emphasize more
centralized control
or "central coordination"
→ "policy community"
State, Defense, Treasury,
CIA, military
FBI, DEA, Homeland

o we really think about a president's authority to
licies with which subordinates disagree?
not depend simply on one's own policy or parti-
ought to be neutral principles, not only to guide
ut also to guide presidents. The modern trend,
nited States emerged from World War II as a
o expand the White House staff and institutions
ty Council (NSC) precisely to enable more cen-
ast better central coordination, over an expand-
That policy community includes traditional
ith an international role (State, Defense, Trea-
s (the Central Intelligence Agency, the uni-
ncies in charge of trade and foreign aid policy),
encies only recently playing an important role in
foreign policy (the departments of Justice and Homeland Security, the Federal Bureau of Investigation, and the Drug Enforcement Administration). But like a law of physics, presidential efforts to strengthen control over this expanding community only stimulate the countertrends that are at work—powerful centrifugal forces in Congress, in the media,
nch itself.

"separated
institutions sharing
powers"

Truman on Eisenhower
→ military command
won't work

ook is not the question of presidential preroga-
Library shelves are already filled with books on
hes, and especially the ancient debate over war
e is presidential control over the Executive

ever, is an enormously important factor. As
t has expressed it, the Constitutional Conven-
mmonly thought, create a system of separated
d a government of separated institutions *shar-*
undoubtedly have more freedom of action in
m than in making domestic policy. Nonethe-
nd their departments have obligations to Con-
beholden to Congress for the final disposition
testimony is a duty. Cabinet secretaries are thus inevitably responsive, at least in part, to Congress as well as to the president. But that only restates the problem.

Neustadt recounts that President Harry Truman in 1952, contemplating the possibility that Dwight Eisenhower would be elected to succeed him, predicted that the eminent general would have problems

adjusting: "'He'll sit here,' Truman would remark (tapping his desk for emphasis), 'and he'll say, "Do this! Do that!" *And nothing will happen.* Poor Ike—it won't be a bit like the Army. He'll find it very frustrating.'" Truman's own experience was: "I sit here all day trying to persuade people to do the things they ought to have sense enough to do without my persuading them. . . . That's all the powers of the President amount to."

That was Neustadt's analysis as well. His answer was to counsel presidents and would-be presidents on how to maximize their power to persuade. His classic book *Presidential Power*, first published in 1960, explained that a president's success depended on expanding and husbanding his personal political leverage and prestige, his mastery of tools of influence that convince his subordinates that what the president wants them to do comports with their own personal and bureaucratic interests. Neustadt graded presidents according to their "power sense"—their instinct for maintaining their personal political power; he thought Franklin Roosevelt and Harry Truman had this "power sense," but Eisenhower did not. His book was seized upon by the new administration of John F. Kennedy as a primer on how to strengthen presidential control. However, the centrifugal forces have only strengthened since then—to the point where Neustadt, in an edition of his book twenty years later, felt compelled to go out of his way to debunk the notion of the "imperial presidency" that had become fashionable in some circles in the interim. As late as 1990, even after the Reagan presidency, Neustadt was still preoccupied with what he saw as the weakness of the office: "Weakness is still what I see: weakness in the sense of a great gap between what is expected of a man (or someday a woman) and assured capacity to carry through." Part of this weakness resides in the expansion of the modern bureaucracy and the increasing difficulty of a single individual's asserting systematic control over it.

Concepts of Legitimacy

Our Constitution, on the face of it, seems unambiguous about who is in charge of the Executive Branch: "The executive power shall be vested in a President of the United States of America" (Article II, section 1). But, as usual, a closer reading of our founding document reveals a more complex picture. Passages in section 2 of the same Article II refer specifically to the "executive departments" and to Congress's power to

authorize the heads of those departments to appoint subordinates. The president's authority over the civilian establishment is less explicit than his authority as commander in chief of the armed forces. The renowned constitutional scholar Edward S. Corwin concluded that the phrase "executive power" is a "term of uncertain content."

While the United States may have a cabinet, we do not have a cabinet system, which is what the British have. The cabinet at Westminster is "the government"—the body of ministers (what we would call cabinet secretaries) headed by the prime minister, who is in theory only the "first among equals." This institution evolved in the seventeenth and eighteenth centuries as the leadership of the Parliament, which extracted from the monarch the right to form his government. In parallel it became the leadership body of the political party that held the parliamentary majority. As such it embodied the distinctive characteristic of parliamentary government—what British scholar Walter Bagehot called the "nearly complete fusion" of the executive and legislative powers.

