A 90 Day Study of –

The Intrigue of Presidential Elections and Their Constitutional Impact

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Featuring essays by Constituting America’s Guest Constitutional Scholars
The Intrigue of Presidential Elections and Their Constitutional Impact
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Millennials’ time to choose – Guest Essayist: Juliette Turner

By Juliette Turner – Friday, February 12, 2016
The Washington Times

ANALYSIS/OPINION:

If one were to look through the list of America’s past presidents, one would quickly conclude that many of the men who held our nation’s highest office would not have reached the Oval Office if they ran today. For example, James Madison’s soft voice and small stature would have branded him as too meek and complacent to serve, Andrew Jackson’s mistake of marrying a technically-still-married-woman would have been the subject of countless attack adds, Abraham Lincoln’s strange looks and history of deep depression would have deterred many voters, Theodore Roosevelt’s choice to leave his infant daughter behind while he wrangled the wild west would have been looked upon as unsound judgment, Warren Harding’s extramarital flings would have inevitably surfaced quickly in the primaries, Franklin Roosevelt’s fragile health would have caused his opponents to label him as unable to serve…and the list goes on and on.

So what changed? In 1960, an event transpired which would ever change the way the American people chose their presidential candidates: the first televised debate. This debate, which showcased Richard Nixon and John F. Kennedy, is seen as the reason Mr. Kennedy was able to push past Mr. Nixon in the polls. Mr. Nixon’s refusal to wear makeup and his unfortunate tendency to sweat under the bright lights was, for many presidential scholars, one of the reasons he lost the 1960 election. Let it be duly noted: television can make or break a candidate.

In recent decades, voters have been looking for candidates who “look presidential,” who “really care about the voter,” and who have the most sophisticated flyers and mailers (and who have the most volunteers to distributed said flyers). Highly qualified candidates who struggle with “presidential appeal” are slowly pushed toward the bottom of the candidate pool. There’s a reason every president over the past 46 years has stood over 5’ 11” ½ (yes, the ½ is important). And the media, mainly televised media, has undeniably played an important role in this conundrum. The television gravitates toward candidates who are popular, have money, and look the part. Candidates who are eloquent get more air time, candidates who have the most money get the prime ad times, and the guys (or gals) who are highest in the polls get center stage on the debates.
But is this the way a country should be run? If you were to ask George Washington, he would reference the electoral college and wonder why popular elections are taking place in the first place. They imagined a convention where all candidates of any political viewpoint would gather and the electorate would decide then and there. Election of 1800 anybody? Unfortunately, our Founders’ ideal presidential election protocol has not been in affect for quite a while.

Ever since the Democratic party formally mobilized behind Andrew Jackson in 1828 and the Republican party convened for the first time in 1856, the electoral college has only been responsible for circling “blue” or “red.” Our two party system which dominates our electoral college has bled over into our primary process, preventing any candidate who does not align with either of these two parties from running. This inculcated system has only been disrupted twice in our history (Teddy Roosevelt in 1912 and Ross Perot in 1992 both received electoral votes), but never has a third party candidate reached the white house. For a country that was founded without any political parties by men who warned of the dangers of party faction, this is strange indeed.

This is exactly why this election is so intriguing. On the Republican side, the current top two contenders, Donald Trump and Ted Cruz, are both men who promise to challenge the status quo. Some would even argue that these two men are so radical they don’t even belong in their political party. These candidates are not only challenging Washington, they are challenging the media and the party system’s modus operandi. On the Democratic side, Bernie Sanders, the dark horse candidate who has pulled to the front, likewise promises to challenge the status quo and even America’s political and economic system itself.

But maybe this radical behavior is the reason these candidates are succeeding. Americans, especially my generation, are sick of politics as usual—not just in Congress, but in America as a whole. According to a recent Gallup poll, only 26% of American voters identify as Republicans, only 29% identify as Democrat, and a shocking 42% identify as Independent. Furthermore, according to a poll by Harvard’s Institute for Politics 41% of millennial Democrats support Bernie Sanders and Donald Trump leads the GOP field for millennial voters with 22% (the wide gap in the numbers is undoubtedly due to the number of candidates still in the GOP field). In the recent Iowa caucuses, according to CIRCLE, millennial voter turnout reached 11%—note the usual turnout rate in Iowa for millennial voters hovers around 4%.

My generation is tired of the set party rhetoric that permeates every area of society and we are ready for it to change. Amazingly, we, the children of social media and television, realize that the media often acts as king, appointing their chosen candidates to further their own political agenda and subtly force it upon the American people. We realize that this is not how a nation, a republic, should be run. We want our government to once again listen to us, the people, and not the ideas of political parties, mainstream media, and “government as usual.”

