

Book Reviews

By Order of the President: The Use and Abuse of Executive Direct Action by Phillip J. Cooper. Lawrence, University Press of Kansas, 2002. 320 pp. Cloth, \$39.95; paper, \$16.95.

For most of the modern era, presidency scholars have measured presidential power within a strictly bargaining framework. Roll calls and vetoes have defined when and whether presidents influence public policy. Strong presidents effectively guide major legislative pronouncements through Congress, just as weak presidents regularly witness committees ignoring their agendas and floors overriding their vetoes.

Phillip Cooper breaks new ground. In a carefully researched and highly readable volume, *By Order of the President* effectively demonstrates that presidents can influence public policy outside of traditional lawmaking processes without ever proposing a policy initiative to Congress or vetoing an objectionable bill. The core of this important book is an inventory of the tools of direct presidential administration. Cooper devotes whole chapters to executive orders, presidential memoranda, proclamations, national security directives, and presidential signing statements, defining these policy mechanisms, differentiating each from the other (as well as can be done), examining historical examples of executive direct action, and noting the attendant dangers for democratic governance that they present.

The sheer number of unilateral policy enactments issued in the modern era is astonishing. From national security directives that launched a cold war, negotiated arms sales and transfers, and set a foundation for a war on drugs; to executive orders that established affirmative action policies, prohibited trade with foreign nations, and created all sorts of administrative agencies; to memoranda that regulated medical research, authorized foreign aid, and implemented large-scale administrative reforms; there are few public policy arenas in which presidents do not unilaterally set public policy. And in many, presidents play a dominant role precisely because they can act without the expressed consent of Congress.

Of course, there are limits to these powers. And Cooper is sensitive to the various ways in which Congress, the courts, interest groups, and state and local governments can raise the political costs of executive direct action, and occa-

sionally thwart the president's intentions. At the end of each chapter, Cooper outlines the strengths and weaknesses of each of the president's "power tools."

Missing from Cooper's account is a sustained analysis of the political forces that dictate when presidents will act administratively, when they will pursue legislation, when they entertain both strategies simultaneously, and when they forego action entirely. Insights abound, but no single theory holds them together. No matter. This volume sets unilateral policy making front and center, showing how and when presidents find loopholes in budgetary accounts and take advantage of vague statutory authorizations in order to make "end runs around Congress" (p. 55).

Cooper's book, along with Kenneth Mayer's *With the Stroke of a Pen*, sets the foundation for a new wave of research on presidential power, one that recognizes that presidents make public policy without Congress, often instituting reforms that would never survive the legislative process. "The idea that the president could move to govern in no small part by decree is a concept of which most Americans are blissfully unaware. If they were alert to the practice, many would most likely be aghast that the president could, in effect, write law without benefit of the normal constitutional processes or even the requirements for administrative rulemaking mandated by statute" (p. 15). Cooper has put the public and scholars of the presidency on due notice.

As scholars turn to theory-building, examining the logic of unilateral action within systems of separated powers and assessing the trade-offs of legislation and administrative directives, the presidency literature may advance beyond bargaining, negotiating, and persuasion—the staples of presidential success that Richard Neustadt identified some forty years ago, and presidency scholars have been repeating ever since.

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The Clinton Wars: The Constitution, Congress, and War Powers by
Ryan C. Hendrickson. Nashville, Vanderbilt University Press, 2002. 224 pp. Cloth, \$49.95; paper, \$24.95.

Since 1950, the War Clause of the Constitution, which grants to Congress the sole and exclusive authority to choose between war and peace, has been repeatedly ignored and violated, the victim of presidential usurpation as well as congressional abdication of its constitutional powers and responsibilities. If there might have been a time in recent memory when Congress might have chosen to assert its control over the war power, Ryan Hendrickson writes in a probing and thoughtful analysis of the use of military force during President William Jefferson Clinton's tenure, "it would have occurred with the Republican revolution after the 1994 midterm elections, when the presidency was in a weakened