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Introduction

DONALD TRUMP has exposed the fragility of American democracy, pushing presidential power to unprecedented extremes. During his first term, he did it most egregiously by refusing to accept the outcome of the 2020 election and inciting a violent insurrection to keep himself in office. He also obstructed justice during the Russia probe, weaponized the Department of Justice, repeatedly violated the Constitution's emoluments clauses, summarily denied all congressional requests for documents and testimony, and in numerous other ways orchestrated a presidency untethered to the rule of law and antithetical to democracy.

He lost his 2020 reelection bid, but just barely—seventy-four million people voted for him, and there is no evidence that he lost due to his autocratic behaviors. Indeed, were it not for the COVID-19 pandemic, he likely would have been reelected. Democracy lucked out. But he ran again and won in 2024, waging a campaign that was even more transparent and emphatic about his authoritarian intentions—pledging to prosecute and jail his political enemies, to deploy the military against “the enemy within,” to root out disloyal civil servants, to deny licenses to media organizations that cross him, and much more. His former chief of staff General John Kelly considered him a fascist. His former chair of the Joint Chiefs of Staff General Mark Milley said that he is “fascist to the core” and “the most dangerous person to this country.” The warning signs were everywhere. Yet he won the election anyway.

The nation's Founders were well aware of just such dangers, and they were deeply concerned that a demagogue might gain the presidency and attempt to seize control of government and society. Their response, following James Madison's dictum that "ambition must be made to counteract ambition," was to erect an intricate constitutional architecture of checks and balances designed to prevent any person or faction from securing dominance over the others. They crafted the presidency as an integral part of that system—firmly embedded within it, highly constrained by it, and weakly powered. There would be no strongman.

But after a long and largely successful run, their great experiment is now in danger of failing. The United States is in the midst of a true political crisis, one that could well lead to a breakdown of the nation's long-standing democratic system and its replacement—nominally under the same Constitution—by a *de facto* system of strongman rule.

How can this be happening? Why does this nation, long the world's beacon of democracy, find itself in such a perilous situation?

Any effort to seek answers to these questions would naturally need to shed light on Trump's electoral success, his populist base, and the socioeconomic and political forces that gave rise to the kind of searing anti-system anger and disaffection that propelled him to the presidency. Twice. Fortunately, there already exists a rather large scholarly and journalistic literature on these matters, and, while we will cover this ground in our own analysis and in our own way, it is not our main focus. This is not a book about Donald Trump. And it is not a book about populism.

Our aim, rather, is to place the current crisis of democracy in larger perspective. The fact is, a president intent on behaving like a strongman can only do so with real consequence if he is able to engage in far-reaching unilateral actions virtually unconstrained by the checks and balances, procedures, and norms of our governmental system. Having authoritarian aspirations is not enough. He must be capable of following through on them, which means that the presidential office and the institutional system surrounding it, including the courts, must endow him with the vast power necessary to do that. The power must be there. Otherwise, the dangers

inherent in an aspiring strongman president would be neutered. He would be all bark and no bite. Democracy would live on.

But the power *is* there, at least to a very troubling degree. And that is the problem. The sheer de facto power of the presidency—its actual power in political practice, if not in black-and-white written law—has grown so great over the last two hundred years, particularly during last half century, that presidents now have expansive opportunities to make policy and shape the nation's fate on their own via unilateral action, often regardless of whether their behavior is consistent with traditional democratic procedures and norms. Not all presidents will take advantage of these opportunities. But those who aspire to be strongmen will—because the exercise of unchained unilateral power, shorn of democratic constraint, is the essence of what strongman leadership is all about.

Here, then, is the central question: How did our constitutional system of checks and balances, designed to constrain the presidency and protect against a strongman, give rise over the years to a presidency so powerful that, in the wrong hands, it may have the capacity to destroy American democracy? As legal scholar Peter Shane starkly frames it, how can it be that presidential power has expanded to the point that “Madison’s nightmare” has become the looming danger of our times?¹

That is what this book is about.

Two Perspectives on Presidential Power

The accumulated scholarship on the presidency is immense, arising from the interdisciplinary contributions of historians, legal scholars, and political scientists and reflecting a variety of approaches and methods. Much of this work deals in one way or another with how presidents have tried to exercise and expand their power in order to lead the nation, achieve their policy objectives, and make their marks on history.

There is much to be learned here, thanks to the interdisciplinary nature of the existing scholarship. But there is a downside as well, because scholars often fail to look beyond their own academic silos to benefit from what outsiders are saying and finding. The upshot is

the emergence of disjointed themes about presidential power that have never been reconciled and have caused confusion.

