4 The Modern Presidency Historian Lewis L. Gould traces the changes in presidential power and leadership during the twentieth century from William McKinley to present times, exploring the growth of the office of the president and its implications for effective governing.

7 The Rise of the Rhetorical Presidency Political scientist Richard J. Ellis explores presidential communications throughout our history, focusing upon how modern-day presidents seek to build public support for their policies and legislative agenda before Congress.

10 Presidents and War Powers: An Interview with Louis Fisher Constitutional scholar Louis Fisher discusses the rapid expansion of the president’s war-making powers during the past fifty years, the failures of Congress and the courts to curb excesses, and the future in light of the war in Iraq.

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Director’s Note

Presidents have become increasingly powerful figures in our political system. Modern presidents wage war, set domestic policy agendas, submit budgets, and oversee a vast federal bureaucracy within and outside of the White House. In the era of twenty-four hour cable news coverage of politics and government, presidents have also become celebrities of a sort; their travels and speeches everywhere are shown, chronicled, and analyzed. But are presidents more effective leaders today? Do they, and the government they lead, meet public needs better than in the past? Are we, as a society, better off as a result of these changes in the presidency? In this issue of Insights, we address these central questions about presidential power, leadership, and accountability in light of our Constitution.

The presidency has changed and grown dramatically in size, scope, and influence. Historian Lewis L. Gould traces the growth of the president’s office from the days of President William McKinley at the beginning of the twentieth century when a secretary and a few clerks comprised the entire White House staff, and he assesses the implications for effective leadership. Political scientist Richard J. Ellis highlights how modern presidents have developed new rhetorical strategies to communicate with the American people and, especially, to rally public support for their policies. In a wide-ranging interview, constitutional scholar Louis Fisher discusses how presidents have increasingly wrested the war-making power from Congress, resulting in a consolidation of power never intended by the framers or practiced in the early republic. A lively debate between political scientists Nancy Kassop and Gary L. Rose as to whether presidents have become too powerful is the subject of the Perspectives section.

You will also find lessons, activities, and resources for your classroom. Use a lesson and background essay on executive orders or a news article reprinted from The New York Times on presidential accountability that’s accompanied by discussion questions and activities. Speaking of news, read Charles F. Williams’ analysis of President Bush’s recent nominations to the U.S. Supreme Court. Learn about the programs that Presidential Classroom offers high school students who visit Washington, D.C., to see the federal government in action and meet its leaders. And visit the Insights Web site for many additional features. We hope these background materials and curriculum resources will help spark in your classroom constructive debates and a deeper understanding of the tensions between presidential power and constitutional restraints.

Mabel McKinney-Browning
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The American presidency has grown dramatically in size, stature, and visibility. In this article historian Lewis L. Gould traces the evolution of the modern presidency in the twentieth century, from William McKinley to George W. Bush. Gould focuses, in particular, on how and why the president has increasingly become a celebrity and continuous campaigner rather than a governing leader, all too frequently resulting in failed policy agendas, corruption, and scandals.

“In 1901, the office of the president comprised a personal secretary … and thirty clerks.”

President William McKinley (left) with his secretary George Bruce Cortelyou.

The American presidency experienced significant growth during the one hundred years that stretched from the inauguration of William McKinley on March 4, 1901, to the similar ceremony that installed George W. Bush in office on January 20, 2001. A small, human-sized institution when McKinley started his second term, the office of the president comprised a single personal secretary in George B. Cortelyou and some thirty clerks who handled the mail that McKinley received.

One hundred years later, the White House of George W. Bush employed eight hundred or more people to serve the president directly, while thousands more worked in collateral executive agencies that reported to the president. The chief executive moved in a bubble of aides, Secret Service operatives, and media coverage that made going from place to place a major logistical operation. The president commanded our nation’s armed forces around the globe and could appear at any destination he desired with the full power of the United States behind him.

Because of the dramatic increase in the power and influence of the modern presidency during the past century, historians and political scientists have reviewed the growth in prestige and clout of the chief executive in a generally favorable manner. We assume that the process of modernization has given the nation presidents with an ever-greater capacity to serve the national interest. Nevertheless, while some of the twentieth-century presidents...
provided notable service to the United States, there has also been a troubling trend toward continuous campaigning, a lessened concern with policy issues, and an inability of the men who held the office to sustain their programs over two terms. By the early years of the twenty-first century, the presidency had become a political institution in crisis.

Origins of the Modern Presidency
Franklin D. Roosevelt is usually credited with inventing the modern presidency during the New Deal of the 1930s. But the origins of the institution in its present form actually reach back to the administration of William McKinley from 1897 to 1901. With the indispensable assistance of his secretary, George B. Cortelyou, McKinley developed new, efficient relations with the press, used frequent trips to build public support for his policies, and wielded the war power to govern new acquisitions, such as the Philippines, after the war with Spain in 1898.

Theodore Roosevelt added a key element of personal celebrity to the office. His charisma infused the presidency with a sense of fun and public involvement. Roosevelt also advanced the doctrine that the chief executive should pursue actions to improve society unless the Constitution explicitly barred them. This use of the implied powers of the presidency would prove very attractive to Roosevelt’s successors.

William Howard Taft drew back from his predecessor’s expansive view of the presidency. Yet, in his single term from 1909 to 1913, Taft sought to strengthen the administrative machinery of the White House and make the government more efficient as an instrument of the chief executive. Political defeat ended Taft’s initiatives as Woodrow Wilson and the Democrats took over in 1913.

Under Wilson, the operation of the presidency shrank, since the president insisted on making most of the decisions himself without much advice. He did, however, launch such key initiatives as delivering his messages to Congress in person (not done since Thomas Jefferson abandoned the practice in 1801), expanding the power of the government during World War I, and going overseas to negotiate the Treaty of Versailles in 1919.

The next three Republican presidents contributed to the emerging connection between the presidency and the growing power of the mass media. Warren G. Harding (1921-1923) enlisted the services of a speech writer, Judson Welliver. That practice would expand in dramatic fashion during the remainder of the century. Calvin Coolidge (1923-1929) proved an adept student of the techniques of Hollywood and the film industry to create an image of rural values and presidential austerity. Herbert Hoover (1929-1933) employed the mechanisms of celebrity (radio speeches, staged appearances, courting of the media) to help him reach the presidency. Once in office, however, he proved less skilled in meeting the policy challenges of the Great Depression and the need to respond with sensitivity to public fears about the future. All of these men, however, had provided models for a successor who was more adroit at fusing the elements of the new celebrity culture with the actual management of the government.

The Impact of Franklin D. Roosevelt
The election of Franklin D. Roosevelt in 1932 brought to the White House a master of publicity with a zest for using the full array of presidential power. In twelve years, Roosevelt made fireside chats, extensive travel, and polling part of the everyday workings of the chief executive. Through the Great Depression and World War II, the institution grew in size as Roosevelt established the Executive Office of the President and added more aides to the supporting staff.

Yet, for all of his accretion of power, Roosevelt remained a president who relied more on intuition and improvisation in running the government than orderly administration. An emphasis on structure and system in formulating and executing policy would be the hallmark of his two successors, Harry S. Truman and Dwight D.
Eisenhower. These men would, in fighting the Cold War, put in place the National Security Council and other mechanisms to give the president greater control over how the government functioned. As they did so, the personalized presidency of the early twentieth century disappeared, to be replaced by an ever-growing bureaucracy that featured both policymaking and publicity functions.

One lasting legacy of the Roosevelt years was the Twenty-second Amendment to the Constitution, limiting future presidents to two elected terms. Designed to prevent a repetition of Franklin Roosevelt’s extended tenure, the change had unexpected consequences. By making the newly reelected president a time-limited lame duck, the amendment reinforced the tendency of second terms to be unsuccessful. Each president who won a second term after 1952 expected to see great achievements in his last four years. Instead, these administrations proved to be either political failures as in the case of Dwight Eisenhower or scandal-ridden for Nixon, Reagan, and Clinton.

The Post-War Presidency
After World War II, television added a new dimension to the presidency. While Roosevelt had used the radio to advantage and presidents had capitalized on the motion picture to get their messages out, television provided a means for presidents to influence public opinion with immediate effect. Part of the price for this advantage, however, was that the presidency became infected with the mechanisms of show business and celebrity. Truman and Eisenhower moved toward the use of television in press conferences, but the live version of that practice came into its own with John F. Kennedy.

In his brief administration, Kennedy demonstrated how a celebrity superstar could use the presidency to set agendas and pursue programs. That much of his substantive achievements were modest mattered little to a public who saw the president behaving in a manner that seemed appropriate to the nation’s highest office. The sordid reality behind Kennedy’s façade (including womanizing, drug use, a cover-up about his health problems, and assassination plots against Cuban leader Fidel Castro) also did not come out until later.

Although Lyndon Johnson and Richard Nixon sought to emulate Kennedy’s style, neither one proved capable of satisfying the conflicting demands of being a policymaker and a media icon at the same time. Johnson’s identification with the Vietnam War revealed his limitations as a credible leader. Coming after Kennedy and Johnson, Nixon perfected the concept of continuous campaigning in the White House. That technique treated all of the usual policymaking functions as subordinate to the political imperatives, while the president conducted a series of campaign-style events to sell his issues and programs. Nixon went too far in the direction of crass manipulation of events and landed himself in the Watergate scandal. The result was two failed presidencies and damaged prestige for the office itself.

