

Powers of the President Free Response Assignment

After studying the powers of the President, discuss that power in terms of the following:

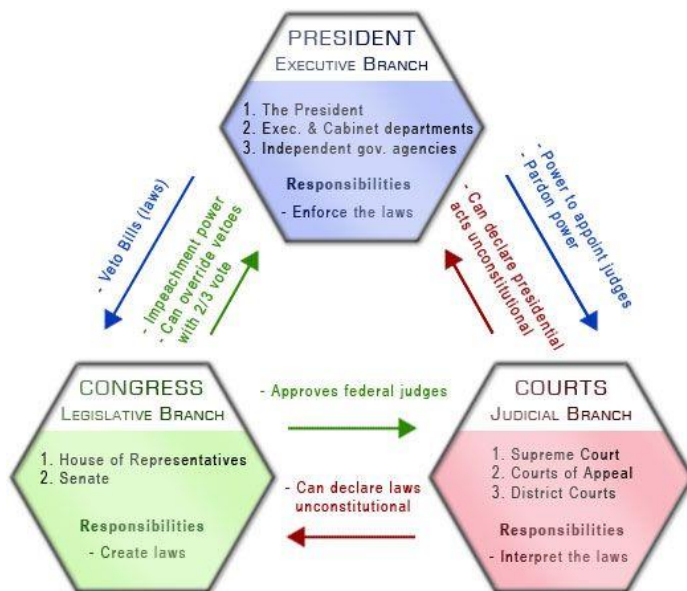
1. Which of the President's powers are based on the Constitution and which are not?
 - A. Constitution
 1. Appointment Power
 2. Treaty Power
 3. Commander-in-Chief of the Military
 4. Veto Power
 5. Pardons
 6. Call Congress into Special Session
 7. Administrative Head of the Country (execute laws, recommend legislation)
 8. Executive Orders
 9. Outlines Legislative Agenda/State of the Union
 10. Fill Administrative Vacancies during Congressional Recesses
 11. Request opinions of administrative officials
 - B. Inherent/Not in Constitution
 1. Executive Agreements
 2. Executive Privilege
 3. Extended Military Engagements (no declaration of war)
 4. Powers given by law (e.g. New Deal, Department of Homeland Security, etc.)/expansion of Presidential power by Congress
2. Choose two Constitutionally based presidential powers and describe:
 - A. **Veto Power**
 1. Why did the Founders give the President this power? And
 - I. The branch that the Founders were most worried about during the creation of our government was not the executive branch, but the legislative branch. In all their wisdom, they devised a system of checks and balances, and the Presidential Power to Veto legislation sent by Congress was one such check that the Executive Branch was given over the Legislative Branch. It is possible for Congress to override a Presidential Veto, but the power remains a powerful force in keeping Congressional power in check. Pocket Veto is another way the President can prevent proposed legislation from becoming law by simply not acting upon it before the session ends, thus killing the legislation.
 2. What are the checks against this power?
 - I. Congress does possess the ability to override the Presidential Veto, but it is difficult. It requires 2/3 approval in both houses of Congress (Senate and House) in order to override a Presidential Veto. Congress cannot, however, exercise any power against the Pocket Veto, which allows the President to refuse to act upon a bill

before adjournment, killing it. The Supreme Court did rule eventually that the President can only exercise Pocket Veto when Congress has adjourned sine die from a session.

