

9 PRESIDENTS



WHO SCREWED UP



AMERICA



and four who tried to save her

BRION McCLANAHAN

PRAISE FOR

9 PRESIDENTS WHO SCREWED UP AMERICA

“Every once in a while American historians will be polled regarding the men they consider the greatest presidents. Without fail, they choose those people most dedicated to the expansion of government. In this outstanding book, Brion McClanahan blasts these historians to smithereens and reveals the true history of the dangerous men who are known as our great presidents. It’s about time someone did!”

—Thomas E. Woods Jr., author of *Nullification: How to Resist Federal Tyranny in the 21st Century* and *The Politically Incorrect Guide® to American History*

“James Madison’s fealty to the Constitution led him to veto a bill he had asked Congress to pass and to issue a ‘war message’ not asking Congress to declare war, and Barack Obama rewrote his own signature law, made ‘recess’ appointments when the Senate was not recessed, and launched an aggressive war without so much as asking Congress what it thought. Brion McClanahan’s latest blockbuster book shows how we got from there to here by recounting the most important offending presidencies along the way. Many sacred cows are slain. This book is both a fascinating read by a master historian and a necessary guide for any voter.”

—Kevin R. C. Gutzman, author of *James Madison and the Making of America* and *The Politically Incorrect Guide® to the Constitution*

“Many people think of our American history as a series of ‘Great Presidents.’ We like to rank them: Great, Near Great, Mediocre, Bad. Lincoln, Wilson, FDR, and Kennedy (or Reagan if you prefer) are on most lists as Great Presidents, inspiring heroes who overcome the past and lead America ever higher. Brion McClanahan applies a different measure of what makes a Great President—to what extent does he adhere to the constitutional role of the Chief Executive of the Union that was intended by the

Founding Fathers? Applying this standard yields some mighty surprises. There are hundreds of books on the American presidency. This is the most original one you will ever read.”

—Clyde N. Wilson, distinguished professor of history emeritus,
University of South Carolina

“This is an insightful study which presents well McClanahan’s characterizations of thirteen presidents, four praised, nine castigated as dangerous to freedom. Readers may differ with him on a few of his conclusions, but everyone committed to freedom within an orderly and just society should read it.”

—John Pafford, professor of history at Northwood University
and author of *Cleveland: The Forgotten Conservative* and *John Jay: The Forgotten Founder*

“Congratulations to Brion McClanahan. As a true American historian, he tells the truth about the rogues’ gallery of U.S. presidents, who have stolen our freedoms, and killed millions in the process. And what great prose!”

—Llewellyn H. Rockwell Jr., founding chairman of the
Ludwig von Mises Institute

9 PRESIDENTS WHO SCREWED UP AMERICA

ANDREW JACKSON

ABRAHAM LINCOLN

THEODORE ROOSEVELT

HARRY S. TRUMAN

FRANKLIN D. ROOSEVELT

WOODROW WILSON

LYNDON B. JOHNSON

RICHARD M. NIXON

BARACK OBAMA

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To Samantha, Shannon, Savannah, Virginia, and Charlotte

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INTRODUCTION



Presidents have been judged on their job performance since George Washington took the first oath of office on April 30, 1789. Not even he was immune from criticism, some of it harsh. The essayist Tom Paine wrote a stinging rebuke of the Washington administration—and of Washington’s character—just before the first president left office in 1797. Every administration has had its critics. We can often learn more from opponents of an administration than from those who supported the president. Not that the critics are always correct. Hardly. But criticism shouldn’t be dismissed as simply a partisan political maneuver. Partisan critics can be prescient. We fear those in power who think and act least like us and therefore scrutinize their every decision. This would be the Founders’

position as well. Jealously guarding constitutional limitations on the executive is a healthy reaction from the American polity.

With each successive administration, Americans have compared and measured the man in office against his predecessors. Even presidents themselves have attempted to attach their administration to supposed greats of the past. These comparisons provide perspective in the maelstrom of American politics. In the modern era, last week's news might as well have been two hundred years ago, but by showing continuity between Abraham Lincoln and Barack Obama, for example, politicians hope to persuade the American public to buy their pitch and support their policies. If Franklin Roosevelt did it, then it should be good enough for George W. Bush or Bill Clinton.

THE RIGHT PRESIDENTIAL YARDSTICK

But how do Americans measure presidential success? By popularity? Effective communication? Success in achieving foreign or domestic policy goals? Energy and activity in the office? Leadership? The overall health of the country during and immediately after a president's administration? An ideological disposition similar to that of the person ranking the president? This is a difficult question and one that Americans have pondered for decades.