An important element of this system is the theory of the cabinet's collective responsibility. Certainly the personal role and power of the prime minister have grown considerably over the last century and a half, and many would argue that prime ministerial government has eclipsed the cabinet. But there are occasional reminders that the system has nowhere near evolved into presidential-style government. When Winston Churchill assumed office during the great crisis of May 1940, in the first three weeks he was nearly outvoted in the war cabinet by a faction that wanted to pursue a negotiation with Hitler. Even more recent prime ministers who have achieved extraordinary political dominance have discovered that, when political fortunes ebb, the party asserts its collective will. Just ask Margaret Thatcher and Tony Blair.

There have been a few attempts in the United States over the years to limit presidential authority in a manner suggestive of British cabinet-style arrangements, but they were short-lived exceptions that prove the rule:

- John Quincy Adams took a vote at a cabinet meeting on at least one occasion and bowed to the majority when he was outvoted. But Adams, chosen as president in 1824 by the House of Representatives after not receiving even a plurality of either the electoral or popular vote, was one of our weakest presidents. Among other things, he adamantly refused to consider party affiliation when making government appointments. For "power sense," Professor Neustadt would have graded him an F.
- When the National Security Council was created in 1947, there were those who saw it as a way of pressing presidents to make decisions in a more collegial framework. The British system was viewed as a model. This was a reaction to FDR's freewheeling management style and to doubts whether Harry Truman was up to the job. As we shall see, Truman, acutely sensitive to any challenge to his constitutional prerogative, eluded the trap.
- When Richard Nixon was engulfed by the Watergate scandal, one of the arguments he used in his defense was that removal from office before the end of his term would alter our political system in the direction of a parliamentary system, eroding a crucial pillar of the president's constitutional independence. The argument did not convince. When his political support finally collapsed in early August 1974, it was a delegation of senior Republican Party leaders who came to see him; they could not force him to resign, but only seek to persuade him that resignation was best for the country and for the party. This he agreed to.
- An implication that the top man might not be fully up to the job may have played a role in the 1980 discussions about Ronald Reagan's taking on ex-President Gerald Ford as his running mate, with Henry Kissinger slated once again to be secretary of state. Reagan and Ford permitted their close advisers to hold a series of secret meetings at the Republican National Convention on this idea—which some dubbed a "co-presidency"—before the two principals agreed to drop it.

Our constitutional structure thus seems strong enough to withstand attempts to turn it into something it isn't.

IF ONE SOURCE of presidential authority is constitutional legitimacy, a second is democratic legitimacy. Our political system puts itself through great convulsions every four years to elect a president (though it seems more and more a never-ending process). Presumably we do this on the premise that something important is at stake in the election, namely the authority to determine the direction of national policy for the next four years. It is generally assumed that we are choosing the individual we want to set the policies that the Executive Branch will

carry out. That is what the phrase "popular mandate" refers to. Democratic legitimacy is also democratic accountability.

This calls to mind another major difference from the British system, and indeed from European and most other systems. An American president today has around three thousand so-called political appointments to make to key positions in the government, several layers down into the bureaucratic machinery. These include not only cabinet secretaries, but deputy secretaries, under secretaries, and assistant secretaries. These several layers give the president a considerable ability to put his or her political stamp on the policies that will emerge from this machinery. When a new president enters office, especially if a change of political party is involved, the turnover is huge and the transition tumultuous.

Both political parties in this country have cadres of people to bring into government with the advent of a new administration. They come from private business, the academic and policy think tank community, and congressional staffs, and thus have a claim to professionalism as well as to responsiveness to the elected president's philosophy. Many who enter at senior positions have served at lower levels in prior administrations of the same party, and thus come with experience as well.

Britain, and most other countries, have nothing resembling this. The permanent civil service populates ministries up to much higher levels of the government. Even when a general election sweeps a new party into office, the incoming political leadership consists of cabinet ministers, a few other members of Parliament who serve as junior ministers in each department, and a handful of other assistants—perhaps 100 to 120, all together, in Britain. The rest are civil servants whom they meet when they arrive. Even in the prime minister's office, the cabinet tradition severely constrains a new prime minister's freedom to bring in more than a few personal advisers in any field.

One advantage of this system is continuity. When an election brings a change of leadership, the new political team, small as it is, is easily in place in a matter of days. The principle is that the civil servants shift their loyalties immediately to the new leaders and in the most professional manner help them implement whatever changes of policy are directed. The disadvantage is that the permanent government may not be as amenable to effective political control as the theory holds.

