
Powers of Presidents in Republics*

Juliet Edeson

THE QUESTION of Australia becoming a republic has sparked intense and often impassioned debate. This debate revolves around whether such change is necessary or important, and extends to what this symbolic change would entail in practice. The role of an Australian President as Head of State is an essential element of such discourse. It is vital that debate over a desirable role for the President draws on the broadest scope of opinion and information possible. Australia must not only look within to determine these issues, but must also draw on the experience of other republics, not only as models but as working systems.

The intention of this paper is to provide a comparative analysis to assist in an informed debate on Australia becoming a republic. It will reveal the practical roles of presidents in certain republics as compared with their formal constitutional roles. Each country will be examined separately, and certain themes will be identified in a final evaluation.

Twelve democratic republics, each of which has experienced political stability for twenty-five years or more, were selected for inclusion. They are: Austria, Botswana, Finland, France, Germany, Iceland, India, Ireland, Israel, Italy, Switzerland and the United States of America.

The aim was to provide a reasonably detailed analysis of the powers of presidents in these democratic republics. This has been achieved by identifying the formal constitutional powers of the presidents, and then consulting recent secondary sources for information on the practical application of those powers. A major obstacle was lack of information in several instances. Often the most telling indicators of the powers of a president was the complete lack of information on them.

The paper is divided into two parts. The first part provides the main focus of the paper, which is an evaluation of the practical application of the constitutional powers of the president in

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each country. In each country there are factors particular to both the formal structure of government as well as political realities that determine the use of presidential power and its effectiveness. Thus there is a breadth in the differences between the real roles of presidents that is greater than the differences to be found in the constitutions. Reference to the formal constitutional provisions for the powers of presidents is provided in the appendix.

The second part provides an evaluation which seeks to identify broad themes in the use of presidential power. The main findings are that presidential power is significantly increased when the president can effectively select the prime minister and other members of the government, or has substantial influence in this area. Power to direct foreign affairs and to command the military, and power in the legislative process are other major determinants of the role of presidents. Limits on the use of presidential power have also been addressed. Here the role of political parties in the nomination process is cited as the most common deterrent to independent action of presidents. The impact of the mode of election on the powers of presidents is also addressed, and this is found not to be a determinant of power in its own right.

Part A: Presidential Powers in Practice

1. The President of Austria

In reality the Austrian presidency has never achieved the importance intended for the office.¹ The Chancellor is the undisputed head of the government, and the President has never transcended the role of merely symbolic head of state.

The President's powers are exclusively negative, in the sense of the ability to block proposals. However, no President has ever refused to sign a bill adopted by the Parliament, fulfilling a role, therefore, of merely certifying the constitutionality of bills.² Presidents do, however, assert the right to information, which at times may give them a pre-emptive influence on government politics.³

The power to select the Federal Chancellor does not generally provide an instance where the President's discretion could prevail over the outcomes pre-determined by the parliamentary political parties. After World War II a two-party system, with one minor third party, developed. However, as the number of parties represented in the Parliament has grown, it has been predicted that the President will by necessity become more active in negotiations on the formation of governments. An instance when the President has become influentially involved in these negotiations was in 1953 when President Körner refused to nominate a coalition government that would have included a smaller right-wing party. Ostensibly in doing so he was 'interpreting the will of the electorate', though it must be noted that Körner was a socialist, and his political sympathies lay elsewhere.⁴

¹John Fitzmaurice, *Austrian Politics and Society Today: In Defence of Austria*, Macmillan, London, 1991, p. 77.

²Stefan Hammer, 'Austria', in *Heads of State: A Comparative Perspective*, Australian Constitutional Centenary Foundation, Carlton, Vic., 1993, p. 13.

³ *ibid* p. 11.

⁴ *ibid* p. 13.

In foreign policy, the President fulfils a ceremonial role, and must in any case obtain the counter-signature of a minister for any acts. Similarly, the role of the President as Commander-in Chief of the armed forces is considered to be nominal only.

2. The President of Botswana

It seems that the President fulfils the role provided in the Constitution. Due to lack of available information, it cannot be said whether this is the case in all respects.

The current President, Quett Ketumile Masire, who has been in office since 1980, is also head of the ruling party in Botswana, the Botswana Democratic Party. This party has had power since independence in 1966.⁵

3. The President of Finland

The presidency is a position of great power and importance in Finland, and presidents have exerted their constitutional powers.

Presidents have played a vital role in the formation of governments. The weakness and instability of the multi-party system has led to the necessity of an activist President in this area. A convention has arisen that before a new government is formed there is a 'presidential round', during which time the President meets and negotiates with the various groups in the Parliament.⁶ When sufficient agreement amongst the parties seems impossible, the President has on several occasions appointed caretaker governments of officials.⁷ Often this power has been used by Presidents to determine policy outcomes. For example, in 1975 President Kekkonen installed a Government of National Emergency specifically to address the problem of unemployment, after 'inconclusive' election results. More frequently, however, this power has been utilised in order to determine foreign policy.⁸

The area of greatest presidential power is in foreign affairs. It has become a tradition that the President's choice of foreign secretary is respected.⁹ Presidents in the postwar era have given particular attention to relations with the Soviet Union. In order to keep these amicable, the President has often used the constitutional powers to their fullest extent. This pre-eminence in foreign policy has increased the extent to which presidents may influence domestic policy. The President has been known to overlook particular parties during the process of government building, on the basis that it would jeopardise relations with the Soviet Union, the predominant issue in Finland's foreign relations in the postwar era. Often this censorship of particular parties has disregarded compelling factors in the composition of the

⁵ *The Europa World Yearbook 1996*, vol 1., Europa Publications Ltd, London, 1996, p. 630.

⁶ David Arter, *Politics and Policy-Making in Finland*, Wheatsheaf Books, Brighton, Eng., 1987, p. 90.

⁷ *ibid* p. 90.

⁸ *ibid* p. 92.

⁹ *ibid* p. 93.

Parliament.¹⁰ Power over foreign policy has also led to the President playing an active role in issues relating to trade and commerce. This can be seen, for example, in the role played by the President in the 1973 EEC Free-Trade Agreement and the 1977 Long-Term Programme of Economic Cooperation with the Soviet Union.¹¹

On the whole, Presidents have sought to act in accordance with the advice of the government. For example, use of the power to dissolve Parliament without the consent of the government has been avoided. Presidents have been able to determine the future of governments without resorting to such measures. For example, the demise of the Karjalainen II government was effectively brought about when the President expressed his dissatisfaction with the government.¹² The power to veto bills, at least temporarily, by refusing to ratify them has been used with some frequency.¹³ Presidents have also made use of the ability to introduce proposals to Parliament and to suggest amendments to existing legislation.