THE PRESIDENCY IS TOO POWERFUL

Legal scholars widely agree—based on developments in constitutional and statutory law and how presidents have used, manipulated, and abused the law to their own advantage—that presidential power has vastly increased since this nation’s founding, particularly in modern times. This perspective is so well accepted that it is largely taken for granted. In a 2008 article in the *Boston Law Review*, for example, William P. Marshall was moved to say, “The notion that presidential power has expanded exponentially since the time of the framing is, of course, uncontestable.”² Richard Pildes, writing in the *Harvard Law Review*, offers a similar assessment: “It is widely recognized that the expansion of presidential power from the start of the twentieth century onward has been among the central features of American political development.”³

Legal scholars also frequently agree that this growth of presidential power now endangers democracy. Such criticisms are common throughout the legal literature, increasingly so during recent decades, but three contributions stand out. In 1996 Martin Flaherty published a much-cited piece in the *Yale Law Journal* asserting that the presidency had become “The Most Dangerous Branch” (the title of the article) and launching an assault on legal arguments that support expanded presidential power. More than a decade later, two profoundly important books appeared: Peter Shane’s 2009 *Madison’s Nightmare* and Bruce Ackerman’s 2012 *The Decline and Fall of the American Republic*.⁴ Both pointed to excessive presidential power as the prime threat to American democracy and argued for major reforms.

Note that these books were published well *before* Donald Trump upended American politics, brought authoritarian inclinations to the presidency, and showcased just how much damage an autocratic president could do despite the protections of separation of powers. It’s fair to say that, prior to the shock treatment administered by Trump and despite the troubling unilateral excesses of George W. Bush, who flouted the law in torturing prisoners and

surveilling American citizens, most Americans seemed blissfully unaware that such things could actually happen in this country. But Shane and Ackerman had the insight, early in the game, to call out the dangerous implications of Bush's unilateralism and see the larger authoritarian threat that lay ahead. And among legal scholars writing on the presidency, they weren't alone.⁵

What about historians? The Constitution, statutory law, and jurisprudence serve to narrow and concentrate the focus of legal scholars, but historians are free to range much more broadly. Nonetheless, as Julian Zelizer observes in his perceptive overview of political history as a field, for decades there has been a good deal of coherence in how historians view and approach the presidency.⁶

During the first decades after World War II, liberal historians—who dominated the field of political history (and still do)—embraced the presidency as the key institution for advancing liberal values and the legacy of the New Deal. They generated a scholarly literature that situated presidents as the central actors in the making of American political history, and they saw growing presidential power as a force for good. By the early 1970s, however, their views began to shift. The United States was deeply enmeshed in the Vietnam War, which had proven a presidentially contrived disaster filled with abuses of power. And Richard Nixon harnessed the presidency for criminal purposes in the Watergate affair. In light of these developments, liberal historians came to see the dangerous side of expanded presidential power, and they wrote about it.

The altered assessment was driven home most forcefully by Arthur Schlesinger Jr., whose 1973 book *The Imperial Presidency* became an instant classic.⁷ His argument was that although presidents need to be powerful in order to provide an effective government capable of meeting the needs of the nation, they had gained way too much power in certain realms, especially in war and national security, and reforms were desperately needed to rein them in and give Congress a greater decisional role.

Congress did enact a spate of reforms intended to reassert its institutional prerogatives. And Presidents Gerald Ford and Jimmy Carter were appropriately mindful of staying in their lanes. But this brief period of congressional resurgence and presidential restraint didn't last. With the election of Ronald Reagan in 1980, the

American political world became much friendlier to presidents—and the expansion of formal presidential power continued its upward trajectory. As Schlesinger himself put it, “Whatever else may be said about Ronald Reagan, he quickly showed that the reports of the death of the presidency were greatly exaggerated.”⁸

In the decades since, the bloom has stayed off the rose as far as political historians are concerned. As in the past, these historians continue to compose, in Zelizer’s words, a “presidential-centered history with an emphasis on the expanding power of the office”—but one that now recognizes its dangers.⁹

THE PRESIDENCY IS UNDERPOWERED

Political scientists are well aware that presidential power has increased dramatically since the early days of the republic, with acceleration during modern times. It is easy to find examples of work that strikes exactly this theme. The New Deal was barely established, for example, before Edwin Corwin was arguing that “the history of the presidency is the history of aggrandizement.”¹⁰ Much more recently, Scott James nicely captured the upward trajectory of presidential power throughout American history and noted the tension between the promise (of leadership and effective government) and the fear (of autocracy) that has accompanied its rise.¹¹ In a superb update to Schlesinger’s classic work, Andrew Rudalevige penned *The New Imperial Presidency*, documenting the growth and dangerous excesses of presidential power with special (but not exclusive) attention to George W. Bush’s above-the-law unilateralism.¹²

But while this kind of thinking well reflects what political scientists have come to know about the presidency, it is not typical of the work political scientists regularly do in building a body of research. Those efforts have focused, first and foremost, on situating presidents within the American separation of powers system, particularly its cumbersome legislative process, and recognizing the many obstacles that same system puts in their way as they attempt to solve national problems and meet the lofty expectations thrust upon the office.

