

# 9 Presidents Who Screwed Up America and Four Who Tried to Save Her<sup>1</sup>

Reviewed by Major Daniel M. Curley\*

*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.*<sup>2</sup>

## I. Introduction

The founding generation of the United States of America feared a powerful executive and took substantial steps to ensure the president would not become a king.<sup>3</sup> Having just been liberated from the rule of King George III of England via a bloody and costly war of independence,<sup>4</sup> the founders placed checks on the executive branch to ensure it would not usurp the powers of the legislature and judiciary.<sup>5</sup> Forty-three different men have served as President of the United States.<sup>6</sup> Many of the most popular and well-known presidents have expanded their power and the executive branch by means and methods outside the original intent of the framers of the Constitution.<sup>7</sup> Instead of ranking the presidents based on popularity or the outcome of their policies, Brion McClanahan<sup>8</sup> ranks the presidents by how well they upheld their oath, “to preserve, protect and defend the Constitution of the United States.”<sup>9</sup>

McClanahan judges the presidents on their ability to exercise constitutional restraint during their time in office.<sup>10</sup> Those who exercised restraint by neither legislating from the White House nor expanding the executive branch are awarded high marks by McClanahan.<sup>11</sup> Alternatively, presidents who expanded the executive branch, used the military without seeking approval from Congress, personally initiated legislation, or failed to veto unconstitutional legislation are distinctively named the “presidents who screwed up

America.”<sup>12</sup> McClanahan challenges the reader to gauge past presidents from a novel and unique perspective, ultimately turning the traditional ranking of presidents on its head.<sup>13</sup> Aside from proposing a questionable constitutional amendment process to repair the executive branch, *9 Presidents who Screwed up America and Four who Tried to Save Her* is a well-researched and thought provoking comparison of both our most heralded and less well-known presidents.

## II. Main Points and Ideas

McClanahan does an excellent job of sticking to common denominators when evaluating the presidents. The most salient point used to judge both the best and worst presidents is whether they displayed executive restraint.<sup>14</sup> He views those presidents who intervened in areas that were once the sole purview of the States as the worst presidents in the history of the United States.<sup>15</sup> McClanahan grades the presidents who increased federal power by practicing a progressive, top-down approach to government as the worst offenders to our federal Republic.<sup>16</sup> Additionally, he believes the presidents who “screwed up America” were those who arbitrarily used the military without the approval of Congress, took unconstitutional measures in times of war and emergency, acted as “chief legislator,” or used executive orders to circumvent Congress.<sup>17</sup> For these reasons, he

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<sup>1</sup> BRION MCCLANAHAN, *9 PRESIDENTS WHO SCREWED UP AMERICA AND FOUR WHO TRIED TO SAVE HER* (2016).

<sup>2</sup> MCCLANAHAN, *supra* note 1, at xiv.

<sup>3</sup> *Id.* at xix.

<sup>4</sup> *Id.* at xx.

<sup>5</sup> *Id.* at xix, 3 (noting the Constitution limits the powers of the president and balances the power of Congress and the courts against the executive power).

<sup>6</sup> THE WHITE HOUSE, <https://www.whitehouse.gov/1600/executive-branch> (last visited Dec 20, 2016). President Barack Obama is recognized as the 44th President of the United States. However, he is only the 43rd person ever to serve as President; President Grover Cleveland served two nonconsecutive terms and is recognized as both the 22nd and the 24th President.

<sup>7</sup> MCCLANAHAN, *supra* note 1, at xiii, 251.

<sup>8</sup> Brion McClanahan is also the author of *The Politically Incorrect Guide to the Founding Fathers*, *The Founding Fathers’ Guide to the Constitution*, and *The Politically Incorrect Guide to Real American Heroes*. He holds an

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<sup>9</sup> MCCLANAHAN, *supra* note 1, at xiv.

<sup>10</sup> *Id.* at xv.

<sup>11</sup> *Id.* at xvii.

<sup>12</sup> *Id.* at xvi.

<sup>13</sup> *Id.* at xv.

<sup>14</sup> *Id.* at xvii.