The importance attached to the position of head of state can be seen in the system of dual chairmanship of the cabinet. Weekly meetings occur with the President as chairman of the cabinet, when issues that fall within the realm of presidential power are discussed. It is in these meetings that the President authorises the submission of bills to Parliament, and makes senior appointments.¹⁴ The President does not play a merely formal role, and may actively pursue his or her own agenda. For example, at times Presidents have opposed the majority view of the government over issues of appointments, as well as the content of legislation.¹⁵ However, the most important source of power for the Finnish President relates to power over foreign affairs and influence in the formation of governments.

4. The President of France

Pompidou, in 1969, stated that the President of the Republic of France is:

both head of the executive and guardian and guarantor of the Constitution. In this double role, he is charged with giving the fundamental impetus, defining the essential directions, and assuring and controlling the proper functioning of public authorities: an arbiter with primary national authority at the same time.¹⁶

In practice the powers of the President transcend those specified in the Constitution. When the majority in Parliament is of the same party as the President, the head of state also performs the role of head of government. This is the norm in French politics. When the majority in the Parliament are in opposition to the President, the Prime Minister is the real

¹⁰ *ibid* p. 91.

¹¹ *ibid* p. 110.

¹² *ibid* p. 94.

¹³ Jaakko Nousiainen, *The Finnish Political System*, Harvard University Press, Cambridge, Mass., 1971, p. 227.

¹⁴ Arter, *op. cit.*, p. 94.

¹⁵ *ibid* p. 97.

¹⁶ John Bell, *French Constitutional Law*, Clarendon Press, Oxford, Eng., 1992, p. 15.

head of government.¹⁷ During such a period of “cohabitation”, the President is still involved in foreign and military policy, but no longer determines other political directions.¹⁸ In these instances, the President continues to perform those functions allocated by the Constitution.

The Premier, in accordance with the Constitution, is nominated at the sole discretion of the President. Usually the President chooses a Prime Minister who is in agreement with his views, and who consequently considers himself responsible to the President. The tenure of the Prime Minister is also very much dependent on the will of the President. Presidents can change Prime Minister when, for example, seeking to change the government’s direction. It has become an unwritten rule that if the President believes it to be necessary, the Prime Minister must resign, though this has not been tested during a period of cohabitation.¹⁹ Furthermore, the appointment of the rest of the government, which should be done on the advice of the Prime Minister, is actually subject to presidential intervention. Presidents take a great deal of interest in these appointments, and have on occasions appointed ministers who do not meet with the approval of the Prime Minister. President Giscard, for example was said to base the entire composition of government ‘on a rather personal basis’.²⁰ Such a practice would not, however, be possible during a period of cohabitation.

The power to dissolve the National Assembly has been put to use by Presidents. In 1962 and 1968 for example, de Gaulle dissolved the Assembly, and in 1981 and 1988 Mitterand used this power in the hope of winning parliamentary majorities.²¹

The President does not have the power to veto bills, but does have the authority to request re-examination of bills.²²

While the President theoretically does not play an active role in the law-making process, it is at the President’s initiative that constitutional amendments may be sought. The President may also call for a referendum. There have been six during the Fifth Republic, which followed the stipulations in the Constitution. De Gaulle, however, did not adhere to these in 1962.²³ The prerogative to submit a law or an international treaty to the Constitutional Council to determine its constitutionality has also been employed by the President, for example, with the Maastricht Treaty in 1992.²⁴

The emergency powers referred to in article 16 of the Constitution have been used. These were adopted by President de Gaulle in response to the Algerian Crisis between 16 April and

¹⁷ O. Duhamel, ‘The Spirit of French Institutions,’ *Label France*, no. 21, August 1995, p. 5.

¹⁸ *ibid* p. 6.

¹⁹ Pierre Avril, ‘A Government “under the Presidency”?’ *Label France*, no. 21, August 1995, p. 13.

²⁰ M. Donald Hancock et al, *Politics in Western Europe*, Chatham House Publishers, Chatham, Eng., 1993, p. 108.

²¹ Jean Gicquel, “‘Presidentialism’ With a French Accent’, *Label France*, no. 21, August 1995, p. 10.

²² Hancock et al, *op. cit.*, p. 10.

²³ *ibid* p. 110.

²⁴ Gicquel, *op. cit.*, p. 10.

30 September 1961. It is at the President's discretion to end the use of these powers, and, disregarding suggestions from the Constitutional Council, de Gaulle continued them for longer than was perhaps necessary in 1961.²⁵

The President has a high profile internationally, and fills the assigned constitutional role in the negotiation and ratification of treaties. As commander-in-chief of the armed forces, the President is responsible for the decision to use nuclear weapons.²⁶

5. The President of Germany

In practice, the President functions as a symbolic head of state. Due to occurrences in German history prior to the framing of the current Constitution, the Constitution of 1949 severely curtailed the powers of the President.²⁷

The President is sometimes referred to as 'guardian of the Constitution'.²⁸ This perception arises from the requirement of the President's signature to enact bills, and from the President's oath. However, this role is actually performed by the Constitutional Court, and the requirement for the President's signature on federal laws has been interpreted as meaning that the President must sign if the correct procedural rules have been followed. No President has declined to sign such bills.²⁹ However, when the President has had reason to query whether the correct procedures have been followed, this power to decline signing has been utilised. For example, the first President, Theodor Heuss, refused to sign bills on such occasions. He set a precedent by questioning whether a particular law that had been passed by the Bundestag only needed also the Bundesrat's approval. He consequently withheld his signature when the Constitutional Court ruled that the approval of both houses was required, and the bill never went into effect. Ultimately, however, the Federal Constitutional Court has the authority to determine such questions. In these instances, the signature, or the refusal thereof, of the President is seen as an advisory opinion.

The appointment of the Federal Chancellor by the President is also a formal power. The President must appoint the candidate who can receive majority support in the Bundestag. However, there are two occasions on which the President may exercise discretion in the nomination of the Chancellor. First, the President would be required to become involved in negotiations if the political parties could not come to an agreement over a candidate, as occurred in 1961. Second, the President would have to become involved if the candidate could obtain only a relative majority in the Bundestag, although this situation has not occurred.³⁰ With regard to the appointment of ministers, the President is obliged to accept the choices of the Federal Chancellor. The President may seek to influence choices by expressing

²⁵ Bell, *op. cit.*, p. 16.

²⁶ Gicquel, *op. cit.*, p. 11.

²⁷ O. Kimminich, 'Germany' in *Heads of State: A Comparative Perspective*, Australian Constitutional Centenary Foundation, 1993, p. 22.

²⁸ *ibid* p. 23.

²⁹ *ibid* p. 23.

³⁰ William B. Paterson and David Southern, *Governing Germany*, Basil Blackwell, Oxford, Eng., 1991, p. 83.

opinions publicly, but does not have the power of veto. In 1963 President Lübke opposed the appointment of Gerhard Schröder as Foreign Minister, but was unsuccessful in altering the Chancellor's decision, revealing the extent of this power in practice.

