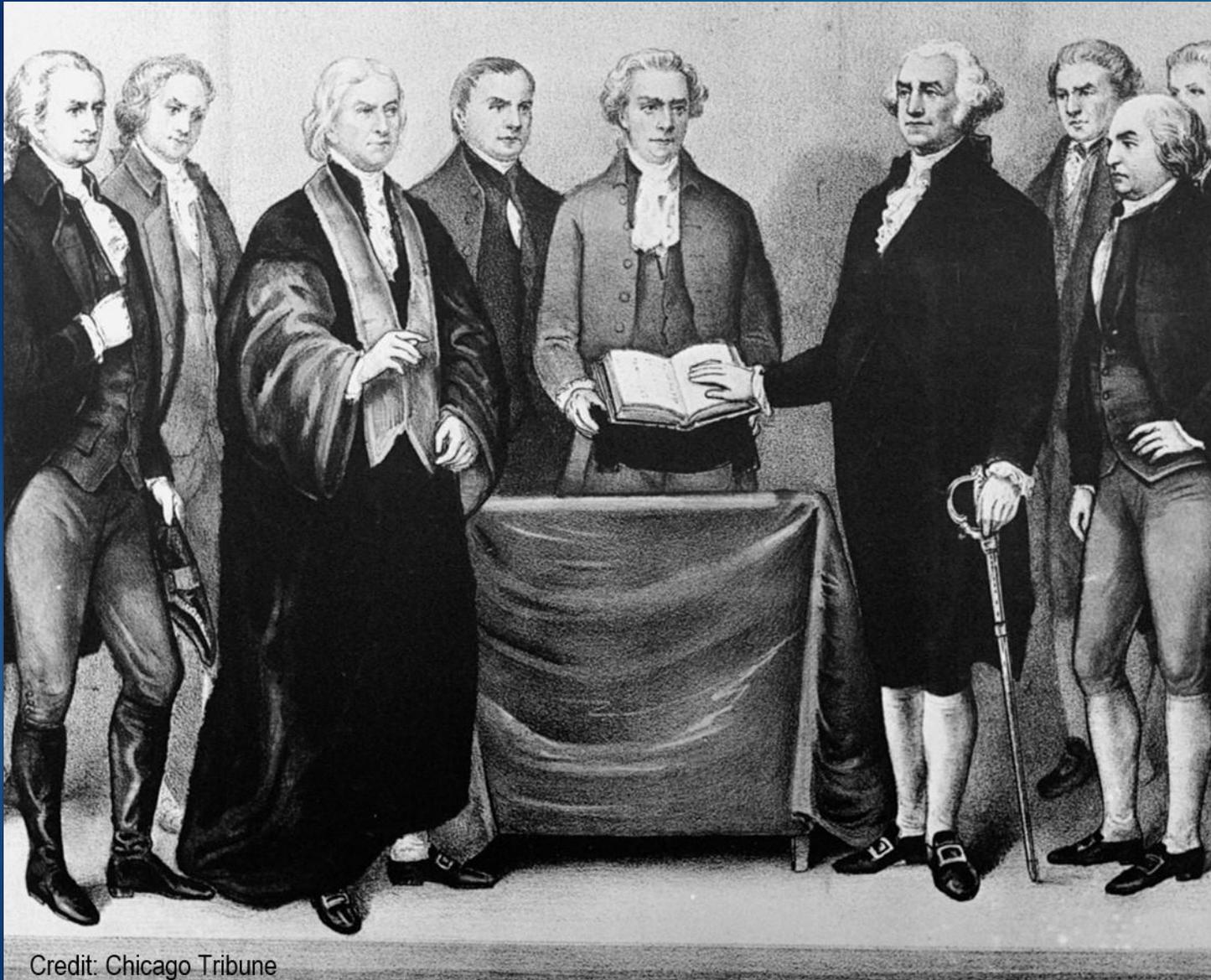




The Presidency and Emergency Powers

A PRESENTATION OF THE MISSOURI BAR'S
CITIZENSHIP EDUCATION PROGRAM



Credit: Chicago Tribune

The Framers of the Constitution envisioned a presidency that would be energetic, yet within the limits of the system of checks and balances.

From Washington to Trump, the trend has been for the power of the presidency to grow. Why?





One reason for the growth of the presidency is the expansive way that presidents have interpreted their power under Article II.

Presidents Assert Additional Power: Emergency Powers

The Constitution gives the president

- ▶ executive power
- ▶ the power as Commander in Chief
- ▶ and the responsibility to see that the laws are faithfully executed

Presidents interpreted these powers as giving them “emergency powers,” not specifically articulated by the Constitution, but necessary for presidents to do their jobs under extraordinary circumstances.