By far the most influential book ever written on the presidency is Richard Neustadt’s *Presidential Power*, first published in 1960.

Neustadt's central theme was that, because presidents were forced to operate within a complex system of checks and balances, they had nowhere near enough formal power to meet the expectations of the American public and exercise true leadership. The only way for them to get enough power to succeed, he argued, was to proactively deploy their personal resources—their knowledge, experience, charm, charisma, energy—to bargain with members of Congress and the bureaucracy and persuade them to go along with presidential objectives. As Neustadt famously put it, “presidential power is the power to persuade.”¹³

Neustadt's personalization of the presidency rather quickly fell out of step with the times. As the administrative state ballooned in size, scope, and complexity, and as the presidency became much larger and fully structured in response, the formal powers of the office captured the attention of political scientists. In this context, explanations of the presidency via personalization receded into the background.¹⁴ What did not recede into the background was Neustadt's insistence that the presidency was underpowered and that this was the key to understanding presidential behavior and (lack of) success. In his 1990 update to *Presidential Power*, he began by underlining this core theoretical point. “Weak,” he said, “remains the word with which to start.”¹⁵

By then, political scientists who study American politics had broadly endorsed the theme of presidential weakness. They still do. This is largely because their main focus has been on how public policies are made within the separation of powers system and on the roles played and influence wielded by various actors—presidents, members of Congress, interest groups, voters, bureaucrats, judges, donors—in determining which policies are ultimately adopted. Given the nature of the system and the plain facts of the policy process that stare any knowledgeable observer in the face, it is quite clear that presidents usually confront enormous obstacles in getting their favored policies enacted into law—and that, except under special circumstances, they do not have nearly enough power to get what they want.¹⁶ As George Edwards famously put it, presidents tend to influence the policy process “at the margins” and not in a big or comprehensive way.¹⁷ Presidential power, such as it exists, is exceptional, episodic, and hemmed in by an uncooperative

Congress that makes the law, an independent judiciary that interprets it, powerful interest groups that often resist change, and a fickle public that ultimately stands in judgment.

Students of American politics have also produced a large and lively body of research on the executive branch: the president's own bailiwick, where his power should presumably be at a maximum in shaping policy. But that is not the theme that comes across. Early studies of American bureaucracy by such scholars as Theodore Lowi, Grant McConnell, and Marver Bernstein argued that interest groups had captured the regulatory agencies and colonized whole realms of the bureaucracy, engineering policy toward their own ends—and insulating agencies from democratic control, including control by presidents.¹⁸ As the “new institutionalism” took root, control of the bureaucracy and its policymaking became a prime target of research in its own right—but the analytic focus was on Congress, not presidents. This line of work showed how Congress uses its authority to create and structure government agencies in such a way as to ensure, so far as possible, that the agencies pursue Congress's stated policy preferences in future years and not be swayed by the preferences of presidents or opposition interest groups.¹⁹ The bureaucracy is often designed, in other words, to make it difficult for presidents to exert control. More generically—and putting Congress aside—principal agent analyses of the hierarchical relationships purely within the executive branch made it clear that, because bureaucrats possess expertise and experience that presidents don't have, presidents have difficulty controlling them—and difficulty, therefore, imposing their policy preferences on their own bailiwick, even ignoring all the problems emanating from Congress.²⁰

Tellingly, when political scientists have focused their research on the realm where presidential power is clearly at its greatest—matters where policy and national commitments are determined by the president's unilateral actions, particularly matters of war and national security—there has still been an emphasis on how they are checked by other actors, notably Congress and the courts. The thrust of this literature is that, although presidents may act unilaterally, they cannot do anything they want and are often constrained—affecting how they use their unilateral powers, and

indeed, whether they use them at all.²¹ In the latest contribution to this research, Kenneth Lowande goes even further, arguing that when presidents exercise their unilateral powers, very little of significance follows. In his view, which would surely confound legal observers and historians (and confounds us too), the president's unilateral powers are largely performative, inconsequential, and, in the final analysis, a "false front."²²

