



Exploring Presidential Action and the US Constitution in Times of Crisis

"Inter arma silent leges ~ During war, the laws are silent."

Overview

Students will explore and compare how the US Constitution has granted and/or limited Presidential actions during times of crisis. Beginning with background information regarding the parts of the Constitution related to executive power/privilege, students will gain context regarding how American democracy defines, grants, and limits presidential powers. In groups, students will then examine a scenario describing an incident in American history during which a president had to respond during a time of crisis. After analyzing the crisis and determining whether the president's response was appropriate and constitutional, students will present their scenario to classmates (in a presentation style of their choice) and highlight how it connects to the Constitution.

North Carolina Standard Course of Study for Civics and Economics

- Objective 2.01: Identify principles in the United States Constitution.
- Objective 2.02: Explain how the United States Constitution defines the framework, organization and structure of the three branches of government at the national level.
- Objective 2.03: Explain how the United States Constitution grants and limits the authority of public officials and government agencies.
- Objective 2.07: Identify modern controversies related to powers of the federal government that are similar to the debates between Federalists and Anti-Federalists over ratification of the United States Constitution.

North Carolina Standard Course of Study for US History

- Objective 1.01: Identify the major domestic issues and conflicts experienced by the nation during the Federalist Period.
- Objective 3.05: Evaluate the degree to which the Civil War and Reconstruction proved to be a test of the supremacy of the national government.
- Objective 9.05: Assess the impact of New Deal reforms in enlarging the role of the federal government in American life.
- Objective 10.03: Describe and analyze the effects of the war on American economic, social, political, and cultural life.
- Objective 12.02: Evaluate the impact of recent constitutional amendments, court rulings, and federal legislation on United States' citizens.
- Objective 12.04: Identify and assess the impact of social, political, and cultural changes in the United States.
- Objective 12.06: Assess the impact of 21st century terrorist activity on American Society.

Essential Questions

- How does the United States Constitution grant and limit the powers of the President?
- In what ways are the powers of the President altered during times of crisis?
- In what ways have various American presidents responded during times of crisis?
- What determines whether or not a presidential action is constitutional?
- How does crisis impact government? What are the lasting effects of crises on American government?

Materials

- Exploring the Constitution in Times of Crisis, handout and answer key attached
- Presidential Actions in Times of Crisis - Group Scenario Worksheets (7), attached
- Scenario Discussion Questions, attached
 - Teachers can copy these questions on the back of each of the scenarios
- Poster board, chart paper, or bulletin board paper
- Markers or colored pencils
- Presidential Responses in Times of Crisis-Presentation Viewing Sheet, attached
- "Obama's Libya Moves Show His Freer Foreign Policy Hand, Rankling Congress," article from NPR attached and available at <http://www.npr.org/blogs/itsallpolitics/2011/03/21/134732953/obamas-libya-moves-show-his-freer-foreign-policy-hand-rankling-congress> (optional)
- Executive Order Worksheet, attached (optional)



Preparation

Students should have a basic knowledge of the US Constitution. This lesson will review particular parts of the Constitution that relate to various decisions of Presidents during times of national or international crisis.

Duration

60-90 minutes (*Time varies based on the length of student presentations; teacher can also split presentations up over several class periods)

Procedure

Warm-Up: “Why do they want to know what I’m buying?”

1. Begin class by telling students that a bill is being considered in Congress that would affect each one of them. The proposed bill is in response to the recent financial crisis and if passed it would basically allow the government to monitor and/or search any person’s credit/debit card purchases. Discuss:
 - What is your opinion of this proposed bill? How would you feel if this bill passed into law?
 - Would your opinion change if Congress said this bill is necessary to protect the safety of American financial markets? Is that a legitimate public interest?
 - Does the fact that this bill is in response to a crisis affect your feelings about it?
 - Do we have rights that are protected? What are they protected by? (Review the protections in the Constitution.)
 - While the bill I described isn’t actually being considered by Congress, can you think of times throughout history when laws have been passed in response to some type of crisis?
2. Discuss with students how major crises in history have provoked major reactions by Presidents and Congress. Tell students that they are going to be exploring such moments throughout history in today’s lesson. Explain that you will first be giving them some background information via a brief set of guided notes and that they will later be working in groups to explore these themes further.

The US Constitution and Executive Privilege

3. Begin by passing out the attached *Exploring the Constitution in Times of Crisis Guided Notes* and use them as a basis for leading a class discussion regarding the parts of the Constitution related to Executive Power/Executive Privilege. Point out to students that throughout the discussion and in their notes, the focus will be on particular parts of the Constitution that relate to various decisions of Presidents during times of national or international crisis, thus the discussion/notes will not address every aspect of the Constitution. Remind students that these notes will serve as a basis for the group activity they will be completing next, thus it is important they pay attention. Take about 15-20 minutes for discussion and notes.

Group Presentations: Presidential Actions in Times of Crisis

4. Once students have completed their notes, tell them that you are going to divide them into groups of three or more. Explain that each group will be assigned a scenario which describes an incident in American history during which a president had to respond during a time of crisis. They must examine the scenario, analyze the crisis and determine whether the President’s response was appropriate and constitutional. Tell students that as a group, they will teach the information from the scenario, as well as how it relates to the US Constitution, to the remainder of class in a short (5 minutes or less) presentation. Presentations can be in the group’s chosen format (lecture, dramatic scene, interview or newscast format, etc.) and long as it conveys the important facts of the scenario and highlights the scenario’s connection to the US Constitution.
5. Divide the students into groups, provide each group with one of the attached scenarios (it is fine to have more than one group work on the same scenario) and ensure each group understands what is expected. Take any questions then give students approximately 20 minutes to read, discuss, and produce their presentation.
6. Once students have finished their presentations, review expectations for being respectful audience members and provide each student with a copy of the attached “Presidential Responses in Times of Crisis – Presentation Viewing Sheet.” Students should take notes on the worksheet as they view each presentation. (Have the groups present in chronological order according to the year of the event.)
7. After each presentation, allow students to ask questions of the presenters. Teachers can also pose scenario specific questions to generate more in-depth discussion and ensure students glean the most important points of each (suggestions are noted below.) Students may identify additional aspects of the Constitution these scenarios address; this is encouraged as long as students can justify their rationale. Likewise, while not noted below, all scenarios deal



with Article II (Executive Power.) Students can discuss whether the details of each scenario involved the President overstepping executive power/privilege.)

