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INTRODUCTION

Purpose, Scope, Method

THE MOST DRAMATIC moment at the Constitutional Convention came on the third day of debate. The Virginia delegation had presented a proposal written mostly by James Madison, introduced by Governor Edmund Randolph, and endorsed by General George Washington. This was the first draft of what would become the Constitution of the United States of America, and was the focal point of debate for the first month of the Convention in Philadelphia. Despite its illustrious provenance, the first two days of debate over the Virginia Plan had been unexpectedly contentious and inconclusive. Now, at the start of business on June 1, 1787, the delegates reached Resolution 7, Virginia's proposal for a chief executive. It would entrust all the "executive" powers of the nation to a "National Executive," which, according to a motion by James Wilson, would "consist of a single person." Charles Pinckney, a young delegate from South Carolina, gasped. This would "render the Executive a Monarchy!" he sputtered. It would give this "single person" the powers of "peace and war," which had doomed so many republics to military despotism. But that was not all. The proposal seemed to cloak the National Executive with many of the prerogative powers of the English king—powers the executive could exercise by virtue of the office, without need for legislative authorization and beyond legislative control. After fighting a revolution against King George, were we to create an executive with the effective powers of a king?¹

Pinckney's remark was followed by a "considerable pause"—the only time all summer that no one was willing to speak. The issue of executive

power was too important, the problem too difficult, the solution anything but obvious. And George Washington, whom everyone knew would be elected the first chief executive, was sitting right there, presiding over the Constitutional Convention. How could the delegates candidly discuss the dangers of tyranny when their every word on the topic might be taken as commentary on the most trusted man in America? Ben Franklin had to coax the delegates to speak.

That first debate set the agenda for the rest of the summer's deliberations over the presidency. How could the delegates achieve the independence, vigor, secrecy, and dispatch necessary for an effective executive without rendering him an elected monarch?

An Ever-More-Powerful Presidency?

Two hundred and thirty-plus years later, we face essentially the same question, but now from the standpoint of practice rather than of anticipation.² Our three most recent presidents have asserted an extraordinary power to act both domestically and globally without congressional approval and even in the teeth of congressional opposition. Lawyers in the George W. Bush Administration openly espoused strongly pro-executive views, and pushed expansive interpretations of presidential authority under the Commander-in-Chief Clause and in the national security and foreign policy arenas.³ Most notable were opinions of the Office of Legal Counsel (OLC) asserting presidential authority to employ extreme interrogation techniques even in the face of contrary congressional legislation, expansive interpretations of the power to intercept foreign and domestic communications, and imaginative interpretations of statutory language in the maw of the 2008 economic crisis.⁴

Bush's successor, Barack Obama, campaigned for office claiming he would scale back executive unilateralism. "The biggest problems that we're facing right now have to do with George Bush trying to bring more and more power into the Executive Branch and not go through Congress at all, and that's what I intend to reverse when I become president of the United States of America."⁵ Once elected, however, Obama was even more unilateralist than Bush.⁶ Especially after the House of Representatives

and then the Senate came under the control of the opposite political party, President Obama increasingly used executive orders, regulations, and regulatory guidance—sometimes contrary to statutory policy—to circumvent the need for congressional action. He announced that he would “do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”⁷ Notable examples included an undeclared air war in Libya, orders granting lawful status to millions of undocumented workers, multiple delays in statutory health care insurance deadlines, a new regulatory regime for electric power production, subsidies for health insurance companies without congressional appropriation, and a “dear colleague letter” unilaterally imposing new rules for regulating the sex lives of college students.⁸

When my work on this book got underway in 2016, it seemed obvious that Obama would be succeeded by Hillary Clinton. I have no doubt that, had Clinton been elected, the tectonic movement toward ever-more-powerful executives would have continued unabated. Congress, which likely would have remained in Republican hands, would have been increasingly sidelined, leading to ever-more-entrenched gridlock and legislative inactivity, leading in turn to ever-more-brazen executive unilateralism. Clinton would have had the support of the bureaucracy, armed with all the tools of judicial deference developed during times of Republican leadership. After eight years of Democratic judicial appointments, bolstered by an immediate appointment of her own to the Supreme Court, Clinton could have expected little constraint from the Third Branch. And Clinton’s use of executive power would likely have been cheered on by allies in academia and the press. The notion that the President should not be a king (or queen) would, I suspect, have been regarded as quaint, and likely derided as Republican bad sportsmanship.