The historian Arthur Schlesinger Sr. conducted the first academic poll that attempted to rank the presidents for a 1948 issue of *Time* magazine. The fifty-five academics surveyed found six presidents to be "great": Abraham Lincoln, George Washington, Franklin Roosevelt, Woodrow Wilson, Thomas Jefferson, and Andrew Jackson. Schlesinger followed up in a 1962 poll of seventy-five historians for the *New York Times Magazine*. This poll dropped Jackson from the "great" category, but otherwise the list remained static.

The historians Schlesinger surveyed were generally left-of-center academics who favored the policies and qualities of the men on the list.

Lincoln, Wilson, and FDR were reformers; Jackson presided over the “Age of Democracy”; Jefferson, as the first “people’s president,” is always portrayed (incorrectly) as a modern liberal, and Washington was the glue that held the federal Republic together. On this list, only Jefferson’s administration could be classified as less than energetic, at least in regard to the public perception of the office: Jefferson deliberately downgraded the presidency during his first term in office. Washington’s careful implementation of executive powers had established precedents for executive conduct, but few followed his advice, and even he disregarded the Constitution during his second term.

With the exception of Grover Cleveland, the “great” and “above average” presidents in each poll were cut from the same cloth. Teddy Roosevelt, John Adams, and James K. Polk, along with Cleveland, were in the “above average” category in the 1948 poll, and Harry Truman and Jackson joined that category in the 1962 poll. Roosevelt was a progressive who believed in an energetic executive; Adams, though a member of the founding generation, had a much more active executive office than any other member of that generation; in one term, Polk acquired California and most of the desert southwest through a war with Mexico and secured the Oregon territory from Great Britain; Truman was a World War II president, stared down communists in Asia, and gave Americans a “Fair Deal.” Cleveland is the only outlier. He used the office of president the way the founding generation intended by vetoing unconstitutional legislation and avoiding foreign entanglements. This, however, would be the best Cleveland would fare in any poll until 2005.

Polls in subsequent years by different academics and publications remained fairly consistent, perhaps because of the fact that the historians surveyed generally used the same criteria for determining the “greatness” of the president, namely leadership qualities, vision, and success in achieving their desired foreign or domestic policy goals. Every “great” president in the Schlesinger polls remained in the top group in the polls. Opinions

varied for the rest of the presidents, but there was also a consistent trend in the bottom group. John Tyler, James Buchanan, Franklin Pierce, Warren G. Harding, Andrew Johnson, Zachary Taylor, and Calvin Coolidge were generally held in low esteem in every academic poll conducted from 1948 to 2005. The “below average” to “poor” presidents tend to be those who had forgettable administrations—they did not have grand foreign or domestic policy accomplishments—or those who supposedly blundered through a crisis such as the early stages of the Great Depression or the start of the Civil War.

The problem with these academic polls is not the questions but the perception of the executive office, a perception that has been skewed by the success of the United States in the twentieth century and the growth of the power of the executive branch vis-à-vis the other branches and levels of government. The historians who participated in these polls lacked an originalist perspective on the Constitution. So they ranked the presidents based on the outcome of their policies, not on how they upheld the oath they took when sworn into office, “to preserve, protect and defend the Constitution of the United States.”

A ranking of the presidents on that basis would be a bit more difficult. The historian would have to understand how the proponents of the Constitution in 1787 and 1788 argued executive powers would be implemented once the Constitution was ratified. Most don't. Certainly, historians read the famous *Federalist* essays, but the real debates took place in the ratifying conventions themselves and among less conspicuous but equally important members of the founding generation, men such as John Dickinson, Roger Sherman, James Wilson, James Iredell, William Richardson Davie, John Rutledge, Oliver Ellsworth, and Edmund Randolph. These men argued that the president was not to be a king, nor would he have the power George III had in England. But the understanding of the executive branch among most Americans—including historians—has been distorted. We ask what we think the president *should* do in office, not what he is *constitutionally permitted* to do in office. The latter should be the measure of the man.

