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State of the Union Address: The Constitution and Politics

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President Joe Biden’s delivery of what has become the annual State of the Union Address fulfilled one of the few constitutional obligations imposed upon the nation’s chief executive.

What were the framers of the Constitution thinking when they wrote in Article II, section 3, that the president “shall from time to time give to the Congress information of the State of the Union and recommend to their Consideration such Measures as he shall judge necessary and convenient”?

In the Constitutional Convention, delegates spent virtually no time discussing this duty. In Federalist No. 77, Alexander Hamilton wrote: “No objection has been made to this class of authorities, nor could they possibly admit of any.” In his magisterial three-volume Commentaries on the Constitution, Justice Joseph Story provided the rationale for assigning this important informing responsibility to the president. “From the nature and duties of the executive department, he must possess more extensive sources of information” in both foreign and domestic affairs, Story wrote. “There is great wisdom, therefore, in not merely allowing, but in requiring, the president to lay before congress all facts and information, which may assist their deliberations; and in enabling him at once to point out the evil, and to suggest the remedy.”

Although the Constitution specifies that the president shall inform Congress on the "State of the Union" from "time to time," presidents, beginning with George Washington, have interpreted it as an occasion to introduce and promote an agenda each year.

Washington delivered the first annual message to Congress on January 8, 1790. It generated no small amount of controversy. Without any constitutional or statutory guidance or, for that matter, any tutorial advice on the form, tone and manner of the address, Washington drew upon the traditional monarchical speech from the throne. The "King's Speech" was understood to be a legislative mandate for Parliament. The tradition called for Parliament to organize a "reply speech" that pledged cooperation and represented little more than an echo of the King's address. Washington, however, was chief executive in a republic, and members of Congress, as untutored as the president in this matter, adhered to the centuries-old practice, even though some members grumbled about conducting business in the British mode.

John Adams, the nation's second president, who enjoyed formality, along with a dutiful Congress, followed Washington's "precedent," which led Edmund Randolph to complain about the mirror literature developed in the annual messages. Randolph declared: "No man can turn over the Journals of the First Six Congresses of the United States without being fairly sickened with the adulation often replied by the Houses of Congress."

It was left to President Thomas Jefferson in 1801 to eliminate what he regarded as the royal pretensions inherent in the personal address and to "put the ship of state back on its republican tack," by replacing a personal presentation of the State of the Union, with the transmission to Congress of a written report. Jefferson pledged to "return to simple, republican

Forms of Government" and invited no congressional response.

Subsequent presidents adhered to Jefferson's method until Woodrow Wilson, who in 1913 resumed the practice of a personal presidential report. He hoped to remind the nation that the executive branch included a president who is a "human being trying to cooperate with other human beings in a common service." Every president since Franklin D. Roosevelt has followed suit.

Presidents have used the State of the Union as an exercise of forceful and, often, dramatic leadership. James Monroe introduced the Monroe Doctrine. Abraham Lincoln declared that "in giving freedom to the slave we assure freedom to the free." Franklin Roosevelt laid the path for the Four Freedoms. Lyndon Johnson outlined the Great Society. Ronald Reagan, like Joe Biden, used the occasion as a de facto announcement of his candidacy for reelection.

Use of the State of the Union to "recommend measures" has become a primary way in which presidents seek to shape the nation's political agenda. With few formal mechanisms to influence the legislature, presidents delight in the opportunity to speak directly to the American people through the full television coverage of their speech to both houses of Congress. To determine what is or is not a priority influences what government will do. The other two branches lack a similar forum, and thus the president enjoys a distinct advantage over Congress and the judiciary in influencing the direction of the country.

A distinguished political scientist in the mid-20th Century, E. E. Schattschneider, wisely observed: "He who determines what politics is about runs the country, because the definition of the alternatives is

the choice of conflicts, and the choice of conflicts allocates power."

The presidency has become the focal point of American politics, and there is for the nation's chief executive no greater stage than the State of the Union address. That exclusive stage, which certainly inspires envy in congressional leaders, affords the unique opportunity to assert psychological and political influence while communicating presidential goals to the tens of millions of citizens who listen to the annual message. It is at that singular moment that the president commands completely the public space and forces other participants in the political process to respond to the issues as he frames them.

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