Then, unexpectedly, Donald Trump was elected President. This has given debates over executive power new urgency, and taken them in different directions.

At a rhetorical level, Trump makes the most unvarnished claims of personalized power of any president (maybe since Wilson or Jackson),

and is the most defiant of Congress, of internal checks within the executive branch, and of established norms of civility and reciprocity. For the most extreme example, when sparring with governors over when to end the lockdown during the coronavirus crisis, President Trump declared, “When somebody is the President of the United States, the authority is total.” In that sense, he joins and maybe even accelerates the recent trend toward unchecked presidentialism. His actions, however—as opposed to his words—have mostly raised questions of statutory interpretation, or of the use of undoubted authority in service of problematic motives, rather than expanding inherent constitutional power. In the coronavirus instance, for example, he never attempted to override gubernatorial orders and instead, a few days later, told the governors to “[c]all your own shots.”⁹

An even bigger contrast to his immediate predecessors is that President Trump has faced ferocious push-back from other institutions of government, possibly leaving the presidency weaker that it was under Bush and Obama, rather than stronger. Once the opposition political party took control of the House of Representatives two years into the Trump Administration, his political opponents began an unprecedented series of investigations not just into the conduct of statutorily-created agencies, where congressional oversight power is well-established, but into the inner workings of the White House and Trump’s personal financial affairs, generating legal conflicts over the reach of one-house investigative power and the corresponding scope of executive privilege. Such conflicts have arisen before. The Republican House under Barack Obama conducted investigations into the disastrous events at Benghazi, the flawed Fast and Furious program at the Department of Justice, and the IRS handling of conservative tax exempt organizations; and the Democratic House under George W. Bush subpoenaed the White House Counsel and Chief of Staff to testify about the President’s firing of U.S. Attorneys, to mention a few examples. But never has the Congress employed its investigative powers in so many arenas, with such single-minded intensity, and with so little attempt on both sides to find areas of cooperation or compromise.

Only a few days after Trump became President, the Deputy Attorney General appointed an independent prosecutor to investigate suspected collusion between the Trump campaign and Russia. Although the investigation ultimately found no substantial evidence of such collusion, it had the predictable effect of distracting and weakening the administration, and it led to the indictment and conviction of ten of the president's associates for various crimes unrelated to collusion. That surely weakened this presidency, if not THE presidency.

Perhaps more significantly, large numbers of officials and employees in the executive branch embarked on a self-styled program of "resistance"—using their positions to delay and thwart policy choices of the president. These efforts brought to the fore structural constitutional questions about how "unitary" the unitary executive actually is. Or, to put it more directly: Does the President have control over executive branch policy?

Moreover, virtually every major policy initiative of the administration was quickly challenged in court by combinations of Democratic state attorneys general, advocacy groups, and affected individuals. District courts (usually with judges appointed by the other political party) issued an extraordinary number of nationwide injunctions freezing implementation of administration policy in its tracks. Many, though not all, of these were later stayed or reversed by the Supreme Court, but typically they remained in place for many months, depriving the executive branch of the "energy" and "dispatch" that the founders thought were its hallmark characteristics. Critics of President Trump tended to regard each of these judicial interventions as a vindication of the rule of law, and supporters of the President tended to regard them all as judicial usurpations. In fact, some were justified and some were not, and it is important to distinguish them on their merits.

Finally, and most conspicuously, as this book goes to press, Trump is the third president in American history to be impeached by the House of Representatives. The proceedings raised questions both substantive and procedural. What is a "high crime or misdemeanor"? How should impeachment proceedings be conducted?

In these unsettling times, Americans naturally turn to the foundation stone of the republic—the Constitution of the United States. Surely it will provide guidance about the proper scope and limits of the powers of the presidency, most people think. But the received wisdom among lawyers and scholars downplays the authority of that foundational document. Many of these experts insist that the Constitution be read not as erecting enduring guardrails and limits, but rather as an “invitation to struggle”—a vessel in which to pour the contested and evolving norms of a changing society. This flexible conception of the Constitution has produced a law of separation of powers that is notoriously confused, uncertain, and unpredictable. Justice Brandeis may have been correct that “[t]he doctrine of the separation of powers was adopted by the Convention of 1787 . . . to preclude the exercise of arbitrary power,”¹⁰ but if that doctrine blows with the winds of political context, it does not do the job.

