

Key Constitutional Concepts: Presidential Power

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About this Lesson

*The final section of Key Constitutional Concepts concerns the extent to which the President of the United States can exercise power during times of foreign conflict. The underlying issue, which has arisen throughout our nation's history, is to define the balance of power among the three branches of government during times of national emergency. This lesson is meant to teach students how constitutional law determines the parameters of presidential power by focusing on President Truman's domestic policy regarding labor and the steel industry during the Korean War. The lesson begins with a puzzle regarding presidential war-making powers, which will draw students into a study of the executive branch during times of conflict. Next, students will examine Article II of the Constitution and synthesize its meaning. These warm-up activities will give students the knowledge needed to form a basic opinion about the landmark case of *Youngstown Sheet & Tube Co. v. Sawyer* (1952). The closing activity asks students to utilize new knowledge gained from the video and primary and secondary documents to write a position paper about presidential powers.*

Grade Level(s)

7-12

Classroom Time

One 45-minute classroom session

Handouts

Handout #1
Presidential job description graphic organizer

Handout #2
Debating the Issue

Constitution Connections

- Article II

Background

In the early days of the Korean War, steel workers across the United States were preparing to strike. To prevent this action, President Harry S. Truman made a fateful decision. He chose to use his “war powers” to seize and operate the nation’s steel mills to assure continued production for defense needs. Steel production was, after all, essential to the war effort. The steel manufacturers expected the President to intervene under the terms of the Taft-Hartley law, which authorized the president to order strikers temporarily back to work in cases threatening the national welfare. Adopted by Congress over Truman’s veto, the Taft-Hartley law curtailed some of the power of organized labor. Truman was in a bind. He was allied politically with organized labor and unwilling to serve as a strikebreaker on behalf of the steel industry. His response was to seize the steel mills and put them under the control of Secretary of Commerce Charles Sawyer. The steel industry was outraged and took their complaint to court. They pointed out that when members of Congress were deliberating about Taft-Hartley, they specifically refused to authorize governmental seizures of private property to settle labor disputes, the power Truman claimed to seize the steel mills. The result was the Supreme Court decision *Youngstown Sheet and Tube Co. v. Sawyer (1952)*. Truman lost the case; the Court ruled he had stepped beyond the bounds of his power as president.

Objectives

Students will:

- Investigate Article II of the U.S. Constitution as the source of presidential authority.
- Understand the limits of presidential power.
- Understand the events and issues of the *Youngstown Sheet and Tube Co. v. Sawyer* case and its meaning for presidential power.
- Understand Justice Jackson’s reasons for concluding that President Truman did not have the power he claimed when he seized the steel mills.
- Explain the definition of Enumerated Powers and Implied Powers as examples of constitutional interpretation.
- Understand how the fight over presidential power is relevant today.

Standards

McREL Compendium

[Content Knowledge: A Compendium of Standards and Benchmarks for K-12 Education: 3rd and 4th Editions](#)

- This lesson meets McREL Standards for Civics,
 - Standard 2, Level IV (Grades 9 – 12), Benchmark 6
 - Standard 6, Level IV (Grades 9 – 12), Benchmark 2
 - Standard 8, Level IV (Grades 9 – 12), Benchmarks 5, 6, 7, 8
 - Standard 13, Level IV (Grades 9 – 12), Benchmarks 3, 4
- This lesson meets McREL Standards for U.S. History,
 - Standard 27, Level IV (Grades 9 – 12), Benchmark 1
 - Standard 28, Level IV (Grades 9 – 12), Benchmark 1

Activity

1. The teacher distributes copies of Article II of the United States Constitution. Printable copies of the Constitution are available at:
<http://www.constitutioncenter.org/explore/TheU.S.Constitution/>
2. Teacher distributes the relevant section of Justice Jackson’s opinion. Printable copies of the opinion are available at:
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0343_0579_ZC2.html
3. Ask students to read through both documents and then on a separate sheet of paper answer the questions listed below. Once the groups complete their work, ask each group to compare their findings. The teacher should share the collective answers in the front of the classroom for all to see.
 - Upon what authority did President Truman rely when he claimed the power to seize the steel mills?
 - The owners of the steel mills argued that President Truman did not have the power to take their private property. What did they rely upon to make that argument?
 - What does it mean to say that a president is at the height of his powers in some instances and at the low point of his powers in others?
 - What would have happened if Truman had decided not to do as the Court required?
4. Using only Article II of the Constitution, ask students to complete a job description for the President of the United States. Students should work together in cooperative groups. Encourage students to carefully examine all parts of Article II to completely fill in the headings in the handout. Use Handout #1 for this activity.

