



ARTICLE II: THE PRESIDENCY AND THE EXECUTIVE BRANCH

SCHOLAR EXCHANGE



CLASS OVERVIEW

Part I: Review the Constitution

Part II: The Founding Story—
Focused on the Constitutional Convention

Part III: Tests of Presidential Power
(Can she/he/they do that?)



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KEY QUESTIONS

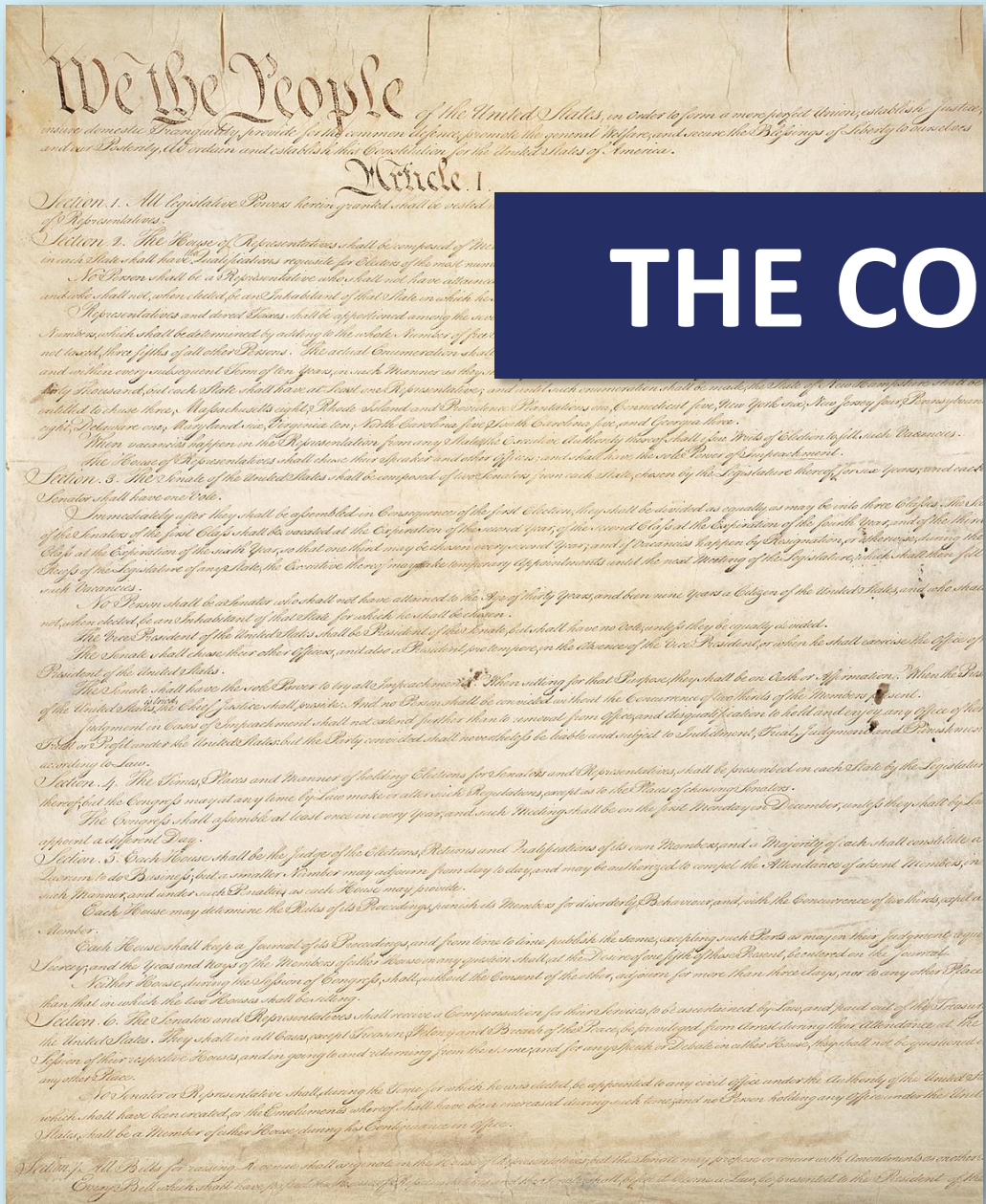
- What is the job of the President? What powers and responsibilities does the Constitution give to the President?
- How did the Founding generation come up with the idea of the President, and what were their worries?
- How has the President's role in our constitutional system changed over time?
- What are some of the modern debates over the Presidency? (Like executive orders.)



