

THE EXECUTIVE BRANCH



- The branch of government charged with *implementing* federal law and policy.
- Subdivisions:
 - The **Presidency** — the president, along with the vice president, advisers, and staff.
 - The **Bureaucracy** — federal agencies that report to the president and/or Congress.



PRESIDENTIAL POWERS

- Four broad types of presidential power:
 - **Formal powers** — those listed in the text of the Constitution.
 - **Inherent powers** — powers based on the responsibility to “faithfully execute the laws.”
 - **Informal powers** — ways of influencing public opinion and other branches of government to support the president's goals.
 - Powers **delegated** by Congress.

FORMAL PRESIDENTIAL POWERS

Power to sign or *veto* proposed legislation.



FORMAL PRESIDENTIAL POWERS

Appointment power (subject to Senate confirmation; simple majority):

- High-level appointments to the bureaucracy (approximately 4,000 positions).
- Ambassadors.
- Generals and admirals.
- Federal judges and Supreme Court justices.



FORMAL PRESIDENTIAL POWERS

- Power to negotiate *treaties* (subject to Senate ratification; two-thirds majority).
- Power to *pardon* criminals or those accused of crimes.
 - Controversial example: President Ford's pardon of President Nixon.



FORMAL PRESIDENTIAL POWERS

Powers as *commander-in-chief* of the military.

- Conflict over the **War Powers Act of 1973**.



FORMAL PRESIDENTIAL POWERS

Powers as *head of state*.

- Meets with foreign heads of state and government.
- Receives ambassadors.



FORMAL PRESIDENTIAL POWERS

- Deliver information regarding the *state of the union* to Congress on a regular basis.
 - Not always done in person, particularly in the 19th century.
 - Now an important part of the *power to persuade*.



INHERENT PRESIDENTIAL POWERS

Based on the power to “take care that the laws be faithfully executed.”

- Power to issue *executive orders*.
- Power to enter into *executive agreements* with foreign leaders.
- *Executive privilege* (controversial).

OTHER PRESIDENTIAL POWERS

- Informal powers
 - The power to *persuade* and recommend new laws to Congress.
- Delegated powers
 - The budget power.

THEORIES OF PRESIDENTIAL POWER

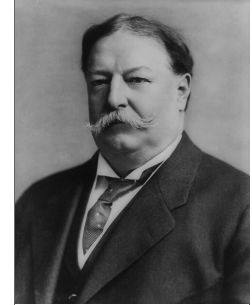
There are three broad perspectives on the power of the presidency:

- **Constitutional Theory** — president's power limited to listed powers in constitutional text.
- **Stewardship Theory** — president's power can be limited by Constitution or laws passed by Congress.
- **Prerogative Theory** — president has power to govern in the public interest, even in violation of the law or Constitution.

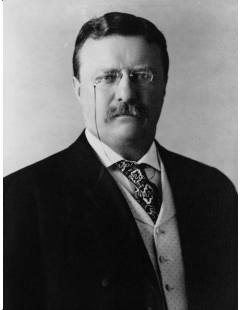
THE CONSTITUTIONAL THEORY

The President's "jurisdiction must be justified and vindicated by affirmative constitutional or statutory provision or it does not exist."

— William Howard Taft (1916), *Our Chief Magistrate and His Powers*, p. 140.



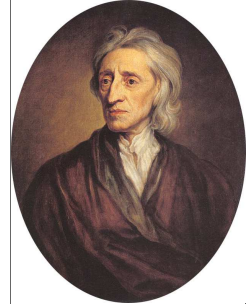
THE STEWARDSHIP THEORY



“My belief was that it was not only [the President’s] right but his duty to do anything that the needs of the Nation demanded unless such action was forbidden by the Constitution or by the laws.”
— Theodore Roosevelt (1913), *Autobiography*, p. 357.

THE PREROGATIVE THEORY

The executive has the “power to act according to discretion for the public good without the prescription of the law and sometimes even against it...”
— John Locke (1689), *Two Treatises of Government*, Book II, Chapter 14, Section 160.



THE VICE PRESIDENCY

- For much of American history, not a particularly valuable job; one of Franklin D. Roosevelt's vice presidents, John Nance Garner, said the job was "not worth a pitcher of warm piss."
- However, more recent presidents have treated their vice president as a valued adviser.



OTHER PRESIDENTIAL ADVISERS

- Cabinet (to some extent)
- Executive Office of the President
 - Chief of Staff and White House Office
 - Office of Management and Budget
 - Council of Economic Advisers
 - National Security Council

THE TWO PRESIDENCIES

- Political scientist Aaron Wildavsky argued that the president is more effective in foreign affairs than in domestic politics:
 - Greater legal authority in international politics.
 - “Ceremonial” duties of international politics reinforce the president's stature.
 - Fewer organized interest and public conflicts over foreign policy.
 - Fewer conflicts with Congress over foreign policy.