- **Scenario 1:** Why did Lincoln suspend habeas corpus? What is your opinion of President Lincoln's decision?
 - Deals with Article I, Section 9 (habeas corpus)
 - Additional information to discuss:
 - The Confederate Congress also authorized suspension of the writ of habeas corpus, and President Davis did so, in certain cases.
 - On Feb. 14, 1862, the Lincoln administration ended the suspension of the writ of habeas corpus and issued an amnesty to political or state prisoners no longer deemed dangerous.
 - To those who objected that Congress, and not the President, should have determined the suspension of habeas corpus, the administration defended itself stating that "every department of the Government was paralyzed by treason," and that Congress "had not anticipated and so had not provided for the emergency." Lincoln, as chief executive, had felt compelled to "employ with energy the extraordinary powers which the Constitution confides to him in cases of insurrection."
 - On Sept. 24, 1862, after many military disasters, unpopular conscription looming and doubt about the public's reception of the Emancipation Proclamation (preliminary issue Sept. 22), President Lincoln suspended habeas corpus again, this time over the entire North. The new directive specifically cited the resistance to the draft as the reason.
 - In the short session of Congress that began November 1862, a bill was introduced to provide indemnity for the President's suspension of the writ of habeas corpus. This was done to make it legally correct, and to remove any objection that the Congress, not the President, had such power. It passed Dec. 8, the Senate changed it, and it finally cleared Congress, as the Habeas Corpus Act, on March 3, 1863.
 - The full question of whether the Constitution gave the president a special power to suspend the writ of habeas corpus during wartime never got to the Supreme Court. In large part that's because the administration made sure it didn't. It had a valid fear that the Court would rule against there being such a power under the Constitution, and such a ruling would undermine the war effort. On the other hand, by keeping the matter away from the Court, the administration could largely accomplish its policy.
- **Scenario 2:** Does censoring of speech differ if someone is a resident of the United States or not? Should citizens be limited in speaking out against the government during a time of war? Why or why not? Was President Adams justified in his action? Does the "undeclared" nature of the war affect your perception of whether the action was justified or not? Explain.
 - Deals with First Amendment; Tenth Amendment
 - Additional information to discuss:
 - Passed by Federalists during the undeclared war with France, the acts were denounced by Democratic-Republicans as being both unconstitutional and designed to stifle criticism of the administration, and as infringing on the right of the states to act in these areas. They became a major political issue in the elections of 1798 and 1800.
 - Vice President Thomas Jefferson specifically denounced the Sedition Act as invalid and a violation of the First and Tenth Amendments.
- **Scenario 3:** Are there any recent scenarios that remind you of this case? (i.e. detaining terrorists after 9/11; Guantanamo Bay). How are these two scenarios alike? How are they different? (You will want to note that in Guantanamo, the majority of the detainees are not American citizens, whereas Korematsu and other Asian-Americans were legal residents of the United States). What was the Supreme Court's role? What is your opinion of the Supreme Court's decision?
 - Deals with Article I, Section 9 (Congress does not have the power to pass a bill of attainder - a law that singles out a particular group for punishment) and Article II, Section 2 (when the camps were challenged, the US Supreme Court determined the internment camps were constitutional due to the increased threat to the safety of Americans.)
 - Additional information to discuss:
 - While the Supreme Court sided with the government, Justice Murphy, dissenting wrote:
"This exclusion of 'all persons of Japanese ancestry, both alien and non-alien,' from the Pacific Coast area on a plea of military necessity in the absence of martial law ought not to be approved. Such exclusion goes over 'the very brink of constitutional power' and falls into the ugly abyss of racism."
- **Scenario 4:** How do you feel about a war waged by an intelligence agency in secret? Even if the invasion had succeeded, is it ever acceptable for a President (or any agency) to carry out operations like this?
 - Deals with Article I, Section 9 (Congress has the power to declare war)
 - Additional information to discuss:
 - The invasion was meant to appear to be an attempt by independent Cuban rebels to overthrow leftist Cuban leader Fidel Castro, but became obviously known as an American project, and confirmed when President John F. Kennedy immediately admitted responsibility when the invasion failed. The Bay of Pigs



was a major embarrassment for the United States, which was caught deceiving the United Nations and trying to overthrow by force a government which the U.S. itself had officially recognized and which was not attacking the U.S.

