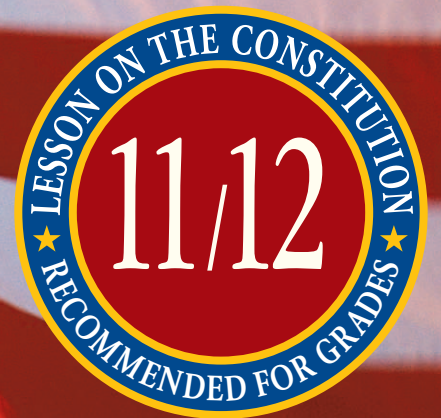
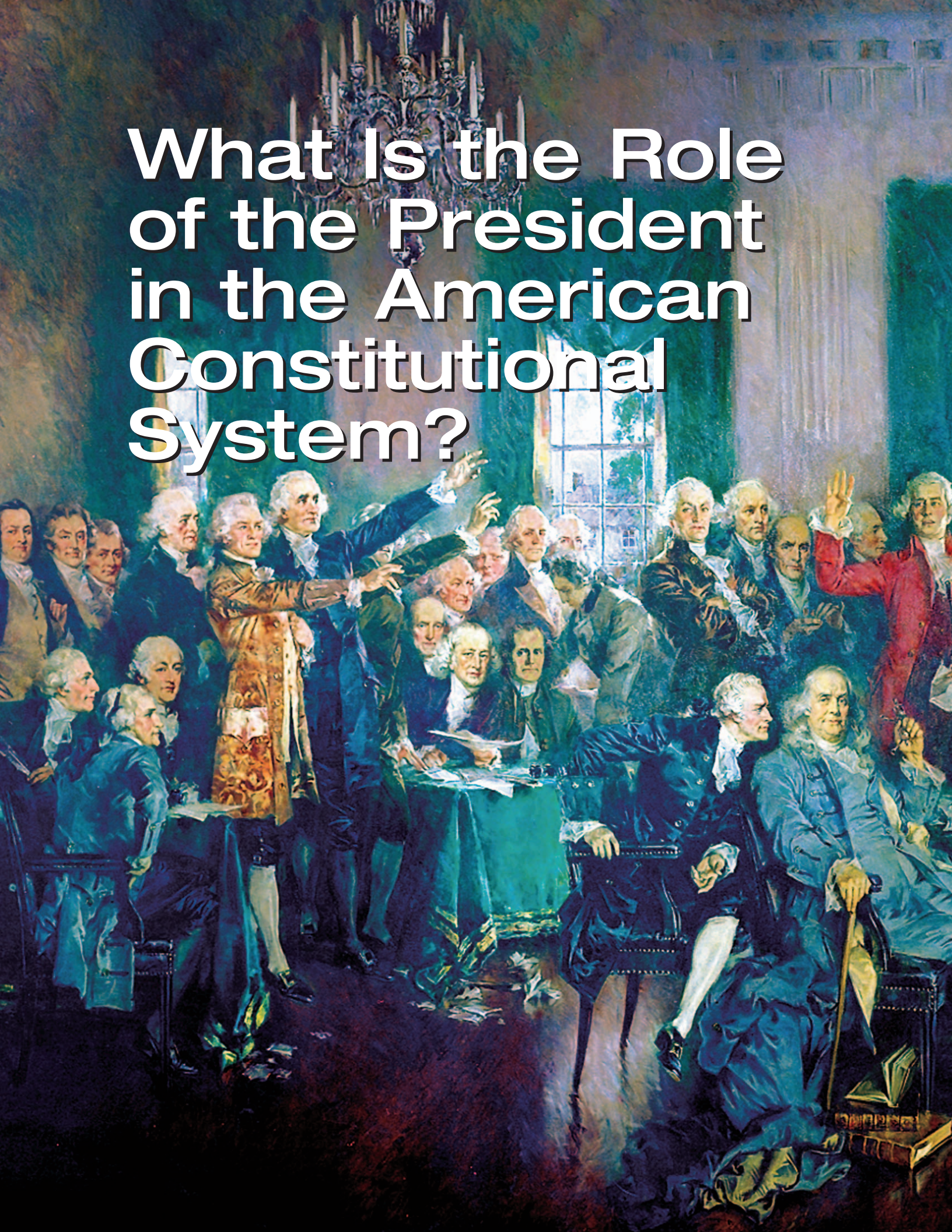