During the 1970s the administrations of Gerald Ford and Jimmy Carter also proved incapable of meeting the public expectations for the chief executive. Ford’s pardon of Richard Nixon doomed his chances for a term in his own right. Carter’s moralism took him to the Oval Office, but he lacked both charisma and skill. By the time the decade ended, there were public fears that the presidency had been crippled in significant ways.

Ronald Reagan and After
Ronald Reagan restored the credibility of the presidency with the fusion of continuous campaigning and the celebrity practices he had learned as a Hollywood star. The White House became a kind of soundstage where a precise shooting schedule presented

FOR DISCUSSION

What are some of the specific ways that the presidency has changed in the twentieth century? Have these changes resulted in more effective presidents? Why (not)?

Which attribute of presidential leadership—governing ability or communicating a clear message—is most important today? Why?

In your judgment, who was the best president of the twentieth century? On what factors do you base your judgment?
Presidential leadership of public opinion, although nowhere mentioned in the Constitution, is one of the defining roles of the contemporary presidency. In our age of 24/7 television news, we take it for granted that the president should speak to the people and for the people, but many nineteenth-century Americans would have found such a notion decidedly odd. Presidents were to be seen and not heard; the office was neither to be sought nor declined. In many nineteenth-century elections, presidential candidates barely uttered a word in their own behalf for fear they would be accused of unseemly ambition and demagoguery. Once in office, nineteenth-century presidents rarely went public to mobilize public opinion in the manner we have come to expect of presidents today.

The Original Intent

The framers of the Constitution disagreed among themselves about the nature of the presidency they had created. Some, like Connecticut’s Roger Sherman, wanted a president who simply executed the legislative will, but others, most notably Pennsylvania’s James Wilson, believed the president should be “the man of the people.” Sherman would have preferred an executive selected by the legislature; Wilson wanted a president selected directly by the people. Neither got his way. What we got instead was a president chosen by an electoral college made up, in the beginning, of electors selected by state legislatures. In the event that no candidate received a majority of electoral votes, the choice would be made by the House of Representatives.

Although the framers disagreed sharply about how best to choose the president, they shared a belief that presidential elections were not power-generating events. Elections were a way of choosing leaders, not empowering them. The president’s

“A president who claimed a mandate from the people would have been seen by the framers as a demagogue …”

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power came from the Constitution rather than from appeals to the people. When Gouverneur Morris described the president as “the general Guardian” of the nation, the role he envisioned was more akin to a monarch looking out for his nation than a leader empowered by an election to express the popular will. The framers’ “ideal of executive leadership,” as historian Jack Rakove (1996: 268) has pointed out, “remained, in a sense, apolitical. They saw the president not as a leader who would mobilize governing coalitions but as an executive who would rise like a patriot king above party.”

A president who claimed a mandate from the people would have been seen by the framers as a demagogue. Indeed the main attraction of avoiding legislative selection of the executive was that the president would be able to resist the populist pressures and demagogic appeals that the framers believed emanated from legislatures. Even those who favored legislative selection preferred a president who would serve a single term so he could resist popular pressures and would not need to cultivate a base of political support, either among the legislatures or among the people.

**Presidential Communications in the Nineteenth Century**

Andrew Jackson's presidency transformed, in critical respects, the relationship between the president and the people. He repudiated the idea that the president should execute the will of the people as expressed by Congress, insisting instead that the popularly elected president was the direct representative of the people. Throughout the rest of the nineteenth century, Democratic presidents from James Polk to Grover Cleveland defended the presidency as the embodiment of the popular will and criticized the legislature for its parochialism and protection of special interests.

Jackson was the first president to interpret his election as an event that empowered him to pursue particular policies. Specifically, Jackson used the 1832 election as referendum upon his war on the national bank. After his triumph over Clay, Jackson proclaimed that he had a mandate to carry out his bank policies. For the next several decades, Democrats and Whigs fought bitterly about the legitimacy of the electoral mandate. Only after the Civil War did the idea of elections bestowing mandates become accepted by both parties (Ellis, 1998, chapter 2).

Yet neither Jackson nor his successors appealed to the public in the way presidents do today. Instead Jackson's rhetoric tended to follow the guidelines that political scientist Jeffrey Tulis (1987) has identified as typical of nineteenth-century rhetoric.

Policy speech was communicated to Congress and in writing, and rhetoric that was directed primarily to the people, such as inaugural addresses and proclamations, emphasized general constitutional principles and avoided specific policy proposals. Unofficial nineteenth century presidential rhetoric was also largely consistent with these original proscriptions; such speeches were generally few in number and limited to vague, innocuous utterances that avoided specific policies or partisan debates.

Like many nineteenth-century presidents, Jackson often spoke to the people through intermediaries. In campaigns it was typically not the president who took the stump but party notables. And in the governing, the president’s views were usually transmitted to the public through a presidential newspaper. Between 1800 and 1860, as Mel Laracey (in Ellis, 1998, chapter 3) has shown, every president supported a Washington, D.C., newspaper that was known to reflect the president’s policy views. President Jackson met every day with his hand-picked editor of the *Washington Globe* to plot the day’s media strategy. So although presidents of the nineteenth century gave many fewer speeches than twentieth-century presidents, the American people in the nineteenth century were hardly in the dark about what presidents were thinking about the major events and issues of the day.

**The Transition from the Nineteenth to Twentieth Century**

The demise of the presidential newspaper was precipitated not by a change in presidents’ desires to communicate their side of the story to the public but...
rather by changes in the press, specifically the rise of independent papers and of a professional class of reporters who were less willing to follow slavishly a party or presidential line. But while the new media were independent of party, they also increasingly made the president the focus of their coverage. A White House press corps emerged during William McKinley’s presidency, but it was Theodore Roosevelt who made the presidency the focal figure of the political stage. Arguably the first presidential celebrity, TR used the press to take his case to the people in a way that no previous president had done (Ponder, 1998).

TR’s emergence as a celebrity was due in part to his instinct for self-dramatization, but it was also made possible by changes in the political system. Throughout the nineteenth century, presidents relied heavily on the dense network of local and state political parties to communicate with the public and mobilize popular support. The decline of these parties toward the end of the nineteenth century and in the beginning of the twentieth century paved the way for the rise of a new style of presidential leadership in which the president led at the head of the party and was expected to communicate directly with voters.

In The Decline of Popular Politics, Michael McGerr (1986) has documented the gradual change in nineteenth-century presidential campaigns. At the time of the Civil War, presidential campaigns were largely based on emotional, demonstrative displays of partisan loyalty. Torchlight parades and other “spectacular” events mobilized the party faithful. The 1876 contest between Hayes and Tilden marked the emergence of a new, more cerebral style of “educational” campaigns characterized by issue-based appeals to undecided voters through pamphlets as well as the independent press. By the early 1890s, spectacular partisan display had been largely superseded by educational politics. The decline of the culture of partisanship that had connected party officials, party newspapers, and partisan voters created a vacuum into which rushed the modern, candidate-centered campaign, a development that began in earnest in the historic 1896 campaign between McKinley and William Jennings Bryan.

The history of the presidential acceptance speech also shows the ways in which rhetorical practices and expectations gradually shifted throughout the latter half of the nineteenth century. Originally the presidential nominee accepted his party’s nomination through a written letter of acceptance (Martin Van Buren in 1835 was the first). Originally the presidential nominee accepted his party’s nomination through a written letter of acceptance (Martin Van Buren in 1835 was the first). Initially, these letters were generally short, innocuous expressions of gratitude sent to the notification committee. Beginning in 1852, presidential nominees were notified in person rather than by letter, and thus began the practice of the acceptance speech, followed by a longer, more detailed acceptance letter. By 1876, the acceptance letter had become an important supplement to the political party platform and a place where nominees were expected to lay out their positions on the major issues of the campaign. The acceptance speech had also become a widely covered campaign event, but it was generally devoid of substance and was clearly subordinate in importance and prominence to the acceptance letter. In 1892, for the first time, the acceptance speech overshadowed the acceptance letter when Grover Cleveland gave a rousing speech accepting his party’s nomination in front of 15,000 people at Madison Square Garden. After this, the importance of the acceptance letter withered, dying out altogether in the 1908 campaign, while the acceptance speech, beginning in 1896, became a

For Further Reading


In this interview, government and constitution scholar Louis Fisher discusses how presidents have become more powerful in waging wars since World War II, weakening the system of checks and balances that the framers established.

Q: How did you first become interested in constitutional conflicts among the branches of government?

Fisher: As a graduate student, I became interested in questions of power: how it is used, shared, abused, and checked. My dissertation focused on the constitutional issues that arise in delegating to the president standby tax and spending discretion, as part of federal efforts to avert economic recessions. Could Congress delegate its powers over the purse to the president? How would federal courts respond to challenges of excessive delegation? As I looked at this issue, I also studied the intent of the framers and conflicts of powers in other areas.

Q: Is the president’s power to wage war greater today than, say, 50 or 100 years ago? How has this happened?

Fisher: The president’s power to wage war today is immeasurably greater than 50 or 100 years ago. Part of the reason has to do with America’s international responsibilities inherited after World War II, which catapulted the United States into a leadership role over international banking institutions, world economic recovery, and national security. But the legal and constitutional framework changed fundamentally because of two treaties that presidents began to use to make war unilaterally: the United Nations (UN) Charter and the North Atlantic Treaty Organization (NATO), relying on those institutions for “authority” to make war instead of obtaining the constitutionally mandated approval of Congress.