TURNING THE RANKINGS UPSIDE DOWN

Under those criteria, the traditional presidential rankings should be inverted, with just a few exceptions. Generally, those at the bottom of the lists tended to hew to greater constitutional restraint than those at the top. If we judge presidents not on their policies or ideas, but simply on their actions measured against the definition of the office of president in the Constitution, as it was sold to reluctant delegates at the state ratifying conventions and in the press, then the “great” executives look more like John Tyler or Calvin Coolidge than Franklin Roosevelt or Abraham Lincoln. We may admire the policy outcomes of the anointed great presidents—indeed some of these policies have had a dramatic and beneficial effect on American society—but that does not mean these men were adhering to their oath. In most cases, they weren’t. Some of the men who would fare better under an originalist evaluation held views repugnant to modern Americans, but that does not make their stand for limitations on central power any less important. Potential executive abuse was one of the most feared results of the ratification of the Constitution. The founding generation considered an out-of-control executive to be the greatest bane to liberty.

The Constitution was ratified on a certain understanding of the office of president—of its powers, and above all of its limitations. The men who hold that office have no right to exceed those limits. When they do so, they are breaking their inaugural oath and straining to the breaking point the very compact that our government is founded on. Achieving other goals, however laudable, can never excuse actions that violate the fundamental understanding to which “the consent of the governed” was accorded when our constitutional government was established.

And the violation of that principle has very practical consequences. As we shall see throughout this book, unconstitutional government is irresponsible government. When the executive arrogates to itself powers that the Constitution does not grant, when unelected bureaucrats usurp the powers that the states and the people delegated only to their elected

representatives, then the general government is no longer responsible to the states or the people. As the history laid out below demonstrates, what follows inevitably on the abandonment of constitutional principle is irresponsible policy, dangerous to the health and even the survival of the Republic—from ruinous deficits to out-of-control foreign adventurism. In the Constitution, the founding generation left us a vehicle for preserving self-government. We ignore it at our peril.

This book was born during the marketing campaign for my *Founding Fathers' Guide to the Constitution*. My assertion that nearly every president in the last one hundred years should be impeached created quite a stir. I had to explain, and one or two sentences were not enough to do the argument justice. This work is not a comprehensive “ranking” of all the presidents. It is designed to shed light on those who “screwed up America” and those who “tried to save her” using a simple formula: Did the man in office adhere to his oath to defend the Constitution as ratified by the founding generation? And, if not, where did he go off the rails?

The identities of the nine men who “screwed things up” may shock the modern reader. After all, many of them have been called “great” presidents, including Jackson, Lincoln, Wilson, and Franklin Roosevelt, while Teddy Roosevelt and Truman are always regarded as “near great.” I listed Jackson as a true American hero in my book *The Politically Incorrect Guide® to Real American Heroes*, but that does not mean he should get a free pass for violating his oath. Jackson established precedents that allowed future presidents to deviate even further from the Constitution. He was a good general but a terrible president.

The other men in the list of those who “screwed things up”—Lyndon Johnson, Richard Nixon, and Barack Obama—have been generally ranked based on the politics of the person reviewing their records in office. Conservatives may rate Nixon highly but condemn the administrations of Johnson and Obama, while those on the Left would champion Obama and perhaps Johnson while classifying Nixon as a crook and a war criminal. But none of these men followed their oath, and in fact all of them

established dangerous patterns that have created the modern “imperial presidency,” a thinly veiled elected monarchy with more power than George III exercised at the time of the American War for Independence.

The four men who “tried to save” America are of a different stripe. Each of the four took office in a transitional period. Jefferson called his election in 1800 a “revolution.” Tyler assumed office after the sudden death of President William Henry Harrison, proceeded to reverse the policies of the party which had elected him vice president in 1840, and as a result was booted from the party. Cleveland was the first Democrat elected since 1856, and he set out to undo nearly two decades of unconstitutional Republican legislation. Coolidge, like Tyler, took office through succession, and though his administration continued some of the policies of his predecessor, Coolidge was his own man and a far more effective originalist president than anyone else in the twentieth century.

Yet of this group only Jefferson is generally held in high esteem by the historical profession and the public at large. In contrast, I give him credit only for his first term. The second was a disaster, at least according to the Constitution as ratified. Tyler, Cleveland, and Coolidge are typically either forgotten or shunned by presidential “experts,” considered to be abject failures, or characterized as spineless “do-nothings” who accelerated political or economic ruin. These charges are not only false but are indicative of a larger problem. Many historians—and too many Americans in general—seem to believe that presidential authority is virtually unlimited, that it is both necessary and competent to “solve” the crisis of the hour, and that the unconstitutional usurpation of power is admirable executive “energy.”