There are many different ways to think about presidential power: historical, institutional, pragmatic, legal. In this book I will engage in only one such approach—a close examination of the constitutional text bearing on presidential power together with its historical context—in an attempt to discern its meaning and internal logic. That is not to disparage other ways of approaching the subject. But I do reject one way, namely the partisan. In a democratic republic, there will be presidents we like and presidents we do not; there will be Republicans and Democrats; populists and elitists. The powers of the presidency do not fluctuate according to our partisan preferences. If it was permissible for President Obama to remake immigration policy on his unilateral say-so, it is permissible for President Trump to do the same. George W. Bush’s national security surveillance programs did not cease with Bush; with cosmetic changes they became the national security surveillance programs of Obama. As voters we can indulge our political preferences but judges and scholars of the Constitution must focus on the institution of the presidency, not the person who holds the office.

The phenomenon of Donald Trump makes thinking seriously about the institution of the presidency more difficult than ever before. There has never been so polarizing a figure at the apex of our politics. Both to

Trump's detractors and to his admirers, all issues are referenda on the man himself. For example, the question "What powers does the president have over criminal law enforcement?" is translated by both sides into the very different question: "What powers should Donald Trump have?" One side says "none" and the other side says "all" and neither side gets its answers from the Constitution. But the Constitution was intended for all times and all kinds of president: the Washingtons, Roosevelts, and Reagans, but also the Tylers, Hardings, and Nixons—not to mention the Clintons, Bushes, and Obamas, and even the Trumps. One hopes it empowers Donald Trump to use the famed energy, dispatch, and secrecy of the presidential office to seek the public good; one hopes it checks Donald Trump and prevents or ameliorates the ever-present danger of demagoguery and arbitrary government. This study began in 2016 with the expectation of continued divided government under a Democratic President, but was completed after the 2016 election, which ushered in an entirely different kind of executive. The lessons seem equally pertinent to both scenarios. America needs a consistent understanding of presidential power no matter which party controls the presidency.

This book attempts to reconstruct the framers' design for the presidency based on the text they wrote, their experience of royal authority in colonial times, and the interpretative battles in the early years of the republic. The founders' conception may or may not be the executive we want for the twenty-first century. It certainly is not what we have, or what the Supreme Court has fashioned for us, or what modern presidents claim. But who in the nation today thinks our current dispositions of power are ideal? The framers wanted an effective president who would not be a king. Let's see how a republican executive was meant to function.

The Text of Article II

At least some of the uncertainty about the scope of presidential power stems from the Constitution itself. Article II of the United States Constitution, the Article that defines the powers of the executive branch, is

the Constitution's least transparent. Compare Article II to Articles I and III, which define the legislative and judicial branches. Articles I and III are informative, logically organized, and seemingly comprehensive. Article II is not. At first blush, it appears haphazard, disorganized, and frustratingly incomplete. A leading legal historian writes that "there is a hole in the text of the U.S. Constitution. The Constitution provides for a legislature, a Supreme Court, and two executive officers. Administration is missing."¹¹ If one expects a detailed blueprint of a modern administrative state, there is indeed a hole. But, this book will contend, if we understand the reasons and experiences underlying the structure of Article II, it has a great deal more to say than the scholars have given it credit for.

Article II is divided into four sections. Section 1, by far the longest, addresses the selection and perquisites of the President. Section 4 is about impeachment. The powers of the President are mostly set forth in Sections 2 and 3. Here we are confronted with two oddities.

Article II, Section 1 begins with the statement that "The executive Power shall be vested in a President of the United States of America." Unlike the first sentence of Article I, which vests in Congress only the legislative powers "herein granted," the language appears open-ended. All power of an executive nature arising from the operations of the national government seems to belong to the President. The late Justice Antonin Scalia wrote that "this does not mean some of the executive power, but all of the executive power."¹² As we shall see, Scalia was not quite right. But why would the framers confine the legislative branch to powers "herein granted," while imposing no such limitation on the executive? That calls out for explanation.