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Why Was The Electoral College Created? – Guest Essayist: Tara Ross

The Electoral College may be one of America’s most misunderstood institutions. How often do you hear a media outlet or school textbook gratuitously bash our presidential election system as “outdated” or “archaic”? It’s said to be a relic of the horse and buggy era—a process created by slaveholding Founders who didn’t trust the people to govern themselves.

Shouldn’t such a broken process go the way of the rotary telephone?

Actually, no. The “problem” with the Electoral College isn’t the institution itself. The problem is that the media’s approach, combined with spotty teaching in schools, has left the general electorate remarkably ill-informed about its presidential election process.

A little education reveals the truth: The Founders had principled reasons for creating the Electoral College. They didn’t create it just because the Internet hadn’t been invented yet! To the contrary, the delegates to the Constitutional Convention were a remarkably well-educated lot. They were students of history who knew the works of such philosophers as John Locke and Baron de Montesquieu. Many were lawyers or ex-legislators.

In fact, when Thomas Jefferson read the names of the delegates to the Convention, he described them as “an assembly of demi-gods.”

These delegates were well-versed in the successes and failures of other political systems, and they wanted to avoid the mistakes that had been made in other countries. Moreover, they understood human nature. They knew that people are fallible and that power corrupts.

This eminently qualified group of men understood how hard it would be to protect freedom in the face of all these challenges. They were determined to make it happen anyway.

With that background in mind, perhaps the most important thing to understand about the Electoral College—and the Constitution in general—is that the Founders were not trying to create a PURE democracy. They wanted to be self-governing, of course. They had just fought an entire Revolution in part because they had no representation in Parliament. The principles of self-governance were very important to them. On the other hand, they knew that, as a matter of history, pure democracies have a tendency to implode.

Our second President, John Adams, once observed that “democracy never lasts long. It soon wastes, exhausts, and murders itself. There never was a democracy yet that did not commit suicide.” A signatory to the Declaration of Independence, Benjamin Rush, stated, “A simple democracy . . . is one of the greatest of evils.” Another signer, John Witherspoon, agreed: “Pure democracy cannot subsist long, nor be carried far into the department of state—it is very subject to caprice and the madness of popular rage.”

In short, mob rule can be very dangerous.
Think about it. In a pure democracy, 51% of the people can rule the other 49% all the time, without question. Imagine what a mob mentality can do in the wake of an event such as 9-11. In fear or anger or immediate emotion, a bare majority could enact any law it wanted to, regardless of its impact on the other 49%. Even very sizable minorities can be tyrannized in such a system. Religious freedoms and civil liberties can easily be infringed.

The Founders wanted to avoid that situation at all costs.

What, then, were they to do? How could they create a Constitution that allowed the people to be self-governing, even as they erected hurdles to stop (or at least slow down) irrational, bare majorities? How could minority political interests, especially the small states, be protected from the tyranny of the majority?

In other words, what constitutional provisions would allow majorities to rule, but would also require them to take the needs of the minority into account?

The delegates to the Constitutional Convention solved the problem by creating a Constitution that combines democracy (self-governance) with federalism (states’ rights) and republicanism (deliberation and compromise). This is why we have a Senate (one state, one vote) and a House (one person, one vote). It is why our government is divided into three co-equal branches: executive, legislative and judicial. It is why we have supermajority requirements to do things like amend the Constitution. It is why we have presidential vetoes.

And it is why we have an Electoral College.

When the checks and balances in our Constitution are respected, they enable us to accomplish the near-impossible: be self-governing, even as we avoid mob rule and majority tyranny.

Tomorrow’s post will discuss the logistics of the Electoral College. As implemented, is the system still serving the purposes that it was created to serve?

*Tara Ross is the author of* Enlightened Democracy: The Case for the Electoral College. More information about Tara can be found at www.taraross.com or on Facebook, Instagram, or Twitter.

**Does The Electoral College Still Work? – Guest Essayist: Tara Ross**

Our founding generation would doubtless be surprised to discover that America’s presidential election system has become the subject of some controversy.

Indeed, our Founders were rather proud of the process they’d created.

“The mode of appointment of the Chief Magistrate of the United States,” Alexander Hamilton wrote in 1788, “is almost the only part of the system . . . which has escaped without severe censure . . . . I venture somewhat further, and hesitate not to affirm that if the manner of it be not perfect, it is at least excellent.”
Of course, Hamilton knew something that today’s history textbooks too often forget: The Electoral College and other constitutional protections were created so that we might accomplish the near-impossible: be self-governing, even as we strive to avoid mob rule and majority tyranny.

[For more, please see yesterday’s post about the Electoral College’s origins.]