Almost all research projects on American politics are about some piece of the much larger whole. They are, in that sense, narrowly focused contributions. This is the way science normally works, by piecing things together bit by bit. Occasionally, though, a big-think contribution comes along that is especially insightful and influential. Since Neustadt's *Presidential Power*, the one work on the presidency that most stands out in that respect is Stephen Skowronek's *The Politics Presidents Make*.²³

Skowronek's analysis underscores the rarity of presidential innovation and impact. Based on extensive historical evidence, he argues that a president's power is shaped by the larger political context in which he governs—notably, by whether the prevailing "regime" is resilient or vulnerable and whether the president is affiliated or opposed to the regime he inherits. The only presidents able to exercise transformational power, he argues, are those few who are elected in opposition to an especially vulnerable regime, as FDR was in 1932 and as Reagan was in 1980. All other presidents find themselves differently situated in "political time" and heavily constrained, some impossibly so.

There is a good bit more to the political science literature on the American presidency than we are able to discuss here. But the general point should be clear enough. Given the alarming exercises of presidential power that have figured so prominently in the writings of legal scholars and historians, it would be entirely appropriate for political scientists who study the presidency to wave red flags in exactly the same way that Peter Shane, Bruce Ackerman, and Arthur Schlesinger have, warning that excessive presidential power represents a danger to American democracy. But that sort of thing is uncommon in the executive politics niche of political science. It requires a big-think perspective that is also attentive to normative considerations, which is out of keeping with the field's customarily

narrow and technical perspective on politics and policymaking. The bulk of the research promotes a theme of presidential weakness. With a few exceptions, there are no danger signs, no red flags.²⁴

Squaring the Circle

Different academic fields, then, have generated very different perspectives on presidential power. In his overview of the field of political history, mentioned earlier, Zelizer takes historians to task for not paying serious attention to the political science research on presidents being underpowered, arguing that there is much to learn from this work and that it would rightly qualify the historians' traditional emphasis on the centrality of presidents and the dramatic rise in presidential power. We agree. And we'd say the same in applying Zelizer's logic to legal scholars, or political scientists for that matter, who also tend to overlook the work taking place in these other fields.

But there is another important lesson to be learned here as well: both of these perspectives on presidential power are true at the same time. It is true that presidents have gained such expansive power that it threatens American democracy. And it is also true that presidents do not have nearly enough power to achieve their policy objectives and meet the expectations of the American people. The reason that both can be true, and that there is no conflict between them, is that they are rooted in very different aspects of presidential power.

Claims by legal scholars and historians that presidential power has grown excessive and dangerous are primarily focused on the president's capacity to make policy unilaterally, *outside* the legislative process and particularly (but not only) in policy realms—international relations, national security, and trade, for example—where presidents are relatively free to act without much constraint. Political scientists, on the other hand, are quite right to claim that presidents are generally too weak to get much of consequence accomplished *within* the legislative process, which almost always involves a great many veto points, opposing actors, and powerful special interests. And they are also correct to claim that, traditionally, presidents have even had difficulty pursuing their policy goals through the bureaucracy, due to the expertise, experience,

resources, and special interests that bureaucrats and their allies can wield in resisting the presidential agenda.

These constraints are very real. But that is precisely the reason that presidents, in their pursuit of legacy and greatness, have aggressively sought to *circumvent* them through innovative, often legally questionable (or illegal) means of getting their way through unilateral action—leading, over the decades, to a vast and dangerous expansion of presidential power along numerous fronts. It is true that, even when acting unilaterally, presidents confront a variety of constraints—arising from actors, laws, and political considerations. As we will show, though, that has not stopped them from pushing out the bounds of their traditional powers and, most recently, engaging in behaviors that threaten democracy and the rule of law.

Studies of presidential power, then, tend to breed confusion because the various scholarly perspectives cut across disciplines and appear on the surface to be in conflict. But, in fact, they fit together rather nicely and provide a coherent whole. Confusion also arises, we should note, for yet another reason: even within disciplines, power is a big-tent concept. It includes starkly different aspects under the same general rubric, and academics of all stripes (as well as nonacademics) are content to use it in its generic form most of the time. So when claims are made that presidents are too powerful or that they are not powerful enough, it is rare for anyone to ask, “What aspects of power are you talking about?” Instead, generic statements about power are supposed to speak for themselves. Which, of course, they don’t. The result, once again, is the appearance of conflicting claims when in fact there is no conflict at all.

