

THE PRESIDENCY AND EXECUTIVE BRANCH

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Spring 2016

THE PRESIDENCY

- Unitary or collective actor?
- Elected by Congress or the people?

The executive Power shall be vested in a President of the United States of America

Qualifications:

- “Natural born citizen”
- 35 years old
- Resident of US for 14 years

Expressed powers enumerated in the Constitution

Delegated powers power assigned to Congress that Congress gives to the executive branch

Inherent powers Powers claimed by the President not specified in Constitution or given by Congress

- Usually war powers

EXPRESSED POWERS

- Military - commander in chief
- Judicial - pardons and amnesty
- Diplomatic - treaties and executive agreements
- Executive - focus of executive power, executive privilege
- Legislative - SotU, veto
 - Veto
 - Pocket veto
 - Line-item veto (1906-1998, unconstitutional after)

DELEGATED POWERS

- Congress passes a lot of laws
- Too many for them to act on directly
- Create federal agencies to work towards the goals Congress sets out
- Congressional legislation can be detailed (tax law and the IRS)
- Or not
 - “to assure so far as is possible every working man and woman in the nation safe and healthful working conditions”
 - What are those conditions and how to achieve them?
- Shifts power from Congress to executive branch

- Congress has power to declare war...
- But presidents deploy troops all the time
- War last declared in December 1941
- War Powers Resolution passed over Nixon's veto
 - Presidents generally ignore it

- Brings the agenda to Congress
 - Especially if unified control of government
- SotU
- Executive orders

THE RISE OF PRESIDENTIAL POWER

- Congressional government 1800 - 1930s
 - Weak presidents
 - America's chief clerk

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- The New Deal

PRESIDENTIAL POWER

- The Cabinet:
- Vice President
- Secretary of State
- Secretary of the Treasury
- Secretary of Defense
- Attorney General
- Secretary of the Interior
- Secretary of Agriculture
- Secretary of Commerce
- Secretary of Labor
- Secretary of Health and Human Services
- Secretary of Housing and Urban Development
- Secretary of Transportation
- Secretary of Energy
- Secretary of Education
- Secretary of Veterans Affairs
- Secretary of Homeland Security

Cabinet-rank officials

- White House Chief of Staff
- Director of the OMB
- Administrator of EPA
- Trade Representative
- Ambassador to the United Nations
- Chairman of the Council of Economic Advisers
- Administrator of the Small Business Administration

- Smaller than the Cabinet
- President, VP, Secs of State, Defense, Treasury, Attorney General, & others
- Has own staff separate from Cabinet

- Chief of Staff
- Press secretary
- Special assistants / senior advisers

- Executive Office of the President
- Permanent agencies that perform defined management tasks for the President
- Office of Management and Budget (OMB)
- Council of Economic Advisers (CEA)
- Others

- Party
- Popular mobilization
- Administration

- President is generally more successful when their own party controls Congress
 - But the president can't control members of congress
 - Sometimes their own party revolts
- If opposing party controls Congress, much more difficult
 - Majority controls *what* is on the floor
 - Filibusters in the Senate hard to overcome

- “Going public”
- President tries to forge a direct link between him/herself and the public
- Tries to convince the public to support their policies
- White House Communications Office
- FDR’s fireside chats
- Policy speech tours
- Tweets

LIMITATIONS ON GOING PUBLIC

- Hard to reach those who aren't interested
- Media fragmentation
- Honeymoon period decline

- Appointments - hundreds of political appointments to the bureaucracy that the president fills with like-minded supporters
- Regulatory review - OMB function of reviewing all agency regulations and other rule making before they become public policy
- Recent presidents issue directives to agencies that the agency has to comply with

- Executive orders: presidential decrees
- Examples: Louisiana purchase, annexation of Texas, emancipation proclamation, Japanese internment, EPA, FDA, Peace Corps
- Are subject to judicial review like any other law

- Signing statements - an announcement by a president while signing a bill into law, usually concerned with how the president interprets the law
- Some presidents have tried to declare parts of a law unconstitutional with mixed success from the courts
- Others direct the executive branch to deal with the law in various ways
- Of questionable legal status even though used by all modern presidents

- Emergency powers
 - ... But hard to find a case where Congress wouldn't have acted
- The public interest
 - ... But presidents have particular interests as well
- Presidential power and democracy
 - ... But Congress may be more democratic

THE EXECUTIVE BRANCH AKA THE BU- REAUCRACY

The bureaucracy is expanding, to meet the needs of the expanding bureaucracy.

Oscar Wilde

The only thing that saves us from the bureaucracy is its inefficiency.

Eugene McCarthy

WHY BUREAUCRACY?