Has anything changed since Hamilton wrote his words? Does the Electoral College still accomplish its intended purposes today, despite all the technological and other advances that we’ve made?

Yes! Technology may have changed, but human nature has not. Humans are still fallible. Power still corrupts. Bare majority groups can still bully others, left to their own devices.

The checks and balances in our Constitution—including the Electoral College—are still needed to safeguard liberty in our imperfect, human world.

The Electoral College operates today as a unique blend of democracy and federalism. We have a two-phase election process in this country. Taken together, these two steps ensure that both individuals and states are taken into consideration when a President is elected.

The first step in our presidential election is an entirely democratic process. We hold 51 of these purely democratic elections, each and every presidential election year: one in each state and one in D.C. Voters who head to the polls on Election Day in November are participating in this part of the process. Their ballots decide which electors will represent their states in the second phase of the election.

In 2012, for example, most voters in Ohio cast a ballot for President Barack Obama. Thus, the state of Ohio appointed 18 Democrats to serve as its electors. If Mitt Romney had won, then 18 Republicans would have been appointed instead.

While the first phase of our election is a democratic election among individual voters, the second phase is a federalist election among the states. This election is held in December. It usually gets much less media attention, but it is this December vote—not the November vote—that determines the identity of our next President. The Constitution provides that the candidate who gets a majority of states’ electors (currently 270) wins the White House.

Our election system is nothing if not unique! This unique blend of democracy and federalism provides many benefits that sometimes get taken for granted.

First, the system encourages presidential candidates to build national coalitions of voters. Candidates can’t focus too exclusively on regional majorities or special interest groups. Polling large margins in isolated regions of the country will doom a candidacy to failure.

In other words, Hillary Clinton can’t rely solely on big cities in California. Republicans can’t rely solely on Texas. To be successful, a candidate must win simultaneous, concurrent majorities in many states nationwide. As a matter of history, such victories tend to be achieved by the candidate who does the best job of reaching out to a wide variety of voters in many different parts of the country.
Those who do the very best job of it win in landslides, as Franklin D. Roosevelt did in 1936 and Ronald Reagan did in 1984.

By contrast, Reagan once succinctly described what our elections would look like without the Electoral College: “Presidential candidates would be tempted to aim their campaigns and their promises at a cluster of metropolitan areas in a few states and the smaller states would be without a voice.”

The Electoral College provides another benefit that tends to go unnoticed: It controls the effect of fraud and error on national vote totals.

Think about it: In order to influence national vote totals today, you have to know when and where to steal a vote. And if one person can predict this location, then every poll watcher/lawyer in the nation can, too! Moreover, when problems do occur, these issues can be isolated to one or a handful of states.

Now consider a world without the Electoral College: Any vote stolen in any part of the country would always affect the national tally. Dishonest people could easily steal votes in the bluest California precinct or the reddest Texas one, knowing that they would be affecting the final outcome. Fraud would be rampant.

An American historian once wrote of the Founders’ views on their presidential election system: “[F]or of all things done in the convention,” Max Farrand wrote, “the members seemed to have been prouder of that than of any other, and they seemed to regard it as having solved the problem for any country of how to choose a chief magistrate.”

Surely they would be prouder still if they could see how well the Electoral College has stood the test of time.

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The First Presidential Campaign—George Washington, 1788-89

George Washington won the first presidency under the newly established Constitution. He ran unopposed, professed not to want the job, remained for the most part at Mount Vernon, and yet won unanimously. Many believe he never campaigned, but instead acquiesced to a call to duty from his countrymen. Perhaps it was not so simple.

People think of Washington as a man of honor who won a war through strength of character and perseverance, and as a president who didn’t cling to power. From our perspective in time, he appears etched-in-marble and stiff as a board. Washington was tall, stately, reserved, and preoccupied with his reputation, but he also loved to dance, play cards, socialize over meals, and attend the theater. He was a superb horseman, ran his plantation with a sharp eye for profit, and
attended church regularly. Washington was a vibrant, athletic man who wanted most of all to be loved by his countrymen.

Washington was the preeminent politician of his age and maintained good relationships with all the significant people in the country. To say he didn’t campaign for the presidency is to ignore decades of relentless politicking. (When Dwight Eisenhower was told he was not a politician, he replied that no one could become General of the Army without being a politician.) Washington bragged he never ate alone, made sure he was a central figure in all the founding events, collected a cadre of bright and capable people, and understood branding well before Madison Avenue had a clue.

The timing for this first election was tight. The Constitution was signed on September 17, 1787, ratified on June 21, 1788, the election ran from December 15, 1788 to January 10, 1789, and on April 16, 1789 Washington left Mount Vernon to take the oath of office on April 30th. In the age of carriage travel and horse delivered mail, this allowed only six months to install an entirely new government infrastructure.

