

Sec. 3—Legislative, Diplomatic, and Law Enforcement Duties of the President

of “usurping” legislative powers,⁶⁴³ but still earlier ones, Washington, Jefferson, and Jackson among them, took a very different line, albeit less boldly and persistently than their later imitators.⁶⁴⁴ Today, there is no subject on which the President may not appropriately communicate to Congress, in as precise terms as he chooses, his conception of its duty. Conversely, the President is not obliged by this clause to impart information which, in his judgment, should in the public interest be withheld.⁶⁴⁵ The President has frequently summoned both Houses into “extra” or “special sessions” for legislative purposes, and the Senate alone for the consideration of nominations and treaties. His power to adjourn the Houses has never been exercised.

THE CONDUCT OF FOREIGN RELATIONS

The Right of Reception: Scope of the Power

“Ambassadors and other public ministers” embraces not only “all possible diplomatic agents which any foreign power may accredit to the United States,”⁶⁴⁶ but also, as a practical construction of the Constitution, all foreign consular agents, who therefore may not exercise their functions in the United States without an *exequatur* from the President.⁶⁴⁷ The power to “receive” ambassadors, *et cetera*, includes, moreover, the right to refuse to receive them, to request their recall, to dismiss them, and to determine their eligibility under our laws.⁶⁴⁸ Furthermore, this power makes the President the sole mouthpiece of the nation in its dealing with other nations.

The Presidential Monopoly

Wrote Jefferson in 1790: “The transaction of business with foreign nations is executive altogether. It belongs, then, to the head of that department, except as to such portions of it as are specially submitted to the Senate. Exceptions are to be construed strictly.”⁶⁴⁹ So when Citizen Genet, envoy to the United States from the first French Republic, sought an *exequatur* for a consul whose commission was addressed to the Congress of the United States, Jefferson

⁶⁴³ The first Harrison, Polk, Taylor, and Fillmore all fathered sentiments to this general effect. See 4 J. Richardson, *supra* at 1860, 1864; 6 *id.* at 2513–19, 2561–62, 2608, 2615.

⁶⁴⁴ See sources cited *supra*.

⁶⁴⁵ Warren, *Presidential Declarations of Independence*, 10 B.U.L. REV. 1 (1930); 3 W. Willoughby, *supra* at 1488–1492.

⁶⁴⁶ 7 Ops. Atty. Gen. 186, 209 (1855).

⁶⁴⁷ 5 J. MOORE, *INTERNATIONAL LAW DIGEST* 15–19 (1906).

⁶⁴⁸ *Id.* at 4:473–548; 5:19–32.

⁶⁴⁹ *Opinion on the Question Whether the Senate Has the Right to Negative the Grade of Persons Appointed by the Executive to Fill Foreign Missions*, April 24, 1790, 5 WRITINGS OF THOMAS JEFFERSON 161, 162 (P. Ford ed., 1895).