- **Scenario 5:** If President Ford's decision to pardon President Nixon was legal, was it ethical? Why or why not?
 - This scenario could have dealt with Article II, Section 4 (the President can be impeached for treason, bribery, and other high crimes, and it was likely Nixon would not have survived the impeachment vote) but instead only deals with Article II, Section 2 (the president cannot pardon someone impeached by Congress, but can pardon anyone else.)
 - Additional information to discuss:
 - After a two-year battle against the news media, government agencies, the U.S. Senate and House of Representatives and the U.S. Supreme Court, Nixon wound up resigning amid the likelihood that he would not survive a full impeachment vote in the Congress. President Ford's subsequent decision to pardon Nixon eliminated the possibility of him, as a humiliated private citizen, going on trial. Both the decision and its timing came under severe criticism. The pardon was announced by Ford on a Sunday morning, taking advantage of an off-beat time for Washington newsmakers in an attempt to minimize the initial political fallout (which did not work out as they had hoped.)
- **Scenario 6:** Is there a "formal" right to privacy in the Constitution? (While the explicit answer is no, citizens do have a recognized "implied right to privacy" granted by combining a number of amendments). Knowing that there is no formal recognition of privacy, only an implied recognition, does your opinion of the case change at all? Why or why not?
 - Deals with 1st, 4th, and 6th Amendments
 - Additional information to discuss:
 - The USA PATRIOT Act generated a great deal of controversy. Due to its controversial nature, a number of bills were proposed to amend the Patriot Act.
 - Opponents of the Act have been quite vocal in asserting that it was passed opportunistically after the September 11 attacks, believing there to have been little debate. They view the Act as one that was hurried through the Senate with little change before it was passed.
 - Ultimately, the Act dramatically reduced restrictions on law enforcement agencies' ability to search telephone, e-mail communications, medical, financial, and other records; eased restrictions on foreign intelligence gathering within the United States; expanded the Secretary of the Treasury's authority to regulate financial transactions, particularly those involving foreign individuals and entities; and broadened the discretion of law enforcement and immigration authorities in detaining and deporting immigrants suspected of terrorism-related acts. The act also expanded the definition of terrorism to include domestic terrorism, thus enlarging the number of activities to which the Patriot Act's expanded law enforcement powers can be applied.
 - The act is currently set to expire May 29, 2011
- **Scenario 7:** How does this situation seem similar to the other scenarios? In what ways is this scenario similar to Japanese Internment Camps or President Lincoln's suspension of habeas corpus? In your opinion, is the situation at Guantanamo constitutional? Why or why not? Should the facility be closed and why? If so, what should happen to the people being detained there?
 - Deals with Fifth and Sixth Amendments (due process, right to a speedy trial, etc.); Fourth Amendment (illegal searches and seizures; the government has also been accused of secretly recording private meetings between detainees and their lawyers)
 - Additional information to discuss:
 - Detainees were brought to Guantanamo for the very purpose of being kept beyond the jurisdiction of the courts.
 - The key precedent underlying the Administration's position in justifying Guantanamo is *Johnson v. Eisentrager*. In that 1950 case, the Supreme Court denied a group of convicted German war criminals the right to seek federal court review of their sentences. The Court's opinion placed great emphasis on the fact that occupied Germany, where the prisoners were being held, was foreign territory.

Culminating Activities

- Identify a crisis situation currently faced by the United States and ask students to identify potential actions that the President could take or has taken and how the Constitution is implicated. Students can form arguments and debate the President's actions and the Constitutionality of such, or discuss alternate choices they feel the President should make. For example, in March 2011, President Obama ordered American troops to Libya, without seeking Congressional approval. Teachers can have students read and discuss an article regarding the debate, such as the attached article from NPR, also available at <http://www.npr.org/blogs/itsallpolitics/2011/03/21/134732953/obamas-libya-moves-show-his-freer-foreign-policy-hand-rankling-congress>.



- As a culminating activity, assign the attached “What Will Your Executive Order Be” worksheet, which can be completed as in in-class reflection (if time allows) or as homework.



Name: _____

Date: _____

Exploring the Constitution in Times of Crisis

Article I: The Legislative Branch

Section 1

Congress, made up of a _____ and a _____, has the right

- To _____.

Section 2

- They also may _____ federal officials, including _____.

Section 6

- Members of Congress cannot be _____ in House or Senate chambers.

Section 8

Congress has the power to perform the following duties

- _____.
- Establish _____.
- Call on the _____ to enforce laws and suppress rebellions.
- Make all laws _____ for carrying out its Constitutional powers.

Section 9

Congress does not, however, have the power to

- Suspend _____, unless required for public safety.
 - Habeas Corpus – _____
- _____
(_____)

Article II: The Executive Branch

Section 1

- All _____ is given to the President of the United States.
- Some executive powers, such as the President's ability to issue _____, are not directly outlined in the Constitution. For example:
 - In times of emergency, the president can _____ and issue executive orders with almost limitless power. Executive Orders have two main functions:
 - to _____
(_____)
 - to _____, if such authority has been granted to the President by Congress.

- _____ is the power claimed by the President of the United States and other members of the executive branch to resist certain subpoenas and other interventions by the legislative and judicial branches of government. While concept of executive privilege is not mentioned explicitly in the Constitution, the _____ ruled it to be an element of the _____, and/or derived from the supremacy of the executive branch in its own area of Constitutional activity.

Section 2

- The President is the _____ of the Armed Forces.
- The U.S. Constitution gives the president almost limitless power to _____ to those convicted of federal crimes. While the president cannot pardon someone _____, he or she can pardon anyone else without any Congressional involvement.

Section 4

- The President can be _____ for treason, bribery, and other high crimes.

Article III: Judicial Branch

Section 2

- The Supreme Court decides cases of: _____ and _____.

Bill of Rights/Amendments

- *First Amendment:*
- *Second Amendment:*
- *Fourth Amendment:*
- *Fifth Amendment:*
- *Sixth Amendment:*
- *Ninth Amendment:*
- *Tenth Amendment:*
- *Fourteenth Amendment:*

ANSWER KEY Exploring the Constitution in Times of Crisis

Article I: The Legislative Branch

Section 1

Congress, made up of a **House of Representatives** and a **Senate**, has the right

- To make **laws**.

Section 2

- They also may **impeach** federal officials, including **the President of the United States**.

