

Government 9: The US Constitution

May 4 – May 8

Time Allotment: 20 minutes per day

Student name: _____

Teacher name: Dr. Wofford

Packet Overview

Date	Objective(s)	Page
Monday, April 27	1. Define the three components of prerogative.	1
Tuesday, April 28	1. Explain the reason for separating legislative and executive power. 2. Describe the limits of prerogative. 3. Outline the law of nature.	2
Wednesday, April 29	1. Identify the formal presidential power in Article II that exemplifies prerogative.	3
Thursday, April 30	1. Describe Locke’s burning house example. 2. Use Locke’s burning house example to explain why an executive needs prerogative.	4
Friday, May 1	1. Describe the limit Locke places on prerogative. 2. Connect this limit to the concepts of consent, legitimacy, and popular sovereignty. 3. Identify the document that limits presidential prerogative.	4

Academic Honesty

I certify that I completed this assignment independently in accordance with the GHNO Academy Honor Code.

Student signature:

Academic Honesty

I certify that my student completed this assignment independently in accordance with the GHNO Academy Honor Code.

Parent signature:

Monday, May 4

Unit: Executive Power: Decision, Activity, Secrecy, and Dispatch

Lesson 1: Prerogative: Execution Discretion

Lesson 1 Socratic Questions: Keep these questions in mind as you study this lesson!

Is prerogative problematic? Should executives be able to act extralegally? How does prerogative challenge the rule of law? How can just laws possibly harm us?

Objectives: Be able to do this by the end of this lesson.

1. Define the three components of prerogative.

Introduction to Lesson 1

This week, we'll be working through Locke's concept of prerogative section by section, sometimes line by line. You will be rereading Chapter 14 of Locke's Second Treatise on Government multiple times. Do not worry about annotating. You did that last week. Before beginning, I recommend you reread your annotated copy of Chapter 14 from last week. Then, set that copy aside and start fresh. Let Locke's words wash over you. It is normal for dense political theory (like Locke) to make very little sense for the first half a dozen reads or so. Keep reading. We'll make it make sense together.

Reread

Reread sections 159-162 of Chapter 14 in Locke's *Second Treatise on Government*.

159. When the legislative and executive powers are in distinct hands (as they are in all moderated monarchies and well-formed governments), the good of the society requires that various things should be left to the discretion of the executive. The legislators can't foresee and make legal provision for everything that may in future be useful to the community, so the executor of the laws—having the power in his hands—has by the common law of nature a right to make use of it for the good of the society in many cases of difficulty where the existing law doesn't deal with the difficulty—until the legislature can conveniently be assembled to make laws that do. There are many things that the law can't possibly provide for, and those must be left to the discretion of him who has the executive power in his hands. . . . Indeed, it is appropriate that the laws themselves should in some cases give way to the executive power, or rather to the fundamental law of nature and government that All the members of the society are to be preserved as much as may be [here = 'as far as is reasonably possible'].

Many events may occur in which a strict and rigid adherence to the laws may do harm; for example, a house is burning and the fire can be stopped from spreading by pulling down the house next door, which is against the law. Again, a man may come within the punitive reach of the law (which doesn't distinguish one person from another) through an illegal action that deserves reward and pardon; so the ruler should have a power to mitigate the severity of the law and pardon some offenders. Since the purpose of

government is the preservation of all as much as may be, even the guilty should be spared when this will do no harm to the innocent.

160. The word 'prerogative' is the name for this power to act according to discretion, for the public good, without the support of the law and sometimes even against it.

161. This power, while employed for the benefit of the community and in accordance with the trust and purposes of the government, is an undoubted prerogative that the executive has, and it is never called into question. The people seldom if ever think with careful precision about the executive's prerogative. They are far from examining it as long as it is used to some extent for and not obviously against the good of the people. If a question does arise between the executive power and the people about something claimed as a prerogative, the dispute is easily decided by considering whether the disputed exercise of the prerogative tends to the good or to the harm of the people.

162. It is easy to conceive that in the early days of governments, when commonwealths were not much bigger than families, they had very few laws; their governors were like fathers watching over them for their good, and the government was almost all prerogative. A few established laws were all that was needed, and the ruler's discretion and care supplied the rest. But when weak monarchs were led to use this power for their own private ends and not for the public good (being led to this by their own mistakes, or by the flattery of others), the people had to have laws that explicitly set limits to the prerogative with respect to matters in which they had found it working to their disadvantage. Thus the people found that they had to declare limitations of prerogative, where previously they and their ancestors had given the utmost latitude to monarchs who used the latitude only in the right way, namely for the good of their people.