The most explicit power of the President relates to international relations. However, while the President performs the assigned duties, such as accrediting and receiving diplomatic envoys, in practice this and the other main duty according to the Constitution, the conclusion of treaties with foreign nations, is fully entrusted to the Ministry of Foreign Affairs.

6. The President of Iceland

In practice, the extensive powers vested in the Icelandic President are not used, and the President's role is formal. The executive power is exercised by the cabinet ministers who are responsible to the Althing.³¹ The President acts on the advice of the government in the fulfilment of presidential duties. It is generally understood that the President must and will sign all laws that have been passed by the Althing.³²

7. The President of India

While the Constitution grants the President executive authority, this is widely acknowledged to be a formal power only, with executive power actually being exercised by the Prime Minister and Cabinet (Constitutional Amendment 1976, to the effect that the President 'shall act on the aid and the advice of his Council of Ministers').³³ In essence, the President is merely a titular head, but there is scope for expansion of the role of the President in the exercise of executive authority, and on certain occasions the President has transcended this role.

There are two occasions on which the President does not have to act on the advice of the Prime Minister and Cabinet: when the Council of Ministers has lost the confidence of the House of the People (Lok Sabha), and when their advice violates the law or Constitution of India. Furthermore, the 44th amendment of 1977 asserts that even when neither of these situations prevails, the President is permitted to disagree with the Council of Ministers and may ask them to reconsider their advice.³⁴

The President is not expected to publicly criticize the government, though implicit criticism has been tolerated by premiers. The relationship between the Prime Minister and the President has had great bearing on the extent to which presidential power has been exerted. The first two holders of the Prime Ministership and the Presidency (Nehru and Prasad) tested

³¹ Albert P. Blaustein & Gisbert H. Flanz (eds), 'Iceland' in *Constitutions of the Countries of the World*, Oceana Publications Inc., New York, 1988 • .

³² *ibid* p. 5.

³³ R. Venkataraman, 'The Indian Presidency: An Emergency Lamp', in C.K. Jain (ed.), *Constitution of India: In Precept and Practice*, CBS Publishers, New Delhi, 1992, p. 15.

³⁴ M. Bhatia, 'The President and the Council of Ministers', in C.K. Jain (ed.), *Constitution of India, In Precept and Practice*, CBS Publishers, New Delhi, 1992, p.19.

the limits of their powers on two particular occasions. In one instance the President publicly challenged the Prime Minister's bill to reform Hindu personal law, and in another, he delayed giving his assent to a land reform bill. On both occasions the Prime Minister threatened to resign and the President yielded.³⁵

After this the most serious challenge to the authority of the Prime Minister from a President came during Rajiv Gandhi's premiership. President Singh openly complained that he was not receiving even minimal information from Prime Minister Gandhi, contrary to the Constitution. He drew further attention to his complaint by threatening to withhold assent from a piece of legislation and openly expressing his dissatisfaction with the Prime Minister in press interviews. These questions were never resolved, as they remained until Singh retired. His successor, President Venkataraman, however, went even further, and took executive action. During the polling in the 1989 election, the President instructed the Election Commission to ensure a repoll in sections of Prime Minister Rajiv Gandhi's constituency where violence had been organised by Congress Party activists. Impeachment of the President was not seriously discussed by the Prime Minister and Cabinet in this instance.

The power to impose President's Rule, that is direct rule from New Delhi, over a particular state has been used on various occasions, especially during the 1975 to 1977 period while Indira Gandhi was Prime Minister. This was not an exertion of presidential power, as the action was advised and compelled by the Prime Minister. Similarly, President Ahmed imposed a state of emergency, also on the advice of the Prime Minister, who felt that this was required for her to remain in office.

Such actions were the result of the leverage Prime Ministers can have over the President due to the central role the Prime Minister plays in the election of the President.

Under the Constitution, the President selects the Prime Minister, and an electoral college selects the President, but the system is not so clear in reality. The very complex election of the President by an electoral college is usually subject to the wishes of the Prime Minister. There were two occasions during Prime Minister Nehru's premiership when his preferred candidate did not win the presidential election. Usually, however, presidents owe their position to the Prime Minister, as was often the case when Indira Gandhi chose candidates based on their presumed pliability. This led to those situations when presidents used far reaching powers on the advice of the Prime Minister, without requesting even reconsideration, and did not act necessarily in the best interests of the country as required by the presidential oath.

The selection of the Prime Minister is only a formal power of the President, as the President must choose the candidate who can command a majority in the Lok Sabha. However, the President can play a role of increased importance when no one party can command a majority in the Parliament. In this situation the President is important as a 'referee' and in assisting in the construction of stable majorities.³⁶ In 1979, defections from the ruling party left the Prime Minister without majority support in the Lok Sabha. The President was central in determining

³⁵ Much of the information in this section is drawn from: James Manor, 'The Prime Minister and the President' in B. D. Dua, *Nehru to the Nineties: The Changing Office of the Prime Minister in India*, Hurst & Company, London, 1994, pp. 115–137.

³⁶ *ibid* p. 136.

the outcome of this situation. He decided who was asked to attempt to gain the confidence of the Parliament, and whose advice he ultimately accepted with regard to dissolving the Parliament when there was no Prime Minister able to gain the confidence of the Parliament.

8. The President of Ireland

While the Irish President is not explicitly referred to as the Head of State in the Constitution, this has come to be understood as the President's true position.³⁷ This role, however, is a formal one, with the President exercising discretionary power in only a very limited area.

While the President is popularly elected, the nomination procedure, requiring the backing of one of the main parliamentary parties, ensures their dominance in determining the outcome of elections. If the main parties agree on a candidate, and only one is put forward, an election is not held, and presidential elections have been the exception rather than the norm.³⁸

The only discretionary power of the President used with any frequency is the right to refer a bill to the Supreme Court. In 1976, such a referral by the President led to his resignation when he incurred the derogatory remarks of a minister for this decision.³⁹ This shows that the President probably was acting independently in this instance, and, conversely, that independent action in conflict with the wishes of the Government is also perceived as unacceptable.

The power to convene a meeting of the Parliament has been used by some presidents. For example, President de Valera convened both Houses to mark the fiftieth anniversary of the first Dail in 1969, and, more recently, President Robinson did so in 1992, to indicate the direction of her presidency. However, given that the Government has control over the content of the President's presentation, this power is not considered to be of great import.

There does exist scope for an increase in the power of the President within the confines of the Constitution. The example of President Mary Robinson indicates that legitimacy for actions may be sought externally to the Constitution. President Robinson is the first President to have undertaken regular foreign travel as a representative of Ireland, even though the Constitution does not assign any role in foreign relations to the President.⁴⁰

9. The President of Israel

The role of the Israeli President is that of symbolic figurehead. It is a position of great prestige, but no real power.⁴¹ In accordance with the Constitution, the President acts only on

³⁷ James Casey, 'Ireland', in *Heads of State: A Comparative Perspective*, Australian Constitutional Centenary Foundation, 1993, p. 32.