- Bureaucracy - the structure of offices, tasks, rules, and principles of organization that are employed by all large-scale institutions to coordinate the work of their personnel
- Bureaucracy is where government actually performs
 - Collecting garbage, policing, mailing Social Security checks, etc
- Routine ensures services are delivered regularly

- Generally pyramidal in shape
- Many workers at the bottom with fewest skills, specializations, and experience
- Fewer at top, tend to oversee a large number

BUREAUCRACY ENABLES GOVERNMENT TO OPERATE

- Bureaucracy enables us to accomplish tasks that would otherwise be unimaginable
 - Dividing up tasks, matching them to an appropriately trained labor force, routinizing procedure, and providing right incentive structure
- Bureaucracies are insulated from politicians

BUREAUCRATS FULFILL IMPORTANT ROLES

- Bureaucrats implement laws
- Bureaucrats make and enforce rules
 - Rules issued provide more details and specifics about what a policy will actually mean
 - Have a brief period of public comment before going into effect

- Administrative adjudication - application of rules and precedents to specific cases to settle disputes with regulated parties
 - NLRB for union certifications
 - FCC for licenses

BUREAUCRACIES SERVE POLITICIANS

- Congress delegates authority to the bureaucracy to save time and energy
- Then provides direction with congressional oversight
 - Bureaucratic agencies monitored by the staff of relevant legislative committees

Four kinds of bureaucratic agencies:

1. cabinet departments
2. independent agencies
3. government corporations
4. independent regulatory commissions

- Mostly structured the same
- Headed by a Secretary
- Deputy Secretary directly under
- Then comes many top administrators (general counsel, chief economist, etc)
- Undersecretaries are in charge of several agencies (bureaus)
 - FBI, Forest Service, IRS, etc
- Bureaus organized into divisions, offices, services, units, etc

INDEPENDENT AGENCIES

- Set up by Congress outside the cabinet structure
- Usually very important or expensive
- NASA, CIA, EPA, FCC, NLRB, SSA

- These provide a service and charge for it similar to a private corporation
- Amtrak, TVA

- These are set up as mini-legislatures but are confined to a small (usually very technical) topic
- None created 1970 - 2008 financial crisis

FUNCTIONS THAT AGENCIES SERVE

1. Clientele agencies
2. Agencies for the maintenance of the union
3. Regulatory agencies
4. Redistributive agencies

- Mission is to promote, serve, or represent a particular interest
- Depts of Agriculture, the Interior, Labor, Commerce, Housing and Urban Development, Transportation, Energy, Education, Health and Human Services

- Revenue agencies (IRS)
- Internal security
 - Depts of Justice (FBI, etc) and Homeland Security (TSA, etc)

- External security
 - “Negotiations” (State) and “Aggressive Negotiations” (Defense)
- State - composed of geographic bureaus as well as functional bureaus (economic, intelligence, etc) and IOs
- Defense
 - Huge budgetary item
 - Many lucrative contracts in districts, making downsizing politically difficult

- A dept, bureau, or independent agency whose purpose is to eliminate or restrict certain behaviors deemed negative in themselves or in their consequences
- Mostly date from 1930s and after
- FDA, OSHA, FTC, etc
- Rules have the force of law and are called administrative legislation

- Fiscal and monetary policy agencies
 - Fiscal policy - taxing and spending (Treasury Dept)
 - Monetary policy - regulates supply/price of money and availability of credit
- Federal Reserve System AKA “The Fed”
 - Authority over credit rates and lending activity of banks
 - “Banker’s bank”

REDISTRIBUTIVE AGENCIES

- Welfare agencies
- Designed to provide a social security net and/or transfer wealth from the rich to the poor
- Social Security Administration by far the largest
- Others:
 - TANF - Dept HHS
 - Medicaid - Dept HHS
 - Food stamps - Dept Agriculture
- Usually means-tested programs
 - Total income must fall below a certain line

PROBLEM OF BUREAUCRATIC CONTROL

- Bureaucrats are motivated
 - More budget = higher salaries, more personnel, benefits, etc
 - Prestige and power
 - Personal (political) beliefs
- But they don't always get what they want - Congress evaluates bureaus' performance
- High level bureaucrats are politicians

BUREAUCRACIES AND THE PRINCIPAL-AGENT PROBLEM

- Congress and the president (principal) “hire” bureaus (agents) to accomplish their goals
- Beneficial because the principal can now turn attention to other issues
- Agent can propose policies that aren’t at principals’ ideal points
- **Bureaucratic drift** - bureaucratic implementation that produces policies closer to the bureaucracy’s preferences than what the original legislation intended, but without political reaction

- Oversight - an effort by Congress to exercise control over the activities of executive agencies
 - Usually hearings or investigations
- Public hearings the most important indication
- (PAP examples)

- A popular campaign promise
- Americans don't like big government and think the government is wasteful
ideal point
- Difficult to do because most people like individual programs

- Elimination of an agency
- Extremely rare since most agencies have large supportive groups
- Deregulation easier - reducing/eliminating restraints on the conduct of individuals or private institutions

- Removing a program from the federal level and passing it to the states or local level
- Often aimed to provide more flexible/efficient services
 - At the cost of heterogeneous policy outputs

- Moving all/part of a program from the public sector to the private
- Doesn't really downsize government, since we still pay for it
- Simply removes employees from government payroll and adds them to private
- Private sector corporations can provide similar services for cheaper
- But private sector employees often provide lower pay and fewer benefits