In reality, all four men who “tried to save” America displayed a resolve in executive *restraint*, a much more difficult but necessary achievement in a federal Republic designed to have limited enumerated powers. The founding generation considered self-control a key measure of character. Anyone with enough political clout can abuse power. Restraint requires more tenacity and backbone than rampant, damaging,

and often narcissistic autocratic rule. Executive restraint is a republican virtue, passed down from the great example of the Roman Cincinnatus, the general who saved Rome from collapse but then gave up power willingly to return to his fields and resume his life as a farmer. It is essential for the health and stability of our federal Republic. Following the Constitution and the oath of office is often not the popular path. The four presidents who “tried to save” America took this perilous trail. That should be admired, not condemned.

It also should be noted that none of the men who “tried to save her” were pushovers in office. They typically deferred to Congress when the Constitution required they do so, and they let Congress lead the legislative process—that was the proper course constitutionally. But Congress often characterized them as *too strong* and too willing to wield executive power. That should say something about the charge that they were executive lightweights. These four men exercised power not for political gain but to “defend the Constitution” from radical departures from its original intent. They defended their oath.

If Americans believe in a federal Republic with limited powers, defined by a written constitution, with checks and balances—not only between the three branches of the general government but also between the general and state governments—then the four men who “tried to save” constitutional government in our Republic should be regarded as the greatest presidents in American history. They must be our standard. Our future executives should be more like Tyler than either Roosevelt in the use of executive powers and more like Cleveland or Coolidge than Obama in regard to character. The presidency is a potentially dangerous office that, regardless of which party controls it, should always be viewed with suspicion. A return to this type of vigilance would protect both individual liberty and the liberty of the community from executive abuse. As we enter another presidential election season, that should be our goal. A proper understanding of the president’s limited powers under our Constitution should guide the way all Americans vote.

THE FOUNDERS' EXECUTIVE

The Founders left clues in the historical record, some of them more conspicuous than others, which defined their vision for the executive branch. They articulated that vision in the Constitution for the United States and specifically in the enumerated powers of the new presidency. A written constitution established constraints because history had proven that the executive—whether a king, a dictator, a tsar, a tyrant, a pharaoh, or an emperor—was the greatest threat to liberty. Thus, in order to “secure the Blessings of Liberty to ourselves and our Posterity,” the Founders believed a codification of executive powers was needed. In fact, not all of them were convinced it would be enough.

In the years leading to the American War for Independence, the founding generation implored George III to intercede on their behalf and stop unconstitutional parliamentary acts. They thought that only the king had dominion over the colonies, that they had no representation in the Parliament, and that any attempt to legislate for them—with the exceptions of trade and defense—was repugnant to the unwritten British constitution. The American colonists regarded King George III as the final check on the legislative branch. His veto could stop Parliament’s tyrannical acts. Several times the colonists appealed directly to the king. He failed to act, and therefore the Declaration of Independence was a direct indictment of the king. George III became the lightning rod for colonial discontent, the despot and tyrant who had refused to intercede and use his constitutional powers to arrest the hand of Parliament.

There were precedents in British history. The barons who forced King John to sign the Magna Carta in 1215 emphasized that the king was not above the law. The English Civil War (1642–1651) was in part a struggle for power between the king and Parliament. King Charles I lost his head during the war. But then Oliver Cromwell, the Lord Protector, assumed greater power than King Charles ever had in England. The English people belatedly recognized this fact, deposed Cromwell’s son in 1660, and exhumed and mauled the Lord Protector’s body. He

had been dead and buried for only two years. Heavy-handed executive rule was not welcome in England. Finally, the bloodless Glorious Revolution of 1688 placed restrictions on the king. William III had to formally recognize restrictions on his power as a condition of assuming the throne. The English Bill of Rights of 1689 was an attempt to place limitations on executive power and preserve the ancient rights of Englishmen—rights the colonists would insist they retained even after their emigration to the New World. Thomas Jefferson copied some of the language and form for the Declaration of Independence from the English Bill of Rights.

All this history played a part in the drafting of the several state constitutions during the American War for Independence and in the structure of the Articles of Confederation, the first governing document for the United States of America. The 1780 Constitution of Massachusetts, for example, granted little power to the executive branch. The governor of Massachusetts faced annual elections and had to concede to the supremacy of the Massachusetts General Court. Other state constitutions charted a similar course, and most of them checked executive power through an advisory council. The constitutions of the several states charged the executive branch with enforcing the laws, directing the state militias, and appointing civil officers, but the state governors were constrained by the declared powers and could not exceed their constituted authority. That was the point of a written constitution.