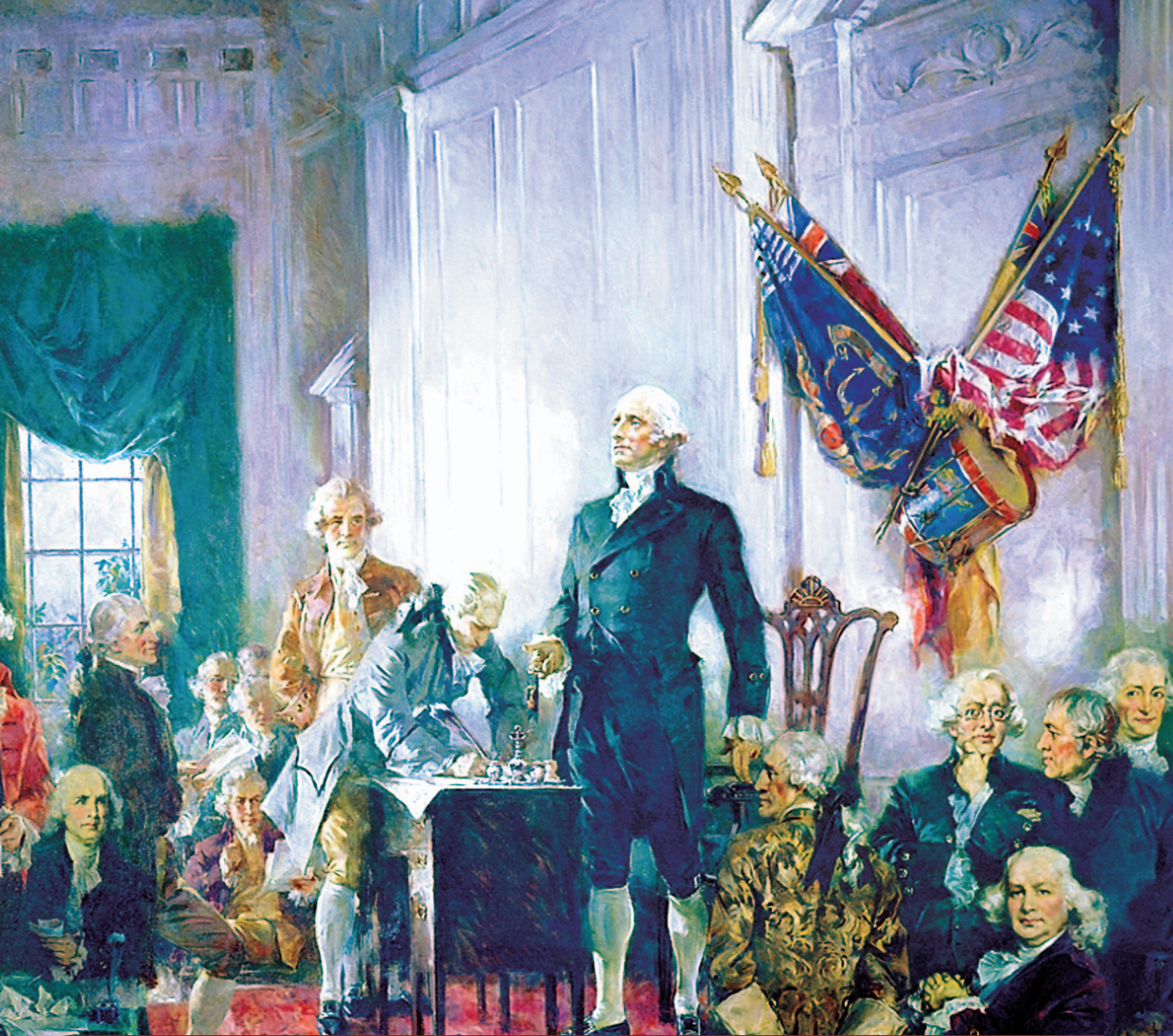
We the People Constitution Day

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What Is the Role of the President in the American Constitutional System?