B. Pardons

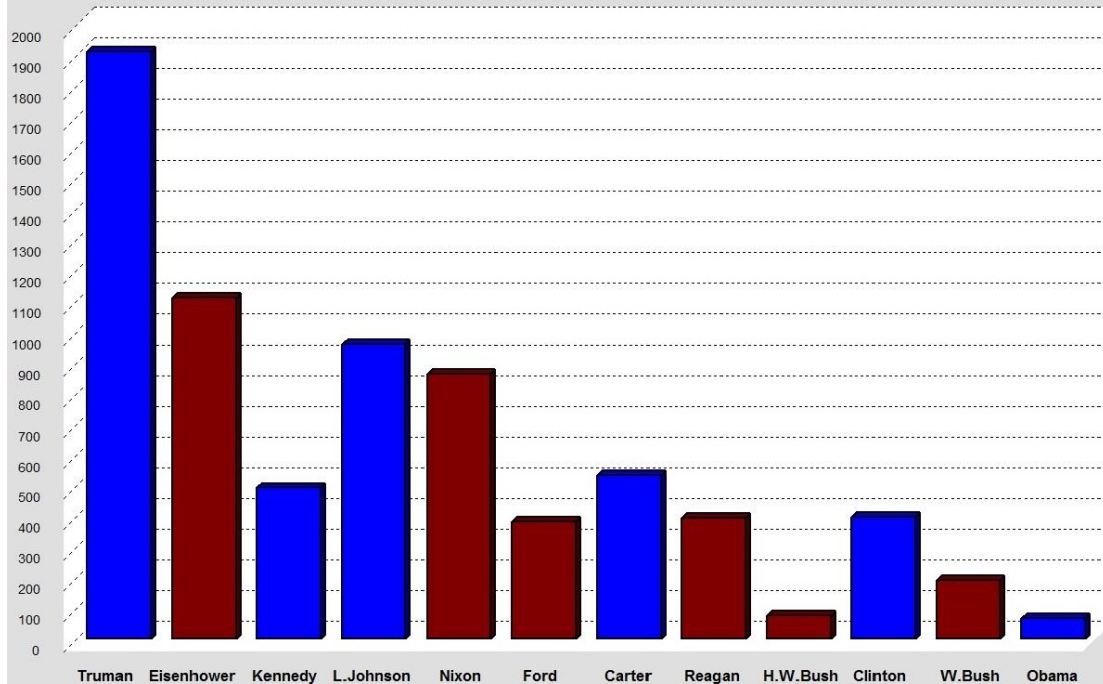
1. Why did the Founders give the President this power? And
 - I. Historical precedent existed at the time of the Constitution's writing that enabled political leaders of countries, historically monarchs, to grant amnesty, or pardon of individuals for offenses against the nation. Justification for continuing this trend was voiced by those such as Alexander Hamilton, who argued that pardon had to exist in order to grant reprieve to those who had been too harshly judged due to the punitive severity of the legal system. This gives the President a check on the power of the Criminal Justice System.
2. What are the checks against this power?
 - I. For one, the President is unable to pardon themselves in cases of impeachment or any other official facing impeachment. Crimes, of course, must also be federal for the President to pardon individuals. Outside of this, the only checks that currently exist are cultural stigma against excessive use of the pardon, and as such it is often hotly debated what the limits of the Presidential pardon can be inferred to be or what they should be. The Judicial Branch could theoretically have a check on the power by ruling certain uses of it not in keeping with the Constitution or intended use of the power, and the Legislative Branch could potentially pass laws that work around what exists in the Constitution to somehow limit or specify its use, but as things stand, little interrupts the President's use of the Pardon.
3. If you had to choose one of the President's powers to take away, which one would it be, why, and where would this power go? (i.e. states, Congress, etc.).
 - A. This is a tough question to answer considering how few qualms I have with the power structure as defined in the Constitution, but if I had to choose, I would opt to give the duty of delivering the State of the Union to Congress and organizing the Legislative Agenda to the Vice President. Why? The power would remain within the Executive Branch without absolutely gimping the powers of the President or the Branch as it stands. The State of the Union is an important conduit of the President to the people, but I'm sure our leaders could find other ways to communicate with the common-folk through radio addresses or Fireside Chat-esque communiques. Giving the Vice President the power over the State of the Union would not be too unreasonable and wouldn't significantly alter the balance of power among the branches or between the members of the Executive Branch. The President could still **strongly** encourage certain recommendations and advice for the legislative agenda and State of the Union Address, but it would technically no longer be his power.

Submit your completed assignment when you are finished.



Pardons Matter Too

Presidential Pardons Granted from 1948 to 2015



SOURCE: The Pardon Power Blog, <http://www.PardonPower.com>