One example of this confusion strikes close to home. Our 2016 book, *Relic*, carried the subtitle *Why the Constitution Undermines Effective Government—and Why We Need a More Powerful Presidency*.²⁵ In this work, we endorsed making presidents “more powerful” in a very specific and circumscribed way: by giving them new agenda-setting powers *in the legislative process* via an expansion of the “fast track” model that, for more than forty years, has been used for international trade agreements. The purpose was to overcome the many pathologies of the normal legislative process, streamline its operation, and make it more effective. We did *not*

argue that presidents should be granted more *unilateral* power—which is where the danger lies—and, in fact, we cautioned against it. Lamentably, though, our generic language in the subtitle suggested (particularly to those who didn't read the book) that we supported any possible expansion of presidential power, when we certainly did not. The fault was ours. We were simply not as clear as we could have been.

Explaining the Trajectory of Presidential Power

We're writing this new book because American democracy is in crisis, and because the presidency—the lead actor in that crisis—has become so powerful that it now threatens to substitute autocracy for our centuries-old system of self-government. We began by highlighting the horrors of the first Trump presidency, but Trump is just a small part of a much larger historical trajectory of presidential power—a trajectory that has become very dangerous, has little to do with any one person, and is driven by fundamental forces lying at the heart of American society and its politics.

Our aim here is to identify those fundamentals and to explain how an office that was intended to be so limited has seen its powers grow to the point that they enable, if the occupant seeks it, what can rightly be called a strongman presidency. The answers we provide, developed at length in the chapters ahead, are anchored in a simple theoretical argument about the historical trajectory of presidential power. Here, very briefly, are the basics of that argument.

THE MOTIVATIONAL COMMONALITY

We ultimately have our eyes on the president's powers of unilateral action, because these are the powers that have grown so expansively over time and are potentially so dangerous to democracy. Their autocratic exercise, unconstrained by democratic norms and procedures, is the essence of a strongman presidency. That said, the long-standing weakness of presidents in the normal policy process plays an important part in our larger story. We need to appreciate presidential weakness and its structural causes in order to understand why the strongman presidency emerged as it did.

Underlying this interplay between weakness and strength is a crucial motivational commonality that unites all presidents and is the appropriate starting point of any attempt to understand presidential power. The commonality is that all presidents care, first and foremost, about establishing a legacy as great leaders; and in order to establish such a legacy, they need to wield sufficient power to achieve notable and enduring accomplishments. Their time is short, their aspirations large, and their legacies demand that they move aggressively to overcome weakness, expand their power—and, when situations call for it, embrace unilateral options that circumvent the normal policy process and enable them to act on their own.

This motivational commonality is the beginning of an explanation, but only the beginning. Although presidents want to be powerful, and although their will to power lends a predictable dynamic to their behavior, there is no guarantee that they can have anything close to what they want. For the rest of the explanation, we need to recognize certain key aspects of American society and politics that, in conjunction with the motivational commonality, have propelled the rise of presidential power over time to altogether dangerous heights.

Two aspects stand out. The first is the rise and expansion of the administrative state. The second is the partisanship of the president, along with the ideology and agenda of the party he leads. These core components combine with the motivational commonality to produce what we call the two logics of presidential power. One is symmetric, applying to all presidents in roughly the same way regardless of party. The other is asymmetric, applying very differently to Republicans and Democrats. Both are centered on the administrative state. And both, in political practice, operate at the same time to shape the trajectory of presidential power.

THE SYMMETRIC LOGIC

All modern nations have administrative states. And for a very good reason: they couldn't do without them. The administrative state is essentially just the executive component of government, consisting of all the various government agencies whose job it is—on the basis of formal authority, expertise, professionalism, merit, and

specialized organization—to translate the written words of public policy into concrete reality for the rest of society. This they do through the execution of policy—as the Food and Drug Administration does, for example, when evaluating new drugs—but also through rulemaking, adjudication, investigations, enforcement, guidance, information-gathering, data analysis, reports, and assorted other means. Such bureaucracy is arcane and sometimes slow and frustrating. But no government could hope to address its nation’s problems and meet the needs of its citizens without an administrative state to make it happen.

For all presidents, whether Republican or Democrat, the growth of the modern administrative state—beginning in the very late 1800s and increasing rapidly in the decades thereafter—opened up vast opportunities for the exercise and expansion of presidential power. As government became bigger and more complex, there was a strong demand for what presidents had to offer. The American public wanted presidents to take the lead. And Congress and the courts, recognizing that presidents were the only practical means of managing the administrative state and promoting its effectiveness, were willing to grant them discretion, deference, and resources.