Section 6

- Members of Congress cannot be **arrested** in House or Senate chambers.

Section 8

Congress has the power to perform the following duties

- **Declare war**.
- Establish **rules for military forces**.
- Call on the **National Guard** to enforce laws and suppress rebellions.
- Make all laws **necessary and proper** for carrying out its Constitutional powers.

Section 9

Congress does not, however, have the power to

- Suspend **habeas corpus**, unless required for public safety.
 - Habeas Corpus – **Allows you to seek legal recourse for unlawful detention**
- **Pass a law that singles out a particular group for punishment (Bill of Attainder)**

Article II: The Executive Branch

Section 1

- All **federal executive power** is given to the President of the United States.
- Some executive powers, such as the President's ability to issue **Executive Orders**, are not directly outlined in the Constitution. For example:
 - In times of emergency, the president can **override congress** and issue executive orders with almost limitless power. Executive Orders have two main functions:
 - to **modify how an executive branch department or agency does its job (rule change)**
 - to **modify existing law**, if such authority has been granted to the President by Congress.
 - **Executive privilege** is the power claimed by the President of the United States and other members of the executive branch to resist certain subpoenas and other interventions by the legislative and judicial branches of government. While concept of executive privilege is not mentioned explicitly in the United States Constitution, **the Supreme Court of the United States** ruled it to be an element of the **separation of**

powers doctrine, and/or derived from the supremacy of executive branch in its own area of Constitutional activity.

Section 2

- The President is the **Commander in Chief** of the Armed Forces.
- The U.S. Constitution gives the president almost limitless power to **grant pardons** to those convicted of federal crimes. While the president cannot pardon someone **impeached by Congress**, he or she can pardon anyone else without any Congressional involvement.

Section 4

- The President can be **impeached** for treason, bribery, and other high crimes.

Article III: Judicial Branch

Section 2

- The Supreme Court decides cases of: **US Constitution and Federal Laws**.

Bill of Rights/Amendments

- *First Amendment:* **Freedom of religion and speech (speak and write thoughts freely, to peacefully assemble, and to petition the government, etc.)**
- *Second Amendment:* **To keep and bear arms**
- *Fourth Amendment:* **Be secure against "unreasonable" searches and seizures**
- *Fifth Amendment:* **To be prosecuted for "infamous" crime only by Grand Jury, to not be tried for the same crime twice, to not incriminate yourself, to provide "due process of law" before the government takes life, liberty, or property**
- *Sixth Amendment:* **Right to a speedy and public trial with an impartial jury, to address witnesses speaking against you, and to be represented by an attorney**
- *Ninth Amendment:* **Other rights than those listed in the Constitution**
- *Tenth Amendment:* **The states reserve powers not delegated to the federal government by the US Constitution**
- *Fourteenth Amendment:* **Due process and equal protection to anybody born or naturalized into the United States**

Group Members: _____

Scenario Discussion Questions

Answer these questions regarding the scenario provided to you and be prepared to present your findings to the class.

1. Summarize the situation assigned to you. What are the major facts surrounding the event?

2. How did the President respond to the situation?

3. In your opinion, was the action an effective response to the crisis? Why or why not? Would you have done anything differently if you were the president during this situation? Explain.

4. What sections of the Constitution are related to this situation and/or this presidential action?

5. Was the President's decision constitutional? Why or why not?

6. In this crisis, would you be willing to act outside the Constitution if it meant preserving the safety of the country? Why or why not?

Presidential Actions in Times of Crisis - Group Scenario 1

Instructions:

As a group, please read the scenario below and discuss the questions provided. After you have a good understanding of how your scenario relates to the US Constitution, prepare a presentation that teaches your classmates about the facts surrounding the scenario and summarizes your response to the questions. Your final presentation should last 4-5 minutes and can be in whatever format you choose (i.e. lecture, dramatic representation, newscast, interview format, etc.) You can be creative, but make sure you effectively teach your classmates about your scenario and in particular, its connection to the US Constitution.

Assign the following roles within your group:

- **Facilitator:** Lead the group through sharing initial responses to the scenario and how it relates to the US Constitution. Pose each of the questions provided to the group and add your own thoughts as you facilitate the discussion. Make sure everyone participates and that the group stays on topic.
- **Recorder:** Take notes throughout the group's discussion of the scenario and the questions provided. Write down the group's final answers to the questions on notebook paper, while also participating in the discussion by offering your own thoughts and opinions.
- **Director:** Lead the group through brainstorming ideas for your presentation, making sure the focus is on educating the class about the details of your presidential scenario and how it relates to the Constitution. Help the group choose an idea and make sure everyone participates and stays on task as you write out your presentation and practice it.

Your group will have 20 minutes to complete this activity. You will be graded on having an organized, quality, and comprehensive presentation that teaches classmates about the important points of your scenario and its relationship to the US Constitution.

Scenario:

In February 1861, the southern states seceded from the Union and on February 4, 1861, these states formed the Confederate States of America. On April 12, Confederate forces attacked Fort Sumter, in what became known as the beginning of the Civil War. On April 27, 1861, about a week after the Fort Sumter surrender, President Lincoln ordered Winfield Scott, then head of the nation's military, to arrest anyone between Washington and Philadelphia suspected of subversive acts or speech, and his order specifically authorized suspension of the writ of *habeas corpus*. Lincoln's issued decree stated:

"Whereas, It has become necessary to call into service, not only volunteers, but also portions of the militia of the States by draft, in order to suppress the insurrection existing in the United States, and disloyal persons are not adequately restrained by the ordinary processes of law from hindering this measure, and from giving aid and comfort in various ways to the insurrection. Now, therefore, be it ordered, that during the existing insurrection, and as a necessary measure for suppressing the same, all rebels and insurgents, their aiders and abettors within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice affording aid and comfort to the rebels against the authority of the United States, shall be subject to martial law, and liable to trial and punishment by courts-martial or military commission.