³⁸ Michael Gallagher & Michael Marsh, 'The 1990 Presidential Elections: Implications for the Future', in Ronald J. Hill & Michael Marsh (eds), *Modern Irish Democracy*, Irish Academic Press, Dublin, 1993, p. 63.

³⁹ G. Hussey, *Irish Politics Today*, Manchester University Press, Manchester, Eng., 1993, p. 12.

⁴⁰ *ibid* p. 21.

⁴¹ A. Shalev, 'Israel', in *Heads of State: A Comparative Perspective*, *op. cit.*, p. 39.

the advice of the Government, signing laws enacted by the Knesset (the Parliament) and international treaties ratified by the Knesset. The President's powers to appoint judges and other office holders are similarly exercised. The President's pardoning power is also formal, and in practice exercised only on the advice of the Minister of Justice.⁴²

Prior to the 1993 enactment of the new Basic Law, the Constitution gave the President the responsibility for appointing the Prime Minister. It was customary for the President to delegate the task of appointing the Prime Minister to a representative from the largest party in the Knesset. The new Basic Law provides for the direct election of the Prime Minister. The President under the new law may play a role in dissolving the Knesset when the Prime Minister recognises that a majority in the Knesset oppose the Government.⁴³ However, these new arrangements operated for the first time in May 1996, and there is still uncertainty about the extent to which they affect the power of the President.

10. The President of Italy

The Italian President is considered to be a symbolic head of state. However, it is considered a strategic position by the political parties, one in which a strong personality may have a great deal of influence, and is therefore much sought after.⁴⁴ While the President's powers are formal powers, there has been cause for the President to exercise discretion consistently in one particular area. This relates to the power to nominate the Prime Minister.

Since the 1950s the President has played a key role in selecting the Premier. The unstable multiparty system in Italy has led to a situation of precarious coalition-building. As each of the frequent government crises unfolds, the President must undertake a great deal of negotiating and investigation to find a successor government or leader.⁴⁵ A convention has arisen that the President should seek to avoid legislative elections, and rather to attempt to build new coalitions.⁴⁶ The effect of this can be seen in the difference between the number of changes in Government compared with the number of elections.

The President has further asserted this power in forming governments in recent times. President Scalfaro in 1993 appointed the first Premier of the Republic who was not a member of Parliament. He appointed Ciampi, Governor of the Bank of Italy, to form a new government comprised predominantly of bureaucrats. The President entrusted this government to pursue an express legislative agenda to enact electoral reform and to promote economic recovery by reducing the deficit.⁴⁷ The Constitution does not articulate such a role

⁴² *ibid* p. 40.

⁴³ *ibid* p. 40.

⁴⁴ Michael Keating, *The Politics of Modern Europe*, Brookfield, Vermont, 1993, p. 195.

⁴⁵ Dante Germino & Stefano Passigli, *The Government and Politics of Contemporary Italy*, Harper & Row, New York, 1968, p. 68.

⁴⁶ David Hine, *Governing Italy: The Politics of Bargained Pluralism*, Clarendon Press, Oxford, Eng., 1993, p. 99.

⁴⁷ Carol Mershon and Gianfranco Pasquino, *Italian Politics: Ending the First Republic*, Westview Press, Boulder, Col., 1995, p. 15.

for the President in the legislative process. The Dini government provides another example of the President's use of the power to appoint the government from outside the Parliament. The power of the President to refuse a request from the Prime Minister to dissolve the Parliament has also been used. For example, in 1995 President Scalfaro refused to grant Prime Minister Berlusconi early elections as he intended to follow a particular legislative agenda before he allowed an election to take place.

Presidents have also declined to promulgate laws. In a well known instance in 1993, President Scalfaro declined to sign the cabinet's decrees on Tangentopoli, which entailed approving the decriminalization of illicit party financing.⁴⁸ Furthermore the President spoke out publicly against such moves, exerting pressure on the government by making public addresses.

The constitutional provision that the President may send messages to Parliament was not initially utilised. However from 1978, when Pertini became President, this power was adopted by presidents. It has been used as a way to express dissatisfaction with the government, or to suggest new directions.

Presidents have made use of their office to address a broad range of issues and problems with many institutions. President Cossiga, for example, made scathing criticisms of the party system, focusing on its inability to provide viable alternative governments to the electorate.⁴⁹ Ironically Cossiga had been a member of the (then) main political party, the Christian Democrats, and had served a time as Prime Minister. Scalfaro, who had similarly been a long-serving member of the Parliament, expressed the hope that future governments would contain few professional politicians.⁵⁰ These publicly-uttered sentiments reveal the extensive degree of autonomy that the Italian President may assert.

11. The President of Switzerland

As a member of the Federal Council (which is similar to a cabinet), the President does not have greater powers than the other members of the Federal Council, but rather has a different range of formal duties. The President presides over the Council and nominally over the Swiss confederation.

The President is important to the extent that the federal government is important. The greatest constraint on the President's power is the confederal structure of Switzerland.

The President retains a portfolio (one of Foreign Affairs, Interior, Justice and Police, Military, Finance, Public Economy, Transport, or Communication and Energy), and continues to be responsible for that department. In one sense this makes the Swiss President comparatively powerful, due to the unique situation of being responsible for a ministry. However, in practice

⁴⁸ *ibid* p. 91.

⁴⁹ Hine, *op. cit.*, p. 162.

⁵⁰ Mershon & Pasquino, *op. cit.*, p. 38.

the President's powers do not essentially extend beyond those of a minister. By custom the person elected as Vice-President in one year will serve as President the following year.⁵¹

12. The President of the United States of America

The American Constitution sought to create a system of checks and balances with divided responsibility between the three arms of government; the executive, the legislature, and the judiciary. In reality this separation is not so clear, and, in the case of the President, the generalities of the Constitution have led to an involvement in the other arms of government often at a level not intended in the Constitution.

The electoral college, while still in existence, works very differently from the intentions of the Constitution. In effect, the public votes for an elector who runs on a party platform and guarantees to vote for that party's presidential candidate. This has become institutionalized to the extent that the common perception is that the President is popularly elected, which is in effect how the electoral college works. The two major political parties effectively determine and limit the public's choice in this area. Presidents must in practice receive the backing of one of these parties in order to win an election.

The question of who, for example, controls the legislative agenda is difficult to determine. Many refer to the President as the 'chief legislator'. While this can be misleading as to the extent to which the President may shape the legislative agenda, the President does exercise influence at a level beyond that which is intended in the Constitution.⁵² The President has a great deal of influence in shaping the legislative agenda, but does not exercise de facto power. Presidents have their own agendas which they attempt to make Congress adopt, but success is very much determined by, for example, the lobbying skills of the individual President, the manoeuvrings of political parties, and the perceived mandate of the President. The most effective tool the President may use to influence legislative outcomes is the constitutional power to veto. This power is usually effective.⁵³ It has also been used with some frequency; between 1789 and 1994, presidents vetoed 2,513 bills, and only 104 vetoes were overridden by Congress.⁵⁴

The duty to 'take care that the laws be faithfully executed' in practice puts the President at the head of the Federal bureaucracy. This has become increasingly large and complex, giving the President greater responsibility, and also extensive power which is at odds with earlier interpretations of the office and beyond the scope of the power intended by the framers of the Constitution.