<sup>15</sup> See generally MCCLANAHAN, *supra* note 1, at 25–54 (discussing Abraham Lincoln and Theodore Roosevelt as presidents who usurped the states’ powers); see also *id.* at 120–131 (contending Lyndon B. Johnson’s war on poverty, welfare programs, education programs, and environmental regulations infringed upon areas reserved to the states).

<sup>16</sup> See, e.g., *id.* at 57 (describing Woodrow Wilson’s belief that only the central government could be trusted in the political process and that everything should be done from the top down).

<sup>17</sup> See, e.g., *id.* at 49 (stating Theodore Roosevelt engaged in “foreign adventurism” with the United States military without the approval of Congress); see also *id.* at 144 (citing Richard Nixon’s unconstitutional

contends each one of the nine presidents exploited and abused the limited power initially granted to them by the founding generation.<sup>18</sup>

Conversely, McClanahan commends four presidents as attempted saviors, because they displayed executive restraint, allowed Congress to legislate, vetoed unconstitutional legislation, and were anti-progressive in their policies and actions.<sup>19</sup>

#### A. The 9 Who Screwed Up America

According to McClanahan, not all of the nine presidents who “screwed up America” negatively impacted the United States in exactly the same manner, but they all displayed executive “energy” that lead to the unconstitutional usurpation of power.<sup>20</sup> For example, McClanahan states that Andrew Jackson established the “model for our lawless twenty-first-century executive.”<sup>21</sup> Abraham Lincoln committed constitutional violations that “created a blueprint for more executive abuse in the future.”<sup>22</sup> Theodore Roosevelt was the “first ‘chief legislator’ in American history.”<sup>23</sup> Woodrow Wilson was “one of the worst presidents, if not the worst president, in American history.”<sup>24</sup> Franklin Roosevelt created the “modern executive branch . . . , not the one crafted by the founding generation.”<sup>25</sup> Harry S. Truman “perfected the art of the demagogue, used seedy and often corrupt machine politics to his advantage, and abused executive power in the same way his predecessor, Franklin Roosevelt, made famous.”<sup>26</sup> Lyndon Johnson used “unconstitutional executive authority to force his vision on the American government, the states, and the people at large.”<sup>27</sup> Richard Nixon “wanted to out-progressive the progressives, the Constitution and his oath to defend it be damned.”<sup>28</sup> And Barack Obama “has become the most powerful, lawless, and the worst president in American history – according to the Constitution as ratified.”<sup>29</sup> To his credit, McClanahan admits that many of the presidents of the

founding generation were also guilty of abusing their executive powers.<sup>30</sup> In that regard, it is best to imagine McClanahan’s rankings on a line spectrum with all presidents having a place. Those on the far left are the worst executive offenders. Those lying on the right of the spectrum are presidents who tried to practice executive restraint, albeit imperfectly.

#### B. The Four Who Tried to Save Her

Thomas Jefferson, John Tyler, Grover Cleveland, and Calvin Coolidge represent the four presidents who tried to save America.<sup>31</sup> McClanahan believes Jefferson “worked to save America from unconstitutional government,” and he “provided a truly republican blueprint for future administrations.”<sup>32</sup> McClanahan thinks Tyler might be the best president “according to the Constitution as ratified.”<sup>33</sup> Cleveland used his executive energy to “defend the Constitution.”<sup>34</sup> And Coolidge was a president who “used the office the way the founding generation intended,” and he “did what needed to be done to safeguard the proper separation of powers.”<sup>35</sup> By McClanahan’s standards, the four presidents who tried to save America did a remarkable job exercising executive restraint and tried to adhere to the principles of the Constitution.

### III. Critique of 9 Presidents Who Screwed Up America and Four Who Tried to Save Her

McClanahan uses an oversimplified factor to rank the presidents. He partially bases his ranking on whether the presidents (1) proposed legislation, and (2) frequently exercised their veto power.<sup>36</sup> McClanahan’s calculation fails to measure the complicity of Congress in the legislative process. If the president proposes legislation, and Congress votes to pass the president’s proposed legislation, all the blame should not be attributed to the president. Similarly, if

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creation of the Environmental Protection Agency in 1970 by executive order).

<sup>18</sup> See *id.* at xvi.

<sup>19</sup> See generally *id.* at 189–271 (detailing the attempts by Thomas Jefferson, John Tyler, Grover Cleveland, and Calvin Coolidge to limit expansion of executive power).