The Articles of Confederation, proposed in 1776 and ratified by all the states in 1781, did not have an executive branch (or a judicial branch), and executive tasks were carried out by the presiding officer of Congress. Each state had a republican form of government including an executive, but the members of the founding generation had been fighting a long and bloody war with Great Britain partially over executive usurpation of power. Thus the colonists deemed it inexpedient to place the new Union of states under the thumb of another powerful central government with substantial executive authority.

Several events led some members of the founding generation to reconsider their opposition to executive authority. Under the Articles of Confederation, the United States lacked a unified foreign policy; states could negotiate different treaties with foreign powers. The lack of an executive branch was also blamed for the inability for the general government to quiet unrest in the states, particularly during Shays' Rebellion in 1786. An independent executive branch came to be seen as a potential panacea for a government deemed too weak to operate effectively in both foreign and domestic policy.

AVOIDING AN ELECTIVE MONARCHY

The need for an executive branch became one of the rallying cries for a new constitution at the Philadelphia Convention in 1787, but the prospect of a federal executive also aroused considerable opposition. In the Constitutional Convention of 1787, James Madison called for a "national executive" to be elected by the "national legislature" in his famous Virginia Plan. But Charles Pinckney of South Carolina feared that the Convention might create the worst kind of executive, an elected king. And when James Wilson of Pennsylvania proposed that the executive consist of a single person, the Convention sat in stunned silence, assuredly frightened that such a move smacked of the tyranny they had just seceded from in 1776. The American Sage Benjamin Franklin broke the silence by asking the Convention for its opinion on the subject.¹

John Rutledge of South Carolina suggested that a single executive was probably best, but he was against investing the power of the sword in the new branch of government. Even Wilson, who pursued a single executive with more vigor than any man in the Convention save Alexander Hamilton, thought that the *only* powers the executive should have were "executing the laws and appointing officers." Roger Sherman of Connecticut agreed. According to Madison's notes on the Convention, Sherman "considered the executive magistracy as nothing more than an institution for carrying the will of the legislature into effect."² Simply

put, to these proponents of the new constitution, the president would execute the laws of Congress, nothing more.

But this promise of an executive with limited powers did not effectively persuade several of the delegates to the Convention to support the new Constitution. Its opponents consistently pointed out the potential for executive abuse. During the Convention, Edmund Randolph of Virginia claimed the executive branch was “the foetus of monarchy.” When the Constitution was sent to the states for ratification, George Mason of Virginia warned that unless there was some sort of check on the executive branch’s power, “the Government will . . . degenerate . . . into a Monarchy—a Government so contrary to the Genius of the people that they will reject even the Appearance of it . . .” He also thought that without a council of advisors chosen to represent the various sections of the Union, the new president “will generally be directed by Minions & Favorites—or He will become a Tool of the Senate—or a Council of State will grow out of the principal Officers of the great Departments; the worst & most dangerous of all Ingredients for such a Council, in a free Country . . .”³ Such a warning seems prescient today, particularly after the last half of the twentieth century, when presidents continually relied on friends for advice and appointed close associates to the most powerful positions in the cabinet.

But what can the president do *constitutionally*? Article II of the Constitution is brief and the language seemingly vague. If we are to evaluate the president from an originalist position, then we must understand what powers the proponents of the Constitution said the executive would possess and what powers they claimed were denied to him by the document. This is the understanding of the presidency that was proposed to the people of the states when the Constitution was ratified.

LIMITED POWERS

Wilson considered the powers of the British monarch to be too extensive, for they extended to “prerogatives . . . of a legislative nature [and] that

of war and peace, &c. . . .” The new president, he claimed, would not have such authority. Madison suggested that the president should have “power to carry into effect the national laws, to appoint to offices in cases not otherwise provided for, and to execute such other powers ‘not legislative nor judiciary in their nature’ as may from time to time be delegated by the national legislature.”²⁴ The phrase “not legislative nor judiciary in their nature” is crucial. The president was not to have legislative power, meaning he is not *constitutionally* the “chief legislator”—as too many Americans today believe.

Nor does the president have unlimited power in regard to foreign policy. According to the Constitution as ratified, the president is the “commander in chief” of the armed services when they are called into service and the head of state with treaty making authority and appointment powers, but even these powers have limitations. The founding generation feared that that “commander in chief” power, extending to personal command of the army, would open the door to a military dictatorship. In fact, the majority of the founding generation considered placing the power of the sword in the hands of one man to be potentially the most dangerous provision of the new constitution.

