

- **BUT:**
  - Presidents who are unconventional uncontrollable such as Trump – attempting to use Emergency Power to take money from defence pool of funds and build his wall circumventing congressional approval – weakens power of the purse

## 2. **Senate's power of confirmation of appointments scrutinises the executive**

- Able to carry out hearings for key influential federal positions. SC which is arguably quasi-legislative. E.g. approved Obama's 2010 Kagan nomination
- **BUT:**
  - Partisanship undermined this as Garland (a liberal judge proposed a Democrat Obama) was rejected by a Republican Senate = partisanship undermines scrutiny
  - Partisanship allowed Trump to appoint controversial figures into federal govt because his party controlled the senate e.g. Kavanaugh who Schumer said would put American rights 'on the judicial chopping block' and Betty DeVos as education secretary even when she didn't know much about education – it was the republican VP that made the casting vote for her because split in votes

## 3. **Power to override presidential veto with a 2/3rds majority in both houses**

- Obama's Justice Against the Sponsors of Terrorism Act – Schumer said that 'executive branch is more interested in diplomatic relationships' that the national interest so Congress, even when from the same party as President, acts in the national interest so effective
- **BUT:** executive action undermined scrutiny
  - President works their will through the executive branch of govt but only from powers that come from the Constitutional or federal law meaning they can't give themselves new power but this remains a grey areas
  - Obama passed more in first two weeks than any other president including closing Guantanamo Bay and more mundane ones including making presidency records more accessible
  - Trump already made 80 and although less in first two weeks than Obama the difference is in the substance as signed more controversial ones such as Muslim travel ban, suspension of Syrian refugee programme and signing an order against Obama's Affordable Care Act
- **BUT:** partisanship has undermined scrutiny
  - Committee system flawed because of partisanship e.g. Benghazi select committee – bid by Republicans to politically undermine Obama's Democrat administration and Clinton's presidential campaign as hearings

- Sponsors of Terrorism Act 2016 - law from Congress vetoed by Obama and then overturned by 2/3rds vote in Congress - Schumer said that the executive cared more about diplomatic relations than the people
- Confirmation process
  - Has to confirm about 1000 appointments the President makes - Senate
- Impeachment
  - Both Clinton and Nixon impeached over alleged activities as presidents
  - 19 times done
  - Last time was in 2010 of a federal judge Thomas Porteous for corruption and bribery
  - Need 2/3rds majority in the HofR and then the Senate tries the individual
  - Last attempt to impeach the President - 1999: Monica - accused of perjury as he lied about his affair under trial
  - Another form of impeachment: If there is a congressman or Senator with 'disorderly behaviour' can be expelled but need a 2/3rd majority from the house they are being expelled
- Filibustering
- Oversight can come from president's own party
  - E.g. 2013 Democrats successfully demanded access to legal documents concerning Obama's 'drone attacks' - since then Obama confirmed all drone attacks will be briefed by the appropriate congressional committees
  - 2018, 6 Democrats voted to confirm Gina Haspel as Director of CIA against party lines
  - Despite Trump's own campaign pledges he has been unable to dismantle Obamacare despite having a majority in both houses before Nov (arguably this is more because of disagreements rather than Congress holding Trump to account)
- Power over the SC
  - It can overturn a decision by amending the Constitution
  - E.g. when SC ruled it unconstitutional for federal govt to levy income tax in 1913, this was superseded by the 16th Amendment in 1913 which gave Congress this power
  - Also did this when they lowered the voting age to 18 in 1971

#### Weaknesses:

- Effect of polarisation/partisanship – too partisan political oversight
  - E.g. McCarthy (leader of majority party in the House) unintentionally said that Benghazi was about politics and 72% of the population believed the committee set up to investigate it was politically motivated - most of the hearings happened in 2016 when the Republicans knew she was running for president

- **FOREIGN POLICY:** more drone strikes than any other president e.g. US citizen in Yemen in 2011 – said that he has a ‘kill list’ of terror suspects. The raid to kill Bin Laden was undertaken without Congressional input and there was no congressman in the famous photo of the president watching the raid – continued bombing Libya without Congressional approval after the 60 days allowed in the War Powers act
- **DOMESTIC POLICIES:** Whilst abroad he signed the Paris Climate treaty, the Iranian nuclear deal and reformed relations with Cuba without significant Congressional involvement. Economic crisis and majorities in both houses allowed him to pass massive economic stimulus bill through Congress (The American Recovery and Reinvestment Act (2009)), reform Wall Street legislation (Dodd-Frank Act (2010)) and increase the role of federal government in provision of healthcare (Affordable Care Act (2010))
- **CONSTITUTIONAL POWERS:** Obama used executive order to change immigration policy without congress’ approval – e.g. DAPA that suspends deportation for those who arrived in the US as a child.
- **Trump:** Use of executive order to implement Travel Ban against 7 Muslim countries, removing the individual mandate from Obamacare and removal of DAPA protection. Previous convention of Presidency have been ignored e.g. appointing family onto staff (e.g. son-in-law Jared Kushner as Chief-of-Staff), using own property for official government events and refusing to release tax returns during the 2016 presidency campaign claiming they’re ‘under audit’ which is unconventional. Pulled out of lots of treaties with is unconventional but an incumbent president to do with a past president e.g. Iran Nuclear Deal and NAFTA