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THE CONSTITUTION



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BRANCHES OF GOVERNMENT



LEGISLATIVE

Makes laws



EXECUTIVE

Makes sure laws
are carried out



JUDICIAL

Interprets laws



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ARTICLE II

- Article II “**vest[s]**” the “**executive Power . . .** of the United States” in a single President.
- It sets out the details for how we elect a President (namely, through **the Electoral College**) and how we might remove one from office (namely, through the **impeachment process**).



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ARTICLE II

Article II also lists some of the President's core powers and responsibilities, including:

- Her role as “**Commander in Chief** of the Army and Navy of the United States.”
- Her power **to appoint judges** and **executive branch officials** with the advice and consent of the Senate.
- Her **power to make Treaties**, provided two thirds of the Senators present concur.
- Her power to **grant Reprieves and Pardons** for Offences against the United States, except in Cases of Impeachment.”
- Her duty to “**take Care that the Laws be faithfully executed.**”



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ARTICLE I

In Article I, the Constitution also gives the President the power to veto legislation passed by Congress. (But Congress can override the President's veto with a 2/3 vote in both Houses of Congress.)



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CHECKS AND BALANCES

- President may be able to veto a law passed by Congress. But Congress has the power to override the President's veto—to cancel it—with a 2/3 vote in both Houses of Congress.
- And the Constitution gives the President to appoint Supreme Court Justices, but those appointments must be approved by the Senate.
- And the same goes for new treaties with other countries.
- Finally, the Supreme Court has the power to review the President's actions—for instance, new executive orders—and decide whether those actions were constitutional or unconstitutional.



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PRESIDENTIAL TERMS

AUDIENCE POLL!



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22ND AMENDMENT

“No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. . . .”



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REQUIREMENTS

- **35 years old**
- **A natural born citizen of the United States**
- **A resident of the United States for 14 years**



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ARTICLE II, SECTION 4 REMOVAL FROM OFFICE

“President, Vice President and all civil Officers of the United States” shall be removed from office if convicted in an impeachment trial of “Treason, Bribery, or other high Crimes and Misdemeanors.”