⁵¹ Walter S.G. Kohn, *Governments and Politics of the German-Speaking Countries*, Nelson-Hall Inc, Chicago, Ill., 1990, p. 210.

⁵² Robert L. Lineberry, George C. Edwards and Martin P. Wattenberg, *Government in America*, Harper Collins, New York, 1994, p. 468.

⁵³ *ibid* p. 469.

⁵⁴ Bruce Wetterau, *Congressional Quarterly's Desk Reference on American Government*, Congressional Quarterly Inc, Washington, D. C., 1995, pp. 42–44.

The President throughout American history has exercised the powers of commander-in-chief of the armed forces, though in different ways. While President Washington in 1794 himself led the army to quell a rebellion, in more recent times presidents have made important military decisions rather than participate in war as such; for example, President Truman selected the target and the date for dropping atomic bombs on Japan, President Lyndon Johnson selected targets for bombing in North Vietnam, and President Reagan made the decision to send troops to Grenada and to bomb Libya.⁵⁵

The Constitution assigns the power to declare war to Congress, but presidents have increasingly disregarded this stipulation, making military commitments without seeking the approval of Congress. Congress's constitutional right to make these decisions was also disregarded in the case of the Vietnam and Korea conflicts, as they were never officially declared to be wars.⁵⁶ Even after the War Powers Resolution,⁵⁷ presidents did not consult with Congress before entering wars (as seen, for example, during the Bush presidency).

Presidents have further extended their power in the area of treaty making. 'Executive agreements' with other executive heads of state are frequently utilised, which do not require the Senate's approval. These have been used extensively since World War II.⁵⁸ In accordance with the Constitution, the President has made use of the power to extend diplomatic recognition to other nations, as did President Carter, who extended recognition to the People's Republic of China, and ceased US relations with Libya.

The constitutional provisions for the appointment of officials have been widely used by presidents. In particular the President takes a good deal of care and interest in the selection of Supreme Court judges. While the President cannot influence the judges after their selection, usually an attempt is made to select judges of a similar ideological position, in the hope of this leading to judgements in accordance with presidential views.

The presidential power of pardon has been used; for example President Ford granted former President Nixon a pardon.

The only President who has been impeached was Andrew Johnson in 1868, although it was seriously considered for President Nixon.⁵⁹

Part B: Evaluation

⁵⁵ Lineberry, Edwards and Wattenberg, *op. cit.*, p. 480.

⁵⁶ *ibid* p. 481.

⁵⁷ This was passed in 1973, over President Nixon's veto, and was intended to allow Congress greater influence over commitment of the Armed Forces to overseas hostilities. It requires Presidents to consult with Congress prior to such commitment wherever possible, and further, if 60 days after the engagement of troops Congress had not declared war or granted an extension, the troops would be withdrawn.

⁵⁸ Wetterau, *op. cit.*, p. 45.

⁵⁹ *ibid* p. 60.

The powers of presidents in each of the countries under analysis provide interesting case studies as to the manifestations of constitutional powers of presidents. While the use of presidential power in the countries examined differs a great deal due to peculiarities of the individual systems and political environments, there are several themes in the use of presidential power that can be identified. Identification and evaluation of these trends provides analysis upon which to base further discussion on the powers of an Australian President.

Mode of election

An issue of great importance, in the Australian republican debate, is the question of the impact of the mode of election on the powers of presidents. On the basis of the research conducted for this paper there can be no definitive conclusion drawn on this issue. While in certain instances the fact that a president was popularly elected may have contributed to the legitimation of the aggrandisement of power, it is only one of many factors. There are as many non-powerful as powerful popularly elected presidents.

The three most powerful presidents of the twelve examined are popularly elected. They are the Finnish President, the French President, and the US President (popularly elected in effect). This however, does not lead to the conclusion that this power is a result of popular election, or that this is the norm for popularly elected presidents. These presidents have extensive constitutional powers. Undoubtedly the extent of these powers would not have evolved further in the absence of a perceived popular mandate, but this is not sufficient in itself. Furthermore, the other countries with popularly elected presidents, Austria, Iceland and Ireland, have presidents among the least powerful. This would indicate that political, as well as other factors, such as extensive constitutional power, are required to increase the powers of presidents. Another important point is that the presidents of India and Italy, for example, who are both appointed by an electoral college, are in the possession of more extensive powers in practice than the presidents of Austria, Iceland and Ireland.

Forming Governments

There are other, more compelling, factors in the explanation of the exercise of presidential power. The example of Italy is illustrative of the tendency in weak multiparty systems for the president's importance to increase in the process of forming governments. The Italian President is a symbolic head of state whose functions are largely formal, with the exception of the power to appoint the Prime Minister. Due to the frequent instability as a result of the inability of the political parties to forge and maintain stable majorities, the President is required to act as an arbiter in these situations. Finland provides another example of presidential intervention in the formation of governments becoming the norm due to problems of maintaining cooperation between parliamentary groups. The Indian President has also played an important role when the Parliament has not been able to form a stable majority. It is also predicted that the Austrian presidency will evolve to become more important as a result of the increasing number of parties gaining representation in Parliament.

In a party system such as Australia's, however, this power would not be of such importance, and there would not be a need for the President to exercise discretion in the formation of coalitions, as the outcome would be predetermined by the political parties on the basis of clear majorities and stable coalitions.

The power of the French President has also been expanded as a result of the constitutional power to select the Prime Minister, and effective power in choosing the rest of the government at certain times. At certain times this allows the President to act as effective head of government as well as head of state. This does not relate to parliamentary instability as such, but more to the inherent weakness of the Prime Minister in relations with the President.

In the case of the Finnish and Italian presidents, this power has involved the ability to impose technical governments. In both cases, presidents have imposed governments of their choosing to solve the problems caused by a parliamentary impasse. This has enabled these presidents to pursue policy objectives, as these technical governments are contracted by the President to address specific issues. For example, the Italian President in 1993 appointed an interim government specifically to address the budget deficit, and to enact certain reforms of the electoral system. The Finnish President has also used this power in a similar way, as when President Kekkonen installed a technical government to address the problem of unemployment. The power to nominate prime ministers and other members of the government, therefore, can be of great significance in certain political systems.