The framers placed the power over offensive war—the power to initiate war against another country—entirely in Congress, thus breaking with the English tradition that had vested that power in the King. The framers recognized that the president was entitled to use certain defensive powers, such as the power to

“repel sudden attacks” when Congress was not in session and quick action was needed for the nation’s safety. Yet in June 1950, President Harry Truman went to the UN Security Council to seek two resolutions that would sanction military action against North Korea, after it had invaded South Korea. He never came to Congress for authority, even though he had pledged in 1945 to do so, while the Senate debated the UN Charter, and the UN Participation Act of 1945 specifically required advance congressional approval for U.S. involvement in UN military actions. In 1999, when President Bill Clinton could not obtain UN support for military operations against the Serbs in Kosovo, he turned to NATO countries for “authority” to launch air attacks. To accept the use of the UN Security Council and NATO as constitutional substitutes for Congress, one would have to argue that the president and the Senate, operating through the treaty process, could eliminate the war power of the House of Representatives, the branch of government closest to the people.

Q: Wasn’t the War Powers Act of 1973 supposed to curb the president’s war-making powers and restore a balance between Congress and the president in declaring war? Was this legislation flawed in principle or implementation?

Fisher: Members of Congress and the media described the War Powers Act of 1973 as a major example of legislative reassertion of its constitutional powers, but in fact it marked a legislative surrender to the president. The statute provides that whenever the president engages in military operations he must consult with Congress “in every possible instance” and must issue regular reports. The language of the consultation clause is so general that the president is at liberty to ignore Congress if he so chooses. Once the president is engaged in military operations, he must obtain congressional approval after 60 days (with a possible extension to 90 days), but the statute is written so poorly that it is unclear when the clock begins to tick. A close reading suggests that the clock begins only when the president reports under a particular section—section 4(a)(1)—but only one president (Gerald Ford) ever reported under that section, and he did that after his intervention in Cambodia (in the Mayaguez crisis) was complete.

Moreover, the idea that a president could engage in war anywhere in the world, for whatever reason and at whatever time, without seeking prior congressional approval would have astonished the framers. They placed the war power in Congress because they did not trust executives. As John Jay said in Federalist No. 4, executives had a history of getting their countries into war not for the national interest but rather “for purposes and objects merely personal, such as a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans.” Those and other motives, “which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of the people.” In both the Korea and Kosovo precedents, members of Congress failed to protect the war prerogatives of their institution. The framers assumed that each branch of government, through the system of checks and balances and separation of powers, would fight off encroachments. In the area of the war power, from Korea to the present, Congress has not done so.

Q: Has the Supreme Court failed to check presidential usurpation of powers during times of war? Are there particular decisions that trouble you—opportunities that the Supreme Court (or lower federal courts) may have missed?

Fisher: The first Supreme Court case on the war power was Bas v. Tingy (1800), when the Court had to decide whether Congress had to formally issue a declaration of war or whether it could authorize it by statute. The Court held that Congress could do either. A year later, in Talbot v. Seeman, Chief Justice John Marshall wrote: “The whole powers of war being, by the Constitution of the United States, vested in Congress, the acts of that body can alone be resorted to as our guides in this inquiry.” In Little v. Barreme (1804), the Court held that President John Adams had exceeded his powers during the Quasi-War against France by failing to adhere to restrictions that Congress had placed in a statute.

From these early cases to 1952, when the Supreme Court in Youngstown Co. v. Sawyer struck down President Truman’s seizure of steel mills to prosecute the war in Korea, federal courts on a regular basis accepted war power cases and decided them on the merits. Over this period of a century and a half, the judiciary played an important role in monitoring the war power and the allocation of executive and legislative powers. Yet starting with cases during the Vietnam War, federal courts began to sidestep war power cases on various grounds: the plaintiffs lacked standing (failed to show a legal injury), the case was not ripe, it was too ripe (moot), it was a political question to be decided by the elected branches and not by the courts, etc. In refusing to take these cases and decide them on the merits, the courts failed to exercise the power vested in it: to assure that government abides by the Constitution. Following the creation of military tribunals on continued on page 30
Executive Orders

by John Paul Ryan

Executive orders are an important but limited source of presidential prerogative and power. In this article, Insights Editor John Paul Ryan discusses the uses and impact of executive orders from FDR to current times.

In 1942 in the midst of World War II, President Franklin Roosevelt issued an executive order authorizing the relocation of tens of thousands of Americans of Japanese ancestry into internment camps to protect the nation’s security. In 1948, President Harry Truman desegregated the deployment of soldiers in our nation’s armed services. In 1961, President Kennedy established a Presidential Committee on Equal Employment Opportunity, first using the term “affirmative action” that President Lyndon Johnson made a condition for the awarding of government contracts in a follow-up order in 1967. In 1976, President Gerald Ford signed an executive order on foreign intelligence activities that, for the first time, prohibited political assassinations. In 1979, President Carter created by executive order the Federal Emergency Management Agency (FEMA), merging many of the federal government’s separate disaster-related responsibilities into a new agency. In 1998, President Clinton issued an order barring discrimination based upon sexual orientation in the federal civilian work force. And shortly after the attacks of September 11, 2001, President George W. Bush established the Office of Homeland Security by executive order. These are but a few of the thousands of executive orders that presidents from George Washington to George W. Bush have issued, all without review or approval by Congress.

What, exactly, are executive orders? By what legal authority are they issued? Executive orders are presidential directives that create or modify laws, procedures, and policies. Presidents exercise the power to issue executive orders based primarily upon Article II of the Constitution, including the delineation of executive power, powers delegated by Congress to the president to ensure that the laws be “faithfully executed,” and the broader inherent powers of the presidency. As political scientist Kenneth Mayer ably documents in The Stroke of a Pen: Executive Orders and Presidential Power, presidents have used executive orders to “make momentous policy choices, creating and abolishing executive agencies, reorganizing administrative and regulatory processes, determining how legislation is implemented, and taking whatever action is permitted within the boundaries of their constitutional or statutory authority” (p. 5).

“Executive orders … are an important source of presidential power.”

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The Use of Orders

Why do presidents use executive orders? Sometimes, presidents use executive orders to meet national emergencies, particularly during wartime. During the Korean War in 1952, President Truman ordered the federal government to take control of the nation’s privately owned steel mills in order to assure that wartime weapons production needs would be met. FDR’s internment order during World War II is another example. More often, presidents use executive orders to establish “pet projects” that Congress would probably not approve or fund. Examples might include President Kennedy’s creation of the Peace Corps in 1961 that enabled young people to volunteer to serve poor people in foreign countries, as well as President Bush’s establishment in 2001 of the White House Office of Faith-Based and Community Initiatives that enables religious groups to receive federal funding for the provision of social services to the needy. Presidents also use orders to reward friends and political supporters—for example, by establishing various task forces, boards, and commissions to which they can be appointed.

How often do presidents issue executive orders? Most presidents since Truman, regardless of political party affiliation, have issued a few hundred orders during their tenure in office. For example, President Clinton issued 364 orders, and to date President George W. Bush has issued 183 orders. President Franklin Roosevelt signed more than 3,000 orders during his thirteen years in office, many of them during World War II involving government takeover of businesses or the establishment of government agencies. Increasingly since the 1950s, however, presidents have used executive orders to address domestic policy and the effective management of the executive branch.

Review and Reversals

Executive orders can be reviewed and reversed in several ways: by the courts, by subsequent presidents, and—in rare instances—by Congress. Two of the most controversial executive orders issued during wartime were reviewed by the U.S. Supreme Court. President Roosevelt’s order directing Japanese Americans to be relocated into internment camps in World War II was upheld in * Korematsu v. United States* (1944), when the Court majority cited the war and military necessity as the key reasons for its affirmation of the order. By contrast, a wartime setting was not sufficient to uphold President Truman’s executive order seizing control of the nation’s steel mills. In *Youngstown Sheet and Tube Co. v. Sawyer* (1952), the Court majority held that Truman’s order exceeded his constitutional authority by usurping the lawmaking power of Congress.

Sometimes, a president revokes an executive order issued by a prior president, usually of the opposing political party. For example, in his first days in office, President Clinton in 1993 revoked an executive order that President George H. W. Bush had issued a few months before—one requiring federal contractors to post a notice that workers are not required to join unions (a highly sensitive subject in labor-management relations). President George W. Bush returned the favor shortly after taking office in 2001, when he issued a series of executive orders on labor-management relations that revoked earlier Clinton orders. And President Reagan, in the early days of his presidency in 1981, revoked the U.S. Circuit Court Judge Nominating Commissions established just a few years before by President Carter to increase the diversity of the federal judiciary.

On rare occasion, Congress repudiates an executive order issued by the president. In 1971, President Nixon issued an executive order restoring the Subversive Activities Control Board (SACB), a longtime but controversial symbol of the Cold War and anticommunism established in 1950 at the height of the “Red Scare.” In the midst of an unpopular
Have U.S. Presidents Become Too Powerful?

YES: Presidents Wage War with Few Checks
by Nancy Kassop

If Madison and Hamilton were to peer down from their celestial perches, which one of these founders would feel vindicated by the state of the presidency in 2005? At first blush, the obvious answer would seem to be Hamilton, of course. He is best known for his advocacy of “energy in the executive”—an office that he characterized in Federalist #70 as one of “decision, activity, secrecy and dispatch.” There is no scarcity in the modern presidency of all of those qualities.

Madison, on the other hand, was the voice of moderation, the proponent of a delicate balance among the three branches and of their respective core institutions. Government power, according to Federalist #51, was to be limited and checked through a system of overlapping and shared authority. Each branch would monitor and watch over the other two just enough to insure that no branch overstepped its bounds. Power existed in a finite equation: The more claimed by one branch, the less there was for the other two. That risk of losing power to a co-equal branch was reason enough for each one to jealously guard its own authority while keeping the other two honest and accountable.