One of the most notable instances of the use of emergency powers came from Abraham Lincoln during the Civil War

Among the actions taken by Lincoln

- ▶ Blockading southern ports without congressional authorization
- ▶ Suspending the writ of habeas corpus by presidential decree
- ▶ Authorizing the trial of civilians by military courts
- ▶ Freeing the slaves in the Confederate states

Lincoln
justified his
actions as
necessary

“I may in an
emergency do
things on military
grounds which
cannot be done
constitutionally by
Congress.”





Credit: History.com

Lincoln's actions
preserved the nation at
its most trying time

More uncertain is the
precedent set by
Lincoln's presidency.

The Precedent of Lincoln's Actions

Some Experts Say

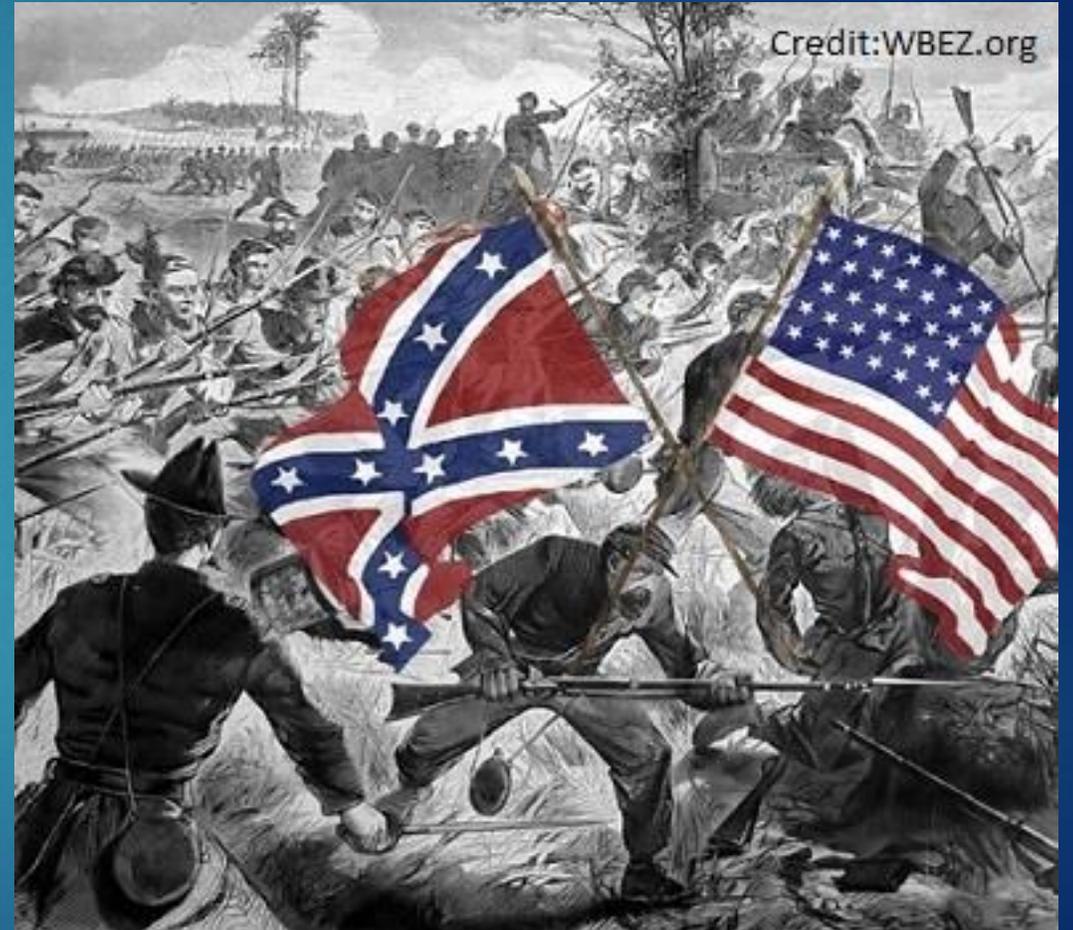
Lincoln's actions created a precedent that presidents may use emergency powers when they encounter their own emergency circumstances

Other Experts Say

The Civil War was such a unique event that Lincoln's actions should never be repeated by any other president

What do you think?

Should Lincoln's extraordinary actions create a precedent for future presidents in situations that do not rise to the level of a civil war?





Over eighty years later, the attack on Pearl Harbor by Japan gave rise to another president's assertion of emergency power.

After war was declared with Japan, Franklin Roosevelt issued Executive Order 9066

This allowed for the forced relocation and imprisonment of over 100,000 individuals of Japanese ancestry

Approximately 75,000 were American citizens of Japanese descent



Credit: Pinterest



Roosevelt's
Order was
justified by
concerns about
espionage and
sabotage on the
West Coast



Do you believe the president's
use of emergency powers was
justified in this case?

The Supreme Court was called
upon to deal with this issue in
Korematsu v. United States.