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CONSTITUTIONAL CONVENTION

May to September 1787, Philadelphia, PA

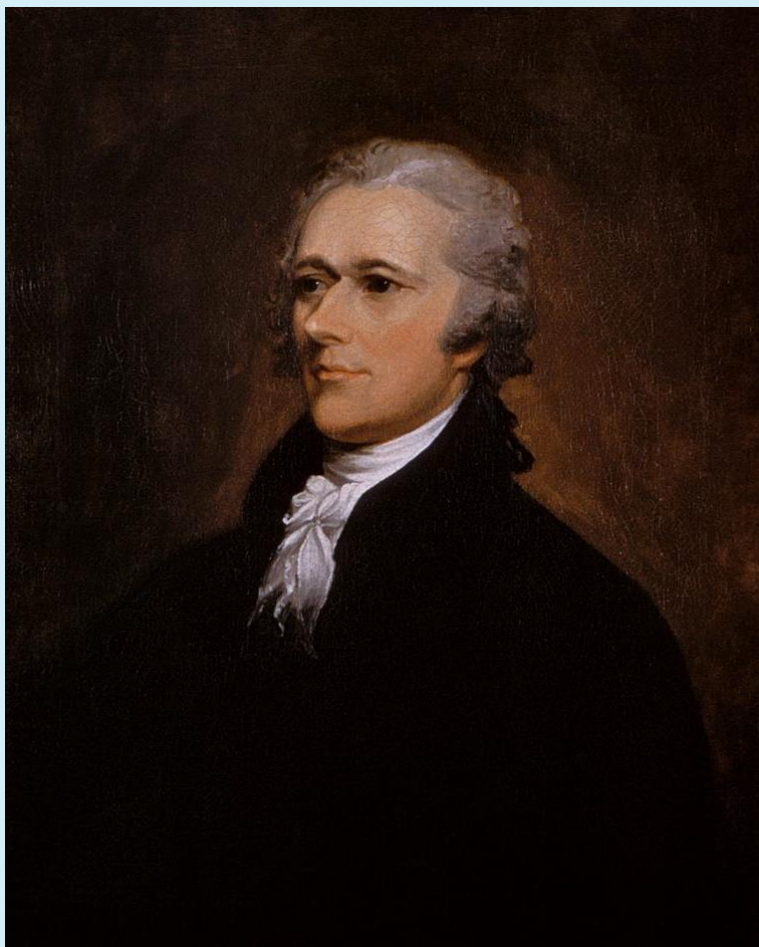


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DEBATES OVER PRESIDENCY



Hamilton



Wilson



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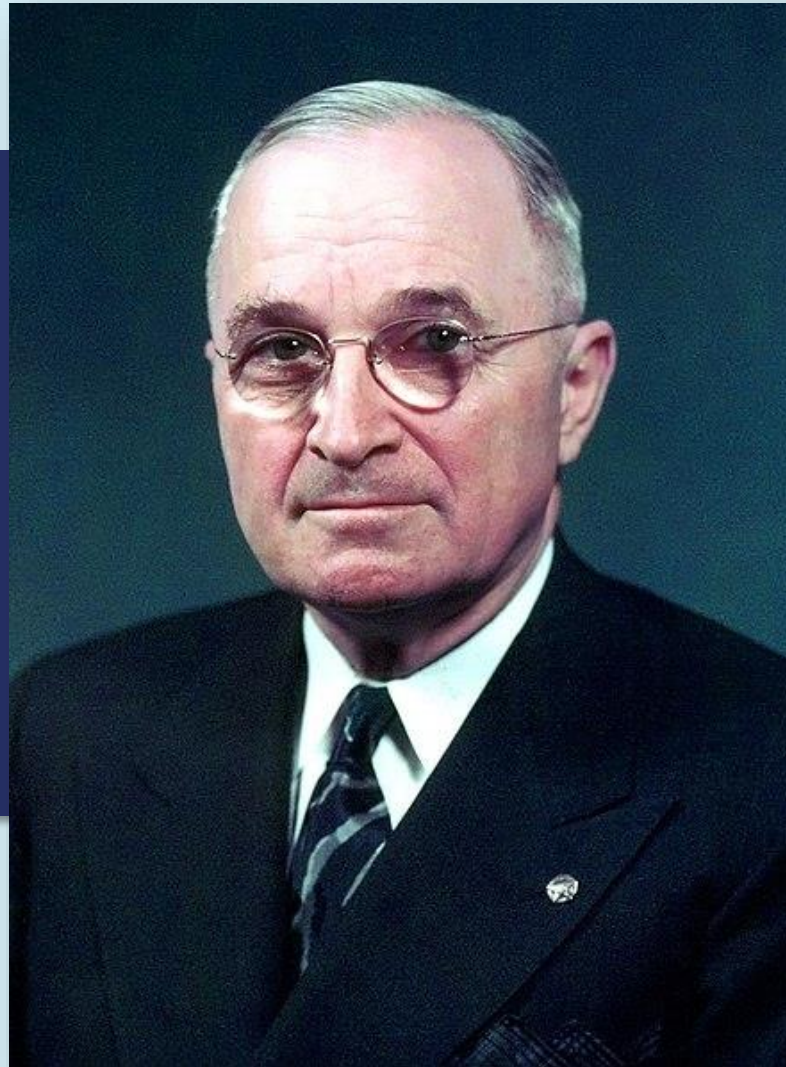


TESTS OF PRESIDENTIAL POWER

*Youngstown Sheet &
Tube Co. v. Sawyer*

*Korean War
1950-1953*

President Harry Truman



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THE COMMANDER-IN-CHIEF CLAUSE



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ARTICLE II, SECTION 2 COMMANDER-IN-CHIEF CLAUSE

“The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States.”



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BIG IDEA FROM THE CASE:

Option A: When the President acts side by side with Congress, his power is at its highest level. (The Supreme Court tends to uphold his actions.)

ZONE OF TWILIGHT

Option B: But when the President acts on his own—especially in the face of congressional disapproval—his powers are at their lowest level. (And the Supreme Court may rule against him.)



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EXECUTIVE POWER



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PRESIDENTIAL POWER AND THE SUPREME COURT



- *Myers v. United States* (1926)
- *Humphrey's Executor v. United States* (1935)
- *Morrison v. Olson* (1988)
- *Free Enterprise Fund v. PCAOB* (2010)
- *Seila Law LLC v. Consumer Financial Protection Bureau* (2020)



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CAN THE PRESIDENT DO THAT?

1. Ask where does the power come from to take that action.
2. Does this action violate other parts of the Constitution...like the Bill of Rights, 14TH AMENDMENT...



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