Of these two differing scenarios set by Hamilton and Madison, which one better describes the current governmental system at the federal level? Is there, in fact, an approximate equilibrium of power among Congress, the Supreme Court, and the presidency? Or is one of these institutions monopolizing power to the point of marginalizing the other two?

Any discussion of “the modern presidency” begins, at least, with Franklin Roosevelt (and some would say it goes back even earlier, to Teddy Roosevelt). “Modern” is almost a synonym for “powerful,” since the most obvious characteristic of the office of the presidency from FDR forward was expansion in all of its aspects: size, structure, and powers. The number of people working in the White House office in 1932 was less than a handful (including FDR’s own relatives). Today, the White House staff numbers about 450 people. Structurally, scholars talk of “the institutional presidency” to connote the dramatic spreading outward of offices and agencies that provide policy advice and assistance to the president. No longer is the office, if it ever was, a personal, solitary one. Today, the “presidency” is more than the president.

But it is the “powers” part of this seventy-year growth that would most astonish and, I think, dismay, both Hamilton and Madison. Madison would fault Congress and the courts for their lack of responsibility and vigilance in performing their checking and balancing role, and, thus, for allowing presidential powers to expand precipitously. And Hamilton—for all of his urging that the executive must be energetic—even Hamilton never went so far as to endorse giving to one person alone the decision to go to war. He described the president’s commander in chief power as “amount(ing) to nothing more than the supreme command … of the military and naval forces, as First General and Admiral of the Confederacy” (Federalist #69). He distinguished between the royal prerogative of kings, who could make war or peace on their own authority, and the limited powers of the president, whom the Constitution provides “only with the occasional command of such part of the militia of the nation as by legislative provision may be called into actual service of the Union” (Federalist #69). Unlike kings, presidents were not free to make war at will, and they assumed the commander in chief role only, as Article II states, “when called into the actual service of the United States.” Thus, making war, to the framers, was a two-step process: Congress, as the representative body, would declare or authorize war as the policy of the

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NO: Presidents Need Power to Solve Complex Problems
by Gary L. Rose

Presidents have not become too powerful. Indeed, in many ways American presidents have been rendered powerless. To suggest that presidents have acquired too much power is to misconstrue the reality of modern presidential leadership.

Let’s begin our examination with some undeniable facts regarding American presidents who have served during the last forty years. President Lyndon B. Johnson (1963-1969) was essentially driven from office over his Vietnam war policy. The American people turned against Johnson’s handling of the war, and he faced a serious challenge within his own political party for the presidential nomination. LBJ stunned the nation in 1968 when he announced that he would not seek or accept his party’s nomination for the presidency.

President Richard R. Ford (1974-1977), who succeeded to the presidency following Nixon’s resignation, accomplished little during his interim presidency. Congress had become very suspicious of presidential power, and not surprisingly the Democrats made huge gains against the Republicans in the 1974 mid-term elections, thus providing President Ford with little opportunity to lead the country. Ford was defeated in his own bid for the White House by an obscure Georgia governor, Jimmy Carter.

President Jimmy Carter (1977-1981) served only one term and was defeated for reelection primarily due to perceptions of ineffective and powerless leadership. Carter failed in his effort to reform the nation’s energy policy, and his idealistic foreign policy to export human rights around the globe was never achieved. Moreover, the final 14 months of the Carter presidency was paralyzed, when Iranian fundamentalists seized the American Embassy in Tehran and held 52 American embassy personnel hostage for 444 days.

President Ronald Reagan (1981-1989) deserves credit for helping to bring the Cold War to an end, although Gorbachev’s reforms and the moral suasion of Pope John Paul II were also instrumental. Reagan’s Middle East policy, which included the deployment of Marines to Beirut, proved to be a disaster when a fanatic drove a truck packed with explosives into the Marines’ compound, killing 241; Reagan’s response was to evacuate Lebanon. On the domestic front, President Reagan was only partially successful in fulfilling the broad goals of his revolutionary domestic agenda, which included dramatic tax cuts and a radical downsizing of the federal government. Most observers suggest that Reagan’s major policy accomplishments occurred early in his presidency.

President Reagan’s vice-president and successor, George H.W. Bush, (1989–1993), was a one-term president who, like President Carter, was also defeated in his bid for reelection. A stunning military victory in the Persian Gulf did little to increase his political capital at home, and perceptions of floundering and ineffective presidential leadership, particularly with regard to economic policy, resulted in his political demise. By 1992, President Bush had become a vulnerable target for Democratic Party presidential candidate Bill Clinton and third-party candidate H. Ross Perot.

Once touted as the next great American president in the tradition of FDR, President Bill Clinton (1993-2001) was
a besieged political leader with little power. The president’s sweeping health care reform bill, introduced in 1993 and deemed the centerpiece of his domestic agenda, was systematically disassembled by special interest groups, lobbyists, and members of Congress, notwithstanding that the president’s party controlled both chambers of Congress. In the 1994 elections, the Republican Party gained control of both the House and Senate, and during his second term President Clinton became the second president in U.S. history to be impeached. Although he survived the Senate trial, President Clinton’s illegal conduct and ultimately his power were dramatically checked by Congress.

President George W. Bush, like his predecessors, exhibits little in the way of genuine presidential power. Although his political opponents often claim that the Bush presidency has acquired a “dangerous” amount of power due to 9/11 and the “war on terror,” a more objective inspection of the Bush presidency will discover a president who exercises power with great difficulty. One of President Bush’s major goals was to oust Iraqi dictator Saddam Hussein and transform Iraq into a thriving democracy that would serve as a model for democratic reform throughout the Middle East. Although the Iraqi army was soundly defeated and Saddam Hussein captured by the American military, President Bush’s larger goal of transforming Iraq has encountered great resistance. On the domestic front, President Bush’s principal goal of social security reform also appears stalled, despite a cross-country crusade to mobilize public and congressional support. Indeed, less than one year into his second term, President Bush is considered a “lame duck” president, a phrase normally reserved for presidents who are at the very end of their presidency.

The fact that American presidents one after another, in both political parties and during periods of divided as well as unified government, have been either formally checked by Congress or unsuccessful in their efforts to initiate bold policies suggests that the American presidency has become a very constrained institution. In some instances, presidents have been held in check when criminal conduct was involved, while in other instances politics “inside the Beltway” have impeded the president’s ability to govern. The repeated difficulties encountered by practically all of our recent presidents forces one to ask whether Congress has become overly eager to check the actions of presidents.

The pattern of failure and difficulty also requires one to question how objective the print and electronic media are in their coverage of presidential leadership. Presidents need a broad base of public support to exercise power, but if the American people read in newspapers and watch on television nothing but magnified flaws in presidential policies and presidential behavior, then it should be no surprise that public support for presidential leadership will be fleeting. Other dimensions of American government have also proven detrimental to presidential power, including the intrusiveness of the federal bureaucracy, as well as the grotesque influence of lobbyists who systematically thwart innovative presidential initiatives. There is reason to question the utility of the 22nd Amendment, which limits presidents to two terms of office, thus guaranteeing lame duck status for second-term presidents. Quite frankly, our political system has become so adverse to presidential power that it is doubtful we will ever experience another “great” American president.

‘‘Presidents need a broad base of public support to exercise power…”

There is still one question that needs to be addressed: Should presidents be empowered? My perspective on this question is a resounding “yes.” Although I have a profound respect for our system of checks and balances, I also believe that the domestic and foreign policy complexities of the twenty-first century demand a powerful presidency. The American people and the two major parties have become very polarized over a wide range of economic, social, and moral policies, and Islamic terrorist cells at home and abroad are plotting to annihilate thousands of Americans and destroy our existence as free people. This is a distressing state of affairs, one that can be rectified only by an empowered president. Indeed, national unity and national security were among the principal reasons the founding fathers, in their infinite wisdom, decided to establish the presidency. Thus, the critical question for the twenty-first century is not whether presidents have too much power, but whether presidents have enough power.

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nation, and the president would conduct war, at Congress’s behest, through civilian command of the military.

It is undoubtedly true that this is a purist’s vision of the Constitution, and that war-making no longer works this way, in practice, and has not functioned in this manner for quite a while. This change in the office, however, cannot be traced to FDR, since he never claimed that the commander in chief clause gave him unilateral or inherent authority to use military force.

It is Harry Truman who bears the distinction for being the first president to make such sweeping claims when he sent U.S. forces to Korea in 1950 without congressional authorization and then defended his related decision to seize private steel mills in 1952 based on his inherent authority as commander in chief during wartime. That claim opened the door for future presidents to assert, with the comfort of accumulating precedents from 1950 forward, that the decision to use military force rested in the White House alone. What a distance we have traveled since Hamilton and Madison, who would not recognize—and would certainly not dignify—such a claim as consistent with the Constitution.

The expropriation of the war power by the president from Congress is only one of the ways in which the presidency has become far more powerful (and, yes, I would argue, too powerful) than ever intended at its creation. It is, perhaps, the most symbolic example of this excessive expansion of executive authority. Of even greater concern is that, unlike other types of powers that some modern presidents have stretched beyond their recognizable limits (e.g., executive privilege, and treaty-making and interpretation), presidential monopolizing of the war power serves as the springboard for far darker, unilateral actions that they now feel free to take—such as determining the definition and acceptable treatment of enemy combatants, and creating military commissions—justified solely on their designation as commander in chief.

“Truman was the first president to make such sweeping claims [about the inherent power to wage war].”

