

## PRESIDENTIAL POWERS: FORMAL OR EXPRESSED POWERS

**Part I:** Using your textbook or online sources like <http://www.usconstitution.net/const.html>, investigate the constitutional powers of the president specified in Article II and record in the table below. Next, provide an historical or modern example of a president carrying out each of these powers.

<p><b><u>Requirements for Office:</u></b></p> <ul style="list-style-type: none"> <li>• must be a natural born citizen</li> <li>• at least 35 years of age</li> <li>• must have been a resident of the US for 14 years</li> </ul>	<p><b><u>Examples of Notable Politicians Ineligible to be President:</u></b>          natural born citizen requirement prohibits prominent Americans such as Arnold Schwarzenegger (Austria), and Madeleine Albright (Czechoslovakia) from becoming President</p>
<p><b><u>Powers as Commander in Chief:</u></b></p> <ul style="list-style-type: none"> <li>• Commander in Chief of the Army &amp; Navy</li> <li>• Commander in Chief of the state militias (now the National Guard)</li> <li>• Commission all officers</li> </ul> <p>Note: importance of civilian power over the military</p>	<p><b><u>Examples:</u></b></p> <ol style="list-style-type: none"> <li>1. Abraham Lincoln as Commander in Chief during the Civil War</li> <li>2. FDR during World War II</li> <li>3. Eisenhower deploys the U.S. Army in Little Rock in 1957 to integrate Central High School</li> <li>4. George W. Bush deploys National Guard reservists in Iraq</li> </ol>
<p><b><u>Powers as Chief Executive of the Government:</u></b></p> <ul style="list-style-type: none"> <li>• “faithfully execute” the laws</li> <li>• require the opinion of heads of executive departments</li> <li>• grant pardons for federal offenses except for cases of impeachment</li> <li>• nominate judges of the Supreme Court and all other officers of the U.S. with consent of the Senate</li> <li>• fill vacancies that may happen during recess of the Senate</li> </ul>	<p><b><u>Examples:</u></b></p> <ol style="list-style-type: none"> <li>1. Washington created the first cabinet (1789)</li> <li>2. President Ford pardoned Richard Nixon (1974)</li> <li>3. President Reagan appoints Sandra Day O’Connor as the first woman justice of the Supreme Court (1981)</li> <li>4. George W. Bush used recess appointment to John Bolton as Ambassador to the United Nations after a prolonged Senate filibuster (2005)</li> </ol>
<p><b><u>Powers in Foreign Affairs:</u></b></p> <ul style="list-style-type: none"> <li>• appoint ambassadors, ministers and consuls</li> <li>• make treaties subject to Senate confirmation</li> <li>• receive ambassadors</li> </ul>	<p><b><u>Examples:</u></b></p> <ol style="list-style-type: none"> <li>1. President Clinton appoints former POW Douglas Peterson as the first U.S. Ambassador to Vietnam since the end of the war (1997)</li> <li>2. President Kennedy negotiates the Nuclear Test Ban Treaty with the USSR (1963)</li> </ol>
<p><b><u>Legislative Powers:</u></b></p> <ul style="list-style-type: none"> <li>• Give State of the Union address to Congress</li> <li>• Recommend “measures” to the Congress</li> <li>• Upon “extraordinary occasions” convene both houses of Congress</li> </ul>	<p><b><u>Examples:</u></b></p> <ol style="list-style-type: none"> <li>1. George Washington gave first State of the Union Address (1790)</li> <li>2. FDR sends to Congress comprehensive legislative agenda, the New Deal (1933)</li> <li>3. Truman convenes special session of congress to urge enactment of his domestic agenda</li> </ol>

## PRESIDENTIAL POWERS: INFORMAL OR IMPLIED POWERS

**Part I:** Using the information in *Informal Powers of the President*, investigate the extra-constitutional or implied powers of the president. Provide an historical or modern example of a president carrying out each of these powers.

<p><b><u>Executive Orders:</u></b> Orders issued by the President that carry the force of law</p>	<p><b><u>Examples:</u></b></p> <ol style="list-style-type: none"> <li>1. FDR's internment of Japanese-Americans during World War II</li> <li>2. Truman's integration of the military during the Korean War</li> <li>3. Clinton's "Don't Ask Don't Tell" policy of gays in the military</li> <li>4. GWB trying suspected terrorists in military tribunals</li> </ol>
<p><b><u>Executive Agreements:</u></b></p> <ul style="list-style-type: none"> <li>• International agreements made by a president that has the force of treaty</li> <li>• does not require Senate approval</li> <li>• usually trade agreements bet. US &amp; other nations</li> </ul>	<p><b><u>Examples:</u></b></p> <ol style="list-style-type: none"> <li>1. Jefferson's purchase of Louisiana from France in 1803</li> <li>2. George H. W. Bush and U.S.-Japanese trade agreements re: the auto industry</li> <li>3. GWB's announced cuts in the US nuclear arsenal without a treaty</li> </ol>
<p><b><u>Executive Privilege:</u></b></p> <ol style="list-style-type: none"> <li>1. claim by presidents that they have the discretion to decide that the national interest will be better served if certain information is withheld from the public, including courts and Congress</li> </ol>	<p><b><u>Examples:</u></b></p> <ol style="list-style-type: none"> <li>1. Nixon's refusal to turn over the Watergate tapes. The Supreme Court in <i>U.S. v. Nixon</i>, though it did not strike down the practice of executive privilege in general, ruled that Nixon must turn over the tapes</li> <li>2. Clinton's refusal to turn over evidence re: an alleged affair with Monica Lewinsky. The Supreme Court ruled against Clinton</li> </ol>

**Part II:** With a partner or small group, discuss the following questions:

1. Why are informal powers more important than formal powers, particularly to modern presidents?  
*The circumstances of the 20th Century have dictated the tremendous expansion of presidential power. US part of global economy; US as last remaining superpower. Much of the power enjoyed by modern presidents comes from informal powers AND the Constitution is silent on many issues regarding foreign policy, the economy, etc.*
2. Identify several advantages and disadvantages of the use of the president's informal powers.
3. Has the use and perhaps abuse of the informal powers created an "Imperial Presidency?" Defend your answer.