The Constitution declares that the states determine how delegates are chosen for the Electoral College. Although the Framers assumed the states would allow popular election, initially state legislatures chose most of the electors. This made it immeasurably easier for the Washington. Relying on state legislators eliminated any risk that his carefully crafted reputation might be tarnished in a general campaign.

It’s not surprising that Washington ran unopposed. People with national renown were rare. Only Washington, Franklin, Jefferson, Jay, and Adams had held significant positions representing all of the states. Most political figures felt a weak allegiance to the national government and thought of themselves as more attached to their respective states.

Before the 12th Amendment, states had two votes for each of their representatives in Congress. Indicative of Washington’s behind-the-scene management style, Alexander Hamilton coordinated Electoral College voting so that the votes were not evenly split between Washington and Adams. A faithful supporter of Washington, Hamilton probably also worked to insure a unanimous election.

On April 30th, a Congressional Welcoming Committee accompanied Washington to the inauguration at Federal Hall on the corner of Wall and Broad Streets in New York City. In a departure from his normal dress that usually displayed a hint of a military uniform, Washington greeted the committee dressed in a dark brown coat with brass buttons decorated with spreading eagles, brown waistcoat and breeches, white silk stockings, and shoes with simple silver buckles. The powdered hair and dress sword set off his otherwise modest attire. Washington had insisted that every article be made from American cloth.

Despite being elected unanimously, he had spent the prior week visiting every member of congress and others with influence. It was common knowledge that Washington would appoint Alexander Hamilton Secretary of the Treasury and Thomas Jefferson Secretary of State. James Wilson and John Rutledge would get seats on the Supreme Court, and Edmund Randolph was to be Attorney General. All of these appointments helped his election.
At Federal Hall, a great shout went up from the spectators when Washington appeared on the portico. People packed every window, balcony, and rooftop. On a small red-draped table, a Bible rested on a crimson velvet cushion. Robert R. Livingston, the presiding judge of New York’s highest court gave the oath. Repeating after Livingston, Washington took the thirty-five-word oath prescribed by the Constitution, “I do solemnly swear that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.” Washington then added four more words, “so help me God,” and leaned over to kiss the Bible.

“It’s done,” Livingston said. He turned to the spectators and shouted, “Long live George Washington, President of the United States.”

The crowd immediately took up the cry and then shifted to wild cheers and huzzahs. A flag was raised on the cupola and thirteen cannons went off at The Battery. Church bells tolled in every steeple in the city. The United States had just witnessed a peaceful transition to an entirely new government and had inaugurated its first elected chief executive.

James D. Best, author of Tempest at Dawn, a novel about the 1787 Constitutional Convention, Principled Action, and the Steve Dancy Tales.

1792, George Washington Sets The Tone For America As Its First Elected President – Guest Essayist: Professor Joerg Knipprath

In early 1790, in just the second year of the general government under the new constitution, Treasury Secretary Alexander Hamilton delivered on the charge made to him by the first Congress in 1789 to prepare a plan for the “adequate support of public credit.” This First Report on the Public Credit proposed to pay off the foreign and domestic debt at par through new U.S. bonds, which, in turn, were to be paid off through import duties and excise taxes, such as those on whiskey. To help tie disparate creditors of the states to the national program, the general government also would assume the Revolutionary War debts of the states. Later that year, he submitted the related Report on the Bank of the United States. This analogue to the Bank of England, but owned principally by private investors and with branches set up in various states, was to provide the core of a nascent banking system necessary for the country’s commercial development.

The program proved so successful that the foreign debt of the United States was paid off by 1795, the year Hamilton left his position as Treasury Secretary. Incredible as it may be to the modern experience, the domestic debt was paid off in 1835. The United States, until then a high-risk debtor viewed with skepticism by foreign investors, almost overnight saw its bonds become prime draws in the London and Amsterdam financial markets. European investment and speculation in American ventures soon followed.

Less successful as a program of political economy was Hamilton’s Report on Manufactures, issued in late 1791. The report was protectionist of American industry. As political economy, it was heavily suffused with mercantilism. While Hamilton actually sought to appeal to Southern interests in their future prosperity, the report proved to be a step too far for the typical Southern
politician rooted in a culture of agrarian republicanism. Not until Henry Clay made the report’s vision a key component of his “American Plan” a generation later, did Hamilton’s work see results.

