



Document Exploration: The Executive Branch

Time and Grade Level

One 50 minute class period in a Grade 9-12 US history, government or civics classroom.

Purpose of the Lesson

The purpose of this lesson is to assist student exploration of several of the primary source documents related to the creation of the executive branch. Through independent reading followed by a round robin assignment and an essay to explore current application of executive power, students will develop their historical inquiry skills and understand the scope and meaning of executive power under the U.S. Constitution.

Critical Engagement Questions & Lesson Objectives

1. How did the delegates to the Constitutional Convention resolve the conflict between their desire for an energetic executive and their distrust of a hereditary monarchy?

Objective: Students will be able to explain, using historical primary sources, why the Framers of the Constitution were fearful of consolidating executive power in one person and how they resolved these concerns in the text of the Constitution.

2. What expressed and implied powers does the president have, according to Article II, Sections 2 and 3 of the Constitution?

Objective: Students will be able to list the expressed powers of the president identified in Article II of the Constitution.

Objective: Students will be able to identify three or more implied powers of the executive.

Standards

[Common Core Standards: English Language Arts Standards-History/Social Studies-Grade 11-12](#)

CCSS.ELA-Literacy.RH.11-12.7 Integrate and evaluate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, as well as in words) in order to address a question or solve a problem.

CCSS.ELA-Literacy.RH.11-12.10 By the end of grade 12, read and comprehend history/social studies texts in the grades 11–CCR text complexity band independently and proficiently.

CCSS.ELA-Literacy.RH.11-12.9 Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.

C3 Standards: Suggested k-12 Pathway for College, Career, and Civic Readiness Dimension 2, Civic and Political Institutions, Perspectives, & Causation and Argumentation

D2. Civ.2.9-12. Analyze the role of citizen in the U.S. political system, with attention to various theories and democracy, changes in Americans' participation over time, and alternative models from other countries, past and present.

D2.His.10.9-12. Analyze complex and interacting factors that influenced the perspectives of people during different historical eras.

D2.His.16.9-12. Integrate evidence from multiple relevant historical sources and interpretations into a reasoned argument about the past.

Overview of the Lesson

Day One
1. Homework: Readings of Article II, Federalist No. 70, and James Madison's Notes of the Constitutional Convention.
2. Round-Robin Document Exploration: To discuss homework readings of Article II, Federalist 70, and James Madison's Notes of the Constitutional Convention on June 1, 1787. Students should identify specific sections of text to support their answers to the discussion questions.
3. Class Discussion of presidential power: Class discussion is content driven – do students understand presidential powers? Students should cite to specific historical documents to support their conclusions.
4. Assignment of essay: Evaluation of presidential powers using recent events as case studies.

Materials

1. Access to, and printed copies of, the ConSource documents: [US Constitution, Article II](#), [The Federalist No. 70](#), and [James Madison's Notes of the Constitutional Convention \(June 1, 1787\)](#).
2. Printed copies of the discussion question worksheet for each document of the round robin discussion groups. These are located in Appendixes [A](#), [B](#), and [C](#).

Student Warm-Up for the Lesson

Prior to the start of the lesson, students should be assigned reading of the full content of Article II, Federalist No. 70, and James Madison's Constitutional Convention Notes. The readings are accessible in the ConSource.org digital library or through the links below:

U.S. Constitution, Article II
The Federalist No. 70
James Madison's Notes of the Constitutional Convention (June 1, 1787)

Teacher Warm-Up for the Lesson

OVERVIEW OF THE TOPIC

Summary¹

A major flaw of the Articles of Confederation was that the executive powers of the national government were vested in the Congress rather than a separate office. This was a fault the delegates were well aware of by the end of the Convention in 1787. While delegates agreed that a separate office of national executive would assist, check, and complement the law-making powers of congress, they disagreed on the powers with which to vest the chief executive. The basis of these arguments rested in fears of tyranny and striking the appropriate balance between power and limits.

In May of 1787, Edmund Randolph introduced the Virginia Plan to the Convention, suggested a "national executive" who would be chosen by Congress and serve only one term. Randolph's solution for presidential powers was to suggest that the president hold the same powers of Congress, with one notable difference; Randolph suggested that the president also have the power to veto a bill, even though Congress could retain the ability to supersede that veto.

Soon after Randolph introduced his plan, delegate William Paterson offered the New Jersey Plan. This plan, like the Virginia plan, also supported a congressionally-chosen, single-term executive. The difference lie in presidential powers, of which the New Jersey plan offered very few. Under the New Jersey plan, the President would not have a veto power and could be impeached by Congress.

Three days after the New Jersey Plan was recommended, Alexander Hamilton suggested the creation of a single "supreme executive," who would hold office indefinitely, contingent upon good behavior. Departing from both the Virginia and New Jersey plans, Hamilton also recommended that the executive be chosen by "electors" appointed in districts.

The initial debates in the Convention focused on whether the executive should consist of one or more persons. Some delegates, like James Wilson, "preferred a single magistrate, as giving most energy dispatch and responsibility to the office," as they believed a single executive could act decisively. Others, however, feared tyranny would result from placing too much power

¹ Work Cited: NEH's We the People [program](#)

in the hands of one person. Even Charles Pinckney, who supported a strong national executive, was worried that additional powers to the executive would "render the Executive a monarchy, of the worst kind." However, by June of 1787 the delegates had all but dismissed the idea of multiple executives, understanding that this arrangement would likely lead to disagreement and the opportunity for power struggles.

As the delegates debated the powers to be vested in the president, they struggled over whether or not the president's veto power should be "absolute" or "qualified," meaning that the president's veto could be overridden by Congress or not. James Wilson was in favor of the absolute veto, as, "without such a self-defense the Legislature can at any moment sink [the Executive] into non-existence." George Mason, on the other hand, feared that an absolute veto would "pave the way to hereditary Monarchy," and allow the executive to "refuse its assent to necessary measures." Eventually, delegates settled on a "qualified" veto power.