The door was thus opened, and presidents were happy to walk through it. They had always been motivated to seek power, but an expanding administrative state gave them a lot more to work with than in the past. George Washington, James K. Polk, and Ulysses S. Grant were chief executives who sat atop the executive branch—yet there was very little *in* the executive branch to empower them. Not so for modern presidents. For them, the administrative state offers a cornucopia of specialized agencies, discretion-filled policies, trained personnel, positions for loyalists, monetary and material resources, and countless other means of exercising power and promoting their own agendas. It also affords them countless opportunities to engage in unilateral action—to launch military actions by relying on the defense and intelligence components of the administrative state but also to advance their domestic policies by taking action through the many domestic agencies that control the vast range of policies and personnel.

For the most part, presidents can’t expect the diverse parts of the administrative state to automatically align and do their bidding.

Communication, coordination, and monitoring are inherently difficult in a large bureaucracy. Bureaucrats, moreover, have their own interests, and resistance is not unusual. So, as part of their pursuit of power, presidents have had to build mechanisms of control that allow them to overcome these problems. To that end, they have constructed an “institutional presidency,” housed in the Executive Office of the President, that gives them an organizational capacity for *centralizing* executive policy and imposing presidential control from above. In addition, they have *politicized* the bureaucracy, appointing loyalists to top positions of bureaucratic authority who can be counted upon to promote the president’s agenda.

In short, big government generates presidential power. It does so because presidents want power, and because big government affords them many opportunities to get it. There is nothing partisan about this. It is symmetric across the parties: Republicans and Democrats alike are caught up in the same overarching logic and thus the same types of behavior. They all seek to establish legacies as great leaders, and they all use their positions of executive leadership to try to control the administrative state and take advantage of everything it has to offer them.

THE ASYMMETRIC LOGIC

In one key respect, Republicans and Democrats are very different in their connection to the administrative state, and this difference, which has become increasingly pronounced over time, has a profound effect on how they approach and use presidential power. There is an asymmetric logic at work, one that operates at the same time as the symmetric logic but with radically different—and ultimately very dangerous—consequences. It is the combination of the two that propels the trajectory of presidential power.

The asymmetry comes about because, except for the defense, national security, and foreign policy agencies, along with a few others, the administrative state is almost wholly an embodiment of progressive values—constructed to help people in need, regulate business, protect the environment, secure the rights of minorities and women, and so on. Democrats, accordingly, have embraced this administrative state as theirs, filled with agencies and programs

they value and support. Since the Reagan years, by contrast, Republicans have increasingly seen it as a freedom-threatening incursion on individuals and businesses, a costly behemoth of taxing and spending, and a coercive promulgator of progressive values: and they have sought to stifle and severely retrench it.

In the early decades following the Progressive Era, as the administrative state grew and put down roots, conservative Republicans and their business and intellectual allies railed against Democratic presidents—Franklin Roosevelt, Harry Truman, John Kennedy, Lyndon Johnson—for advancing big government and progressive programs. But the Republican Party was fairly diverse and moderate at that time, and its staunch conservatives were shouting from the margins. The party as a whole, moreover, was in no position to take on the administrative state even if it wanted to. Congress was controlled by Democrats, who stood ready to defend it against any opposition. The courts were filled with judges who accepted it as a modern reality and adapted their jurisprudence to accommodate it. And the bureaucracy was in the expert hands of experienced civil servants who were adept at defending their turf.

Yet conservatives wouldn't forever reside at the margins. They rose to political power during the late 1970s, elected Ronald Reagan president, took control of the Republican Party (eventually), and dedicated it to undermining the administrative state. The obstacles to change were the same as before. But conservatives hit upon a novel solution that, for professed believers in limited government and individual liberty, has to be regarded as the ultimate irony: they would endorse and pursue *a presidency of extraordinary power*, capable of dominating, retrenching, and sabotaging the administrative state *unilaterally* through top-down presidential control of the executive.

Hence the new asymmetry. Democrats didn't need a president to pursue such domination, because the administrative state was largely performing functions that they supported. If the agencies and programs just did their jobs and carried out their legal missions, the progressive agenda would be advanced. This state of affairs, moreover, was the prevailing status quo; and as political scientists have long known, it takes much less power to protect the status quo than it does to change it. Conservative Republicans were

on the other end of this power equation. They were the ones seeking to upend the established system. And to do so, they recognized, they needed a vastly more powerful presidency than the Democrats did.

Their pursuit of extraordinary power took decades, and it continues today. Its first stirrings can be seen in the “administrative presidency” of Richard Nixon’s final two years in office. But it was Reagan who embraced it as a full-blown, systematic strategy of conservative governance. This involved greatly magnifying the presidency’s traditional reliance on centralization and politicization to enhance top-down control. But it also involved a radical move of great historical consequence: Reagan’s Department of Justice, led by Ed Meese, began developing the Unitary Executive Theory (UET), a new line of legal theory that rejected the traditionally understood constraints of statutory law and separation of powers and claimed that the Constitution grants presidents vast inherent powers of unilateral action and supreme authority over all agencies within the executive—what they do, how they do it, how they are staffed, and what decisions get made.