That the writ of habeas corpus is suspended in respect to all persons arrested, or who are now, or hereafter during the rebellion shall be, imprisoned in any fort, camp, arsenal, military prisons, or other place of confinement, by any military authority, or by the sentence of any court-martial or military commission."

By issuing this proclamation during the Civil War, President Lincoln had determined that prisoners (such as those suspected to be "Southern sympathizers") could be detained without trial for an indefinite period of time.

Presidential Actions in Times of Crisis - Group Scenario 2

Instructions:

As a group, please read the scenario below and discuss the questions provided. After you have a good understanding of how your scenario relates to the US Constitution, prepare a presentation that teaches your classmates about the facts surrounding the scenario and summarizes your response to the questions. Your final presentation should last 4-5 minutes and can be in whatever format you choose (i.e. lecture, dramatic representation, newscast, interview format, etc.) You can be creative, but make sure you effectively teach your classmates about your scenario and in particular, its connection to the US Constitution.

Assign the following roles within your group:

- **Facilitator:** Lead the group through sharing initial responses to the scenario and how it relates to the US Constitution. Pose each of the questions provided to the group and add your own thoughts as you facilitate the discussion. Make sure everyone participates and that the group stays on topic.
- **Recorder:** Take notes throughout the group's discussion of the scenario and the questions provided. Write down the group's final answers to the questions on notebook paper, while also participating in the discussion by offering your own thoughts and opinions.
- **Director:** Lead the group through brainstorming ideas for your presentation, making sure the focus is on educating the class about the details of your presidential scenario and how it relates to the Constitution. Help the group choose an idea and make sure everyone participates and stays on task as you write out your presentation and practice it.

Your group will have 20 minutes to complete this activity. You will be graded on having an organized, quality, and comprehensive presentation that teaches classmates about the important points of your scenario and its relationship to the US Constitution.

Scenario:

In 1798, President John Adams and the United States were waging an undeclared naval war against France. President Adams and Congress passed the Alien and Sedition Acts, which were targeted towards citizens of France living in America, as well as American citizens who were "sympathizers" with the French. French sympathizers were those who were publishing pamphlets, posting flyers, and giving speeches that were highly critical of the United States government and their treatment of France. These sympathizers were also critical of the United States because the United States had benefitted from an alliance with France during the Revolutionary War, but did not assist either French party in the French Revolution. President John Adams and Congress passed the Alien and Sedition Acts to quiet the critics and maintain public order in the infancy of the country. They argued that such criticism and attacks were weakening the new American government and undermining public safety. There were four total acts that comprised the Alien and Sedition Acts, including:

- The *Naturalization Act* -immigrants had to live in the United States for fourteen years before they could become full-fledged citizens.
- The *Alien Friends Act* -allowed the President to deport any resident alien considered "dangerous to the peace and safety of the United States."
- The *Alien Enemies Act* -allowed the President to apprehend and deport resident aliens if their home countries were at war with the United States of America.
- The *Sedition Act* -made it a crime to publish "false, scandalous, and malicious writing" against the government or its officials.

After being inaugurated as the third U.S. President, Thomas Jefferson (who had a close relationship with the French), declared the acts unconstitutional, and pardoned all who had been tried under them.

Look over your notes from today and discuss the actions of President Adams and President Jefferson. Were Alien and Sedition Acts constitutional?

Presidential Actions in Times of Crisis - Group Scenario 3

Instructions:

As a group, please read the scenario below and discuss the questions provided. After you have a good understanding of how your scenario relates to the US Constitution, prepare a presentation that teaches your classmates about the facts surrounding the scenario and summarizes your response to the questions. Your final presentation should last 4-5 minutes and can be in whatever format you choose (i.e. lecture, dramatic representation, newscast, interview format, etc.) You can be creative, but make sure you effectively teach your classmates about your scenario and in particular, its connection to the US Constitution.

Assign the following roles within your group:

- **Facilitator:** Lead the group through sharing initial responses to the scenario and how it relates to the US Constitution. Pose each of the questions provided to the group and add your own thoughts as you facilitate the discussion. Make sure everyone participates and that the group stays on topic.
- **Recorder:** Take notes throughout the group's discussion of the scenario and the questions provided. Write down the group's final answers to the questions on notebook paper, while also participating in the discussion by offering your own thoughts and opinions.
- **Director:** Lead the group through brainstorming ideas for your presentation, making sure the focus is on educating the class about the details of your presidential scenario and how it relates to the Constitution. Help the group choose an idea and make sure everyone participates and stays on task as you write out your presentation and practice it.

Your group will have 20 minutes to complete this activity. You will be graded on having an organized, quality, and comprehensive presentation that teaches classmates about the important points of your scenario and its relationship to the US Constitution.

Scenario:

On December 7, 1941, the Japanese Empire attacked the United States Naval Fleet at Pearl Harbor, destroying and damaging 16 warships and killing more than 2,400 American military personnel and civilians.

As America united behind President Franklin Roosevelt, growing hostilities towards Japanese Americans living in the United States also emerged. Some feared that Japanese Americans would commit acts of treason, espionage, and generally undermine the war effort. This led President Roosevelt to sign Executive Order 9066, which established internment camps for Japanese Americans at various locations in the United States, predominantly along the West Coast. Japanese Americans (many of whom were full citizens of the United States) were forced to leave their homes and move into these camps, where they were held against their will.

