

## Limitations on Presidential Power

### *CON-4.A: Explain how the president's agenda can create tension and frequent confrontations with Congress.*

The president of the United States has substantial but limited powers. According to the Constitution, the president may approve or veto bills submitted to him by Congress. However, Congress may override his vetoes by a two-thirds vote. Congress may also exercise considerable authority over the president by approving or withholding funds for his projects. Moreover, the House of Representatives may vote impeachment charges against the president, and the Senate may convict and remove him from office. Finally, the Supreme Court may declare an action of the president unconstitutional.

More informal checks also limit the president's power. First, the president must work with his own political party during this election campaign and with both parties during the legislative process. Second, the voters can turn an incumbent president out of office or defeat his party at the next election. Third, the media, through their powers of investigation, reporting and editorializing, can affect the president's public support and political strength in Congress. Even foreign countries and organizations abroad at times influence the president's foreign policies. Finally, the precedents of previous administrations act as a powerful guide to the president.

Still, within these constitutional and informal limits, presidents have considerable latitude in interpreting the extent of their powers. Like Congress, the president may view his powers in a narrow or broad perspective. William Howard Taft, for example, saw his role as little more than being chief executive. Theodore Roosevelt, on the other hand, attempted to use all the power and influence of his office to lead the nation toward his vision of progressive reform. Presidents generally considered "great" by later generations have chosen the broader view of their powers.

In this lesson, you will identify the various restraints on the actions of the president. You will evaluate the adequacy of these limitations and discuss how individual citizens play a role in shaping the bounds within which an individual president may operate.

### Checks on Presidential Power

Part A: Read the two contrasting concepts of the presidency, and summarize each in your own words below.

The true view of the Executive functions is, as I conceive it, that the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such express grant as proper and necessary to its exercise. Such specific grant must be either in the Federal Constitution or in an act of Congress passed in pursuance thereof. There is no undefined residuum of power which he can exercise because it seems to him to be in the public interest ...  
- William Howard Taft

Restatement:

The most important factor in getting the right spirit in my Administration, next to the insistence upon courage, honesty and a genuine democracy of desire to serve the plain people was my insistence upon the theory that the executive power was limited only by specific restrictions and prohibitions appearing in the Constitution or imposed by the Congress under its Constitutional powers. My view was that every executive officer, and above all every executive officer in high position, was a steward of the people bound actively and affirmatively to do all he could for the people, and not to content himself with



the negative merit of keeping his talents undamaged in a napkin. I declined to adopt the view that what was imperatively necessary for the Nation could not be done by the President unless he could find some specific authorization to do it ... Under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of the Departments. I did not usurp power, but I did greatly broaden the use of executive power.

--Theodore Roosevelt

Restatement:

Part B: As we have seen, presidents can wield considerable power. There are, however, limits on their powers. Read each statement below, and highlight *who* checks the powers of the president in pink and then highlight the part of the statement which shows *how* they are checked in yellow. Highlight the presidential use of power in green.

EXAMPLE: By an eight to zero vote, the Supreme Court directed Richard Nixon to turn over the Watergate tapes to the Special Prosecutor and the House Judiciary Committee. President Nixon had earlier claimed executive privilege in refusing to surrender the tapes.

1. Woodrow Wilson proposed the creation of a League of Nations as the first step in maintaining world peace. Because the Senate refused to ratify the Treaty of Versailles in 1919, the United States could not join the League of Nations.
2. Congress has overridden almost one hundred of the more than 2,800 presidential vetoes to date.
3. The American Medical Association exerted such strong pressure against John F. Kennedy's Medicare proposal that Kennedy did not push the measure because he knew he could not win.
4. Until Franklin Roosevelt, no president served more than two terms. The two-term limit had been considered binding since Washington's time and the precedent set by Washington.
5. Republican leaders met with President Nixon to recommend Gerald Ford to replace Spiro Agnew as vice president. Nixon agreed.
6. President Truman's attempt to seize control of American steel mills during the Korean Conflict was declared unconstitutional by the U.S. Supreme Court.
7. President Obama nominated Merrick Garland to the Supreme Court, but the Senate refused to consider the nomination.
8. Gerald Ford was voted out of office in 1976 after two years as president. Jimmy Carter had lost his bid for reelection in 1980. The people had spoken.
9. When the Carter administration proposed minor cuts in Social Security, the elderly reacted so strongly that no one in Congress would even introduce the bill.

10. In 1935, the Supreme Court ruled unconstitutional The National Recovery Act, a key part of Franklin Roosevelt's New Deal to end the Great Depression. Roosevelt was forced to dismantle the National Recovery Administration that carried out that program.