Foreign Affairs and Military Powers

The power to conduct foreign relations has proved important in the expansion of presidential power in certain cases. The increasing complexity of international relations has come to include, for example, issues of trade and commerce, and has impacted on the scope of the powers of those presidents who have responsibility for foreign affairs. Finland provides the most remarkable illustration of this connection. Authority over foreign affairs has been the major determinant in the increase of the Finnish President's power. This was effectively seen to legitimise the increase in the President's influence over domestic issues, for example, in the ability to exclude parties from governments on the basis of their lack of international acceptability. This power also relates to issues specific to Finland, in that the increase in power over foreign affairs of the President coincided with the perception that amicable relations with the Soviet Union were of supreme importance, enabling the President to use discretion as to how these were to be maintained.

The French President has an important international profile at all times, whether during a period of cohabitation or under more normal arrangements in French politics. However, this has not of itself been a major determinant in the expansion of presidential power in France, given the role of the President, more often than not, as simultaneous head of state and head of government. The French President is also effective head of the armed forces, which further reinforces supremacy in the realm of foreign affairs.

The US President is similarly head of the armed forces with the power to conduct foreign affairs. These work in tandem to enhance the power of the President, both internationally and nationally.

Overall it can be concluded that effective power over foreign affairs does tend to contribute to the expansion of presidential power in other areas, although certainly to varying degrees between the different countries.

In the case of Austria, Italy, Germany, Iceland, India and Italy, the power to conduct foreign affairs is formal only, exercised in accordance with, and on the advice of, the government, as is, in the case of the Italian, Irish, Indian, Austrian and Finnish presidents, control over the

armed forces. The prestige of the position of President is further enhanced by the formal duties associated with foreign affairs.

Legislative Powers

Legislative powers are not generally the domain of heads of state. However, regardless of the constitutional intentions for the exercise of this power, some presidents are able to be activist with regard to legislation and are able to pursue a legislative agenda. This has been shown with the ability of the Italian and Finnish presidents to create a policy agenda through technical governments. The US President also has extensive influence over the legislative process.

The most effective tool, however, is the ability to veto legislation. The US President's power of veto is the most extensive power in this context; the veto has had a great deal of success, and may be implemented for a variety of reasons. In most of the other countries, this power is predominantly a suspensive veto, and refers usually to the constitutionality of a bill. The presidential prerogative to request that the Parliament reconsider a bill, as, for example, in the cases of Ireland, Germany and Austria, is merely a formal power relating to the constitutionality of a bill.

Independence of Presidents

Another theme which must be explored in evaluating the powers of presidents is, conversely, who exercises power over them. The most recurrent theme is the pervasiveness of political parties. Political parties generally control the nomination process, and consequently the election of presidents, be the election a popular ballot, by an electoral college or by the Parliament. This leads to two important outcomes. First, this ensures that the position of President, with few exceptions, will be filled by a politician or ex-politician. Second this increases the likelihood that the President acts on the basis of political partisanship, rather than on a neutrally-determined conception of the national interest. The Finnish President reveals these traits most conclusively, though it is also true of the Italian President, the Austrian President and the Indian President, while it is presumed of the French and US presidents.

A further issue which arises from the power of parties to determine the nomination process, is the central role in some cases that the Prime Minister plays in being able effectively to determine who shall fill the presidency. India provides an interesting example here. Though the President is officially elected by an electoral college, prime ministers can generally influence the outcome in accordance with their own wishes. The Prime Minister is generally understood to select presidents on the basis of their loyalty, or their pliability. This has had the desired effect in many instances in India, where presidents are indebted to the Prime Minister for their position, and Presidents have shown their willingness to accord greater precedence to the demands of the Prime Minister than to what may be considered the best interests of the nation.

In the Australian context, these issues are of concern in the debate over the role of the head of state. It is not inherent in the position that political bias or gratitude will pervade the actions of the President, but the aforementioned conditions for the occurrence of this should be given due consideration.

Concluding Remarks

These are some of the many issues that must be addressed in the debate over the Australian republic. The finding that popular election does not necessarily lead to an expansion of a president's power is valuable not only as a challenge to the assumption by many that this is the case, but also to the centrality of this issue. It seems that the nomination process determines the outcome of all forms of presidential election in one sense, in that overwhelmingly presidents are politicians. Furthermore, the trends in the greatest sources of power for presidents should be taken into consideration. These pertain to the ability to nominate prime ministers and ministers, and the ability effectively to conduct foreign affairs, and in certain instances to intervene in the legislative and policy process.

APPENDIX

Summary of constitutional provisions for presidents. References in the text are to sections in the constitution of the country examined.

Austria

The President is popularly elected (Article 60).

The President is responsible to the Federal Assembly (Article 68. 1). All acts of the Federal President are undertaken on the proposal of the Federal Government or the relevant Federal Minister (Article 67. 1). All acts of the Federal President require for their validity the countersignature of the Federal Chancellor or the relevant Federal Minister (Article 67. 2). The President convokes the National Council for ordinary sessions (Article 28. 1), and may also do so for extraordinary sessions on the recommendation of the National Council or the Federal Council (Article 28. 2).

The President appoints the Federal Chancellor and, upon the Chancellor's proposal, the other members of the Government (Article 70. 1). Other presidential appointments include federal officials (Article 65. 2a), judges (Article 86. 1), and members of the Constitutional Court (Article 147. 2).

In foreign affairs, the President represents Austria internationally, receives envoys, authorizes the appointment of foreign consuls, appoints the consular representatives of the Republic abroad, and concludes state treaties (Article 60. 1). The President is Commander-in-Chief of the armed forces (Article 80. 1).

The President may exercise the prerogative of pardon (Article 65. 2c).

In order for the Federal President to be deposed, the National Council, in a meeting of at least half its members, must vote, with a majority of two thirds or more, that the Federal Chancellor be requested to convene the Federal Assembly to determine whether a referendum to that effect should be put to the people. If the referendum is put and the vote is positive, the President is deposed; if it is negative, the National Council is dissolved. (Article 60. 6).

Botswana

The President of the Republic of Botswana is elected by the Parliament.⁶⁰

The President is the Head of State (Article 30), and is vested with executive power (Article 47. 1). In the discharge of presidential functions, the president acts only on his own deliberations (Article 47. 2).

⁶⁰ The elections of the members of Parliament and the election of the President are linked; if there is more than one candidate for the presidency, each candidate for office in the Assembly must declare their support for a presidential candidate.

The President is ex-officio a member of the National Assembly. The President is entitled to speak and vote in all proceedings (Article 58. 1). The President receives advice from the Cabinet with whom the President is obliged to consult as far as is practical (Article 50.1, 2). The President appoints the members of the Cabinet (Article 42), may constitute and abolish offices of Botswana (Article 56), and may appoint members of the armed forces (Article 48. 2a, b).

The President is Commander in Chief of the armed forces (Article 47. 2).

The President has the prerogative of pardon (Article 53a).

The President retains office until the Assembly is dissolved or it passes a motion withdrawing confidence in him (Article 32. 8).

Finland

The President is popularly elected (Article 23),⁶¹ on the nomination of candidates by political parties with parliamentary representation (Article 23. a).