One man, Fred Korematsu, refused to move into an internment camp. In the United States Supreme Court case, *Korematsu v. United States*, the Supreme Court sided with the government and held that the need to protect against espionage outweighed Korematsu's rights. Justice Hugo Black wrote the opinion and argued that compulsory exclusion, though constitutionally suspect, is justified during circumstances of "emergency and peril." The opinion, in effect, upheld Executive Order 9066.

In the 1980s, the United States government officially apologized for the internment of Japanese Americans and paid affected families reparations for their suffering.

Review your notes from today and discuss America's internment of Japanese Americans. Is it ever just to detain an entire category of individuals and does the Constitution allow for it?

Presidential Actions in Times of Crisis - Group Scenario 4

Instructions:

As a group, please read the scenario below and discuss the questions provided. After you have a good understanding of how your scenario relates to the US Constitution, prepare a presentation that teaches your classmates about the facts surrounding the scenario and summarizes your response to the questions. Your final presentation should last 4-5 minutes and can be in whatever format you choose (i.e. lecture, dramatic representation, newscast, interview format, etc.) You can be creative, but make sure you effectively teach your classmates about your scenario and in particular, its connection to the US Constitution.

Assign the following roles within your group:

- **Facilitator:** Lead the group through sharing initial responses to the scenario and how it relates to the US Constitution. Pose each of the questions provided to the group and add your own thoughts as you facilitate the discussion. Make sure everyone participates and that the group stays on topic.
- **Recorder:** Take notes throughout the group's discussion of the scenario and the questions provided. Write down the group's final answers to the questions on notebook paper, while also participating in the discussion by offering your own thoughts and opinions.
- **Director:** Lead the group through brainstorming ideas for your presentation, making sure the focus is on educating the class about the details of your presidential scenario and how it relates to the Constitution. Help the group choose an idea and make sure everyone participates and stays on task as you write out your presentation and practice it.

Your group will have 20 minutes to complete this activity. You will be graded on having an organized, quality, and comprehensive presentation that teaches classmates about the important points of your scenario and its relationship to the US Constitution.

Scenario:

In the wake of World War II, the United States and Russia emerged as the superpowers of the world. They were also both armed with nuclear warheads and could destroy one another with their arsenals. Thus, during the period following World War II, these countries found themselves involved in the Cold War, which lasted from 1945 until 1991, when the Soviet Union collapsed and became smaller nations in Europe and modern-day Russia.

The conflict spread to many countries, as the two superpowers constantly battled to check where missiles were located, where Communist (Soviet) or Capitalist (American) ideologies were adopted, and ultimately where American or Soviet influence would take hold.

President Kennedy saw the Soviet influence spreading very close to the shores of America when in 1958, Fidel Castro and others overthrew the Cuban government and installed a Communist regime there. On April 16th, 1961, President Kennedy, seeing increased interaction between Castro and the Soviet Union, approved a plan to overthrow Fidel Castro in Cuba. The plan, which had been previously developed by President Dwight D. Eisenhower, involved the Central Intelligence Agency (CIA) as the central organization who would carry out the plan by training and equipping a guerilla army of Cuban exiles. President Kennedy had some doubts about the plan. The last thing he wanted, he said, was "direct, overt" intervention by the American military in Cuba: The Soviets would likely see this as an act of war and might retaliate. However, CIA officers told him they could keep U.S. involvement in the invasion a secret and, if all went according to plan, the campaign would spark an anti-Castro uprising on the island. The "secret" plan was implemented, without the United States State Department knowing anything about it. Likewise, the United States Congress never authorized the invasion.

Should the president and agencies like the CIA be able to be involved in "secret" military actions in other countries, without the knowledge of or approval from the other branches of government?

Presidential Actions in Times of Crisis - Group Scenario 5

Instructions:

As a group, please read the scenario below and discuss the questions provided. After you have a good understanding of how your scenario relates to the US Constitution, prepare a presentation that teaches your classmates about the facts surrounding the scenario and summarizes your response to the questions. Your final presentation should last 4-5 minutes and can be in whatever format you choose (i.e. lecture, dramatic representation, newscast, interview format, etc.) You can be creative, but make sure you effectively teach your classmates about your scenario and in particular, its connection to the US Constitution.

Assign the following roles within your group:

- **Facilitator:** Lead the group through sharing initial responses to the scenario and how it relates to the US Constitution. Pose each of the questions provided to the group and add your own thoughts as you facilitate the discussion. Make sure everyone participates and that the group stays on topic.
- **Recorder:** Take notes throughout the group's discussion of the scenario and the questions provided. Write down the group's final answers to the questions on notebook paper, while also participating in the discussion by offering your own thoughts and opinions.
- **Director:** Lead the group through brainstorming ideas for your presentation, making sure the focus is on educating the class about the details of your presidential scenario and how it relates to the Constitution. Help the group choose an idea and make sure everyone participates and stays on task as you write out your presentation and practice it.

Your group will have 20 minutes to complete this activity. You will be graded on having an organized, quality, and comprehensive presentation that teaches classmates about the important points of your scenario and its relationship to the US Constitution.

Scenario:

In the 1970s, the Democratic National Campaign headquarters were located in the Watergate office complex in Washington, DC. On June 17, 1972, amidst the 1972 campaign for President, five men broke into the Watergate complex and were caught and arrested. It was later discovered that the individuals who broke into Watergate were paid by the Committee to Re-Elect the President (President Richard Nixon.) There was an attempt to cover-up the incident, but eventually the pressure against Nixon became so great that he resigned from his position as President of the United States. Nixon's Vice President, Gerald Ford, took office on August 9, 1974.

