

# THE CAVALIER PRESIDENCY



*Executive Power and Prerogative  
in Times of Crisis*

JUSTIN P. DEPLATO

# **The Cavalier Presidency Executive Power And**

**Thomas M. Franck**



## The Cavalier Presidency Executive Power And

**The Cavalier Presidency** Justin P. DePlato, 2014-02-14 In this book Justin DePlato examines and analyzes the reasons and justifications for as well as instances of executive emergency power in political thought and action The book begins by analyzing the theory of executive emergency power across a wide breadth of philosophical history from Ancient Greek Renaissance through modern American political thought This analysis indicates that in political philosophy two models exist for determining and using executive emergency power an unfettered executive prerogative or a constitutional dictatorship The modern American approach to executive emergency power is an unfettered executive prerogative whereby the executive determines what emergency power is and how to use it The book addresses the fundamental question of whether executive power in times of crisis may be unfettered and discretionary or rather does the law define and restrain executive emergency power The author reviews and analyzes seven U S presidencies that handled a domestic crisis Washington Jefferson Madison Jackson Lincoln G W Bush and Obama to show that presidents become extraordinarily powerful during crises and act unilaterally without oversight The use of executive emergency power undermines the normal processes of democratic republicanism and harms the rule of law The author analyzes the U S Constitution formerly classified Department of Justice Memos primary sourced letters signing statements executive orders presidential decrees and original founding documents to comprehensively conclude that presidential prerogative determines what emergency powers are and how they are to be executed This book challenges the claim that presidents determine their emergency power with appropriate congressional oversight or consultation The analysis of the empirical data indicates that presidents do not consult with Congress prior to determining what their emergency powers are and how the president wants to use them Justin DePlato joins the highly contentious debate over the use of executive power during crisis and offers a sharp argument against an ever growing centralized and unchecked federal power He argues that presidents are becoming increasingly reckless when determining and using power during crisis often times acting unconstitutional

**The Discretionary President** Benjamin A. Kleinerman, 2009 Examines both the peril and the promise of presidential power to clarify that what can destroy our Constitution can if the threat is dire also save it An unusually balanced study that argues for a middle path whereby presidents choose consciously to act temporarily outside or even against the laws in serving the nation s best interest

**By Executive Order** Andrew Rudalevige, 2021-04-06 How the executive branch not the president alone formulates executive orders and how this process constrains the chief executive s ability to act unilaterally The president of the United States is commonly thought to wield extraordinary personal power through the issuance of executive orders In fact the vast majority of such orders are proposed by federal agencies and shaped by negotiations that span the executive branch By Executive Order provides the first comprehensive look at how presidential directives are written and by whom In this eye opening book Andrew Rudalevige examines more than five hundred executive orders from the 1930s to today as well as more than two hundred others negotiated but never issued shedding vital new light on the multilateral process of drafting supposedly unilateral directives He draws on a wealth of archival evidence from the Office of Management and Budget and presidential libraries as well as original interviews to show how the crafting of orders requires widespread consultation and compromise with a formidable bureaucracy Rudalevige explains the key role of management in the presidential skill set detailing how bureaucratic resistance can stall and even prevent actions the chief executive desires and how presidents must bargain with the bureaucracy even when they seek to act unilaterally Challenging popular conceptions about the scope of presidential power By Executive Order reveals how the executive branch holds the power to both enact and constrain the president s will

**Presidency in the Constitutional Order** Besette, Joseph M.,

*American Presidential Power and the War on Terror: Does the Constitution Matter?* Justin DePlato, 2015-09-01 This book examines the use of presidential power during the War on Terror Justin DePlato joins the debate on whether the Constitution matters in determining how each branch of the federal government should use its power to combat the War on Terror The actions and words of Presidents George W Bush and Barack Obama are examined DePlato s findings support the theory that executives use their own prerogative in determining what emergency powers are and how to use them According to DePlato the Presidents argue that their powers are implied in Article II of the Constitution not expressed This conclusion renders the Constitution meaningless in times of crisis The author reveals that Presidents are becoming increasingly cavalier and that the nation should consider adopting an amendment to the Constitution to proffer expressed executive emergency powers

**The Unitary Executive and the Modern Presidency** Ryan J. Barilleaux, Christopher S. Kelley, 2010 During his first term in office Pres George W Bush made reference to the unitary executive ninety five times as part of signing statements proclamations and executive orders Pres Barack Obama s actions continue to make issues of executive power as timely as ever Unitary executive theory stems from interpretation of the constitutional assertion that the president is vested with the executive power of the United States In this groundbreaking collection of studies eleven presidential scholars examine for the first time the origins development use and future of this theory The Unitary Executive and the Modern Presidency examines how the unitary executive theory became a recognized constitutional theory of presidential authority how it has evolved how it has been employed by presidents of both parties and how its use has affected and been affected by U S politics This book also examines the constitutional political and even psychological impact of the last thirty years of turmoil in the executive branch and the ways that controversy has altered both the exercise and the public s view of presidential power

**The Dual Executive** Michelle Belco, Brandon Rottinghaus, 2017-05-02 Popular perception holds that presidents act first and alone resorting to unilateral orders to promote an agenda and head off unfavorable legislation Little research however has considered the diverse circumstances in which such orders are issued The Dual Executive reinterprets how and when presidents use unilateral power by illuminating the dual roles of the president Drawing from an original data set of over 5 000 executive orders and proclamations the two most frequently used unilateral orders from the Franklin D Roosevelt to the George W Bush administrations 1933 2009 this book situates unilateral orders within the broad scope of executive legislative relations Michelle Belco and Brandon Rottinghaus shed light on the shared nature of unilateral power by recasting the executive as both an aggressive commander and a cooperative administrator who uses unilateral power not only to circumvent Congress but also to support and facilitate its operations