Over time, the theory came to be more fully developed and diversified by conservative legal scholars. It also was sharply criticized, not simply for its questionable jurisprudence but for its potential to unleash and legitimize strongman powers threatening to democracy. Those fears appeared to be borne out during the presidency of George W. Bush, whose administration relied on the UET to justify controversial actions—notably, the torture of prisoners—that violated existing law. Prominent legal scholars soon began pointing to Bush as the poster boy of an antidemocratic president.

Bush, however, was but a pale imitation of the real thing, which was coming soon enough. Conservatism itself was slowly being transformed and rendered much more extreme by the rise of right-wing populism, which began to threaten democracies throughout the developed West during the 1990s, was supercharged in the United States by the emergence of the Tea Party in 2010 and the election of Donald Trump in 2016, and became the controlling force within the Republican Party. The party’s pursuit of extraordinary presidential power was no longer just a strategic choice. It was now magnified and driven to extremes by an anti-system populist base

that yearned for *strongman* leadership: a president who would exercise unilateral power untethered to traditional democratic norms and procedures.

In Donald Trump, they found their man—and put American democracy in great danger. That danger was very real during Trump’s first term and is sure to magnify during his second. There is good reason to think, moreover, that it will persist well after he leaves center stage. For with the Republican Party in the thrall of populist forces—an entrenched feature of American politics that will not end soon—future Republican presidents will have much the same incentives to embrace the role of the strongman.

In the decades since Reagan, then, the asymmetric logic has grown increasingly influential, so much so that it has generated what amounts to an asymmetric presidency, bifurcated by party. Republican presidents do not approach presidential power in the same way Democrats do. They have gone beyond the “normal” incentives that have traditionally shaped presidential behavior—and that still shape the behavior of Democratic presidents—to pursue a presidency of such expansive unilateral power, with such disregard for the traditional requirements of democracy, that it threatens to replace American democracy with a *de facto* system of strongman rule.

Democracy

What do we mean by democracy? This is a concept that has been written about, debated, and dissected for over two thousand years, and to this day there is no consensus on its exact details or definition. As we use the term throughout this book, our emphasis is on features of democracy that are simple, basic, and familiar to anyone who studies the topic. Among them, we see democracy as a system of representative government in which the key officials are chosen via free and fair elections among competing parties; election results lead to the peaceful transfer of power from the losers to the winners; and governing institutions give substantial weight to majority rule, but with due protection—by means of the courts and other institutional checks on the majority—for the rights of individuals and minorities, such as freedom of speech, religion, press, and assembly.

In our view, all these features are important requirements that need to be met if a governmental system is to be genuinely democratic. And in the pages that follow, all of them will come into play at various points as we explore how the American system has come under threat and been weakened by excessive presidential power. Here at the outset, though, we want to highlight two additional features of democracy that are especially central to our analysis and are therefore worth underlining.

The first is the rule of law. Democracy is a system of laws, not of individuals, and no one person is above the law. This applies with special gravity to presidents. They are, by far, the most powerful players in the American system; they are the best positioned to act unilaterally without serious regard for the law; and they are potentially the most dangerous. They must abide by the rule of law and see it as a legitimate constraint on their own behavior if democracy is to function properly and survive.

The second has to do with the government's capacity to convert policies into outcomes. This requirement is less obvious and may come across as wonky or peripheral, but it is a bedrock of any modern democracy. A government can be assiduous in following all the basic democratic requirements in elections and policymaking, but if the policies it adopts cannot be converted into concrete, legally intended outcomes for the public—which is precisely what the agencies, programs, and staffing of the administrative state have been set up by law to do—the policies themselves are nothing more than words on paper, and democracy fails. For a democracy to succeed, it must have a well-functioning administrative state with the capacity to carry out its legal mandates.

The rule of law and a well-functioning administrative state, we should emphasize, are also closely bound up with one another. The agencies and programs of the administrative state are established *by law*, as are their policy missions. If the rule of law is to be adhered to and upheld, then, presidents must try to ensure that the administrative state operates as effectively as possible to carry out the policies that have been legally entrusted to it.

Throughout this book we will show that, as Republican presidents have pursued a presidency of extraordinary power, they have

increasingly—and quite purposely and systematically—undermined both these fundamentals. In so doing, they have damaged American democracy and put its future at risk.

