

whether and when to seek the nonbinding opinions of his individual deputies.²⁷

The breadth of the president's pardon power also elevated the federal chief executive above his state counterparts. In almost every state, the governor's pardon authority was sharply restricted by the constitution itself or else subject to legislative override. Even the strong governor of Massachusetts could pardon only with "the advice" of a legislatively chosen council, and then only after conviction. New York's governor also lacked power to pardon before conviction, and in cases of murder and treason, he could merely suspend a sentence until the legislature met to resolve the matter.²⁸ Article II handed the president a far mightier pardon pen, authorizing him to single-handedly and conclusively pardon at any time after a crime occurred and thereby spare a man from even having to stand trial. As *The Federalist* No. 74 emphasized, this sweeping power in the right hand at the right time might strengthen national security and save lives by inducing desperate offenders to surrender immediately in exchange for guaranteed mercy. "In seasons of insurrection or rebellion, there are often critical moments when a well-timed offer of pardon to the insurgents or rebels may restore the tranquility of the commonwealth." Because the "loss of a week, a day, an hour, may sometimes be fatal," any "dilatatory process of convening the legislature" or a council might "let[] slip the golden opportunity."

In this vivid passage, whose script President Washington would closely follow in dissolving the Whiskey Rebellion of 1794, Hamilton deftly interwove several of the threads that defined America's presidency—the sleeplessness and unity of executive power, the president's unique capacity for quick decisive action, and this officer's special role in handling crises that might threaten the national tranquility or even the national existence.²⁹

"Advice and Consent"

After clarifying the scope of various powers vested solely in the president, section 2 proceeded to map out two domains where the chief executive would share power with the Congress, especially the Senate. The "Advice and Consent" of the upper house would be required for any treaty that a president might propose or any major nomination that he might make. In England, the monarch embodied British sovereignty internationally and stood as the fountain of official honor domestically. Thus kings claimed unilateral authority to make treaties, create new executive and judicial offices, and name all officers. Article II broke with this model, giving the