Video Analysis

5. Introduce **Key Constitutional Concepts: Checks and Balances** as a study of the delicate balance between the President, the Congress, and Supreme Court. Use these

guiding questions and activities for class discussion:

- **STOP VIDEO** when image of the Supreme Court displaying Equal Justice Under Law appears and ask students to respond to this question:
 - Was President Truman justified in attempting to seize control of the steel industry? *Use parts of the job description created in class to support your answers.*
- **CONTINUE VIDEO** at the conclusion of the discussion. After completing this section of the film, assess student comprehension by asking:
 - Why was President Truman's attempt to seize control of the steel mills unsuccessful?
 - What mechanisms does the Constitution provide to control presidential power?
 - Why did Truman think his actions were constitutional?
 - What role did the media play in this debate? Do you think that this had an impact on the Court's decision?
 - Does the case of *Youngstown Sheet and Tube v. Sawyer* have any relevance to events that are currently in the news? How?

Assessment

6. Using information gathered in this section of the film, ask students to define the following:
 - Enumerated Powers
 - Implied Powers
7. The class as a whole should compare findings and work towards a definition.
 - Answers in brief from the "Constitutional Glossary" found in *Our Constitution*, Oxford University Press (2006)

Enumerated Powers: The Constitution grants specific powers to the government, particularly to the Congress, which are known as enumerated powers.

Implied Powers: The Constitution suggests, rather than specifies, some powers, particularly in considering what might be "necessary and proper" to implement them.
8. Using the group created definitions, ask students to demonstrate which presidential powers are enumerated and which are implied in their job description of the president.
9. Distribute copies of Handout #2. Instruct the students to answer the question on the top of the handout. Encourage students to use the information in the handout to brainstorm

and collect information. Students should then write a position paper answering the following question:

- *According to Justice Jackson's three-part standard for presidential power, under what circumstances would President Truman have had the power to take over the steel mills?*

Further Resources

- Cornell Law School synopsis of *Youngstown Sheet & Tube Co. v. Sawyer*
 - http://www.law.cornell.edu/supct/html/historics/USSC_CR_0343_0579_ZS.html
- Ask the Expert: Teaching Separation of Powers with Kathryn Kolbert
 - <http://www.annenbergclassroom.org/default.aspx>
- Justice Talking: Domestic Spying: What are the Checks on Presidential Power
 - <http://www.justicetalking.org/newprogram.asp?progID=549>

Handout #1

Help Wanted

PRESIDENT OF THE UNITED STATES

Job Title: The President of the United States of America

Position Summary:

Reports To:

Responsibilities:

Duties to be assigned:

Qualifications:

Salary:

Handout #2

President Truman's seizing the steel industry is a classic test of the limits of presidential power. The core of the debate always leads back to the words and the meanings within the Constitution. Based on the knowledge acquired in this lesson, answer the question below:

According to Justice Jackson's three-part standard for presidential power, under what circumstances would President Truman have had the power to take over the steel mills?

Excerpts from Article II

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

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

Justice Jackson's Standards for Presidential Power

1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate. In these circumstances, and in these only, may he be said (for what it may be worth) to personify the federal sovereignty. If his act is held unconstitutional under these circumstances, it usually means that the Federal Government, as an undivided whole, lacks power. A seizure executed by the President pursuant to an Act of Congress would be supported by the strongest of presumptions and the widest latitude of judicial interpretation, and the burden of persuasion would rest heavily upon any who might attack it.
2. When the President acts in absence of either a congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, congressional inertia, indifference or quiescence may sometimes, at least, as a practical matter, enable, if not invite, measures on independent presidential responsibility. In this area, any actual test of power is likely to depend on the imperatives of events and contemporary imponderables, rather than on abstract theories of law.
3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting upon the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.