What Awaits

Presidency scholars don't normally think in terms of a "logic" that explains the evolution of presidential power over time, and certainly not in terms of two logics. And while a robust literature focuses on the president's ability to navigate and control the administrative state, few political scientists consider how the state's growth over time has affected the evolution of presidential power.²⁶ The framing we've set out here—highlighting the two logics and their anchoring in the administrative state—is a construction that, in our view, provides useful insights and analytic guidance that help promote a better understanding of the historical trajectory of presidential power and why it has become so dangerous in recent decades. Here is a roadmap to the chapters that follow.

In chapter 1, we provide historical perspective on the early development of American government and presidential power during the Progressive Era. Along the way we show how, from the nation's primitive beginnings, disruptive social changes in the late 1800s triggered demands for positive government and the rise of a fledgling administrative state; and how these changes, in turn, contributed to the emergence of the modern presidency, with presidents fully expected to take the lead in addressing the nation's problems and motivated to do so.

In chapter 2, we show that, as the administrative state grew, so did the opportunities for presidents to exercise power, and so did the problems they faced controlling a complex bureaucracy for their own purposes. These problems led presidents to build their own structure of top-down control, the institutional presidency. Their actions, over many decades, illustrate the symmetric logic at work across Democratic and Republican administrations.

In chapter 3, we explore the historical antecedents of the starkly different asymmetric logic. We trace its origins to the early conservative backlash to the administrative state, which began during the Progressive Era and became more strident during the New

Deal and the first decades thereafter but remained at the fringes of the Republican Party until the rise of conservative power during the 1970s. The presidency now within their reach, and Congress and the courts beyond it, conservatives embraced a newfound belief that their war against the administrative state could only be won through the leadership and unilateral action of a presidency endowed with extraordinary power.

In chapter 4, we show how Ronald Reagan pioneered the asymmetric presidency, taking the centralization and politicization of the institutional presidency to new levels, but more importantly, developing (in early form) the UET as a constitutional justification for endowing presidents with extraordinary powers of unilateral action. This theory, we go on to show, has been embraced and given increasingly extreme interpretations by every Republican administration since. We also show that their primary means of attacking the administrative state has been the unilateral, top-down sabotage of agencies and programs: efforts designed to prevent bureaucrats from carrying out their legal mandates.

In chapter 5, we demonstrate how, over a period of decades, disruptive cultural and socioeconomic forces fueled the growing political power of populism, which radically transformed the traditional conservatism of Reagan, propelled Trump to the presidency, took control of the Republican Party, and supercharged the asymmetric logic. We also detail how Trump, the nation's first strongman president and the best evidence of what strongman leadership looks like in the American context, abused his unilateral powers by flouting the rule of law, degrading the administrative state, and nearly bringing down American democracy during his first term.

In chapter 6, our concluding chapter, we offer perspective on how the two logics have driven the historical trajectory of presidential power, how the presidency itself has been transformed, and why it has become a genuine threat to democracy when in populist hands. This threat takes the form of strongman unilateral action and its excesses. But it also arises from the serious damage inflicted by a strongman on the administrative state, whose health and performance are absolutely essential to a well-functioning democratic system. In light of these dangers, the key question at

this critical juncture in American history is whether the American people and the political system's checks and balances can be expected to stand up for democracy and protect it. We show, in some detail, that both are woefully ill-equipped for the job and that, while they may have a few successes here and there, they cannot be relied upon to safeguard our long-standing system of self-government from a strongman president dedicated to imposing his own will.

We can only emphasize, then, that Peter Shane, writing some fifteen years ago, was quite right to worry about the future of American democracy. "Madison's nightmare" has become the nation's reality. Here in our own book, we attempt to explain how and why this has happened, developing an analysis that is constructed and documented over six chapters, step by historical step.

As our summary begins to suggest, America's crisis of democracy is not simply due to Donald Trump, who is more an agent than a cause. And it is not a crisis that can be defused by simply electing a Democrat to the presidency, which offers only temporary relief, as the presidency of Joe Biden well illustrates. It is a crisis, rather, that is deeply rooted in our nation's social and political fundamentals—fundamentals that, as they have fueled the asymmetric logic, have driven the trajectory of presidential power and will remain dangerously antidemocratic for the foreseeable future. They have already produced one strongman presidency, or two if we count Trump's nonconsecutive terms separately. The potential clearly exists for them to produce more in future years. And if and when they do, there is good reason to think that our democratic system will lack the protective capacity to defend itself. Whether Trump remains at center stage is beside the point. What matters is that, because the strongman presidency will continue to be a persistent threat for many years to come, the nation faces a perilous and uncertain future.

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