

Student Handout 12.4AD Presidential Powers

Directions: The framers sought to limit power by dividing it among the executive, legislative, and judicial branches. In Article II, they outlined the powers of the presidency. (1) Read the following excerpt from Article II, and then (2) complete the following chart. The goal of this activity is to first understand the specific powers of the executive branch, then to think about the categories of presidential powers, and finally, based on your knowledge of congressional powers (which are outlined in Article 1 of the Constitution), speculate if these powers may be shared with the legislative branch. The point is shared powers/checks – it is the original powers in the Constitution and then examples of how those powers have grown. This is getting away from the question and would take a much longer time. Suggested change: “powers in order to see if and how they have expanded from those outlined in the Constitution.”

... Oath or Affirmation:—“I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Federal Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

“The President”

Verb or verb phrase	Power	Category of power (Circle one or more. What type of power does this reference?)	How does this quote show the kind of power? Is the power shared with the legislative branch?
“will preserve, protect and defend”	the Constitution of the United States	military legislative administrative judicial foreign relations	Judicial Branch share powers – yes. <i>Federal Courts</i> help preserve the <i>Constitution</i> through their continually interpretation of the <i>Constitution</i> . The

			<p><i>Federal Courts</i> also have the power to check the President's actions and Congressional laws to determine if they are Constitutional.</p> <p>Legislative Branch shared power - yes. Congress has the power to make laws to further protect rights of the people outlined in the <i>Constitution</i> and to ensure "general welfare" "justice" etc. as outlined in the Preamble.</p>
"shall be..."	Commander in Chief of the Army and Navy of the United States ...	<p>military legislative administrative judicial foreign relations</p>	<p>Judicial Branch share powers – yes. <i>Federal Courts</i> have the power to rule Presidential actions and Congressional laws unconstitutional (ie. The War Powers Act was ruled unconstitutional).</p> <p>Legislative Branch shared power - yes. Congress has the power to declare war and the power to appropriate funding for the military</p>
"shall have ..."	power to grant reprieves and pardons ...	<p>military legislative administrative judicial foreign relations</p>	<p>Judicial and Legislative Branch shared power - no. President's power alone. Surpasses the <i>Federal Courts</i>.</p>
"shall have ..."	power, by and with the Advice and Consent of the Senate, to make Treaties ...	<p>military legislative administrative judicial foreign relations</p>	<p>Judicial Branch share powers – yes. <i>Federal Courts</i> have the power to rule Presidential actions and Congressional laws unconstitutional</p> <p>Legislative Branch shared power - yes. Treaties must be approved by the Senate.</p>
"shall nominate ..."	by and with the Advice and Consent of the Senate, shall appoint	<p>military legislative</p>	<p>Judicial Branch share powers – no.</p>

	ambassadors ... judges of the supreme Court. ...	administrative judicial foreign relations	Legislative Branch shared power - yes. Appointments by the President must be approved by the Senate.
"shall have ..."	power to fill up all vacancies that may happen during the Recess of the Senate. ...	military legislative administrative judicial foreign relations	Judicial Branch share powers – yes. <i>Federal Courts</i> have the power to rule Presidential actions and Congressional laws unconstitutional. Legislative Branch shared power - no. President's power alone. However, the people of a state will then eventually vote on a replacement.
"shall give ..."	to the Congress information of the State of the Union, and recommend ... Measures as he shall judge necessary and expedient	military legislative administrative judicial foreign relations	Judicial Branch share powers – no. <i>The State of the Union</i> is an address not an action. Legislative Branch shared power - no. The President shares with Congress his plan but the President can't submit bills, only members of Congress can.
"shall take care ..."	that the Laws be faithfully executed	military legislative administrative judicial foreign relations	Judicial Branch share powers – yes. It is the main power of the <i>Federal Courts</i> to rule Presidential actions in administering Congressional laws unconstitutional. Legislative Branch shared power - no. Once Congress passes a law, it is the responsibility of the President and his Cabinet and Executive Branches to implement the laws.

Discuss: How might this source help you understand whether the role of the presidency has expanded over America's history?