The Constitutional powers vested in the Finnish President are extensive. The President holds executive power (Article 2). In the oath of office, the President swears to uphold the Constitution and laws of Finland and to promote the prosperity of the people (Article 24).

The President may propose legislation to the Parliament, may request that any existing act be amended or repealed, may propose a new act to Parliament, and also may issue decrees (Article 28). The President may refer acts to the Supreme Court (Article 14). Parliament can be convened for an extraordinary session and dissolved by the President (Article 27). The President may demand information from government agency heads (Article 32), and the Chancellor of Justice is to report to the President once a year (Article 48). The President may present and also withdraw government proposals to Parliament.⁶²

The President appoints the Prime Minister and members of Cabinet (Article 36), the Chancellor and Assistant Chancellor of Justice (Article 87. 1), Presidents of the Supreme Court (Article 87. 3), heads of central state agencies and County Governors (Article 87. 5), officials in the Council of State, the Supreme Court (Article 87. 6), and army and naval officers (Article 90).

Foreign relations are conducted by the President, who may conclude treaties which must then be approved by Parliament (Article 33). The President is the Supreme Commander of the armed forces (Article 30).

⁶¹ This is as a result of the 1991 Constitutional Amendment which introduced popular election instead of the existing electoral college. The electoral college in practice was representative of the popular vote.

⁶² Parliament Act Section 28.

Based on an opinion from the Supreme Court, the President may grant pardons (Article 29).

If the Council of State or the Chancellor of Justice consider that the President has committed high treason or treason, the Parliament may then determine, by at least three quarters of votes cast, that charges are to be brought. The charges are prosecuted by the Chancellor of Justice in the Supreme Court (Article 47).

France

The President is popularly elected (Article 7).

The constitutional powers of the President are extensive, and it is the broad duty of the President to ensure that the Constitution is respected (Article 5). The President presides over the Council of Ministers (Article 9). Most acts of the President are discretionary; the President may convene both houses of Parliament for the purpose of communicating a message (Article 18), and declare the dissolution of the National Assembly (Article 12).⁶³ The President may submit a bill to referendum (Article 11) and may also submit laws to the Constitutional Council (Article 61). The President may request that the Government reconsider laws (Article 10).

The President appoints the Premier (Article 18), and three of the nine members of the Constitutional Council are appointed by the President (Article 56). Appointment of the other members of government are made on the proposal of the Premier (Article 8), and appointments to civil and military posts also require the countersignature of the Premier or the appropriate minister (Article 13).

In foreign affairs, the President accredits ambassadors and envoys (Article 14), and negotiates and ratifies treaties (Article 52); these acts require the countersignature of the Premier or the relevant minister. The President is Commander-in-Chief of the armed forces (Article 8). In emergency situations, the President shall 'take the measures commanded by these circumstances' (Article 16).

The President has the power of pardon (Article 17).

The President may be indicted by a majority vote in each of the Assemblies voting in open ballot, and by an absolute majority of both Assemblies. The only charge which may be laid against his exercise of office is high treason, and he must be tried by the High Court of Justice (Article 68).

Germany

The President is elected by the Federal Convention without debate; this body consists of the members of the Bundestag and an equal number of members elected by the Land Parliaments by proportional representation (Article 54. 2. 3).

⁶³ This may occur after consultation with the Premier and the Presidents of the assemblies, and cannot occur within the first year following elections.

The President's oath requires the President to 'dedicate efforts to the well-being of the German people, enhance their benefits, save them from harm, uphold and defend the Basic Law and Laws of the Federation' (Article 56).

Any order or directive from the President requires for its validity the countersignature of the Federal Chancellor or the appropriate federal minister (Article 58). The President may declare legislative emergency on a bill declared urgent by the Government at the request of the Government (Article 81).

The President nominates the Federal Chancellor who must have the confidence of the Bundestag (Article 63. 1, 2). The federal ministers are appointed by the President on the proposal of the Federal Chancellor (Article 64. 1). Other presidential appointments include federal judges, federal civil servants and officers of the armed forces (Article 60. 1).

In foreign affairs, the President represents Germany and concludes treaties with other nations (Article 59. 1).⁶⁴

A motion to impeach the Federal President, for wilful violation of the Basic Law or any federal law, must have the support of at least one quarter of either house of Parliament, and must be carried by a two-thirds majority in either house. The President is tried before the Federal Constitutional Court, and if found guilty, may forfeit his office (Article 61).

Iceland

The President is popularly elected (Article 2).

Executive power is vested in the President (Article 3), and is exercised through the ministers (Article 13).

Legislative powers are vested jointly in the Parliament (the Althing) and the President (Article 3). The President presides over the State Council which is composed of the ministers; laws and important government measures are to be submitted to the President in Council. The signature of the President with the countersignature of a minister validates an act of Government (Article 14); if the President is opposed to a law it shall be submitted to a popular referendum (Article 26). The President can submit bills and proposals to the Althing (Article 25), and may also summon, as well as dissolve, the Althing (Article 22, 24).

The Cabinet is selected by the President, who determines the number of ministers as well as their duties (Article 15). The President has other broad powers of appointment (Article 20).

In foreign affairs, the President may conclude treaties. The President has emergency powers (Article 28).

⁶⁴ Those treaties which regulate the political relations of the Federation or relate to matters of federal legislation require a federal law to be enacted.

The President has the prerogative of pardon (Article 29).

Members of the United Althing may resolve, by a three quarters majority, that a plebiscite shall be held to determine if a President should cease to hold office before the expiry of his term. If the plebiscite is defeated, the Althing is dissolved (Article 11).

India

The President is elected by an electoral college which consists of the members of both Houses of Parliament and the members of the legislative assemblies of the states (Article 54).

Under the Constitution, executive power is vested in the President (Article 53. 1). All executive action is to be taken in the name of the President (Article 77).

There is a Council of Ministers headed by the Prime Minister to aid and advise the President, who shall act in accordance with this advice (Article 74). The President may require that the Council of Ministers reconsider its advice (Article 74). It is the Prime Minister's duty to keep the President informed of all decisions of the Council of Ministers and to provide the President with information relating to the administration of the affairs of the state and proposals for legislation, as the President requires (Article 78a, b).

The Prime Minister is appointed by the President, and the other ministers are also appointed by the President on the advice of the Prime Minister (Article 75. 2). The ministers hold office at the pleasure of the President (Article 75. 2). The Attorney General is also appointed by the President, and gives advice to the Government on legal matters (Article 76. 2).

The President may, on the advice of the Prime Minister, exercise emergency powers (Article 352). The President has the power to grant pardons (Article 72).

A charge may be brought against the President for violation of the Constitution if a resolution signed by one quarter of the members of a House of Parliament is moved in that House and passed by a two thirds majority of the membership of that House. The charge is investigated by the other House, and, if two thirds of the membership of that House vote to sustain the charge, the resolution has the effect of removing the President from office (Article 61).