**The Relation of the Executive Power to Legislation** Henry Campbell Black, 1919

*The Executive Power in the United States* Adolphe de Pineton marquis de Chambrun, 1874

*Presidential Leadership* Pendleton Herring, 2017-07-05 The nature of the presidency is an issue that has been debated since the drafting of the United States Constitution The Federalists felt a strong executive was the backbone and prime mover of a strong government On the other side the Anti Federalists felt the presidency represented monarchical tendencies and could potentially subvert republican government How does executive leadership fit in with a limited government with enumerated powers Does the Constitution require a containment of executive power even during times of crisis or do times of crisis warrant an abandonment of a strict legalistic reading of the document

**The Powers of the Presidency** ,2008-03-05 Examines the presidency as a constitutional office covering how it was shaped by its design at the Constitutional Convention in 1787 and by later constitutional amendments Supreme Court decisions and custom and precedent Discusses the various roles of the chief executive including chief of state chief administrator legislative leader chief diplomat commander in chief and chief economist

**Presidential Powers** Harold J Krent,2005-02 A legal examination of the constitutional powers granted to U S Presidents

**The Imperial Presidency and the Constitution** Gary Schmitt,Joseph M. Bessette,Andrew E. Busch,2017-02-06 Time and again in recent years the charge has been made that sitting presidents have behaved imperially employing authorities that break the bounds of law and the Constitution It is now an epithet used to describe presidencies of both parties The Imperial Presidency and the Constitution examines this critical issue from a variety of perspectives analyzing the president s role in the administrative state as commander in chief as occupant of the modern Bully Pulpit and in separate essays addressing recent presidents relationship with Congress and the Supreme Court The volume also deepens the discussion by taking a look back at Abraham Lincoln s expansive use of executive power during the Civil War where the tension between law and necessity were at their most extreme calling into question the rule of law itself The volume concludes with an examination of how the Constitution s provision of both powers and duties for the president can provide a roadmap for assessing the propriety of executive behavior

**The Tethered Presidency** Thomas M. Franck,1981 Shows how the power of the office of the President can be preserved without jeopardizing the delicate balance in government between responsibility and power accountability and security The contributors include Louis W Koenig Thomas M Franck George W Calhoun Lee R Marks Robert C Cassidy and Norman Redlich

**The President Who Would Not Be King** Michael W. McConnell,2022-02-15 Vital perspectives for the divided Trump era on what the Constitution s framers intended when they defined the extent and limits of presidential power One of the most vexing questions for the framers of the Constitution was how to create a vigorous and independent executive without making him king In today s divided public square presidential power has never been more contested The President Who Would Not Be King cuts through the partisan rancor to reveal what the Constitution really tells us about the powers of the president Michael McConnell provides a comprehensive account of the drafting of presidential powers Because the framers met behind closed doors and left no records of their deliberations close attention must be given to their successive drafts McConnell shows how the framers worked from a mental list of the powers of the British monarch and consciously decided which powers to strip from the presidency to avoid tyranny He examines each of these powers in turn explaining how they were understood at the time of the founding and goes on to provide a framework for evaluating separation of powers claims distinguishing between powers that are subject to congressional control and those in which the president has full discretion Based on the Tanner Lectures at Princeton University The President Who Would Not Be King restores the original vision of the framers showing how the Constitution restrains the excesses of an imperial presidency while empowering the executive to govern effectively

**With the Stroke of a Pen** Kenneth Mayer,2021-05-11 The conventional wisdom holds that the president of the United States is weak hobbled by the separation of powers and the short reach of his formal legal authority In this first ever in depth study of executive orders Kenneth Mayer deals a strong blow to this view Taking civil rights and foreign policy as examples he shows how presidents have used a key tool of executive power to wield their inherent legal authority and pursue policy without congressional interference Throughout the nation s life executive orders have allowed presidents to make momentous unilateral policy choices creating and abolishing executive branch agencies reorganizing administrative and regulatory processes handling emergencies and determining how legislation is implemented From the Louisiana Purchase to the Emancipation Proclamation from Franklin Roosevelt s establishment of the Executive Office of the President to Bill Clinton s authorization of loan guarantees for Mexico from Harry Truman s integration of the armed forces to Ronald Reagan s seizures of regulatory control American presidents have used executive orders or their equivalents to legislate in ways that extend far beyond administrative activity By analyzing the pattern of presidents use of executive orders and the relationship of those orders to the presidency as an institution Mayer describes an office much more powerful and active than the one depicted in the bulk of the political science literature This distinguished work of scholarship shows that the U S presidency has a great deal more than the oft cited power to persuade

The Ordinance Making Powers of the President of the United States James Hart,1925

Powers of the Presidency Congressional Quarterly, inc,1997 Powers of the Presidency second edition thoroughly examines the formal and inherent powers of the nation s foremost elected office Beginning with a look at the constitutional origins of presidential power each chapter traces the historical development of presidential authority up to contemporary times

**The Presidency and the Constitution** M. Genovese,R. Spitzer,2005-08-19 This comprehensive case law book examines the evolution of judicial interpretation of the scope and limitations of presidential power From interbranch struggles for power to presidential selection to campaign financing to war powers hardly an issue arises for the modern presidency that does not eventually find itself framed as a legal problem to be addressed by the courts Each section provides an introduction providing background and framework for students Throughout the analysis is informed by the view that court decisions are framed by legal arguments and constitute legal issuances and are also framed by politics and have profound political consequences Coinciding with a broader intellectual and disciplinary return to institutions and law as key to understanding the presidency and modern politics this book will find special favour among scholars who teach courses on the presidency and related areas

The Power of the Presidency Robert S. Hirschfield,1968

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