<sup>20</sup> MCCLANAHAN, *supra* note 1, at xvii. But see THE FEDERALIST NO. 70, at 391 (Alexander Hamilton) (Clinton Rossiter ed., 1961) (claiming that “[e]nergy in the executive is a leading character in the definition of good government” and “[a] feeble executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government”).

<sup>21</sup> MCCLANAHAN, *supra* note 1, at 4.

<sup>22</sup> *Id.* at 34.

<sup>23</sup> *Id.* at 38.

<sup>24</sup> *Id.* at 73.

<sup>25</sup> *Id.* at 98.

<sup>26</sup> *Id.* at 99.

<sup>27</sup> MCCLANAHAN, *supra* note 1, at 120.

<sup>28</sup> *Id.* at 146.

<sup>29</sup> *Id.* at 180.

<sup>30</sup> *Id.* at 4.

<sup>31</sup> See generally *id.* at 189–271.

<sup>32</sup> *Id.* at 207.

<sup>33</sup> MCCLANAHAN, *supra* note 1, at 209.

<sup>34</sup> *Id.* at 250.

<sup>35</sup> *Id.* at 252.

<sup>36</sup> See, e.g., *id.* at 75 (declaring Franklin D. Roosevelt as the “legislator-in-chief”). See also *id.* at 240 (praising Grover Cleveland for using his veto power 584 times).

Congress passes legislation and the president fails to exercise his veto power, all the blame should not lie with the president. McClanahan briefly admits that Congress is “part and parcel of the problem and would be as much affected by a reduction in federal power as the president.”<sup>37</sup> He, too, recognizes Congress’s complicity in the expansion of executive power. However, factoring whether presidents proposed legislation or frequently vetoed legislation fails to consider Congress’s role in the legislative process. By not considering Congress’s collusion, McClanahan uses an oversimplified factor in ranking the presidents.

In a most admirable fashion, however, McClanahan dedicates a chapter at the end of the book to propose a solution to what has become a bloated executive branch.<sup>38</sup> McClanahan should be applauded for offering a solution to combat the “imperial presidency” that Americans have become accustomed to. McClanahan recommends some noteworthy constitutional amendments that would, indeed, curtail executive expansion and overreach. He specifically proposes a single, six year term for every president, codification of the line item veto, and the invalidation of executive agreements, commissions, and agencies.<sup>39</sup> He also proposes an amendment that would prevent the president from deploying the armed forces unless the United States were attacked, and would require congressional approval for any prolonged military engagement over one month in duration.<sup>40</sup> Such amendments would achieve the desired effect of reducing executive power. However, McClanahan’s proposed method of amending the Constitution would be difficult, if not impossible.<sup>41</sup>

McClanahan proposes that an Article V<sup>42</sup> constitutional convention be convened by the States to make amendments to the Constitution.<sup>43</sup> He believes this would enable the States to effectively bypass Congress in the process of amending the

Constitution.<sup>44</sup> McClanahan further recommends that the States vote on seven separate amendments at the suggested Article V convention.<sup>45</sup> If three-quarters of the States agreed to the amendments, those amendments would become law.<sup>46</sup>

Unfortunately, this process would be more difficult than McClanahan represents. First, Congress would still have to tally the States’ applications and possibly determine the subject matter to be discussed at the Article V convention, so Congress would not be excluded from the process entirely.<sup>47</sup> And, historically, Congress has never acted on any application for an Article V convention, even though many have been submitted.<sup>48</sup>

Second, it would be an immense task to convince the requisite States to apply to Congress for an Article V convention and to specifically discuss seven amendments. This could be the reason why there has never been an Article V convention in the history of the United States.<sup>49</sup> Third, absent a complete failure of the American political process so momentous that the States resort to desperate measures, the ability to garner three-quarters (currently thirty-eight) votes on any one proposed amendment would require a massive lobbying campaign. Regrettably, the enduring expansion of the executive branch amid a complicit Congress, Judiciary, and American populace does not sufficiently shock the conscience of the States to the point of adamantly seeking an Article V convention – no matter how dire McClanahan personally views the usurpation of power by the executive branch.<sup>50</sup>

According to McClanahan, if the States ever secured enough votes for an Article V convention, the States could assemble a very limited convention dedicated to discussing a single subject matter or an agenda covering specific proposed amendments.<sup>51</sup> This position has been refuted by constitutional law scholars.<sup>52</sup> McClanahan views the Article

<sup>37</sup> *Id.* at 168. *See also id.* at 46 (declaring Theodore Roosevelt’s public land confiscations an “unconstitutional abuse of power in which Congress was complicit”). *See also id.* at 82 (stating Congress gave Franklin D. Roosevelt “dictatorial powers”).