The second oddity is that Sections 2 and 3 list certain specific powers of the President, just as Article I, Section 8 lists the powers of Congress. But unlike the congressional powers listed in Article I, the presidential powers listed in Article II are almost certainly incomplete. Sections 2 and 3 include some seemingly trivial and unimportant powers, such as the power to demand opinions in writing from the principal officers, but fail to address some powers of immense importance, such as the power to direct foreign policy. Article II states that the President shares

power with the Senate to choose ambassadors and make treaties, and that the President has the unilateral power to receive ambassadors from other countries. But that is all it says on the foreign affairs powers. What about all the other foreign affairs powers such as entering international agreements, supporting or opposing foreign insurrections, forming or breaking alliances, voting in bodies like the United Nations, recognizing foreign regimes, locating embassies, or abrogating treaties? Article II is silent. The gap in domestic matters is less glaring but also concerning. The President has express authority to demand the opinions of his officers, but no express authority to give them guidance or commands. That must be an “executive” power, but it is not enumerated.

This book will argue that the two oddities are related: The open-ended first sentence, the “Executive Vesting Clause,” is the locus of the powers seemingly missing from Sections 2 and 3. But that leads us back to the problem with which the delegates began on June 1. What are the limits on that open-ended grant? Without limits, the Constitution would do what Charles Pinckney feared and the delegates sought to avoid: create an elective monarchy. Obviously, we have a lot more digging to do in order to understand how the Constitution creates a president who would not be king.

Coverage and Organization

Long as it is, this book does not cover all constitutional provisions pertaining to the presidency. Almost two-thirds of the words of Article II are found in Section 1, setting forth the qualifications, compensation, oath of office, and selection procedure for the President and Vice President. These were among the most debated features of the entire Constitution at the Philadelphia Convention—second only to the debate over representation of large and small states in the House and Senate. Alas, despite the framers’ attention, the mode of selection they devised was so flawed it has been the subject of five different constitutional amendments,¹³ and the electoral college remains one of the most criticized features of the Constitution. Here, we will not discuss the procedures for selection, except insofar as they cast indirect light on the

powers of the presidency. Rather, this book will focus on presidential powers as set forth in the first sentence of Article II, Section 1, the so-called Executive Vesting Clause, and Sections 2 and 3. These sections were scarcely debated at the Convention and were primarily the handiwork of three committees: the Committee of Detail, the Committee on Postponed Matters, and the Committee of Style and Arrangement. These sections are by far the most important for modern separation-of-powers controversies pitting the President against the Congress, and they deserve close attention.

Two big challenges face anyone trying to understand the founders' conception of the presidency. First and most difficult, the provisions of the Constitution bearing on executive power (other than the veto) were hammered out in committees whose deliberations were not recorded, and were not seriously debated on the floor of the Convention. We are therefore forced to deduce the framers' thinking primarily from what they *did* rather than what they *said*. Second, the debates over the executive branch during the ratification struggle tended to be highly generalized, with few specifics. We therefore have little direct evidence of the public understanding of these provisions of the document.

The book will approach the subject in four stages, each with a different focus and drawing on a different set of sources and materials. Part I presents the first comprehensive account of the entire drafting history relevant to presidential powers.¹⁴ Much can be inferred from textual changes made during the Convention, even when they are unaccompanied by an explanation or even a reported discussion. I operate on the assumption that *changes* are almost certainly deliberate and thus provide a reliable window into the original design. For example, the Take Care Clause started as a simple grant of authority to the President, and ended as a duty (not just a power) on the part of the President to superintend the execution of law by others, presumably subordinate executive officers holding positions created by Congress. This tells us a great deal about how the executive administration was supposed to run. It is especially important to be attentive to the ways in which a change in one part of the Constitution can affect the meaning of another—for example, how the change to Congress's war power from "to make war" to "to

declare war” affected the scope of the President’s discretion to conduct military operations under Article II, or the way in which the Appointments Clause affects the Take Care Clause.

A principal conclusion is that the framers self-consciously analyzed each of the prerogative powers of the British monarch as listed in Blackstone’s *Commentaries*, but did not vest all (or even most) of them in the American executive. Instead, some were vested in Congress, some were vested in the President, and some were denied to the national government altogether. At the beginning of the Convention proceedings, vesting the whole of the executive power in one President was dangerously king-like, and was overwhelmingly rejected. Once the royal powers were parceled out between the branches, with some denied altogether, it ceased to be so dangerous to allocate remaining residual executive powers to the President, subject to the enumerated powers of Congress, which would take precedence. That is why the delegates felt comfortable with the first sentence of Article II, which vests “the Executive Power” in the President.