ABOUT CONSTITUTION DAY

In 1952, President Harry S. Truman signed a bill that moved I Am an American Day from the third Sunday in May to September 17. Truman did so in order for the holiday to coincide with the date of the signing of the U.S. Constitution in 1787. Congress renamed the holiday Citizenship Day. A joint resolution passed in 1956 requested that the president proclaim the week beginning September 17 and ending September 23 each year as Constitution Week.

In 2004, Senator Robert C. Byrd of West Virginia entered an amendment to the Consolidated Appropriations Act of 2005 to change the name of the September 17 holiday to Constitution Day and Citizenship Day. The purpose of Constitution Day and Citizenship Day is to commemorate the creation and signing of the supreme law of the land and to honor and celebrate the privileges and responsibilities of U.S. citizenship for both native-born and naturalized citizens.

Byrd's amendment, known as Public Law 108-477, requires that all schools receiving federal funds hold an educational program for their students on September 17 of each year. This lesson, which is adapted from curricular materials on the Constitution produced by the Center for Civic Education, is designed to assist schools and federal agencies to meet the requirements of the law.

PURPOSE OF THE LESSON

The president of the United States is among the most powerful political figures in the world. In the international realm, the president speaks for the United States and is the symbol of America. At home, the president suggests the policy agenda for Congress and is the leader of his or her political party. Americans look to the president for leadership, while at the same time fearing the concentration of political power in the executive branch. This lesson examines sources of presidential power and ways that checks and balances limit presidential power. When you have finished this lesson, you should be able to

- 1 explain the president's constitutional responsibilities and how the office of president has evolved,
- 2 identify various constitutional and political checks on the president's power, and
- 3 evaluate, take, and defend positions on issues involving the exercise of presidential power and the relationship between the president and the other branches of government.

What Are the President's Constitutional Responsibilities?

Article II of the Constitution places "the executive Power," the powers of the executive branch of government, in the president of the United States. Unlike Article I, which gives Congress those powers "herein granted," Article II does not define executive power. The Constitution lists some of the president's powers, but those listed have never been thought to be the president's only powers.

The listed powers include the following:

- Commanding the army and navy as commander in chief
- Heading the executive department (cabinet and executive departments)
- Granting reprieves, or postponement of punishment, and pardons
- Making treaties, subject to the advice and consent of the Senate
- Nominating ambassadors, public ministers, consuls, and judges of the Supreme Court and other federal courts
- Recommending legislation to Congress
- Reviewing legislation passed by Congress and returning bills to which the president objects
- Receiving ambassadors and other public ministers (chief diplomat)

The Constitution further directs the president to "take Care that the Laws be faithfully executed." It also requires the president to take an oath that includes a promise to "faithfully execute the Office of President and...preserve, protect, and defend the Constitution of the United States."

Presidents have asserted many reasons to justify a broad definition of executive powers, particularly in times of national emergency, such as the Great Depression, and war. The Constitution has proven flexible enough to adapt to changing understandings of presidential power.



What qualities did the Framers want the president to have?

How Did the Framers Envision the Presidency?

The Framers envisioned the president as an official above partisan politics, that is, a person not devoted to a particular political party. Alexander Hamilton explained in Federalist 68 that they wanted the president to be a person who had earned the esteem and confidence of the entire nation, with a character “preeminent for ability and virtue.” They designed the Electoral College to identify people of such character. There was no expectation that candidates would campaign for the office. The Framers thought that the president should remain above partisan politics. But their expectations were unmet even during President Washington’s administration, when factions arose that led to the development of political parties. The Framers did not want the president to have the powers of a monarch. But they did want the president to be “energetic,” a quality they contrasted with legislative “deliberation.” “Energy” refers to the capacity of one person to act efficiently and vigorously on behalf of the nation. The Framers feared what they called a “feeble executive.” As Alexander

Hamilton argued in Federalist 70, “A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government.”

How Has the Presidency Evolved?

Occupants of the office of president have varied in stature and achievements. Some have been undeniably great, others have been mediocre, and still others are regarded as failures. The precedents for the modern presidency are the powerful figures who took a broad view of their authority under the Constitution.