And “designation” is exactly what Hamilton understood that term to be—nothing more, nothing less. “Being” commander in chief meant that any powers that attached to that title would be defined by Congress. “Being” president also means that official executive actions are subject to review by the courts. When a president refuses to ask Congress to provide authority to him to take actions he deems necessary in his role as commander in chief, and when a president, equally, maintains as a legal position, that courts have no role to play in judging the constitutionality of those actions, then he has eroded the cornerstones of the Constitution and the system of a government of limited powers that it established. And, yes, he would stun Madison and Hamilton by the certitude with which he proclaims the singularity of his office and its powers. They would not be pleased by this current state of the presidency, and neither should we be.

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Resources


by Stefanie Thompson

In the classroom, high school students read textbooks to learn about American history, but in Washington, D.C., those same students can see and experience the history for themselves.

Presidential Classroom is a nonprofit, nonpartisan civic education program that offers high school juniors and seniors the opportunity to witness the government in action and experience that history in the nation’s capital.

“The experience was awesome,” said Katie Peralta. “It was truly a once in a lifetime opportunity.”

Peralta, a 17-year-old high school senior from North Carolina, attended Presidential Classroom’s Law and Justice in a Democracy Program from June 11-18, 2005.

The Law and Justice program allows students to gain insight into the U.S. justice system by interacting with individuals who work in the judiciary. During this program students interact with influential leaders and policymakers, prepare for future leadership and career roles, enhance critical thinking and team-building skills in a challenging environment, debate current issues with peers from diverse backgrounds, cultivate friendships, mentor relationships and potential professional opportunities, and gain a better understanding of the importance of active citizenship.

Each program week at Presidential Classroom has basic curriculum that provides students with these opportunities and skills. Seminars are hour-long sessions that let students hear and interact with individuals directly involved in policy debates and decision making. Each seminar includes time for the students to ask questions of the guest speaker. Speakers from the most recent Law and Justice program included U.S. Supreme Court Associate Justice Antonin Scalia, U.S. Court of Federal Claims Judge Marian Blank Horn, U.S. Supreme Court Correspondent for Legal Times/American Lawyer Media Tony Mauro, Chief of the Military Justice Division of the Air Force Legal Services Agency, Col. Jeffrey A. Rockwell, and Maj. Gen. William K. Suter, Clerk of the Court for the U.S. Supreme Court.

Crossfires are forums of about 20 students that focus on current policy issues and hot topics such as government authority, church versus state, and civil liberties. Crossfires reveal the diverse perspectives and backgrounds of students involved.

Capitol Hill Day is a full day of visiting legislative offices, observing congressional hearings, and examining legislators’ roles in making public policy. Presidential Classroom also schedules appointments for students to visit the offices of their senators and representatives.

“I felt privileged to have the opportunity to meet my senators,” said Victoria Yan, a 16-year-old senior from Illinois. “This was the pinnacle of the trip.”
“It was great to meet my senator,” said Ismail Hassan, a 17-year-old senior also from Illinois. “It was cool to see what’s going on firsthand.”

In addition to these activities, Law and Justice students also participate in law firm visits and a moot court project. Students, divided into small groups, visit D.C. area law firms for lunch and a discussion about private law practice. Participating firms range in size and prominence, and some firms sponsor full scholarships for students to attend the program.

The Moot Court project is an appellate argument where the students argue their cases before a panel of five guest attorneys who serve as moot court justices. The cases are constitutional in nature and involve issues that the students can personally relate to in their lives. Students are given a set of facts as well as a story line at the beginning of the week and are free to use information they gather during the week’s seminars and law firm visits. Students are not told which side of the case they will represent until the day before the hearing, requiring them to prepare both sides of the arguments and briefs for each side of the case. On argument day justices hear each case and then meet to render their decisions. Justices also give feedback to the students about their arguments, stressing that it is the process that matters most. The goal is to teach students about legal analysis and argument.

“Moot Court was a really good learning experience,” Teneisha Hill said. Hill, a 16-year-old senior from Illinois, went on to emphasize how the project gave students a “better understanding” of how the legal system works.

The programs at Presidential Classroom are not all work and no play for students. Each day has a scheduled student lounge time, allowing students to socialize and interact in a casual environment. The week also includes tour time, giving students the chance to see monuments and museums around Washington, D.C. One night per week features entertainment by the political satire group Capitol Steps, and the week culminates with a Presidential Classroom graduation banquet and dance.

Presidential Classroom has always been about getting young students... continued on page 24

About Presidential Classroom

In addition to the Law and Justice program, Presidential Classroom also offers six other programs, giving students the opportunity to zero in on what’s interesting to them. The Presidential Classroom Scholars Program introduces the inner workings of the federal government and examines how current issues affect public policy. The Entrepreneurship and Global Business Program examines the role that the federal government plays in regulating industry and stimulating economic growth. The Future World Leaders Summit explores international relations, diplomacy, and the changing world economy. The Media and Democracy Program investigates the relationship between the news media and government, with analysis of a free press, a well-informed citizenry, and a democratic government. The Science, Technology and Public Policy Program examines the role of the government in issues related to scientific discoveries and technological advances. The National Security in a Democracy Program studies the role that the government, military, and private sector play in planning and executing defense and homeland security policy.

Presidential Classroom is approved by the National Association of Secondary School Principals’ List of Activities and endorsed by the National Education Association, Congressional Youth Award, and Who’s Who Among American High School Students.

Presidential Classroom seeks high school juniors or seniors involved in extracurricular or community activities with a minimum 3.0 grade point average. Interested and qualified students can apply online, request an application by mail, or receive an application through nomination by a teacher or counselor. For more information, contact Presidential Classroom at 119 Oronoco St., Alexandria, VA 22314; 1.800.441.6533; or visit Presidential Classroom’s Web site at www.presidentialclassroom.org.
In this lesson, students develop an understanding of executive orders, how different presidents have used orders to establish new policies and federal agencies, and the comparative benefits and drawbacks of executive orders versus congressional legislation.

Objectives & Materials

As a result of this lesson, students will:

- Develop a richer understanding of the scope of presidential power under Article II.
- Learn about the history, purposes, and uses of executive orders.
- Compare and contrast two policy initiatives from different historical eras.

Use the *Insights* article “Executive Orders” by John Paul Ryan (see pp. 12-13). Go to the Federal Register at the National Archives Web site at: www.archives.gov/federal-register/executive-orders/ for a comprehensive listing and summary of executive orders from Franklin D. Roosevelt to current times. Links to the entire text of orders are available for the Clinton and George W. Bush presidencies.

Target Group: Secondary School Students (Grades 9–12)

This lesson is suitable for high school students in political science, government, and U.S. History classes; it addresses several national history and government standards (for further details, see the inside front cover). The lesson can be adopted across 1-3 class periods. Optional extension activities involving out-of-class homework and research can also be assigned.

Procedures

1. Read the accompanying background article on “Executive Orders” on pages 12-13. Where appropriate, you may wish to reproduce and distribute the article to your students (to download copies of the article, go to www.insightsmagazine.org).

2. Provide students, through a mix of lecture and discussion, with a brief overview of the purpose and legal authority of executive orders. Be sure to emphasize the implicit basis of authority under Article II of the Constitution, the ability of presidents to issue orders without congressional approval, and the ease with which future presidents may rescind existing orders that they don’t like or agree with.

   As a class, ask students to consider why presidents would choose to issue an executive order rather than seek new legislation in a particular policy area. What are the benefits and drawbacks of executive orders?

3. Select two executive orders of topical relevance to your class that would also have potentially high student interest. Trace the background, development, and impact of these two orders.

   For example, to use two orders with contrasting histories and subject matters, choose President Truman’s 1948 executive order desegregating the nation’s armed services (see, for example: www.nps.gov/pwso/honor/order9981.htm) with President Bush’s 2001 executive order establishing a White House Office of Homeland Security (see, for example: www.whitehouse.gov/news/releases/
You can also download the entire text of the executive orders from the Web sites cited above.

4. Discuss with your students the background to both of these orders. What policy and political considerations led President Truman to decide that white and African-American soldiers should be permitted to serve side by side, in integrated units? Did Truman receive pressure from the military and/or from civilian groups to issue this order? Why didn’t Truman go to Congress for legislation banning segregation and discrimination in the military? (For more background on President Bush’s order, go to the Council on Foreign Relations’ Web site at: www.cfrterrorism.org/security/office2.html).

5. Ask students to assess the impact of these two executive orders. How were the executive orders received at the time of their announcement? Was public opinion in support of the president’s action? Did the orders pave the way for subsequent acts of Congress that “institutionalized” the orders? Which legislation?

6. For an extension activity, assign students—individually or in groups—to research the executive orders issued in the first year of two different presidents. Presidents often issue executive orders quickly in their first year in office in areas of special interest or importance to them. For example, compare the orders of William J. Clinton and George W. Bush. Use www.archives.gov/federal-register/executive-orders/ as the primary resource.

- What policy or subject areas were most commonly addressed by the orders issued by these two presidents? Were the orders focused primarily upon foreign policy or domestic policy? Which federal agencies were most commonly affected?

- Did each president revoke any of the executive orders of a prior president? Which orders? Why?

- Which orders appeared to be “policy-focused,” rather than merely dealing with the details of executive branch administration?

Have students report their research in a short paper or journal or as an oral presentation to the entire class.

Resources

Here are resources to help you and your students learn more about some of the historic executive orders on civil rights signed by U.S. presidents.

Franklin D. Roosevelt, Executive Order 8802/Nondiscrimination in Defense Department Jobs (1941).