Political control over the bureaucracy may be one of the most significant challenges to modern democratic government in the twentieth and twenty-first centuries. The American system addresses this from

two directions—by the presidential power over personnel and by congressional oversight. Especially when the two branches are controlled by opposite parties, no one can doubt the vigor of congressional oversight over the bureaucracy—certainly no one who has testified to a congressional committee in such circumstances. In parliamentary systems, in contrast, the very "fusion" of the executive and legislative branches gives the whip hand to the government; parliamentary inquiries into alleged executive malfeasance are notoriously weak.

The British in their inimitable way have immortalized these truths in a cultural masterpiece, namely two television series produced by the BBC entitled *Yes Minister* and *Yes Prime Minister*. The first series recounts the career of a bumbling politician, James Hacker, who becomes a cabinet minister. He immediately encounters his would-be helpmeet, Sir Humphrey Appleby, the permanent secretary, or career head of the department. Sir Humphrey's real preoccupation is to insure that bright ideas from the minister do not disrupt the routine of existing policies or of civil service control. "He'll be house-trained in no time," Sir Humphrey assures two civil service colleagues. He deftly manages to steer his minister away from various shoals of policy innovation, all the while convincing Hacker that he, the minister, is totally in charge and that the outcomes comport exactly with his wishes (hence the title of the show).

In the sequel, Hacker has by some freak accident of history stumbled into 10 Downing Street as prime minister; Sir Humphrey accompanies him. Issues of foreign policy and defense now broaden the agenda, and Sir Humphrey is able to collude with civil service colleagues in the Foreign and Commonwealth Office and Ministry of Defence where necessary. At one point, a difference of view with the prime minister over how to vote on a United Nations resolution elicits the Foreign Office observation: "The PM must realize that as far as Foreign Affairs are concerned his job is to confine himself to the hospitality and ceremonial role."

If this rings all too true to an American who has served in the U.S. government, it is because the American system—despite the vaunted three thousand appointees—has not solved the problem of presidential political control over our own bureaucracy. As we shall see, our cabinet departments, too, have a life and culture of their own. This can produce a number of different phenomena. Professionals in a department, whether career or "political," often develop more of a loyalty to their

cabinet secretary, with whom they work day to day, than to a president who is a more remote figure across town. To a remarkable degree, a president comes to be viewed by the professionals as an interloper in policies that their departments are immersed in on a daily basis. Career officials also know that political appointees come and go while they will remain and their own career advancement is determined mainly by their permanent institutions. In the British system, departmental parochialism has been mitigated somewhat by the "generalist" tradition of rotating civil servants among departments; in the U.S. system, in contrast, most civil servants tend to spend their careers in a single department. Even political appointees come to absorb much of the institutional culture. "Where you stand depends on where you sit," is an old Washington adage. Nixon aide John Ehrlichman once said of political appointees: "We only see them at the annual White House Christmas party; they go off and marry the natives."

This has a significant influence over how policies are originated and implemented. As many scholars have noted, the nature of society and politics in America, much more so than in Europe, fosters an egalitarian culture even in hierarchical organizations; the culture fosters two-way flows of information and ideas, not just top-down. One result is that policy recommendations often "bubble up" from lower levels, and political leaders often find themselves (as Dean Acheson once put it) in a "judicial" mode weighing what advice comes from below.

Henry Kissinger in his memoirs refers to one result of the strength of the bureaucracy. Whether or not specific ideas flow in both directions, ultimately these institutions are not likely to be sources of bold innovation:

> [A] large bureaucracy, however organized, tends to stifle creativity. It confuses wise policy with smooth administration. A complex bureaucracy has an incentive to exaggerate technical complexity and minimize the scope or importance of political judgment; it favors the status quo, however arrived at, because short of an unambiguous catastrophe the status quo has the advantage of familiarity and it is never possible to prove that another course would yield superior results. It seemed to me no accident that most great statesmen had been locked in permanent struggle with the experts in their foreign offices, for the scope of the statesman's conception challenges the inclination of the expert toward minimum risk. . . . Ultimately there is no purely organizational answer; it is above all a problem of leadership.

"A camel is a horse designed by a committee" is another old Washington adage.

The pivotal figures in the system are the cabinet secretaries. As Kissinger has observed, a cabinet secretary has a strategic choice to make:

> [H]e can see himself as the surrogate of the head of the organization [i.e., the president], taking on his shoulders some of the onus of bureaucratically unpopular decisions. Or he can become the spokesman of his subordinates and thus face the chief executive with the necessity of assuming the sole responsibility for painful choices.

