

Commander in Chief

The Constitution makes the President the commander in chief of the nation's armed forces.

Making Undeclared War

- Many Presidents have used the armed forces abroad without a declaration of war.

[See "Undeclared Wars" in the Christian Science Monitor]

Wartime Powers

- The President's powers as commander in chief are far greater during a war than they are in normal times.

[See Franklin Roosevelt presidential powers WWII]

The War Powers Resolution

- The War Powers Resolution of 1973 limits the President's war-making powers.

[See War Powers Resolution]

The Ordinance Power

- The President has the power to issue executive orders. An **executive order** is a directive, rule, or regulation that has the effect of law.

[See Eisenhower, Dwight D.: Executive Order 10730 (1957)]

- The power to issue these orders, the **ordinance power**, arises from two sources: the Constitution and acts of Congress.
- Although not specifically mentioned in the Constitution, the ordinance power is clearly intended.
- The size of government has caused Congress to delegate more and more discretion to the President and presidential subordinates.

Legislative Powers

Recommending Legislation

- The Constitution provides that the President shall report to Congress on the state of the Union and recommend necessary legislation.
- This power is often called the *message power*.

[See State of the Union address Barack Obama 2011]

The Veto Power

- All legislation passed by Congress is sent to the President for approval.
- If the President disapproves of a bill, he can veto it. That veto can only be overturned by a two-thirds vote of both houses of Congress.

[See “Obama vetoes bill on foreclosure documents” in the Washington Times]

Signing Statements

- When a president signs legislation a statement is added to point out a Constitutional problem with the law or to detail how the president will carry out the law

[See “Obama circumvents laws with ‘signing statements,’” in the Washington Post]

Judicial Powers

- The Constitution gives the President the power to “...*grant reprieves and pardons for offenses against the United States, except in cases of impeachment.*” —Article II, Section 2, Clause 1
- A **reprieve** is the postponement of the execution of a sentence.

[See “Bush Gave Last-minute reprieve” on ABC News]

- A **pardon** is legal forgiveness for a crime.

[See “Obama Nine Pardons Granted” in the New York Times]

- **Amnesty** is a blanket pardon of a group

[See “Carter Pardons Draft Dodgers” on Politico]

These powers of **clemency** (mercy or leniency) may be used only in cases of federal crimes

The Appointment Power

- With Senate consent, the President names most of the top-ranking officers of the Federal Government, including:
 - (1) ambassadors and other diplomats;
 - (2) Cabinet members and their top aides;
 - (3) the heads of such independent and EOP agencies as the CIA and NSA;
 - (4) all officers in the armed forces.

[See “Sonia Sotomayor” and “Merrick Garland”]

The Removal Power

The Historical Debate

- Debate ensued in the First Congress as to whether the President could remove appointees without the consent of the Senate.
- The view that the President may remove the officials he appoints without Senate consent has prevailed over time.
- In general, the President may remove any appointees except federal judges.

[See “Myers v. United States”]

The Power to Make Treaties

- A **treaty** is a formal agreement between two or more sovereign states.
- The President, usually through the secretary of state, negotiates these international agreements.
- All treaties must pass approval by a two thirds of the members present vote in the Senate.

[See Strategic Arms Limitation Treaties (SALT I and II)]

Executive Agreements

- An executive agreement is a pact between the President and the head of a foreign state, or a subordinate.
- Unlike treaties, executive agreements do not require Senate consent.

[See “Obama Moves to Restore Relations with Cuba” MSNBC]

The Power of Recognition

The power of **recognition** is exercised when the President, acting for the United States, acknowledges the legal existence of another sovereign state.

[see “Obama grants U.S. recognition of South Sudan” Reuters]

- The President may show American displeasure with the conduct of another country by asking for the recall of that nation’s ambassador or other diplomatic representatives in this country.

[see “U.S. recalls ambassador Syria” in the Christian Science Monitor]

- The official is declared to be *persona non grata*, or an unwelcome person.

[[see “U.S. expels Ecuadoran ambassador” on cnn.com]

Department	Creation	Notes
State	1789	Initially named "Department of Foreign Affairs".
Treasury	1789	
Defense	1947	Initially named "National Military Establishment" 1947-49. Created as a subsuming —from executive to sub-executive status—of the Departments of Air Force (officially distinct from Army 1947, began 1907), Army (was the "Department of War" 1789), and Navy (founded 1798).
Justice	1870	Position of Attorney General created in 1789, but had no department until 1870
Interior	1849	
Agriculture	1862	
Commerce	1903	Originally named Commerce and Labor ; Labor later separated
Labor	1913	
Health and Human Services	1953	Originally named Health, Education, and Welfare; Education later separated
Housing and Urban Development	1965	
Transportation	1966	
Energy	1977	
Education	1980	
Veterans Affairs	1989	formerly an independent agency as the Veterans Administration
Homeland Security	2002	