PBS: www.pbs.org/fmc/timeline/exec8802.htm

Franklin D. Roosevelt, Executive Order 9066/The Internment of Japanese Americans (1942).


John F. Kennedy, Executive Order 10925/President’s Committee on Equal Employment (1961).


The National Archives—Teaching with Documents: www.archives.gov/education/lessons/civil-rights-act/


Federal Globe: www.fedglobe.org/actions/eoso.htm
Accepting responsibility is an essential part of everyday life, something every parent and child, every boss and worker, every friend and colleague wrestle with, or know they should. But for a president it is quite rare, and at least in the view of some historians and government experts, getting rarer, as a national culture of shifting blame permeates American politics.

So it was last week that some powerful words were spoken to the spouses and families of those who died two and a half years ago in the terror of Sept. 11.

“Your government failed you. Those entrusted with protecting you failed you. And I failed you.” The words of apology were unmistakable, but the face was hard to place. It belonged to none of the recognizable leaders of the government—not President Bush or Defense Secretary Rumsfeld, Secretary of State Powell or Condoleezza Rice, the national security adviser. Here was a middle-aged man with disappearing white hair and an American flag pinned in his left lapel; a former middle-level foreign policy official of three presidential administrations named Richard A. Clarke.

“We tried hard,” Mr. Clarke told the families as he testified to a commission looking into Sept. 11. “But that doesn’t matter because we failed. And for that failure, I would ask, once all the facts are out, for your understanding and for your forgiveness.”

The mea culpa appeared deeply meaningful to the bereaved families, who thronged around Mr. Clarke when he completed his testimony. But President Bush offered no similar statement, nor did Bill Clinton. Historians say national culture of shifting blame has permeated U.S. politics, and presidents rarely apologize or accept responsibility for mistakes.

Fault Lines: Where Does the Buck Stop? Not Here


Former National Security Council deputy Richard A. Clarke, testifying before commission investigating September 11 terrorist attacks, told families of those who died that government failed them and he failed them; President Bush offered no similar statement, nor did Bill Clinton. Historians say national culture of shifting blame has permeated U.S. politics, and presidents rarely apologize or accept responsibility for mistakes.

In October 1983, terrorists in Lebanon drove a truckload of explosives into a building housing American marines, killing 241. That December, a Defense Department commission prepared to release a report castigating officers in the chain of command for failing to safeguard their troops.

A copy was sent to President Reagan before its release. He read through it, David R. Gergen, then an aide, recalled, and with little discussion headed for the press room. “If there is to be blame,” Mr. Reagan said before the assembled corps, “it properly rests here in this office and with this president. And I accept responsibility for the bad as well as the good.” The commanders, Mr. Reagan said, should not be punished “for not fully comprehending the nature of today’s terrorist threat.”

There was some criticism at the time that Mr. Reagan had preempted the military disciplinary process. But over all, Mr. Gergen said, the acceptance of responsibility for something that happened during his term vastly improved Mr. Reagan’s status with the military and strengthened him for the rest of his presidency.

“Every time I’ve seen a president or his team take responsibility it has had a salutary effect,” Mr. Gergen said. “The reason why it has become so rare is the way the blame game is played. It can be so ferocious that any time they admit the slightest mistake it’s going to be exploited by the other side.”

Of course, accepting responsibility, let alone blame, for the events of Sept. 11 is on a scale different from virtually anything else a modern president has had to deal with. Certainly, an argument could be made that Sept. 11 is more analogous to Pearl Harbor than to Beirut, and Franklin D. Roosevelt never accepted responsibility for that sneak attack. Indeed, he talked the Republicans out of making it an issue in the 1944 campaign, saying it would hurt the war effort.

Within hours after the World Trade Center towers crumbled, Bush and Clinton partisans began blaming each
other for the failure to stop Al Qaeda, and have been doing so ever since in any venue they can find.

The record is actually surprisingly clear, that there was a series of moments stretching back from Sept. 11 across at least eight years when more aggressive actions might have produced a different outcome that crisp, blue morning. For example:

- In 1997 a commission led by Vice President Al Gore recommended steps to tighten airline security, including tougher screening of passengers and stronger locks on cockpit doors. Civil libertarians and the airline industry resisted.

- Osama bin Laden, while hardly a household name, was well known as a threat. (Indeed, this newspaper ran a front-page series about him just as the Bush administration was entering office.)

- The World Trade Center was already clearly marked as a target, from the bombing in 1993, and the idea to use planes as missiles was known from a disrupted plot to bring down the Eiffel Tower.

So who is responsible for not putting all this together, for failing to avert the tragedy? The airline industry? The Central Intelligence Agency? Richard Clarke? Mr. Bush? Mr. Clinton?

The other side, the side that faced visitors to the Oval Office, said, “The Buck Stops Here.”

To Harry S. Truman that meant accepting responsibility for making tough decisions, including firing Gen. Douglas MacArthur. But it did not necessarily mean expressing regret for them later. He was proud of saying he never lost sleep over his decision to drop the atom bomb, and 10 years later when he was invited to Japan he said he would go only if he did not have to kiss the posterior position of any Japanese citizen’s anatomy. (He didn’t go.)

Mr. Bush made it clear last week that he was more in the Roosevelt than the Reagan mode of the responsible commander in chief, offering a narrow test of presidential responsibility in the Sept. 11 context.

Had I known,” President Bush said the day after Mr. Clarke’s testimony, “that the enemy was going to use airplanes to strike America, to attack us, I would have used every resource, every asset, every power of this government to protect the American people.”

It is hard to imagine that anyone—even Mr. Bush’s fiercest critics—doubts that. But Mr. Bush’s statement illustrates the transition from a political culture where accepting responsibility demonstrated strength to one in which it exposes weaknesses.

Compare the actions of another young president faced with a crisis early in his administration. It was mid-April 1961, and a C.I.A.-organized invasion of Cuba had collapsed at a place called the Bay of Pigs.

“There is an old saying,” President John F. Kennedy said, “that victory has a hundred fathers and defeat is an orphan.” The president added, “I’m the responsible officer of the government.” Despite the debacle, Mr. Kennedy’s popularity increased.

But statesmanship is not always everything it seems, said Michael Beschloss, a presidential historian. Even as Kennedy was taking responsibility, his aides were out quietly—on background as they say in Washington—blaming the fiasco on Dwight D. Eisenhower, who had set the invasion in motion. Eventually, one Kennedy administration official, Stuart L. Udall, blamed Eisenhower in public, which brought a fierce rebuttal from his vice president, Richard M. Nixon, and forced the White House to retreat. President Kennedy, his spokesman, Pierre E. Salinger, said, bears sole responsibility and wanted everyone to know it.

In those days, a leader took responsibility in public and his aides spread the blame only in private. Today, those aides spread the blame on cable TV and only former mid-level officials take responsibility. In the culture of today’s politics, presidents may well be afraid to admit they can’t make everything perfect.

For Further Information

Want discussion questions, teaching activities, or resources? See the sidebar box “In the Classroom” on the next page.
actively involved in politics and the political process. In 1968, with the rise of a strong youth voice in American politics, Presidential Classroom was chartered in Washington, D.C. Presidential Classroom followed in the tradition of U.S. presidents who were interested in education, some who were educators themselves, including Woodrow Wilson and Lyndon B. Johnson. President John F. Kennedy, who challenged the country’s youth to public service, sponsored two pilot programs during his administration, called “Widening Horizons” and the “White House Seminars.” During the Johnson administration, Vice President Hubert Humphrey led the “Washington Briefings.” As the success of the idea became apparent, the blueprint for the program was transferred from the White House to a board of directors, comprised of prominent educators and citizens, to become Presidential Classroom.

Today, Presidential Classroom is a nonprofit, nonpartisan 501(c)(3) civic education organization that has developed new programs to address issues concerning law and justice, science and technology, business, national security, the news media, and international relations [for further information, see sidebar box on page 19]. These programs now attract thousands of high school students to Washington, D.C., annually.

“This was my first time in D.C., and it was amazing,” said Caleb Gayle, a 15-year-old junior from Oklahoma. “I was completely taken with everything we’ve gotten to see and do … this was great.”

Students in Action
continued from page 19

Classroom Activities
Discuss with your students some background and perspectives on the 33rd President, Harry S. Truman, including his use of the now-famous phrase, “The Buck Stops Here.” When did Truman adopt this phrase and the desk sign displaying it? Why? In what contexts did he subsequently use the phrase? Use the computer and a large-screen monitor to guide your students through key topics from some of the excellent Web sites on Truman and his presidency, including PBS’s American Experience (www.pbs.org/wgbh/amex/truman) and The Truman Presidential Museum & Library (www.trumanlibrary.org). Alternatively, divide the class into a few small groups, assign one or two different research questions about President Truman to each group, and then ask the groups to report back their findings to the class.

Web Resources
“Landmark Cases: U.S. v. Nixon, 1974” (www.landmarkcases.org/nixon/home.html), from Street Law, Inc. This site provides background information and links to lessons, resources, and perspectives about Watergate and its aftermath.

For Further Reading
It is a truism that the judicial confirmation process has become an increasingly partisan affair, but this Supreme Court nominating season has been so full of surprises neither side seems to have regained its footing in time to conduct an old-fashioned brawl.

First, the nomination of D.C. Court of Appeals Judge John G. Roberts, Jr., 50, to replace Justice Sandra Day O’Connor took Democrats by surprise. After gearing up to do battle with a more ideological nominee, Democratic activists and senators found themselves facing a mainstream conservative of formidable intellect, impressive experience, and unimpeachable academic accomplishment (Roberts’s bachelor’s degree is from Harvard, where he graduated summa cum laude after only three years; his J.D. is also from Harvard, where he graduated magna cum laude and served as managing editor of the Harvard Law Review). Moreover, upon further examination, it turned out that virtually everyone who had ever worked with Roberts liked him.