Earlier administrations were conscious of the same problem. John Kennedy's special counsel Theodore Sorensen, in a public lecture in 1963, candidly pointed out that a typical cabinet secretary "was not necessarily selected for the President's confidence in his judgment alone—considerations of politics, geography, public esteem, and interest-group pressures may also have played a part, as well as his skill in administration."

Kennedy's national security adviser, McGeorge Bundy, in his post–White House reflections, was more scathing:

> The unending contest between the Presidency and much of the bureaucracy is as real today as ever, and there has been no significant weakening in the network of triangular alliances which unite all sorts of interest groups with their agents in the Congress and their agents in the Executive Branch. . . . [T]he Executive Branch remains woefully short of first-class executive agents of the President. . . . The Cabinet role which I am trying to describe . . . in its relation to the White House . . . must be at once highly autonomous and deeply responsive. It is political, but only in the President's interest. It is managerial, but only on the President's terms. . . . At a test—unless he means to resign—the Secretary should always be the President's agent in dealing with the bureaucracy, not the other way around.

> The basic argument for this kind of Secretary is simply that no other instrument can give the Presidency control over its own branch of government.

Charles G. Dawes, an early-twentieth-century statesman who served as vice president, budget director, and ambassador, has been quoted as observing: "The members of the Cabinet are a President's natural enemies."

Richard Nixon's first term was one possible paradigm for dealing with this problem. This was the era in which Nixon and his assistant Henry Kissinger pulled the reins of policy into the White House (as we shall describe in Chapter 3). This was a system of maximum centralization of personal control in the president's hands, and maximum coherence of policy, but they came at the price of maximum demoralization of the rest of the government. This method achieved a number of major successes, but in the end it is not a model to be emulated. Kissinger, who served as secretary of state under Nixon and Ford after nearly five years in the White House, concluded, having experienced it both ways, that a strong secretary of state enjoying the confidence of the president is the better model:

> A foreign policy achievement to be truly significant must at some point be institutionalized; it must therefore be embedded in permanent machinery. No government should impose on itself the need to sustain a tour de force based on personalities. . . . If the President does not trust his Secretary of State he should replace him, not attempt to work around him by means of the security adviser.

All of these Executive Branch officials serve at the president's pleasure, and, as Kissinger suggests, replacing them is a presidential prerogative. In short, and in theory, he can fire them. But that is not so easy in practice. If Nixon's problem was an unwillingness to fire people, Gerald Ford's experience, as we shall see, illustrates the pitfalls of firing people. The excruciating dilemma of whether or when to replace cabinet officers, we shall also see, is one of the burdens that confronted George W. Bush over Iraq.

Thus, every administration must balance a trade-off between coherence and discipline in presidential policy on the one hand, and bureaucratic collegiality on the other. The hard choices that this poses will be a

recurring theme in this book. George H. W. Bush, we shall see, did a good job of reconciling coherence and collegiality, but other presidents considered here had a harder time of it.

WHILE CONSTITUTIONAL LEGITIMACY and democratic legitimacy underpin presidential prerogative, prudence levies its own requirements. There seems to be a third, informal, concept of legitimacy, which relates to the way decisions are made and can be measured by the bureaucratic acceptance that follows (or doesn't follow) when an important agency of the government is overruled. Professor Neustadt's recommendation of persuasion is the ideal. But what if it can't be done? If differing points of view persist, the president may have to overrule *somebody*; consensus may not be attainable (or even desirable, if it only masks hard choices that must be made). And presidents have the right—like Abraham Lincoln—to overrule a consensus of all their subordinates.

What is it that enables presidents to do this without mutiny, without rancorous charges of "cabals" and insufficient consultation? If there is such a notion of procedural legitimacy, how is it defined? How is it reconciled with the president's constitutional supremacy in his branch of government, and with the system's need for consistent personal leadership? The formal, collegial structures of modern policy-making, centered in the National Security Council process, are part of the answer, but different presidents use this mechanism in different ways.

Alexander Hamilton is well known as the champion of a strong presidency; it was his essay No. 70 in *The Federalist* that argued for "energy in the Executive." Yet in 1800, Hamilton put forward the prudential case for a president's close consultation with his cabinet. This was, to be sure, in the context of a bitter feud with the incumbent president, his political rival John Adams, but the eloquence is familiar and the advice stands on its own:

> A President is not bound to conform to the advice of his ministers. He is even under no positive injunction to ask or require it. But the Constitution presumes that he will consult them; and the genius of our government and the public good commend the practice.
>
> As the President nominates his ministers, and may displace them when he pleases, it must be his own fault if he be not surrounded by men who, for ability and integrity, deserve his confidence. And if his