The significance of these reports in placing the American experiment on a sound and stable economic footing has caused some historians to refer to the 1790s as “Hamilton’s Republic.” At the same time, these reports represented an ideology of government and a perspective of the individual and society that significant parts of the country viewed with suspicion, indeed, alarm. The South and West saw an emerging elitism that threatened to replace the founding principles of republicanism and liberty with monarchy and tyranny. Sectional fault lines that had been generally dormant during the early years of the Republic reappeared. Embryonic partisan organizations formed through the efforts of Hamilton, Thomas Jefferson, and James Madison.

The new American republic was also dragged into European power politics, in particular the friction between the emerging French Republic and the rest of the continent. Yet a third source of domestic division was British agitation among Indian tribes and the occupation by British forces of various forts along the old northwest frontier. The British acted as they did, because they could—the result of American military weakness. The Americans contributed to the problem by failing to resolve the issues of pre-Revolution debts owed to British creditors and return by the states of property they had seized from Loyalists, all as required by the Treaty of Paris. This Anglo-American rivalry was addressed in 1794 through the Jay Treaty, which, while far-sighted and practical, was so controversial that it finally ruptured the republican American ideal of non-partisan government.

Still, despite the signs so perceptible to the observer looking back from the future, from the perspective of 1792, much remained of the idealized and self-congratulatory view of the American experiment in republican government. More united the political elites’ attitudes towards their country than divided them. Despite the occasional political hyperbole, there was no real desire for a return to monarchy. On the other side, pro-French sentiment might lead to some overly-exuberant pamphleteering by Americans, but the concrete results of French revolutionary ardor were better experienced over there than in the United States.

What allowed the Americans to glide above these potentially disruptive forces, was the stabilizing influence of President George Washington. Elected in 1789 by unanimous vote of the 69 electors from the ten states represented in the Electoral College, Washington set the tone for the constitutional, political, and social dimensions of the presidency. Ever-cognizant of his role in this novel experiment in self-rule, Washington sought to portray himself as above partisanship. That role fit well his personal style of above-the-fray decision-making after seeking information from advisors with opposing views. It also, happily, comported with the dominant republican ideology that saw partisanship, the “spirit of faction,” as the bane of self-government and destructive of the general welfare. Finally, befitting his image of incorruptibility, Washington scrupulously sought to make political appointments on the basis of proper republican character and virtue, and avoided patronage and favoritism.

Washington’s popular stature and his immense political capital gave the needed political backing to Hamilton’s reports. The opposition of Washington’s fellow Virginians in the cabinet,
Secretary of State Thomas Jefferson and Attorney General Edmund Randolph, to Hamilton’s program did not prevent Congress from approving most of it. To be sure, Hamilton’s agreement to support of a bill to place the nation’s future capital in the South, along the Potomac River, mollified Jefferson to support some aspects of the program and convinced some doubters in Congress, as well. Yet it was Washington’s support of his protégé Hamilton that sealed the deal.

Still, there was the occasional flare-up of criticism even of the first President. He was criticized for monarchical symbolism, from driving about the then-capital, New York City, in a coach-and-six (horses) to the receptions for ordinary Americans and, separately, more select citizens. These were derided by some as attempts to mimic the practices and trappings of another George, Britain’s king. Others entertained themselves by publicly sharing unflattering opinions about Washington’s personality, considering him dull and stiff.

These were minor distractions, however. When the biggest controversy is what your title should be when addressed in public, your political stature is unassailable. Later occupants of the office could only look with envy at the burning issue of whether the Washington’s title should be “Mr. President” (Madison’s suggestion), or “His Highness the President of the United States of America and the Protector of the Rights of the Same” (the proposal by John Adams who considered even “His Excellency” as too common). One must be thankful that Washington was sufficiently astute to opt for the first.

With an economy that was generally prosperous, especially when compared to the 1780s, a political system that was stable and still in a lengthy honeymoon after the constitutional revolution of 1787, and a President held in respect, if not awe, by most of the country, the election of 1792 was a foregone conclusion. Washington had considered retiring after one term but was persuaded to accept another term, however reluctantly. He was duly re-elected, once again by unanimous vote of all 132 electors from, by now, 15 states. But there was a small cloud on the horizon, a distant sign of a gathering storm. Vice-President Adams was also re-elected. Unlike his unanimous election in 1789, Adams lost the electoral votes of New York, Virginia, and North Carolina to Governor George Clinton of New York. By the next election, in 1796, the storm had gathered.