Part II examines each of the formerly royal powers, which form so large a part of Articles I and II. It looks *backward* from the Constitutional Convention to antecedents in the British constitution, the Articles of Confederation, the early state constitutions, and to the episodes in prior history likely to have been on the minds of those drafting the constitutional language. We know that the framers placed great reliance on the lessons of experience—more, for the most part, than on theory. It therefore makes sense to assume that the constitutional design is a reflection of that experience. For example, it seems likely that the scope of the powers imparted by the Commander-in-Chief Clause reflects not only the powers exercised by the king under that title, but also (and probably more importantly) the movement during the Revolutionary War from congressional micromanagement in the early months to broad delegations of discretion to Commander in Chief Washington during later phases of the war. Every issue of executive power contemplated by the drafters of the Constitution had a history. The book’s interpretive assumption is that that history, more than any other evidence, casts light on constitutional meaning.

This Part also looks *forward*, to the earliest debates over constitutional meaning. Almost immediately after ratification, latent ambiguities and gaps appeared that the constitutional text could not uncontroversially resolve. These debates took place among President Washington and his advisors, in Congress, in public discussion, and sometimes in the courts. They are persuasive evidence about original meaning because the participants shared the same linguistic and experiential universe in which the Constitution was drafted and ratified—indeed, many were the same men who drafted and ratified it. The goal is to uncover the range of meanings reasonably ascribed to the text, as well as to identify points of consensus. If Washington, Madison, Jefferson, and Hamilton all agreed on a meaning, that meaning is the most probable; if they were in disagreement, then the text may simply be ambiguous, and must be construed according to other lights.

Readers accustomed to the casual way in which many modern leaders approach their duties to the Constitution might question the assumption that early debates and decisions were a conscientious form of constitutional interpretation, but we know that Washington and his colleagues carefully weighed the legal implications of their thoughts and deeds. “As the first of every thing in our situation will serve to establish a Precedent,” Washington wrote to Madison, “it is devoutly wished on my part, that these precedents may be fixed on true principles.”¹⁵ Historian Jonathan Gienapp has gone so far as to describe the period between 1789 and 1798 as a “Second Creation” of the Constitution—no less important to constitutional meaning than the text, framing, and ratification itself.¹⁶

This book will not extend these inquiries beyond the early years of the republic because subsequent practice and precedent cannot contribute much, if anything, to our understanding of the founders’ conception of the presidency. Subsequent practice and precedent may be significant, even dispositive, for constitutional interpretation in the courts today, however, that is not because it casts light on the original constitutional design.

Part III turns to the text and organization of Article II, offering a logical explanation for the organization of the powers of the presidency and

showing how that logical structure provides a simpler and more satisfactory basis for approaching separation-of-powers conflicts between Congress and the President than the current approach, which is based on Justice Robert Jackson's celebrated three-part framework in the *Steel Seizure* case. The primary source here is the text and structure of the Constitution itself. Part IV then analyzes a range of contested separation-of-powers questions, both foreign and domestic. The point is not to provide a final resolution of these conflicts, but to demonstrate the preceding analysis provides a more determinative starting point than most scholars have believed. My hope is to show that separation-of-powers conflicts can often be resolved, at least provisionally, on the objective basis of text and structure, without wading into subjective swamps of pragmatism, functionalism, and political expediency.

Interpretive Method

In the past decade, there has been a lively debate between those who seek to understand the Constitution on the basis of what the framers and ratifiers were likely to have been attempting to achieve by their choice of language ("original intent"), and those who look to the meaning that a knowledgeable and reasonable interpreter would likely have given to the words at the time of adoption ("original public meaning"). This author believes the difference between these approaches has been exaggerated. Because legal and constitutional language is chosen for the purpose of affecting future events, a reasonable interpreter would read the words with that intention in mind. Moreover, to the extent we can determine what participants in the constitutional process actually understood the Constitution to accomplish, this is the best possible evidence of what a reasonable and well-informed person of the time would think it to mean.¹⁷ This suggests that a practitioner of original public meaning will necessarily rely on much the same sources and methods as a practitioner of original intent. In any event, this book will present all available evidence both of linguistic meaning and of intent. I regard this approach as a species of intellectual history, in which we do our best to understand past events as the actors would have understood them at

the time, unbiased as nearly as possible by our own preferences and subsequent experience.