With the country in turmoil and the criminality of President Nixon's actions still in doubt, newly sworn in President Ford granted President Nixon a "full, free, and absolute pardon" on September 8, 1974. Ford's approval ratings dipped from 71% to 49% a month later. Critics derided President Ford as having a "corrupt bargain" with the outgoing President Nixon. President Ford argued that issuing a pardon was similar to presuming someone guilty, and that acceptance of a pardon was a way of accepting that guilt.

President Ford lost his re-election bid in 1976, a result many say was related to his pardoning of President Nixon.

Refer to your notes and discuss the scenario with members of your group. Was President Ford acting within his rights as the President of the United States? Why do you think he pardoned President Nixon? What would you do in that situation?

Presidential Actions in Times of Crisis - Group Scenario 6

Instructions:

As a group, please read the scenario below and discuss the questions provided. After you have a good understanding of how your scenario relates to the US Constitution, prepare a presentation that teaches your classmates about the facts surrounding the scenario and summarizes your response to the questions. Your final presentation should last 4-5 minutes and can be in whatever format you choose (i.e. lecture, dramatic representation, newscast, interview format, etc.) You can be creative, but make sure you effectively teach your classmates about your scenario and in particular, its connection to the US Constitution.

Assign the following roles within your group:

- **Facilitator:** Lead the group through sharing initial responses to the scenario and how it relates to the US Constitution. Pose each of the questions provided to the group and add your own thoughts as you facilitate the discussion. Make sure everyone participates and that the group stays on topic.
- **Recorder:** Take notes throughout the group's discussion of the scenario and the questions provided. Write down the group's final answers to the questions on notebook paper, while also participating in the discussion by offering your own thoughts and opinions.
- **Director:** Lead the group through brainstorming ideas for your presentation, making sure the focus is on educating the class about the details of your presidential scenario and how it relates to the Constitution. Help the group choose an idea and make sure everyone participates and stays on task as you write out your presentation and practice it.

Your group will have 20 minutes to complete this activity. You will be graded on having an organized, quality, and comprehensive presentation that teaches classmates about the important points of your scenario and its relationship to the US Constitution.

Scenario:

On September 11, 2001, multiple airplanes were hijacked used in terrorist attacks on New York City and Washington, DC. Another terrorist attempt was derailed by passengers, leading to the plane's crash landing in a field in Pennsylvania, rather than striking its intended target – the White House. The nation was in a state of shock and was faced a new type of enemy. Rather than being attacked by a major country with borders, the America had to grapple with a painful attack by a small group of trained terrorists.

This presented many new challenges to lawmakers, who had to consider how terrorists were being trained, how they were receiving funding, and whether/how such new enemies were operating within the borders of America. In response to these new threats, lawmakers and President Bush sought to expand the abilities of law enforcement agencies to gather intelligence quickly. They wanted to ensure another terrorist attack would not happen under their watch. On October 26th, the USA Patriot Act was signed into law by President George W. Bush as a response to these new pressures.

The Patriot Act allows law enforcement agencies to review telephone, e-mail, medical, financial, and other records of suspected terrorists. It also gives added discretion to law enforcement and immigration authorities to detain and deport immigrants that are suspected of terrorism-related acts. Critics of the Patriot Act contend that it unfairly invades the privacy of American citizens and that it is unconstitutional.

Review your notes carefully and discuss the situation with one another. Does the Patriot Act make it legal to violate the rights of American citizens?

Presidential Actions in Times of Crisis - Group Scenario 7

Instructions:

As a group, please read the scenario below, discuss the questions that follow, and prepare a presentation that teaches your classmates about the facts surrounding the scenario assigned to you, as well as your response to the questions below. Your final presentation should last 4-5 minutes and can be in whatever format you choose (i.e. lecture, dramatic representation, newscast, interview format, etc.) You can be creative, but make sure you cover all presentation requirements and effectively teach your classmates about your scenario.

First, assign the following roles in your group:

- **Recorder:** This student should write down the answers to the below questions on notebook paper, while also offering opinions on the scenario, on the presentation, and on the visual aid. Make sure you also record your group members' names on the next sheet of paper.
- **Presenter:** This student will give a brief (2-3 minute) presentation summarizing the scenario and your findings to the class. This person can take advantage of the notes taken by the recorder, as well as using pre-prepared comments your group decides upon. This student should also offer opinions on the scenario and the visual aid.
- **Designer:** This student will produce a visual aid to help classmates understand and remember the key points your group shares about your scenario. With input from your group mates, make a rough draft the complete the final draft using the materials provided (paper, markers, etc)

Your group will have 20 minutes to complete this activity. You will be graded on having an organized, quality, and comprehensive presentation that teaches classmates about the important points of your scenario. You will have 5 minutes to present your scenario and take questions.

Scenario:

Upon taking office on January 20, 2009, President Barrack Obama issued an Executive Order ordering the closure of the Guantanamo Bay Detention Facility in Cuba. Guantanamo Bay is a facility where suspects are held as "enemy combatants" because they are suspected to be terrorists, or are suspected to have provided some form of aid to terrorists. The facility was opened in 2002 as part of the Bush Administration's response to the terrorist attacks of September 11, 2001. "Enemy combatants" are allowed to be held indefinitely, without trial, at Guantanamo.

President Obama called such practices a "sad chapter" in America's history. Many lawmakers and Americans agree and claim that holding people at a detention facility without trial constitutes lawlessness.

However, with high numbers of American troops still stationed in Afghanistan and Iraq, there is fear that the closure of Guantanamo and the release of those held there may result in some of them committing dangerous acts of terrorism. There is also the question of where those who should continue to be detained should be released to if Guantanamo was closed. (Bagram Prison in Afghanistan is a less known detention facility. Like Guantanamo Bay, it holds many individuals who were detained outside the battlefield in Afghanistan, and thus are not classified as "Prisoners of War". Some in the Obama Administration propose increasing the number of individuals held at Bagram Prison to handle the population formerly held at Guantanamo.)