Comprehension Questions

1. Paraphrase the three pieces of prerogative. Take a look at section 160.

- a. _____
- b. _____
- c. _____

Tuesday, May 5

Unit: Executive Power: Decision, Activity, Secrecy, and Dispatch

Lesson 1: Prerogative: Execution Discretion

Lesson 1 Socratic Questions: Keep these questions in mind as you study this lesson!

Is prerogative problematic? Should executives be able to act extralegally? How does prerogative challenge the rule of law? How can just laws possibly harm us?

Objectives: Be able to do this by the end of this lesson.

1. Explain the reason for separating legislative and executive power.
2. Describe the limit/end of prerogative power.
3. Outline the law of nature.

Reread

Reread section 159 of Chapter 14 in Locke's *Second Treatise on Government* (above).

Comprehension Questions

Type your responses or write your responses on a separate sheet of loose leaf paper.

4. Why, according to Locke, should legislative and executive power be separated?
5. In respect to legislative power and action, when does an executive's prerogative power end? This question is tough. Sit with it for a while. You can do this.
6. What is the fundamental law of nature? Use Locke's exact words.
7. In your own words, describe the law of nature.

Wednesday, May 6

Unit: Executive Power: Decision, Activity, Secrecy, and Dispatch

Lesson: Prerogative: Execution Discretion

Lesson Socratic Questions: Keep these questions in mind as you study this lesson!

Is prerogative problematic? Should executives be able to act extralegally? How does prerogative challenge the rule of law? How can just laws possibly harm us?

Objectives: Be able to do this by the end of this lesson.

1. Identify the formal presidential power in Article II that exemplifies prerogative.

Reread

Reread section 159 of Chapter 14 in Locke's *Second Treatise on Government*.

Comprehension Questions

Type your responses or write your responses on a separate sheet of loose leaf paper.

8. Define *mitigate*.
9. Define *punitive*.
10. Look at the second paragraph of 159. What power/action exemplifies prerogative?
11. Where is this power found in Article II of the COTUS?

Thursday, May 7

Unit: Executive Power: Decision, Activity, Secrecy, and Dispatch

Lesson: Prerogative: Execution Discretion

Lesson Socratic Questions: Keep these questions in mind as you study this lesson!

Is prerogative problematic? Should executives be able to act extralegally? How does prerogative challenge the rule of law? How can just laws possibly harm us?

Objectives: Be able to do this by the end of this lesson.

1. Describe Locke's burning house example.
2. Use Locke's burning house example to explain why an executive needs prerogative.

Reread

Reread section 159 of Chapter 14 in Locke's *Second Treatise on Government*.

Comprehension Questions

Type your responses or write your responses on a separate sheet of loose leaf paper.

12. In your own words, explain Locke's burning house example.
13. In Locke's words, what is the purpose of government?
14. Paraphrase Locke's purpose of government.
15. In light of 12-14, why would an executive need prerogative?

Friday, May 8

Unit: Executive Power: Decision, Activity, Secrecy, and Dispatch

Lesson: Prerogative: Execution Discretion

Lesson Socratic Questions: Keep these questions in mind as you study this lesson!

Is prerogative problematic? Should executives be able to act extralegally? How does prerogative challenge the rule of law? How can just laws possibly harm us?

Objectives: Be able to do this by the end of this lesson.

1. Describe the limit Locke places on prerogative.
2. Connect this limit to the concepts of consent, legitimacy, and popular sovereignty.
3. Identify the document that limits presidential prerogative.

Reread

Reread sections 161 and 162 of Chapter 14 in Locke's *Second Treatise on Government*.

Comprehension Questions

Type your responses or write your responses on a separate sheet of loose leaf paper.

16. Do people, according to Locke, spend much intellectual energy on the concept of prerogative?
17. Why not? Use Locke's explanation, not your own.

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18. If someone claims the executive has abused prerogative (making it tyranny and not prerogative), what is the single standard we should use to judge the executive's action?
19. What social/natural transformation caused the rise of formal, legal limitations on executive prerogative?
20. Name the primary legal limitation on presidential prerogative in the United States.
21. How is the concept of prerogative connected to consent, legitimacy, and popular sovereignty? Think specifically about prerogative's limits.

Your name: _____

MINOR ASSESSMENT – Week of May 4 - May 8

1. Define prerogative.
2. Explain how prerogative is limited.
3. What American document limits prerogative? Where are those limits in that document?
4. Use Locke's burning house example to explain why an executive needs prerogative.