An expert on constitutional law, Prof. Joerg W. Knipprath has been interviewed by print and broadcast media on a number of related topics ranging from recent U.S. Supreme Court decisions to presidential succession. He has written opinion pieces and articles on business and securities law as well as constitutional issues, and has focused his more recent research on the effect of judicial review on the evolution of constitutional law. He has also spoken on business law and contemporary constitutional issues before professional and community forums. Read more from Professor Knipprath at: http://www.tokenconservative.com/.
Six months before his retirement from the presidency, George Washington gave a farewell address to the nation. Among several memorable passages is his warning about the evils of the spirit of party, particularly as it manifests itself in republican forms of government. “This spirit, unfortunately, is inseparable from our nature having its roots in the strongest passions of the human mind. It exists under different shapes in all governments…; but in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy.”

There must have been more than a small measure of regret in that message. Washington had striven to govern as a president of all, above the pettiness of partisanship. Events and the “natural inclinations of men” so prominently borne by politicians denied him success. Indeed, the passage of time in office corrodes every presidency and, for an increasing portion of the population, turns familiarity into contempt for the occupant. This malignancy affected even Washington by 1796. Toward the end of his term, the President was frequently attacked in speeches and writings. Jefferson wrote to a friend, deriding “men who were Samsons in the field and Solomons in the Council” whose heads had been “shorn by the harlot England.” The letter conveniently found its way into print, where the readers readily understood his reference to Washington, Hamilton, and Adams. The reliably partisan Jeffersonian organ, the Philadelphia Aurora, edited by Madison’s Princeton University classmate Philip Freneau, rejoiced on the occasion of Washington’s retirement that “this day ought to be a Jubilee in the United States…for the man who is the source of all the misfortunes of our country, is this day reduced to a level with his fellow citizens.” Jefferson’s machinations behind Washington’s back almost persuaded the exasperated President earlier in his term to fire Jefferson, with the latter resigning in time. Washington, who knew how to carry a grudge, never spoke to Jefferson again.

How had it come to this? The first term of the Washington administration had been consumed with domestic policy concerns, primarily establishing the new union on a firm economic and constitutional footing. That had been largely achieved with the adoption of Hamilton’s domestic program and the settlement of the location of the new capital city. As well, Washington’s personal propriety and political sobriety had established sound precedents for his successors about the constitutional dimensions of the presidency and the appropriate conduct in office of a republican head of government. There had been difficulties with the British and French due to the incipient political turmoil of the French Revolution, which had stirred some passions among Americans. Moreover, British policy regarding the Indian tribes and the retention of border forts along the old northwest frontier were irritants and, for some, a mark of humiliation. All things considered, however, by most marks the country in 1792 was more stable than it had been since independence was declared from the mother country in 1776.

The second term of the administration was dominated by foreign events, a trend that even intensified after Washington left office. The government was, to put it mildly, an unwilling participant in these affairs; the nation was, to put it bluntly, woefully unprepared to participate.
But participate they must, and those events fractured America’s political system along the lines of the conflicting personalities and visions of Hamilton and Jefferson.

European big power politics rose to another dimension in 1793, with the beginning of the revolutionary Reign of Terror in France, the French declaration of war against Britain and Spain, and the arrival of “Citizen” Genet as French minister to the U.S. As Genet made his way around the U.S., he founded Jacobin Clubs and was feted by the pro-French Jeffersonians. Much to the dismay of Washington and the shock—feigned or real—of the Anglophile Hamilton, Genet agitated openly for Americans to pressure the administration into active support for France. On the other side, the British navy seized American merchant ships, precipitating calls for war from pro-French factions. Ideological fervor seized the American populace. Still, admiration or disdain for the respective European powers was not just based on views about revolution, but was also tied to extraneous regional and local interests and rivalries. While the emerging commercial North favored Britain and the agrarian South, suspicious of “stock-jobbers” (as Jefferson described the financial interests), favored France, local interests broke up the pattern.

President Washington responded with his “Neutrality Proclamation” in April, 1793. The administration’s opponents in Congress argued that this was not a constitutional power of the president, and that Washington had usurped Congress’s powers. Writing pseudonymously as Pacificus, Hamilton promptly published seven essays in support of the proclamation. He urged not only that it was the “duty of the executive to preserve peace” until Congress exercised its constitutional power to declare war. Rather, he claimed a broader implied power for the executive to act for the interest of the country unless the Constitution clearly prohibited him from doing so or assigned the role to another branch, a position that has been enduringly popular with presidents since then. Jefferson wanted to respond, but, as a member of the cabinet, believed it better to enlist James Madison’s services. Madison was extremely reluctant to participate, but eventually penned five responses under the name Helviticus.

Popular reaction against the Whiskey Rebellion by western Pennsylvania farmers over the excise tax on alcoholic spirits, as well as Jefferson’s reluctance to distance himself decisively from the French Revolution as news of the Terror reached American shores, helped produce a Federalist victory in the 1794 congressional election. Soon thereafter, as the terms of the recently-negotiated Jay Treaty with Great Britain were debated in the halls of Congress and in the press, political passions reached a peak. The treaty was generally favorable to the United States in that it prevented a war with Britain that the Americans could not afford and also brought relative peace to the Northwest frontier. It was founded on a bilateral optimism about the future of the parties as trading partners.