Early examples of powerful presidents are our first and third presidents, George Washington and Thomas Jefferson. However, some scholars trace the rise of the powerful modern presidency to Andrew Jackson. Before Jackson, presidents used the veto power sparingly to aid Congress in the performance of its deliberative functions. They returned bills to Congress for “reconsideration,” or further reflection. Jackson used the power differently. He vetoed the recharter of the Second Bank of the United States. In the resulting battle between the president and Congress, Jackson appealed directly to the public to support his position on the bank. During his two terms in office, President Jackson used the veto twelve times, more than all his predecessors combined. He used it not only against bills that he considered unconstitutional but also against those he viewed as bad policy.

Abraham Lincoln contributed significantly to the growth of the office, even though he rarely used the veto power. Confronted with the Civil War, Lincoln asserted unprecedented, unilateral executive power. He justified actions, such as imposing a blockade on southern

ports, suspending the writ of habeas corpus, nationalizing the militia, and expanding the size of the army and the navy, as exercises of what he called an “inherent executive power” in times of emergency. Congress ultimately authorized most of Lincoln’s actions.

Theodore Roosevelt and Woodrow Wilson also helped transform the presidency into the powerful institution it is today. Roosevelt used the office as a “bully pulpit” to shape public opinion and frame debates on domestic legislation that he proposed to Congress. A bully pulpit is a position of visibility and influence, often a political office, from which to advocate a particular point of view. The word *bully*, in this case, means “very good” or “excellent.” Wilson similarly carried issues directly to the public, notably in his unsuccessful fight for America’s entry into the League of Nations after World War I.



What are some of the principal means by which the powers of the president can be limited?

The most influential president in the twentieth century was Franklin D. Roosevelt. Roosevelt was elected during the Great Depression and served until nearly the end of World War II. He used both crises to consolidate presidential power. At home, Roosevelt took direct control of the policy process, submitting a wide range of reforms to Congress as part of his New Deal. These included Social Security, employment programs, and extensive reforms of executive agencies. As commander in chief during World War II, Roosevelt helped to establish America’s preeminence in the international arena. He also was the first president to make extensive use of public opinion polls, which informed him about how Americans were responding to his proposals. He talked directly to the people through radio “fireside chats,” using a conversational, personal style to establish trust and confidence.

Presidents since Roosevelt have served in his shadow. Some have agreed with Roosevelt’s domestic policies. Others have sought to dismantle them. However, all effective presidents have relied on strategies that Roosevelt used to bolster presidential power. Ronald Reagan, for example, established himself as the Great Communicator, whereas John F. Kennedy and Bill Clinton used their personal charisma to win political allies and to persuade the American people to support their policies.

How Are Presidential Powers Limited?

Despite the president’s immense powers, the system of checks and balances limits presidents in a number of ways. For example, the Twenty-second Amendment limits the president to two elected terms in office. This amendment was adopted after Franklin D. Roosevelt abandoned the tradition begun

by George Washington of stepping down after two terms. Even though Roosevelt had been immensely popular, Americans feared a president who remained in power too long.

Congress can check the exercise of the president's power by

- **Rejecting the president's legislative agenda or modifying it in ways that make it unacceptable to the president**
Examples include the rejection of Franklin Roosevelt's proposal to increase the number of justices on the Supreme Court and his plans to reorganize the executive branch.
- **Asserting its constitutional authority**
An example is the 1973 War Powers Resolution intended to reinforce the constitutional power of Congress to declare war. Among other things, it requires the president to consult with Congress before initiating any foreign hostilities and regularly thereafter until American armed forces no longer are engaged in hostilities.
- **Refusing to ratify treaties**
For example, in 1996 Bill Clinton signed a comprehensive nuclear test ban treaty with 137 other nations. Ten years later, the Senate had neither ratified nor held major hearings on it.
- **Refusing to confirm presidential nominees to the judiciary or top administrative posts**
Examples are the Senate's refusal to confirm Richard Nixon's nominations of G. Harrold Carswell and Clement Haynsworth to the Supreme Court and George H. W. Bush's nomination of John Tower to be secretary of the Department of Defense.

- **Refusing to fund the president's programs**
By cutting off or reducing funds, or by threatening to do so, Congress can abolish agencies, curtail programs, or obtain requested information. An example is the refusal of Congress to provide funding for emergency aid for Vietnam as requested by President Lyndon B. Johnson.
- **Removing the president from office by impeaching, trying, and convicting him**

The Supreme Court also can check the exercise of presidential power. Examples include the following:

- ***Humphrey's Executor v. United States* (1935)**
Congress must approve the president's decision to remove an official of an independent regulatory agency.
- ***United States v. Nixon* (1974)**
The president is not entitled to automatic immunity from the legal process (reaffirmed in *Clinton v. Jones*, 1997).
- ***Train v. City of New York* (1975)**
The president cannot refuse to spend money that Congress has appropriated unless Congress gives the president discretion to do so.