A different set of readers may object to the interpretive method of this book because it is too tied to eighteenth-century thinking and not sufficiently attuned to the functional needs of our modern society. Original meaning is only one element in a modern constitutional argument. Precedent, long-standing practice, practical and pragmatic realities, and even (to many judges) normative judgments are part of any constitutional lawyer's toolkit. Even scholars critical of original meaning as the primary basis for interpretation, however, typically recognize the value of text and history, at least as a starting point. To quote just one thoughtful non-originalist:

A search for the original intent of the framers provides no panacea for the difficulties of legal analysis. Even so, constitutional history is always pertinent for what it reveals of the governmental failures the framers were trying to correct, and the general purposes of their scheme. Just as they learned from the experience and ideas of their forbears, we can learn from them.¹⁸

My general view is that constitutional interpretation begins with an historically-informed understanding of the text but does not stop there. It is often necessary to consider longstanding practice—the “historical gloss”—that 235 years of constitutional government have stamped on the text, both by the courts and by political bodies, and the fact that economic, social, and technological changes sometimes entail a certain “translation” in order to preserve the original meaning under transformed circumstances.¹⁹ But it is important to keep these stages, or modes, of interpretation distinct. Before considering subsequent developments, the interpreter should first examine the text in the light of its historical context—and do this, as nearly as humanly possible, with the objective eye of a linguist or historian, unpolluted by modern politics or results-orientation. This book is not about the later steps, but only the first.

In our contentious and polarized times, the text and original understanding of the Constitution take on particular significance because

there really is no other consensual starting point. There is a reason that the House Report on impeachment of President Trump was chock-full of quotes from the framers, and so were the responses of Team Trump. Americans in the twenty-first century do not agree about what the “functional needs” of our modern society are, or what “normative considerations” should apply. These appear to be masks for ideological or partisan interests—all the more so since they seem to shift from side to side when the presidency shifts from one party to the other. And given the current make-up of the federal judiciary, it is not enough to wave the magic wand of “functionalism” and assume that members of the judiciary will come to a consensus about what functionalism demands. Constitutional text and original meaning are the only hope we have for finding principles that could constrain modern assertions of presidential prerogative.

Especially for those who believe that the executive branch has become *too* imperial, and needs to be scaled back, the original meaning is an indispensable resource. Functionalism has the inevitable tendency to favor fast, efficient, and decisive action, which tends to mean executive action. The academy and much of the judiciary favored a functionalist approach for many decades because it provided more flexibility for presidents of which they generally approved. But flexibility is not a virtue if the times call for drawing lines and saying that executive power needs to be confined within its constitutional compass.

It is important to offer a caveat about sources: namely, that our knowledge of the drafting and ratification of the Constitution is based on incomplete and sometimes unreliable texts. Our principal source on the debates at the Constitutional Convention, Madison’s Notes, published in Max Farrands’s 1911 edition of *The Records of the Federal Convention*, are sometimes read by naïve readers as if they were a transcript. They were anything but. James Hutson has demonstrated that Madison’s Notes cover about a tenth of what was said, and Mary Sarah Bilder has impressively shown that the Notes are in many instances idiosyncratic to Madison (as well as incomplete).²⁰ Many of the state ratification debates are lost, were destroyed, or were never recorded. Papers from the Committee of Detail, which are particularly important to the

analysis here, were found among the papers of James Wilson at the Historical Society of Philadelphia and the papers of George Mason held by his granddaughter. Who knows what is missing? As to letters and newspaper essays, we have only what happened to survive. This book nonetheless relies on these sources, particularly on Farrand, for the reason that there is nothing better. Because we focus here on drafting history more than on comments made in debate, and especially on the work of the three committees, Bilder's discoveries about Madisonian manipulation of his notes about the debates are less concerning than they might be on other issues. Our knowledge of the Committee of Detail's drafts is independent of Madison's notetaking.

The secondary literature bearing on these issues is vast. I have made no attempt to provide comprehensive citations. Apologies to scholars who have been unjustly neglected.

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