However, some critical issues about compensation for slaves and payment of sequestered debts were left unresolved and to be settled by future commissions. Led by their philosophical leader, the Republicans saw this, as Jefferson wrote, “as a treaty of alliance between England and the Anglomen of this country, against the legislature and people of the United States.” In reality, what stung the opponents was that the treaty embodied a rejection of their foreign policy and, by extension, their ideological premises. Matters were certainly not improved for them by the fact that the terms of the treaty itself were the work of Alexander Hamilton, supported by the diplomatic skill of John Jay.
Opposition to the Jay Treaty galvanized what had been a loose faction, primarily in Congress, into an organized political party. They took the name Jefferson had given them informally, “Republicans,” to imply that their opponents were monarchists. The Federalists followed suit. Their designation came from Hamilton’s desire to cast his faction as defenders of the Constitution and his opponents as Antifederalists. Over the next two years, both sides organized local clubs and set up friendly newspapers. The Jeffersonians, especially, were aware of the need to move beyond their base in the South and courted politically disaffected groups in the North and West.

The election of 1796 pitted Vice-President John Adams of Massachusetts and Thomas Pinckney of South Carolina for the Federalists against Thomas Jefferson of Virginia and Aaron Burr of New York for the Republicans. Alexander Hamilton, who had left the cabinet in 1795, believed himself to be the proper leader of the Federalists. He had Washington’s favor and managed to place his associates in several cabinet positions. As well, his many connections broadened his influence. Under the voting rules of the time, each presidential elector cast two undifferentiated votes. The winner (assuming this constituted a majority of the electors appointed) became president, and the runner-up was vice-president.

Adams’s intellect and personal honesty were generally acknowledged. But there was a perceived flaw. Benjamin Franklin had characterized him as “always honest, often great, but sometimes mad.” More likely, Adams simply lacked the “talents for low intrigue, and the little arts of popularity” that Hamilton once had warned against in the Federalist Papers concerning the selection of the president. Adams’s dislike of the capital’s society and his propensity to pomposity did not help. The debacle of Adams’s proposal for a sonorous and expansive formal title for the president had made him a laughing-stock and tagged him with the title “His Rotundity.”

Hamilton believed Adams to be emotionally unstable and, hence, unsuited for the office. He maneuvered to place Pinckney in the presidency, instead. He expected the northern electors to vote for the party ticket, but bargained with Edward Rutledge, a Jeffersonian politician, to have the South Carolina electors vote for Jefferson and Pinckney. The plan became known. Enough northern electors voted for Adams and not-Pinckney that Adams narrowly won, 71 votes to 68. Unfortunately, Pinckney was third. Adams’s erstwhile and future friend, Jefferson, was second and became vice-president. Their current positions as heads of opposing parties did not bode well for amicable government. Worse, for the Federalists, the unifying Washington was gone, and the ambitious Hamilton nipped at Adams’s flanks. The clouds that had appeared on the political horizon in the previous election now had gathered. If and when the storm broke, and how severe the deluge would be, would have to await the next election.

An expert on constitutional law, Prof. Joerg W. Knipprath has been interviewed by print and broadcast media on a number of related topics ranging from recent U.S. Supreme Court decisions to presidential succession. He has written opinion pieces and articles on business and securities law as well as constitutional issues, and has focused his more recent research on the effect of judicial review on the evolution of constitutional law. He has also spoken on business law and contemporary constitutional issues before professional and community forums. Read more from Professor Knipprath at: http://www.tokenconservative.com/.
1800, Thomas Jefferson Defeats John Adams: The First Peaceful Transfer Of The Presidency From One Political Party To Another – Guest Essayist: Kevin Gutzman

John Adams’ narrow victory over Thomas Jefferson in the election of 1796 foreshadowed the contentious political environment of Adams’ sole term. Soon enough, the Republican opposition went into full battle mode, and Adams’ refusal to respond by playing party chieftain goes a long way toward explaining his narrow loss in 1800.

As the 1796 returns slowly came in, Jefferson confided to his close political ally James Madison that he did not yearn to be president. Since Adams had always been his political senior, Jefferson would be happy in case of an Electoral College tie to concede victory to him. Madison certainly did not pass this message along to their political coadjutors.