The executive branch itself also can limit the president. Executive agencies and bureaus develop their own change-resistant traditions and styles of performing their jobs. Career civil service employees—many of them experts in their fields—may resist the president's political priorities without fear of losing their jobs.

Finally, public opinion limits the exercise of presidential power. A president who lacks public support is handcuffed in his efforts

to carry out his policy agendas at home and abroad. President Truman once lamented, “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.”

LESSON OVERVIEW

Article II of the U.S. Constitution provides for the executive branch of government. This lesson helps students examine the office of the presidency as created by the Constitution. Students will examine the sources of presidential power, ways that checks and balances limit presidential power, and the relationship between the president and the other branches of government. Students should also be able to explain the president's constitutional responsibilities and how the office of president has evolved.

LESSON OBJECTIVES

Upon completing the lesson, students will be able to do the following:

- Describe the president's constitutional responsibilities
- Explain how the office of president has evolved
- Identify various constitutional and political checks on the president's power
- Evaluate, take, and defend positions on issues involving the exercise of presidential power and the relationship between the president and the other branches of government

MATERIALS NEEDED

- Student lesson
- Article II of the U.S. Constitution

TEACHING PROCEDURES

Introducing the Lesson

Begin the lesson by asking students their perception of the role of the president of the United States. Ask them to identify the source of the president's power. Introduce the topic of the lesson and have the students read the Purpose of the Lesson.

What Does the Constitution Say?

Ask students to read—either silently or aloud as a group—the section “What Are the President's Constitutional Responsibilities?” Divide the class into small working groups of two or three. Give each group a copy of the U.S. Constitution and call their attention to Articles I and II. Ask the groups to answer the following questions:

- Article II, Section 1, grants the president “executive power” but does not define what that power is. What other provisions of Article II give an indication of what the Framers meant by executive power?
- What additional insights into the nature of executive power are provided in Article I?

Once the allotted time has elapsed, ask groups to share their answers with the class.

From the Framers to Today

Article II, Section 1, Clause 5 of the Constitution lists three principal qualifications for the office of president: a candidate must be a natural-born citizen of the United States, a permanent resident of the United States for at least fourteen years, and at least thirty-five years of age.

Ask the class what informal qualifications they think a president should possess. For example, should a president be well educated? Should a candidate have previous government or military experience? Should he or she be charismatic, articulate, and personable?

Students should give a reason they believe supports each qualification they suggest. Compile a list of these suggestions on the board or chart paper. Look at the qualifications and see if the class can group them into various categories such as education, prior experience, personal characteristics, etc.

At this point, ask the students to read the section “How Did the Framers Envision the Presidency?” Students should compare the ideas of the Framers with the list of qualifications they created. Did they include some of the ideas of the Framers? Are there any ideas they would like to add to their list? Do they agree or disagree with the Framers?

Students should next read the section titled “How Has the Presidency Evolved?” After completing this section, ask students to compare the evolution of the presidency with the Framers’ original intentions for the office. What do students think about this evolution? How do they envision further evolution of presidential powers? What are the costs and benefits to the country of this evolution?

Limiting Presidential Power

Have students read the final section, “How Are Presidential Powers Limited?” Working in small groups, ask students to answer the following questions. Ask the groups to share their answers upon completing the task.

- How is the system of checks and balances designed to limit the exercise of presidential power?
- How well does the system of checks and balances work? Why?

Concluding the Lesson

To conclude the lesson, lead the class in a discussion of the presidency using the following questions to further the discussion.

- What factors explain the growth of presidential power during our nation’s history?
- How can public opinion affect presidential power?
- How would you define a “feeble” executive? In what ways might a feeble executive be as dangerous as an overly “energetic” executive?
- Would you support a constitutional amendment to change the president’s tenure of office? If yes, how long would the new tenure be? Why should it be as long as you recommend? If not, why not?

CREDITS

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