What would you advise the President to do? Should President Obama continue to detain individuals who are not Prisoners of War (meaning, they were not captured in the Afghanistan or Iraq War) but are suspected to be dangerous in some way? What does the Constitution prescribe?

Name: _____

Presidential Actions in Times of Crisis – Presentation Viewing Sheet

Scenario 1 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

Scenario 2 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

Scenario 3 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

Scenario 4 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

Scenario 5 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

Scenario 6 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

Scenario 7 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

Scenario 8 - President:

Summarize the crisis the President faced:

How did the President respond?

How does the Presidential Action relate to the Constitution?

What Will Your Executive Order Be?

Name:

Period:

Date:



Today, you've learned about the powers of the President, the Congress and the Judiciary. Congress has many implied powers and lawmakers sometimes use those powers in a time of crisis to provide what they consider an appropriate response. Given your knowledge of the Constitution and the three branches of government, assume the role of the President of the United States of America and reflect on the following scenario in 5 or more paragraphs.

Situation

There has been a chemical weapons attack on a major city in the United States. Thousands have been killed in the attack and many more are sick. The soil and water supply has been contaminated so severely that the city is uninhabitable and will likely remain so for years. Beyond the obvious current destruction, scientists have predicted many future consequences, such as birth defects and increased risk of cancer.

Congress has authorized you, the President, to use "whatever means necessary" to deal with those who perpetrated this attack. The Central Intelligence Agency has briefed you this morning and they have listed a number of actions that they believe would be helpful in securing the country. They are:

- Detention of all people inside America's borders who may be associated with the group waging the attack (associating factors can be race, religion, ethnicity, etc.) and holding them without trial until the threat has ceased
- Invoke authority to monitor conversations, be them via phone, e-mail, or face-to-face (i.e. wire taps in buildings) in order to gather intelligence about possible terrorist activities; no warrant is necessary
- Invoke authority to freeze accounts in financial markets to impede the suspected terrorists' financing ability

As President, your reflection must address your thoughts on questions such as:

1. Are any (or all) of these options sufficient to respond to the threat and are you planning to utilize any (or all) of these options that have been recommended to you? Why or why not?
2. Are there alternative options you would like to consider? If so, explain the options and why they should be considered.
3. Whatever your decision, you must defend the constitutionality of the choices made.

Obama's Libya Moves Show His Freer Foreign Policy Hand, Rankling Congress

by Frank James, NPR
March 21, 2011

President Obama's ordering of U.S. military into action in Libya is yet the latest example of a feature of the U.S. presidency that it doesn't take a political scientist to see, that presidents can and do often act with a freer hand in foreign affairs and war-making than they can in domestic affairs, especially when control of Congress is divided between or totally in the hands of other parties.

And Congress is, of necessity, rarely happy about that.

While most lawmakers appear to be supporting the president's decision, though with reservations, it's clear others aren't. Democratic Party liberals question why the president didn't get congressional approval first. And they're not alone.

Rep. Dennis Kucinich (D-OH) even reportedly questioned why Obama's actions weren't impeachable offenses.

Politico reported over the weekend:

Kucinich, who wanted to bring impeachment articles against both former President George W. Bush and Vice President Dick Cheney over Iraq — only to be blocked by his own leadership — asked why the U.S. missile strikes aren't impeachable offenses.

According to the piece, Kucinich's view may have been on the extreme end of liberal reaction but reflected the anger of progressives with how Obama ordered U.S. military strikes.

Meanwhile, even though many Republicans supported the president's decision to order U.S. air power into action as part of UN-sanctioned moves to rein in attacks on rebels and non-combatant civilians by forces loyal to strongman Moammar Ghadafi, GOP members seek answers from the president, too.

A statement by Speaker John Boehner (R-OH) from Sunday:

BOEHNER: "The United States has a moral obligation to stand with those who seek freedom from oppression and self-government for their people. It's unacceptable and outrageous for Qadhafi to attack his own people, and the violence must stop.

"The President is the commander-in-chief, but the Administration has a responsibility to define for the American people, the Congress, and our troops what the mission in Libya is, better explain what America's role is in achieving that mission, and make clear how it will be accomplished. Before any further military commitments are made, the Administration must do a better job of communicating to the American people and to Congress about our mission in Libya and how it will be achieved."

Huffington Post notes that congressional lawmakers on either end of the political spectrum, liberals and Tea Party movement sympathizers alike, are sounding very similar concerns.

"I think [the president] has a duty and an obligation to come to Congress," Rep. Jason Chaffetz (R-Utah.) told The Huffington Post. "I see no clear and present danger to the United States of America. I just don't. We're in a bit of the fog at the moment as to what the president is trying to ultimately do." "In the absence of a credible, direct threat to the United States and its allies or to our valuable national interests, what excuse is there for not seeking congressional approval of military action?" asked Rep.

Jerry Nadler (D-N.Y.) in a separate interview. "I think it is wrong and a usurpation of power and the fact that prior presidents have done it is not an excuse."

The president is scheduled to take questions Monday from the news media and, no doubt, some reporter is likely to ask a question, influenced by these congressional concerns, about how he has chosen to exercise his commander-in-chief powers in Libya.

Ironically, the president will be fielding these questions in Chile at a joint press conference with that nation's president, Sebastian Pinera, part of a Latin American trip, another symbol of his freer foreign policy hand.

Source: <http://www.npr.org/blogs/itsallpolitics/2011/03/21/134732953/obamas-libya-moves-show-his-freer-foreign-policy-hand-rankling-congress>