Roberts has worked in places that, taken as a whole, make up a superb training ground for the Supreme Court. First, he was a law clerk for a highly regarded appellate judge, Henry J. Friendly, of the U.S. Court of Appeals for the Second Circuit. Next, he clerked for then-Associate Justice William H. Rehnquist. From there, he became associate counsel to the president for Ronald Reagan, deputy solicitor general for George H.W. Bush, and a partner at the prestigious D.C. law firm Hogan & Hartson. He was a familiar face at the Supreme Court for years, returning to argue thirty-nine cases before the justices, winning twenty-five of them. In the process he impressed opposing attorneys and the Supreme Court press corps alike, earning a reputation as one of the very best appellate attorneys in the nation. Finally, in 2003 he was appointed to the U.S. Court of Appeals for the D.C. Circuit (his first nomination to this court, by George H.W. Bush, was stalled in the Senate as the 1992 presidential election approached).

As it was becoming clear that a comfortable majority of the Senate was ready to confirm Roberts to fill Justice O’Connor’s seat, Chief Justice Rehnquist died. President Bush withdrew Roberts’s nomination for associate justice and submitted his name anew, this time as his nominee for chief justice. Surprised again, Democrats demanded and won more time to prepare for hearings on Roberts’s new nomination.

At his televised confirmation hearings later in September, Roberts demonstrated a deep understanding of constitutional law and a spectacular memory, answering the senators’ often-convoluted questions with aplomb and without notes. Yet, he was also careful not to say much about how he would actually vote on any particular cases or issues that might come before him (a practice that sitting justice Ruth Bader Ginsburg praised). Democrats were frustrated but mostly resigned to the fact that, for all their questioning, Roberts was not about to reveal much more about his views than he did in his opening statement when he compared a Supreme Court justice’s work to that of an umpire’s: “I will...
remember that it’s my job to call balls or strikes, and not to pitch or bat.”

Speaking to their conservative readers after the hearings, the editors at National Review wrote that it was true that “John Roberts was a ‘stealth nominee’ in that he did not have declared positions on such questions as the constitutionality of affirmative action and anti-abortion laws.” But, the editors went on to say, they were nonetheless confident that Roberts would be a fine justice because there were so many “conservative legal heavyweights willing to vouch for his soundness.”

Most Senators also liked what they saw, and Roberts was confirmed by a 78-22 margin. For one thing, since he would be replacing the conservative Rehnquist, it looked to most Senators that Roberts’s brand of pragmatic conservatism would be unlikely to have any dramatic effect on the Court’s current balance of power between liberals and conservatives. For another, many senators hoped Roberts’s obvious intellectual prowess and personal affability would enable him to guide the Court in a collegial manner akin to that famously employed by Rehnquist, whom Justice Ginsburg praised as “the best boss I ever had.” In addition, some Democrats who might have been tempted to oppose him no doubt decided to bide their time to fight another day over a, perhaps more vulnerable, nominee. Finally, some senators may have been swayed by the storybook symmetry of Rehnquist’s former law clerk succeeding to the chief’s own position.

Harriet Ellan Miers

No such equanimity greeted the president’s surprise nomination of White House Counsel Harriet Ellan Miers, 60, to succeed Justice O’Connor.

Miers has many strengths. When President Bush introduced her to the country in a televised statement from the Oval Office on October 3, he described her as a pioneer in the field of law who had broken down many barriers to women. The president pointed out that she was the first woman to be hired at one of Dallas’s top law firms, the first woman to become president of that firm, and the first woman to manage a large law firm in the state of Texas. In addition, she was the first woman president of the Dallas Bar Association and the first woman elected president of the State Bar of Texas.

Miers was also admired within the American Bar Association, where she volunteered long hours serving on committees and chairing the ABA’s Commission on Multi-jurisdictional Practice and the ABA Journal’s Board of Editors, among others. Then-ABA President, Martha W. Barnett, picked Miers to chair the Standing Committee on the Federal Judiciary, the committee that evaluates nominees for the federal courts, but Miers turned down that opportunity in order to join Bush in Washington in 2001.

Now, Barnett told the ABA Journal eReport, she is “thrilled” and “delighted” by Miers’s nomination to the Court. “I think it’s an incredibly astute appointment by the president of a lawyer who has a proven record of serving not only her clients, but the profession and the country,” she said.

President Bush urged Americans to trust his judgment, reminding the public that “I’ve known Harriet for more than a decade. I know her heart, I know her character … I’m confident that Harriet Miers will add to the wisdom and character of our judiciary, when she is confirmed as the 110th Justice of the Supreme Court.”

Miers has had longstanding and close ties to the president. She was Bush’s personal attorney when, as governor, he appointed her head of the Texas Lottery Commission. She then followed him to Washington after the 2000 election to become his staff secretary, then his deputy chief of staff, and finally White House Counsel. Although she has never been a judge, Bush noted that neither the late Chief Justice Rehnquist nor Justice Byron White had any judicial experience before joining the Court (indeed, while every past justice has been
a lawyer, more than forty of the 109 justices in Supreme Court history had no prior judicial experience).

Leading Democrats took a positive or wait-and-see attitude to her nomination. But conservative pundits were immediately disappointed, sometimes outraged, and always loud. Their criticisms have been of two sorts.

The first, and most biting, is that Miers was nominated solely because of her personal relationship to the president. Typical were the remarks of columnist Charles Krauthammer: “If Harriet Miers were not a crony of the president of the United States, her nomination to the Supreme Court would be a joke, as it would have occurred to no one else to nominate her.”

The second and weightier concern was the lack of any immediate evidence that Miers has ever shown a serious interest in constitutional issues. George Washington University law professor Orin Kerr observes: “As far as I can tell, she has no particular experience or expertise in any areas of law that the Supreme Court is likely to consider in the next twenty years.”

Both of these criticisms eventually doomed her nomination. On October 27, 2005, Harriet Miers withdrew her name from consideration, saying she was concerned that senators wished to review her communications with President Bush that were written when she served as White House Counsel. She and President Bush both believed that the release of these documents would compromise the independence of the executive branch and the principle of executive privilege. And although she did not explicitly say so, Miers also bowed to a growing political reality—the lack of support for her nomination from a sizeable number of senators, including many members of the president’s own party.

**Samuel Alito**

On October 31, 2005, President Bush introduced Judge Samuel Alito, a Court of Appeals judge for the 3rd Circuit since 1990, as his new choice to replace Justice O’Connor. Alito, 55, previously served as deputy assistant Attorney General to Edwin Meese under President Reagan and then as U.S. Attorney for the District of New Jersey. Unlike Miers, Alito graduated from elite universities (A.B., Princeton; J.D., Yale), which is typical of most Supreme Court justices.

Partisans on all sides are acutely aware that this is the seat of Justice Sandra Day O’Connor—a female and centrist judge, who was often the swing vote in closely decided (5-4) Court decisions. In addition, there are numerous high-profile cases on the Court’s agenda for 2005-06, including New Hampshire’s law requiring parental notification of abortion for minors and Oregon’s physician-assisted suicide law. The new justice could be the decisive vote in these and other important cases involving issues of federalism, civil liberties, and privacy. So the stakes are indeed high for political parties, interest groups, and the country as a whole. Accordingly, scrutiny of Judge Alito’s prior judicial record will be intense—particularly, his dissenting opinion in support of a Pennsylvania abortion law that, among other things, required women seeking abortions to inform their husbands (a provision struck down by the U.S. Supreme Court in Planned Parenthood v. Casey, 1992).

**The Future**

We will soon know whether Justice Alito will be confirmed. But when will we know what kind of justice he or someone else, or indeed Chief Justice Roberts, turns out to be? As Linda Greenhouse reminds us in her recent biography, *Becoming Justice Blackmun*, serving on the Supreme Court is a journey that sometimes takes justices to new and unexpected places.

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**In the Classroom...**

Provide students with historical perspective on the current controversies over Supreme Court nominations. Consider failed nominations of the twentieth century—Robert Bork (1987), G. Harrold Carswell (1970), Clement Haynsworth (1969), and John J. Parker (1930), who were rejected by the Senate. Also consider controversial nominees whom the Senate confirmed, such as Clarence Thomas (1991) and Louis Brandeis (1916).

Assign students to research a controversial nomination (see, e.g.: www.ll.georgetown.edu/guides/supreme_court_nominations.cfm). Ask students to address the following questions:

- Why was the nominee controversial? Did the issues involve political ideology, professional qualifications, and/or personal background?
- Which groups supported and opposed the nominee?
- How has history judged the nominee and his worthiness to serve?

Have one student make an oral presentation on each nomination, while other students supplement the reports and ask questions. Summarize the common themes and ask students to compare past controversies with current ones. How, if at all, has the politics of Supreme Court nominations changed?
attractive “visuals” for the media, especially the evening news programs. With Reagan’s charismatic personality and adroit mastery of the camera, this presidential style worked with great effectiveness in the first term. It proved more difficult to sustain the illusions in the second term when the lack of programmatic ideas and the onset of such events as the Iran-Contra scandal impaired Reagan’s standing. But in his two terms he provided a model that two of his successors, Bill Clinton and George W. Bush, would refine.