#### 4. Second Term presidents do not become ‘lame ducks’

- Still have the same constitutional powers of the Presidency
- May be able to concentrate on foreign policy where they have more power if lost influence in Congress
- Free from re-election worries and can make more bold moves

### ***Imperilled Presidency: there are in fact limits of the Presidency as he is bound by constitutional checks and balances***

*Schlesinger wrote his analysis when Nixon was at the height of his powers*

#### 1. Congress can frustrate a president’s domestic ambitions

- Clinton had to use 37 vetoes in his two term Presidency
- Clinton was impeached by the HofR in 1998 and although acquitted by the Senate in 1999, this disrupted the crucial years of his second term
- Senate rejected Clinton’s Nuclear Test Ban Treaty

- Constitutional limits of the president – Congress's constitutional powers to check on the president's foreign policy endeavours
  - President cannot declare war without congressional approval
  - President cannot sign a treaty without congressional approval (although rise in executive agreements)
  - Power of the purse – may pressure the president to re-evaluate military spending decisions e.g. Democrats with Bush in 2007 pressured rejecting the budget making him question and reassess his military plans (although passed regardless)
  - War Powers Act – although often ignored, Congress can demand an explanation and justification of long term military action e.g. Obama was sanctioned by Congress for the unauthorised campaign in Libya
  - Congressional investigation – foreign policy decisions and events will be likely to be investigated e.g. the investigation into the Iran Contra could have lead to an impeachment of Reagan if it wasn't so deep into his second term
- Factors outside of the president's control may influence foreign policy and dictates the president's foreign policy
  - Decisions of predecessors – Obama was left to untangle the Bush's conflicts in terms of foreign policy. However, despite conventions that the President should maintain deals and treaties signed by predecessors, Trump has already removed the US from Obama era Iran Deal and the Paris Climate treaty
  - International circumstances – 9/11 took Bush into the world view and meant he had to lead the war on terror. Both Clinton and Obama were pulled into the bombing in Kosovo and Libya respectively by the insistence of allies in NATO

**Evaluate the extent to which the 'the president's power is the power to persuade.'**  
**(Evaluate the extent to which the president can get his way in Congress)**

Robert Neustadt's theory: presidency is not actually powerful but is dependent on others for success i.e. because all presidential powers are checked by Congress, gridlock appear with only 10.5/26y between 1993-2018 the president and both houses being from the same party. Therefore, the president has to truly rely on persuasion.

- David Mervin (1993) described the US president as the 'bargainer-in-chief'
- Now it is a lot harder to persuade other party members to vote for you because of partisanship – legislation such as the Economic Stimulus Package (2009)

## 2. First Amendment: freedom of religion –

- Key debate not if right is protected or not but if it is too strong in some areas or that the protections most notably the strict separation of church and state protect one view so strongly that they actually amount to restriction on other groups
- Conservatives complaint that decision of loose constructionist courts over-played the separation of church and state and deprive the ordinary God-fearing Christians of the ability to exercise their religion in the way they see fit
- Loose constructionists emphasis restricting state's support for any religion
  - Lee v Weisman 1992
- Strict constructionists' emphasize that liberals want to unreasonably restrict their free practice of religion by unfairly stopping any connection between the state and any practise or group
  - Zelman v Simmons-Harris 2002
  - Town of Greece v Galloway 2014
  - Burwell v Hobby Lobby
- Overall the SC has increasingly interpreted the amendment to mean to protect religious people to be able to have the right to freely express their religion rather than ensuring that no religion is endorse and encouraged from such religious people trying to exercise their rights of have this religion

## 3. Second Amendment: protection for gun ownership-

- Key debate is if it is more strong in some areas or that the wrong aspects of gun ownership are protected
- Liberals complain that decisions made by strict constructionist courts over-played individual's ability to possess and own handguns
- Liberals interpret this right as referring to the formation of a militia to overturn tyrannical govt – a collective rights to own guns
- Recently in more strict constructionist Roberts court, this has been interpreted as the right being individuals
  - District of Columbia v Heller 2008
- Overall as the SC has enforced the interpretation of individual right, the right has been enforced increasing the ease of individual gun ownership

## 4. Fifth and Sixth Amendment: protection for those suspected of crimes when questioned by the police

- Miranda v Arizona – set precedent for police to read the Miranda rights prior to interrogation
- Upheld – strict constructionists believe that as defendants don't know their constitutional rights anything that happens in invalid:
  - Dickerson v US 2000

Class/education:

- White working class voters living in the Northeast and Midwest employed in blue collar jobs who were traditionally Democrats but attracted to Reagan's economic plans in 1980 and 1984 but now returned to Democratic party supporting Clinton and Obama
- Trump attracted 7/9 Rust Belt States
- White, older, blue-collared voters had little education often finished after high school and felt culturally marginalised about their views wanting to bring American job home, curb illegal immigration, restore 'national pride' which Trump appealed to
- 71% of white non-college men voted Trump in contrast to 23% for Clinton.