But proponents of the Constitution argued that Americans should not be anxious in this regard; they reassured doubters by pointing to the constitutional limitations on the president’s powers in foreign affairs. James Iredell of North Carolina argued fervently, “The President has not the power of declaring war by his own authority, nor that of raising fleets and armies.” He also emphasized that only Congress could call up the militia and provide for the military. The military would be controlled by the civil power. So according to the Constitution as ratified, the president cannot make war unilaterally, nor can he raise the army and navy without congressional consent. In *The Federalist* No. 74 Hamilton suggested that the “propriety” of making the president commander in chief was “so evident in itself; and it is at the same time so consonant to the precedents of the State constitutions in general, that little need be said to explain or

enforce it.” But George Mason still had concerns; he reasoned that though Congress would have had to call up the militia and the army, the president would have no restrictions on his power once in command of the armed forces.⁵ This fear has been justified in the modern era.

As for the powers of treaty making and appointment, the founding generation was confident the Senate, and by default the states, could check any abuse by the executive branch. Rutledge thought that allowing the president sole authority over appointments would smack of “Monarchy.” The decision to give the Senate “advice and consent” was a compromise between those who favored executive authority and those who thought the Senate should have complete control in this area. The same was true of the president’s treaty making powers, subject to approval by the Senate. Only a handful of the leading members of the founding generation thought the president should have unilateral control in foreign policy, and they didn’t prevail. Francis Corbin of Virginia remarked in the Virginia Ratifying Convention that “It would be dangerous to give this power [treaty making] to the President alone, as the concession of such power to one individual is repugnant to republican principles.” The Constitution includes this senatorial check on executive abuse because, in the words of James Iredell, “the great caution of giving the states an equality of suffrage in making treaties [that is, requiring Senate approval], was for the express purpose of taking care of that sovereignty, and attending to their interests, as political bodies, in foreign negotiations.”⁶

Perhaps the most flagrant distortion of the Constitution as ratified is the modern executive use (or abuse) of the veto power. When James Wilson proposed that the president should have an absolute negative over congressional legislation, the rest of the delegates collectively gasped. Benjamin Franklin, who said very little during the entire Convention, made two speeches against Wilson’s proposal. In the first he said, “if a negative should be given as proposed, that more power and money would be demanded, till at last eno’ would be gotten to influence & bribe the Legislature into a compleat subjection to the will of the Executive.” In the

second he was even more direct. “The executive will be always increasing here, as elsewhere, till it ends in a monarchy.” That was the greatest fear among the founding generation: the creation of an American king with powers beyond those of George III. George Mason hoped “that nothing like a monarchy would ever be attempted in this Country” because “an elective one” would be “a more dangerous monarchy” than in the British system.⁷

The first drafts of the Constitution established a three-fourths requirement for overriding a presidential veto. It remained this way until five days before the Constitution was approved in Philadelphia. On September 12, 1787, Hugh Williamson of North Carolina moved to strike the three-fourths requirement and replace it with two-thirds, stating that “the former puts too much in the power of the President.” Roger Sherman agreed. “In making laws regard should be had to the sense of the people, who are to be bound by them, and it was more probable that a single man should mistake or betray this sense than the Legislature.” Other delegates feared the veto would prevent “proper laws” or block “the repeal of [bad] laws.” James Madison insisted that the veto should only be used to “defend Executive Rights [and] to prevent popular or factious injustice.” Translation: the president should use the veto in order to protect the executive branch from legislative encroachment and to prevent unconstitutional legislation. To a man, the founding generation thought all else should pass without his interference.⁸

The best summary explanation of the executive branch as ratified in the Constitution comes from the pen of Alexander Hamilton in *The Federalist* No. 69. The president, he wrote, would have concurrent power with the Senate over appointments and treaties. He would not be able to unilaterally declare war or raise and regulate the armed forces. He would lack an absolute negative over legislation, and he would not be able to “prescribe . . . rules concerning the commerce or currency of the nation.”⁹ In short, the president would have very little authority beyond executing the laws of Congress and serving as head of state, and even those powers would

be limited by the Senate. The president's oath of office is based on *this* conception of the Constitution. That is the executive according to the Constitution as ratified by the founding generation. Americans should measure the man in office by this standard. This book will do just that.