The Convention also compromised on the balance between appointment and treaty-making powers of the president and Congress. Some delegates argued that giving the treaty-making and appointment powers to the Senate alone would place the president too much at their mercy. Other delegates, fearing the emergence of a monarchy, did not trust these powers in the hands of the president alone. The Convention finally compromised by allowing the president to make treaties and nominate federal judges and officers with the approval of a two-thirds vote in the Senate.

In the end, the final draft of the Constitution established an executive office that combined many aspects of the Virginia, New Jersey and Hamilton Plans. Executive power would be vested in one president, who would serve for a term of four years, be eligible for re-election, and could be removed from office if impeached (by a majority vote in the House of Representatives) and convicted (by a two-thirds vote in the Senate) of "Treason, Bribery, or other high Crimes and Misdemeanors." The president would be chosen by electors, appointed by the state legislatures and selected by the people. The powers and responsibilities of the president include a qualified veto, and the power to nominate federal judges, officers, and make treaties "by and with the Advice and Consent of the Senate."

RESOURCES FOR BACKGROUND ON THE TOPIC

Primary Source Documents (ConSource)

ConSource's Collection of primary source documents related to Article II, may be found [here](#).

The Federalist Papers discussing the executive branch include Federalist Papers 67, & 69-77.

The following papers focus on the powers of the executive:

[No. 70](#) (The executive department, general)

No. 73 (The veto power)

No. 74 (The role as commander in chief and the power to pardon)

No. 75 (The treaty-making power)

No. 76 (The power to appoint)

No. 77 (The appointment power continued and other powers of the executive branch)

Videos² (Mount Vernon & ConSource)

[The Challenges of Nationhood: Presidential Perspectives](#) This 60 minute video, “explores the struggles to establish a nation as seen through the eyes of our nation's first four presidents—George Washington, John Adams, Thomas Jefferson, and James Madison.”

[The Constitution and Executive Power](#) This 60 minutes video considers, “What did the founding fathers intend the powers of the chief executive to be? How has judicial review added or subtracted from these powers? How has the President’s relationship with Congress evolved? At Mount Vernon, students and educators joined host Julie Silverbrook, executive director of The Constitutional Sources Project, and historians Joseph Ellis and Carol Berkin for an exploration of executive powers.”

Website (The White House)

[This webpage](#) explains the various purposes of the Executive branch and the role of the president as chief executive.

Blog (Constitution Daily)

[This blog](#) contains short postings and videos related to current issues and examples of executive power.

² These videos are freely available for viewing but may need to be requested/ordered ahead of time which may take several hours. Be sure to request these videos early so you have time to view them before the lesson.

Activity

Activity	Description
Round Robin Document Exploration	Arrange desks into three groups. Divide students into three groups and have them work for 10-12 minutes on one of the exploration documents, discussing and answering questions before moving to one of the other tables to explore another document. Have students move three times so that by the end of the first 40 minutes, each group has visit each table and discussed each document.
Class Discussion of Round Robin Activity	Have the class arrange their seats into a circle and use the remainder of class time for discussion of the documents explored during the Round Robin. In particular, focus how the Constitution was designed to address the Framers' concerns about executive authority.
Assignment of Essay	See Extension Activity for details

Homework

Day One: In preparation for the round robin activity, have students reading Article II, The Federalist No. 70, and James Madison's Notes of the Constitutional Convention (June 1, 1787) for homework. Provide the worksheet of key reading concepts for students to assist reading if necessary (Find in [Appendix D](#)).

Extension Activity

Current Application Essay: Ask students to pick (or assign students) one of the concerns raised with respect to executive power at the Founding (suggestion to use the case of Syria or NSA intelligence leaks). In an essay, have students explore that power through the lens of the current president's administration to assess whether or not that fear has been recognized. In completing this evaluation, have students answer the question:

Does the current president's administration more or less power than was approved by the Founder's in the Constitution? Which powers are missing? Which are new? Would the Founder's have agreed with this expression of power? Why or why not? What circumstances impact the expression executive power today?

Appendix A. Round Robin Questions: Article II

1. What are the qualifications to be President?
2. Are these qualifications fair? Do they unfairly empower a specific group of people?
3. What expressed powers does the Constitution give to the President?
4. What powers are missing from the constitution for the executive? Are any of these covered as implied presidential powers?
5. Does the perception of executive power today match that found in the Constitution? Why or why not?

Appendix B. Round Robin Questions: Federalist No. 70

1. What are Hamilton's four ingredients for an energetic executive?
2. What two other factors does he cite as necessary to prevent abuses of executive power?
3. Do you agree with Hamilton that an energetic executive is necessary?

Appendix C. Round Robin Questions: Convention Notes

1. Ben Franklin chastised the delegates for their shyness about discussing the Presidency and Mr. Rutledge criticized them as well. Why were the delegates hesitant to talk about this issue?
2. What were the arguments for a single executive? What were the arguments for an executive council? Which do you find more convincing and why?

Appendix D. Key Reading Concepts: Executive Power

What issues do the Framers raise when drafting and ratifying the Constitution? Are they supporting these issues or opposing them?

What were the Founder's most fearful about in creating a new government? How did this impact the creation of the executive branch?

What is the president allowed/not allowed to do?

What types of leadership are discussed in these documents? Which are favored, why?

Do the powers discussed in these documents sound familiar? Are they being used in the current administration? Which powers are missing?

Are presidential actions still legitimate even if they are not listed, either implied or expressly, in the Constitution? How would various Founder's react to the powers being used, modified, or rejected by the current president or recent administrations?