The president who followed Reagan, George H.W. Bush, did not understand that the line between campaigning and governing had been erased. The elder Bush attempted to separate seeking a second term from the task of running the government. Despite his success in the first Gulf War, Bush found that his inability to translate his accomplishments into voter approval of his policies meant that he would be a one-term executive. For aspiring presidents in both political parties, the lesson was clear. Continuous campaigning was the prerequisite for a second term. The costs of such a course could be calculated later.

Both Bill Clinton and George W. Bush proved to be adept practitioners of the art of running for office while in the White House. A natural campaigner, Clinton enjoyed the process of speaking to crowds and selling his programs. He took opportunities to turn familiar events, such as the State of the Union message each year, into occasions for sustained speaking tours to build on the momentum from his annual speech to Congress. When he encountered political difficulties, a return to the stump gave Clinton a chance to showcase his impressive talents as a political preacher. The problem of course, was that such techniques often became a substitute for the actual process of running the country and administering the government.

Clinton also confronted the second term problem that had plagued his predecessors. Since the first term was designed to build a political consensus for achievements in the second four years, little thought was devoted to what the reelected incumbent should do. As a result, the second Clinton presidency, beset with scandals, failed to engage large questions, especially the threat of international terrorism, with the full energies of the White House and the government. The modern presidency, for all of its power in theory, proved in fact easily distracted from a sustained involvement with major policy issues.

It is too early for any firm verdict on the presidency of George W. Bush, but the methods of continuous campaigning are evident in the first five years of his White House tenure. Bush and his closest political adviser, Karl Rove, are convinced that presidential speeches to friendly, hand-picked audiences can enable a chief executive to dominate the media environment, build an enduring Republican majority, and marginalize the political opposition. Whether governance and resolution of urgent national needs will suffer as a result has yet to be determined.

Conclusion

Since William McKinley’s day, the American presidency has grown larger, more complex, and more like a theatrical production. Presidents are judged on whether they can be reelected and, after a second term, what their poll numbers are when they leave office. Like so much else in American life, the presidency is viewed in entertainment terms with its ratings up or down like a situation comedy or television spectacular. Popularity in a president is an important quality, since public opinion sets limits on what a chief executive can or cannot do in office.

Yet the troubling question arises about whether, for the long-term health of society, a president is really in a form of show business. Sometimes the job demands the posing of painful alternatives to the American people, national sacrifice, and a postponement of immediate pleasure. Can the American presidency deal with the threats and challenges that society faces in the twenty-first century? The manner in which the modern presidency has evolved in the past one hundred years provides at least as many grounds for doubt and trepidation as it does for hope and confidence.

For Further Reading


major political event, with advance copies of the speeches circulated to the press. By the last decade of the nineteenth century, the acceptance speech had become marked by the sort of partisan, policy-specific popular appeals that define the modern presidency (Ellis, 1998, chapter 5).

Presidential Communications in the Twentieth Century

By the second decade of the twentieth century, people generally expected presidents to go public. Presidents were limited less by norms than by technology. As technology changed so, too, did presidential communications.

Radio ushered the president into people’s homes. In the nineteenth century, presidents were household names, but they were distant figures. Only when a president traveled to a community by train did ordinary Americans get to hear a president speak. Radio became a standard part of American life in the 1920s, and Presidents Coolidge and Hoover addressed the nation via radio. But Franklin D. Roosevelt was the first president to master the new medium. Coolidge and Hoover largely gave the same speeches on the radio that they would deliver to a large crowd, whereas FDR tailored his intimate “fireside chats” so that listeners felt as if he was talking only to them.

Just as radio had transformed the president’s ability to communicate with the public in the 1920s, so television transformed presidential communications in the 1950s. Eisenhower used the new medium, but John F. Kennedy (1961–1963) mastered it. JFK’s live press conferences impressed the nation with the president’s quick wit and sharp intelligence. Television made the visual image at least as important as the words the president spoke.

Conclusion

The contrast between George Washington’s and George W. Bush’s understanding of presidential leadership could not be greater. Washington would not have dreamed of embarking on a speaking tour to drum up public support for his favored policies and to pressure Congress to act on those policies (though he did twice tour the country to help establish public support for the fledgling government). This transformation in the rhetorical behavior we expect of a president can be traced to three main causes: first, Jackson’s insistence that a president speaks for the people; second, the disintegration of the culture of partisanship that structured nineteenth-century politics; and, third, the changing nature of communication technologies. These changes in ideas, institutions, and technologies have produced the presidential communications we witness today.

Executive Orders

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war in Vietnam, an outraged Congress refused to appropriate any funds for SACB (Mayer, pp. 139-142).

Impact

Executive orders have enabled presidents to establish bold new policies, reverse policies of prior presidents with whom they disagreed, and tinker significantly with the organization of the executive branch and the implementation of legislation and administrative rules. Innovations in civil rights policies, in particular, have resulted from presidential orders, leading Kenneth Mayer to argue that “there are few areas in which executive orders have played a more significant role in effecting dramatic and widespread policies” (p. 184). Nevertheless, executive orders do not always lead to the institutionalization of policy, which results from laws enacted by Congress. In many areas outside of civil rights, notably national security policy and labor relations, the orders of one president have been routinely revoked by subsequent presidents. Executive orders, and other unilateral executive actions such as presidential proclamations and pardons, are an important source of presidential power, but their impact may be narrow or short-term. Furthermore, as political scientist Phillip Cooper (2002) reminds us, when presidents use these tools to usurp the lawmaking authority of Congress, they abuse executive power and threaten the very essence of representative government.

For Further Reading


Cooper, Phillip J. By Order of the President: The Use and Abuse of Executive Direct Action. Lawrence, KS: The University Press of Kansas, 2002.

Presidents and War Powers

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November 13, 2001, by President George W. Bush, the Supreme Court on June 28, 2004, handed down two decisions— in Hamdi v. Rumsfeld and Rasul v. Bush—that indicated a willingness to place some limits on executive excesses. However, the two rulings were so cloudy that lower courts had to do a substantial amount of guesswork to determine what the Court had held. There has been a general trend in war power cases for lower courts to place constraints on presidential war initiatives, only to be reversed by the Supreme Court.

Q: Turning to the topic of your most recent book, military tribunals, President Bush is one in a long line of presidents to use military tribunals in time of war. Are these tribunals necessary or should the U.S. use civilian and/or international courts to hear such cases?

Fisher: The most acceptable use of military tribunals was by General Winfield Scott during the Mexican War. This conflict marked the first time that U.S. forces were engaged militarily outside the United States, and Scott was concerned that his raw, poorly trained troops would commit atrocities in Mexico and spark a guerrilla uprising. Furthermore, Scott never claimed to be operating on constitutional authority. He recognized that the legal authority to create military tribunals lay with Congress and lawmakers could intervene at any time to modify and reverse what he had done. Another major example of a military tribunal was the trial of eight Germans who arrived in the United States in June 1942 with the intent to commit sabotage on American industrial targets. Although the Supreme Court upheld this tribunal in Ex parte Quirin (1942), the conduct of the trial created such division within the administration of Franklin D. Roosevelt that, when two more German spies reached the U.S. in November 1944, the administration jettisoned the 1942 model and placed the tribunal in the hands of military professionals.

The tribunals created by President Bush on November 13, 2001, have been controversial because the trial procedures fail to give detainees at Guantanamo Bay adequate means to defend themselves. Additionally, tribunals composed of military officers lack credibility. They cannot be expected to independently second-guess and possibly overturn a decision by President Bush (the Commander in Chief) after he has already designated a detainee as an “enemy combatant.” A further issue is the decision by the Bush administration to hold U.S. citizens (including Yaser Esam Hamdi and Jose Padilla) indefinitely, without giving them access to attorneys, charging them with a crime, or bringing them to trial. Both with regard to the detainees at Guantanamo and U.S. citizens, executive actions must be subject to review and scrutiny by independent courts in the federal judiciary. Otherwise, all three powers of government—to make law, execute it, and adjudicate—would be concentrated in the executive branch, precisely what the framers sought to avoid.

Q: As the war in Iraq slowly winds down, what does the future portend? Will the president’s powers in foreign policy—in particular, the power to wage war—continue to grow unabated?

Fisher: The United States—both its governments and its people—learns very little from experiences with war. In August 1964, President Lyndon B. Johnson announced that North Vietnam had made two “unprovoked” attacks on U.S. ships in the Gulf of Tonkin. The first incident was too minor to justify a major counterattack, and there is no evidence that the second “attack” ever took place. Nevertheless, both Houses of Congress passed the Gulf of Tonkin Resolution with little debate and with even less independent thought. The resolution transferred to President Johnson full authority to take “all necessary steps, including the use of military force” against North Vietnam. It would be years before U.S. citizens learned that the military actions by North Vietnam were in fact provoked by American assistance to South Vietnamese forces, and that the claim of the second attack was based on false information.

Notwithstanding that experience, which continues to divide the country, Congress passed the Iraq Resolution in October 2002 to authorize President Bush to go to war against Iraq. Once again, legislative action was based on false information about Iraq possessing chemical and biological weapons and trying to “reconstitute” a nuclear weapons program by purchasing aluminum tubes and seeking uranium ore from Niger. The tubes were later shown to be for ordinary rocket shells, and the belief about uranium ore (yellowcake) relied on a fabricated document. Remarkably, in both 1964 and 2002, advocates of congressional legislation to support military action against North Vietnam and Iraq argued that passage of a resolution would be the best way to avoid war. Major miscalculations and errors about going to war will continue, unless American society as a whole—academics, the media, lawmakers, judges, and the people at large—regain the framers’ skepticism about presidential wars and insist on reliable evidence before the country takes military action against another nation.
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