

## Nine Presidents Who Screwed Up America - And Four Who Tried to Save Her Brion McClanahan

A concise American history from the point of view of what has happened to the Constitution.

McClanahan opens with a thesis about the intent of the founders versus modern expectations. "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." "In the Constitution, the founding fathers generation left as a vehicle for preserving self-government. We ignore it at our peril."

The terms of office of the 13 presidents addressed in the book cover the full history of the country: the founding, expansion through the early 18th century, the Civil War, Reconstruction, the progressive era, World War I, the Depression, World War II, Vietnam and the great Society, and now Obama.

McClanahan discusses each of the presidents' undertakings in various spheres of action. In foreign policy and in war, did they follow the constitutional separation of powers whereby the Senate takes the lead? Did they allow the Senate to advise and consent? Did they allow the legislature to draft the legislation, or did they actively involve themselves in the legislative process? Did they execute the laws as passed by Congress, or did they selectively enforce them? Did they push themselves into the legislative and judicial spheres by setting up national boards that performed all three processes without supervision?

His conclusion is that the nine presidents who screwed things up built on each other's precedents, increasingly ignoring the written limits on executive power in the Constitution. If there is one somewhat hopeful note, it is that it is not getting worse. The invasions of privacy in the Lincoln and Wilson administrations seem to be at least as destructive as those of Bush and Obama. Likewise, the suppression of freedom of the press during the wartime administrations of Lincoln, Wilson and Roosevelt was worse than what we are seeing today. Today's invasions are more threatening because they are backed by more dangerous technologies: electronic eavesdropping, drones, access to bank records and the like.

The four presidents they got things right were Jefferson, Tyler, Cleveland and Coolidge. They stayed within the prescribed powers of the chief executive. McClanahan notes that history considers the latter three to be weak presidents because they did not "get things done." That is exactly the point, and perhaps the most difficult point for any government. One has to know when not to act.

McClanahan confines himself quite narrowly to a discussion of the Constitution and the constitutionality of the activities of these 13 presidents. He could not do otherwise and hold the book to a readable length. His final chapter, what can we do, is a prescriptive list of constitutional amendments that might bring things back into balance.

What he does not discuss, what he could not discuss within the scope of this book, are the limits of human nature. Humans have a bias toward action. The citizenry looks to the president, as the man in charge, to fix problems whether or not they are within his job description. Since taking action usually involves assuming more power and commanding resources that can be parceled among one's friends, it is entirely natural for a chief executive to eagerly answer a call to action. This is the nature of leaders worldwide. The restraint that the Constitution calls for is unnatural. We should not be surprised that presidents do not answer the call.

It takes a lot of drive and a big ego to seek the presidency. It is not surprising that two of the four presidents that McClanahan credits with trying to save the institution were modest men who came into the presidency when their predecessor died in office. Tyler and Coolidge had few further political

ambitions and could afford to be honest. Coolidge resisted intense pressure to help predominantly black citizens victimized by the greatest Mississippi flood of all times. His heart may have gone out to them, and they may have been predominantly Republican voters, but it was not the federal government's job to do anything. He stood on principle. McClanahan writes "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."

The Progressives, dating back to Theodore Roosevelt, took an expansive view of the Presidency. They saw their job as not merely executing laws, but leading and improving the society. McClanahan notes that Franklin Roosevelt "believed that Americans in modern industrialized society had the need for new 'rights,' including the 'right' to a job, food, clothing, recreation, a home, medical care, education, and freedom from the 'fear' of unemployment, old age, sickness, and unfair competition." A president who believes it is his job to guarantee these "rights" to the citizenry must make himself a dictator to do so. Both Roosevelts, Wilson, Johnson, Nixon and Obama have pushed as hard as possible in that direction.

The role of state governments is a major theme. Although the founders intended the United States to be a confederation of 13 states, Lincoln's interpretation when the Confederate states seceded was that it was a confederation of the people within the states – the states themselves had no standing. The union of the peoples that made up the United States was indissoluble.

McClanahan favors the notion that smaller governments, closer to the people, will be more responsive to their needs than a large distant central government. Even when they are not, their mistakes will be limited. This was certainly the plan of the founders. The national government was to concern itself with matters like national defense and interstate commerce that were beyond the scope of the states. That which could be done by the states, such as education, roadbuilding and the like, was no business of the federal government. Though the federal government has intruded itself into these spheres claiming it can do a better job, the fact is more that it simply has the muscle to push state and local governments aside, and it does so.

The United States Constitution drew on English common law and the Enlightenment philosophers, especially Britons such as John Locke and Thomas Hobbes. The population of the United States in the 18th century was predominantly English, though with the admixture of Germans that Franklin found so upsetting. Blacks and Indians, though populous, generally did not have political rights. The Constitution was therefore a document adapted by and for a small, homogeneous population. What it did was to codify the common sense and experience of enlightened Englishmen, incorporating the insights of the great minds of the time. It was revolutionary primarily in that it was of one piece, contemporary, and written and agreed.

English law has been a global success. Most national constitutions draw heavily on the American Constitution and its British roots. One observes, however, that as implemented they are more a reflection of their own populations than the English philosophers. Argentina, Haiti, Ukraine and many other countries' constitutions set forth high aspirations. However, in practice they represent the people, not the noble words. As the population of the United States has diversified away from the founding British and Northern European stock, the workings of constitutional law have changed as well. We have hugely diverse mixture of founding stock Europeans, Southern and Eastern Europeans, American Indians, Afro-Americans, Middle Easterners and Asians all trying to live comfortably under the blanket of a constitution designed by and for Britons. We should not be dismayed that it has been stretched out of shape.