<sup>38</sup> *Id.* at 273.

<sup>39</sup> MCCLANAHAN, *supra* note 1, at 278.

<sup>40</sup> *Id.* at 276.

<sup>41</sup> *But see id.* at 279 (claiming that such an action would be “difficult but not impossible”).

<sup>42</sup> U.S. CONST. art. V. (stating that Congress can call a constitutional convention to propose amendments if two-thirds (currently thirty-four) of the State legislatures apply for such a convention).

<sup>43</sup> MCCLANAHAN, *supra* note 1, at 274.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 275.

<sup>46</sup> *Id.*

<sup>47</sup> *See* James Kenneth Rogers, *The Other way to Amend the Constitution: The Article V Constitutional Convention Amendment Process*, 30 HARV.

J.L. & PUB. POL’Y 1005, 1005 (2007) (asking if the convention’s scope can be limited to certain subject matters, who can limit it, and how the state applications are to be tallied).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* *See also* Michael Stokes Paulsen, *How to Count to Thirty-Four: The Constitutional Case for a Constitutional Convention*, 34 HARV. J.L. & PUB. POL’Y 837, 838 (2011).

<sup>50</sup> The most recent, nearly-successful attempt at convening an Article V convention occurred between 1975 and 1983 over a balanced budget amendment, not the usurpation of power by the executive branch. The push for an Article V convention over a balanced budget amendment lost support after achieving thirty-two state applications. Support waned due to fears that the convention could not be limited to a specific agenda. *See* Rogers, *supra* note 48, at 1009.

<sup>51</sup> MCCLANAHAN, *supra* note 1, at 275.

<sup>52</sup> *See* Paulsen, *supra* note 49, at 839 (interpreting Article V as prohibiting a limited constitutional convention to discuss specific amendments). *See also* Rogers, *supra* note 47, at 1009 (arguing that Congress does not have the power to limit an Article V convention). *But see* Robert G. Natelson, *Proposing Constitutional Amendments by Convention: Rules Governing the Process*, 78 TENN. L. REV. 693, 723 (2011) (contending the scope of an

V convention as the best way to circumvent Congress.<sup>53</sup> However, Congress would still be involved in the process. While McClanahan's proposed Article V convention is probably the best course of action if executive expansion is to ever be checked, the likelihood of an Article V convention being convened to check the executive branch is doubtful.

A final, albeit more technical, critique is that the book does not provide an exhaustive list. McClanahan fails to include separate chapters for four additional presidents who were prominently mentioned along with those presidents who "screwed up America." McClanahan devotes several pages in Barack Obama's chapter to George Herbert Walker Bush, Bill Clinton, and George W. Bush, but he does not count them among the nine presidents who "screwed up America."<sup>54</sup> Similarly, McClanahan devotes a sizeable portion of the chapter addressing Andrew Jackson to a critique of George Washington.<sup>55</sup> It almost appears as if McClanahan wanted his book to include thirteen presidents who "screwed up America," but his editor limited him to nine.

#### IV. Conclusion

In the wake of the 2016 presidential election, *9 Presidents who Screwed up America and Four who Tried to Save Her* is a commendable book that causes Americans to reflect upon their newly elected president. Americans have come to expect a certain level of "executive energy" in their president. But will the newly elected president energetically continue on the path of executive expansion? McClanahan would contend our country needs another Grover Cleveland who will apply that energy to combat executive expansion, steadfastly preserving, protecting, and defending the Constitution of the United States.

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Article V convention can be limited by the state applications requesting a convention).

<sup>53</sup> MCCLANAHAN, *supra* note 1, at 274.

<sup>54</sup> *See id.* at 163–180.

<sup>55</sup> *See id.* at 4–12.