domestic policy implementation. In 1937 the Brownlow Report established the Executive Office of the Presidency (EXOP). This was a recognition of the exponential growth in government and the widening scope of the Presidency. Indeed in his introduction to the Committee’s report the President stated “the president needs help”. [EXOP](#) allowed and continues to allow the President to surround himself with policy experts and bring greater co-ordination to the Executive Branch. Although the federal bureaucracy is often unwieldy and problematic, the President’s position at its apex gives him considerable leverage in the implementation of government programmes.

The President has also sought to exploit the position of being the only American politician with a ‘national mandate’ and accordingly the only one with a connection to all of the people. This will often take the form of a direct appeal to the people for support for policies with the express intention of pressuring Congress into compliance. The President may clear space on all the major networks to make such an address. [Ronald Reagan](#) was particularly adept at using this tactic.

The President does not need to get a law passed by Congress every time that the Executive wishes to do something. The Executive can act on the authority it has based upon what already exists in law and what is in the Constitution. One device which allows the President to take decisive action is the Executive Order and many actions are implemented in this way. Obama has signed 267 Executive Orders including one to increase sanctions against North Korea. FDR issued a mammoth 3,522 Executive Orders during his time as President which included the authorisation to intern Americans of Japanese descent during World War Two.

The President has also used a variety of legislative tools to try to obtain outcomes. Lyndon B Johnson used ‘categorising’ which stipulated the exact

policy areas that states could apply their federal funding to, thus indirectly influencing state decisions. Although approaching federal spending from a different perspective, Nixon sought to 'impound' federal funds (though this power was greatly diluted by the Impoundment Control Act 1974) which was Congress' action to try to reassert its 'power of the purse'.

The veto power is often used as a bargaining tool with Congress. Bill Clinton sought to refine the veto power by using a 'line item veto' but this was ruled unconstitutional in *Clinton vs New York* (1998). George W Bush modified the approach to the veto by using '[signing statements](#)', effectively highlighting the parts of bills that he had objections to and would not enact.



Foreign policy

If the President is reliant on a range of strategical 'smoke and mirrors' tactics on the domestic front, the same cannot be said of the approach to foreign policy. Article 2 of the Constitution specifically states that 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'. This part of the Constitution clearly gives the President a lead in foreign policy and is one of the reasons, particularly in the twentieth century, that the role of the President and the perception of these powers grew.

Since their involvement in World War Two America has made a commitment to be at the forefront of managing world affairs. It fought the Cold War against the Soviet Union and is now engaged in a self-styled global war on terror. It is now the only superpower. A higher profile for foreign policy means more power for the President and it is easier for a President to enjoy more success in foreign policy than in the domestic arena.

This relatively unlimited power, whilst deemed necessary, ran contrary to the ethos of the Founding Fathers. This was the view of [Arthur M. Schlesinger](#) in his book, *The Imperial Presidency* (1973). The title itself suggested an all-powerful individual, unrestrained by checks and balances, wielding American military and economic power to dominate the globe.

During the Cold War, the defence of the United States became an issue of national survival. The President needed to be able to react swiftly to events and was given a high degree of flexibility. His personal standing as '[leader of the free world](#)' also enhanced his personal standing.

The Constitution in its assertion of the President's role as Commander in Chief makes the checks that Congress tries to apply essentially reactive. Whilst it is only Congress that can declare war, the Cold War was fought using military action for which Presidents did not have to seek specific Congressional approval. Despite the combat zones and casualty tolls which strongly resemble war, several Presidents have taken advantage of this technical discrepancy.

Truman sent troops to Korea as the main part of a UN coalition from 1950 to 1953. Bush Snr did the same in the 1990 Gulf War. Both instances were American led operations. Presidents JFK, LBJ and Nixon managed to maintain American involvement in Vietnam for 16 years. In this instance, Congress actually gave LBJ a blank cheque to act as he pleased [Tonkin Gulf Resolution 1964]. Nixon used this to break international law and bomb the non-combatant countries of Laos and Cambodia.

In response to this and in a bid to regain some influence over American foreign policy, Congress passed the War Powers Act in 1973. This meant that the President could only commit US troops for

60 days before seeking the approval of Congress for funding. For example, in 1990 Bush Sr. sought approval to keep troops in the Gulf. In 1982, Reagan was forced to withdraw troops from Lebanon on this basis. In 2011, Obama continued military actions in Libya in apparent defiance of the act.

The President has also exploited legal loopholes through the use of Executive Agreements. These are arrangements made with another country on matters such as trade and co-operation. They do not require Senate ratification because they are not binding. Nixon only ever signed 17 treaties but made 214 Executive Agreements.

Congress thought that this was a bit of a 'get out' for the President, so they passed the Case Act in 1972. As a result Congress has to be given notice of any agreement within 20 days of it being made. They can then hamper it through funding. There are still over 250 Executive Agreements made each year compared to an average of 30 treaties. This can be attributed to the fact that the President's power to make treaties which is stated in Article II, Section 2, Clause 2 of the Constitution, has to be ratified by two-thirds of the Senate which can be problematic for a President at the best of times.



The Presidents' powers allow them to shape the overall direction of foreign policy. Congress simply has no such resources at its disposal. Truman was able to forge the [Truman Doctrine](#), which successive Presidents followed with ease, [Nixon was able to make détente with China](#) a priority and Bush was able to shape a war on terror in a neo-conservative direction. Whilst withdrawing troops on the ground in Afghanistan and Iraq, Obama has acted with very little oversight in the use of [unmanned drones](#).



Conclusion

This Factfile has explored the factors responsible for the growth in Presidential power. The Office is completely transformed from that envisaged by the Founding Fathers; however, this is not to say that

there is Executive dominance. One could easily take an alternative approach and examine the various circumstances and elements that can frustrate the President in trying to obtain his policy goals.