Ireland

The Irish President is directly elected by the people (Article 12. 1. 2).

There is a Council of State to aid and counsel the President, which consists of the Prime Minister, the Deputy Prime Minister, the Chief Justice, the President of the High Court, the Chairman of the House of Representatives and the Chairman of the Senate, and the Attorney General (Article 31. 1).

Da'il Eireann (the House of Representatives) is summoned and dissolved by the President on the Prime Minister's advice (Article 13. 2), although the President may refuse dissolution in

certain instances (Article 13. 2. 2).⁶⁵ The President may convene meetings of the Oireachtas (Parliament) (Article 13. 2. 2). After consultation with the Council of State, the President may communicate with the Oireachtas by message or by address (Article 13. 7. 2). The President's signature is required to promulgate laws, which shall be given for every law made by the Oireachtas (Article 13. 3. 2), although the President may refer any bill to the Supreme Court to determine its constitutionality after consultation with the Council of State (Article 26. 1. 1). On petition by members of Parliament, the President may submit a bill to popular referendum prior to promulgating it (Article 27. 1). The President shall be kept informed on matters of domestic and foreign policy by the Prime Minister (Article 28. 5. 2).

The President is required to nominate the head of Government (the Prime Minister), and, on the Prime Minister's advice, appoint the other members of the government (Article 13. 1, 2). Judges of the Supreme Court, as well as seven members of the Council of State, and officers of the armed forces, are appointed by the President (Articles 35, 31. 8).

The President has supreme command of the defence forces (Article 13. 2).

A notice of motion signed by at least thirty members proposing to prefer a charge against the President for 'stated misbehaviour' can be raised in either of the houses of the Oireachtas. The proposal must be adopted by a two thirds majority of the membership of the House in which it is raised. The charge is then investigated by the other house of the Oireachtas, and, if it determines by a two thirds majority that the charge has been sustained and is such as to render the President unfit for office, the President is thereby removed from office (Article 10).

Israel

The Knesset (the Parliament) elects the President (Article 39). The President is the head of state (Article 36).

The functions of the President are to promulgate laws (Article 41 a. 4) and sign conventions with foreign nations that the Knesset has ratified (Article 41 a. 2). The countersignature of the Prime Minister or a minister is required in conjunction with the President's signature on official documents (Article 41 d).

The President appoints judges upon their election by a Judges Election Committee (Article 147 a), and confirms the appointments of foreign consular representatives (Article 41 a. 3). In foreign affairs, the President accredits diplomatic representatives (Article 41 a. 3).

A complaint that the President 'is unworthy of his office owing to conduct unbecoming his status as President' may be brought before the House Committee by at least 20 members of the Knesset. The House Committee may propose to the Knesset, on a vote of three quarters majority of its members, that the President should be removed from office. A majority of three quarters is required in the Knesset. The President has the right to defend himself before the House Committee and the Knesset (Article 20).

⁶⁵ This is at the sole discretion of the President.

Italy

Election of the President is by an electoral college which consists of a joint sitting of the two houses of Parliament and three delegates from every region (Article 83). The President is the head of state (Article 87).

The President provides for the election of a new Parliament (Article 87), and may also dissolve one or both chambers after consultation with their Speakers (Article 88).⁶⁶ Laws are promulgated by the President (Article 73), who may request further consideration of them by Parliament (Article 74).⁶⁷ The President is authorised to send messages to Parliament, and authorizes the submission of bills moved by the government to Parliament (Article 87). The President may issue decrees which have the force of laws and regulations (Article 87). All acts of the President must be countersigned by the relevant ministers, or the Prime Minister (Article 89).

The President appoints the President of the Council of Ministers (the Prime Minister), one third of the members of the Constitutional Court, as well as other state officials (Article 92).

In foreign affairs, the President is vested with the power to accredit and receive diplomatic representatives, and, on the authorization of Parliament, to ratify international treaties. The President commands the armed forces, and presides over the Supreme Defence Council (Article 87).

The President may confer honours, grant pardons, and may provide for a referendum (Article 87).

The President may be impeached by both houses of Parliament in joint session and tried in the Constitutional Court, supplemented by sixteen persons chosen from a list drawn up by Parliament every nine years (Articles 134, 135).

⁶⁶ Though not during the last six months of the President's term of office.

⁶⁷ If the bill is passed again the law must be promulgated.

Switzerland

The Federal Assembly elects the Federal Council (Article 96. 1), which consists of seven members, including a President and a Vice President (Article 95).

The Chairman of the Federal Council is the President of the Confederation (Article 98). The Constitution does not concisely describe the role of the Federal President. Federal powers are limited to begin with, given the confederal structure of Switzerland (Article 5). Subject to the rights of the Cantons, the supreme power of the Confederation is exercised by the Federal Assembly, which consists of two Houses, the National Council and the Council of States (Article 71).

The President does not have powers additional to those of the other members of the Federal Council, which include powers to conduct federal affairs and to ensure compliance with the Constitution (as well as the constitutions of the Cantons) (Article 102). The Council must manage disputes between Cantons (Article 102. 5), and examine agreements between cantons and with foreign states (Article 102. 7). The Council is in charge of external affairs (Article 102. 8) and security (Article 102. 9). It manages military affairs and all branches of federal administration (Article 102. 12), and has limited power to raise troops if the Federal Assembly is not meeting (Article 102. 11). The Council manages the finances of the Confederation (Article 102. 14), and should submit reports on the state of the Confederation to the Federal Assembly (Article 102. 16).

The Constitution does not specify how a President may be removed from office. A President, in any case, cannot hold office for more than one year in succession.

United States of America

The President is elected by an electoral college, consisting of a number of electors in each state equal to the number of senators and representatives that the state has in Congress (Article II, Section 1, and Twelfth Amendment).

The Constitution of the United States vests executive power in the President. The President must swear to preserve, protect and defend the Constitution (Article II, Section 1).

While legislative powers belong to Congress, the President does have some power in this area. The President may recommend legislation to Congress (Article II, Section 3). The President may also veto legislation, although the veto can be overruled by Congress with a two thirds majority (Article I, Section 7). On extraordinary occasions, the President may convene both Houses of Congress and adjourn them if they cannot agree on a date themselves (Article II, Section 3). The President is to 'take care that the laws be faithfully executed' (Article II, Section 3).

The President appoints public officials and judges, on the approval of the Senate (Article II, Section 2).

In foreign affairs the President may make treaties with the support of two thirds of the Senate. The President is also Commander-in-Chief of the armed forces (Article II, Section 2).

The President may grant reprieves and pardons (Article II, Section 2).

The President may be removed from office following impeachment and conviction for treason, bribery, or other high crimes and misdemeanours (Article II, Section 4). Impeachment is brought by the House of Representatives and tried in the Senate, with the Chief Justice presiding (Article I, Section 3). The President may be convicted on the concurrence of two thirds of the senators present.