**Democratic coalition of voters:** Blue America is racially a rainbow coalition - wealthier, urban and liberal - think federal govt should do more - pro-choice, pro-gun control, pro-same-sex marriage and support Obamacare.

**Republican coalition of voters:** Red America is white, overwhelmingly Protestant (specifically evangelical). Rural and suburban and conservative - think federal government does too much - pro-life, pro-guns, pro-traditional marriage and opposed to Obamacare.

**Evaluate the extent to which the two major parties are internally united:**

Two parties are united by broad politics:

PARTY RENEWAL THEORY: clear identities and especially with the rise of partisanship, members have clear loyalties to their party positions.

- Economy:
  - Democrats: advocate more govt intervention e.g. Roosevelt's New Deal 1930s Keynesian economic theory used today with Obama's Dodd-Frank Act 2010. Traditional 'tax and spend' party, they want to increase taxes especially for the rich e.g. implementing the Buffett Rule so increasing govt funding for welfare programmes
  - Republicans: more individualistic approach advocating free market economy with less govt intervention and regulation especially supporting states' rights and the decentralisation of power. Republicans criticized the acquired banking regulations as 'an excuse for govt control over the nation's financial markets'
- Welfare:
  - Democrats: Affordable Care Act (2010). Want to make education freely accessible and make college a cheaper, more viable prospect.
  - Republicans: opposed large federal govt spending on welfare and support the states' reserving the right over such policy areas. Ever Republican

opposed Obamacare clearly showing unity. Education should be left to the states as there is no mention of federal obligation to provide it in the constitution.

- Social:
  - Democrats: pro-abortion believing that every woman should have access to 'safe and legal abortion'. Support gun control and advocate comprehensive federal non-discrimination protection for all LGBT Americans.
  - Republicans: pro-life 'asserting the sanctity of human life' and supported DOMA 1996. 2000 conservative platform promoting 'Faith, Flag and Family' won them presidency.

**BUT:**

PARTY DECLINE THEORY: members are less loyal to their party's policy being more cohesive with those who share their ideology rather than are from the same party.

Democrats:

- Internally *ideologically* divided as debate about the direction of future Democratic policy

Main division between progressive and moderates:

- Progressives are the most left-wing Democratic factions whilst moderates adopt a 'third way'
- International trade: Progressives are aligned with the AFL CIO and opposed trade deals like the TPP and NAFTA whilst moderates support trade deals supporting the TPP
- Welfare and social policy: Progressives believed Obamacare didn't go far enough advocating a single payer option like the NHS. 2017 Sander's 'Medicare for All Act'. Moderates: don't want that and compromised with Republicans on social issues like 1994 'Don't Ask Don't Tell' and DOMA 1996.

Another division are Conservative Democrats/Blue Dogs:

- Supportive of gun rights, less supportive of gay rights and abortion so the point where Obamacare had to be amended to prevent insurance from overpaying costs of abortion to win the vital 51st vote to pass it.
- Manchin was only one of three Democrat senators to support Trump's nomination of Gorsuch.

Republicans:

- Internally *politically* divided because cannot pass opposition to Obamacare although all disagree with it (American Health Care Act 2017 failed)

Division between fiscal conservatives and moderates (RINOS):



- Democrats moved to the centre under Clinton campaigning and achieving the balanced budget whilst promoted the Republican policy of more responsible spending and expanded the federal death penalty
- Bush dubbed the 'compassionate conservative' as he advocated Democratic policies such as high federal govt spending such as No Child Left Behind education bill and the extension of Medicare in 2003. Promoted more Keynesian approach to economy signing TARP programme in 2006 allowing government intervention in the economy to reduce trouble company assets.
- Both critical of the mandatory sentencing law for various reasons as liberation Republicans and Democrats seeing them as discriminatory and inefficient whilst fiscal conservative Democrats see them as expensive for non-violent offenders.
- BUT decline under Obama and Trump
- Extreme factions in each party the conservative democrats and liberal republicans exemplify significant overlap
  - Blue Dog democrats worked with Republicans to promote their socially conservative agenda e.g. John Barrow voted against Obamacare alongside every Republican and against laws that could introduce stricter gun laws.
  - 2015 47 Blue Dog Democrats voted in favour of a Republican-led measure to have additional screening of Iraqi and Syrian refugees
  - Liberal Republicans like Sen Susan Collins of Maine was one of the three Republicans to support Obama's 2009 stimulus package budget and have been supporting the Democrats Bipartisan Budget Act May 2017 which was opposed by 103 Republicans.

***Evaluate the extent to which pressure groups have made a significant impact in the policy areas of abortion and gun control***

***Evaluate the view that pressure groups enhance democracy / Evaluate the extent to which pressure groups perform useful functions in US politics (30)***

***Pluralism:*** a theory which suggests that political power in society does not rest simply with the electorate or with the governing elite but is distributed amongst a number of groups

***Elitism:*** a theory which suggests that political power in a society rests with a small group who gain power through wealth, family status or intellectual superiority