The Constitution did not envision the development of political parties. Thus, in those pre-12th Amendment days, the top vote-getter in the Electoral College became president, and the runner-up ascended to the second chair. Although both the Federalists and the Republicans advanced vice presidential candidates, Adams and Jefferson outpolled them both. Adams would be president, then, and Jefferson would be vice president.

Early in Adams’ administration, he approached Jefferson about cooperating in running the Executive Branch. The idea was for James Madison to be given a key diplomatic appointment by the new president, evidently with an eye toward Jefferson’s having input into administration policymaking—and probably also with the goal of making it impossible for Madison to continue to coordinate the Republican opposition. Jefferson essentially sloughed the idea off, and Adams abandoned his bipartisanship gambit. Insofar as policy was concerned, Jefferson would be an opposition vice president.

Adams at this point did not recognize another significant problem which would bedevil his administration. The first president to succeed another, he did not have our idea that each chief magistrate should have his own Cabinet. Rather, he kept on George Washington’s top appointees. Unbeknownst to Adams, several of them were loyal to Federalist generalissimo Alexander Hamilton, the former treasury secretary and original organizer of the Federalist Party. Eventually, learning that they were running issues discussed in the Cabinet by Hamilton before telling Adams their conclusions, Adams fired them.

Like Washington’s, Adams’ tenure must be understood against the backdrop of the massive wars associated with the French Revolution and the Age of Napoleon. In the late 1790s, French anger toward America over a neutrality policy at least arguably inconsistent with the United States’ obligations under the French treaty of 1778 led to escalating military confrontation at sea.

Adams sent his sharp congressional ally, Jefferson’s cousin John Marshall, along with a couple of others to reach a modus vivendi with the French government. Foreign Minister Talleyrand, however, did not meet with them, instead sending some underlings (now infamous as “X, Y, and Z”) to demand a pecuniary payment first. Supposedly, one of the Americans replied, “Millions
for defense, but not one cent for tribute!” and the negotiation broke up before it had begun. When the news hit the American papers, the effect was electric.

Given this political gift, Federalists overreacted. Congress passed and Adams signed into law an immigration reform bill and the Alien & Sedition Acts of 1798. The former extended to fourteen years—still the longest in American history—the period during which an immigrant must live in the United States before obtaining citizenship. Noticing that Francophone and Irish immigrants tended overwhelmingly to become Republicans, the Federalist leadership had decided to keep them from voting.

More controversial, however, were the Alien & Sedition Acts. One of them, the Alien Friends Act, drew Republicans’ ire by giving the president power both to identify dangerous aliens and to expel them. Here, the opposition insisted, were violations of the First Amendment (for how would the president find someone “dangerous” without relying on his speech, publications, or associations?) and of the principle of separation of powers (for why was the president to judge?). Far more loathsome to them, however, was the Sedition Act. Signed by President Adams on Bastille Day, July 14, probably in mockery of Republican love of revolutionary France, this law made it a crime to say anything that tended to bring the Federal Government into ill repute.

Vice President Jefferson wrote to ex-congressman Madison that here the Federalists made clear their intention to ignore the Constitution altogether. He said this law flew in the teeth of a constitutional amendment putting the press beyond the power of Congress to regulate. Meeting in secret, the Virginia Republican high command drafted the Virginia and Kentucky Resolutions. What was unknown to the public was that the Virginia Resolutions were drafted by Madison, the Kentucky Resolutions by Jefferson. Those states’ legislatures went on record as insisting on the principles they stated.

Since the Federal Government had been created by the states, the Resolutions said, and since it had been delegated only certain enumerated powers, the states “have the right, and are in duty bound, to interpose” (in Virginia’s words) whenever the Federal Government adopted legislation that was both unconstitutional and dangerous. In a federal—rather than national—system, the component parts—the states—remained responsible for proper functioning of the government they had created. The Alien & Sedition Acts, threats to republican elections, were such unconstitutional and dangerous acts.

Twenty-five cases were brought under the Sedition Act. Everyone who went to trial was convicted, and several suffered fines and imprisonment. Those convicted included a Vermont congressman and numerous leading Republican journalists.

Virginia and Kentucky sent these resolutions to the other state legislatures in hopes that they would join in them. Instead, several states objected. Massachusetts, for example, said that it liked the Sedition Act, wished it had been adopted sooner, and hoped to see more prosecutions. Kentucky replied to the criticisms in 1799 with resolutions, outlined by Jefferson, saying that it would be among the last states to secede. Far from moderate, this was the first official threat of such secession.
Virginia’s legislature, for its part, adopted a report written by Madison (who came out of political retirement to sponsor it) which said that Massachusetts and other critical states were wrong to deny that the states had created the Federal Government. The word “state,” he said, had more than one signification: it could refer to the state’s territory, it could refer to its government, or it could refer to its sovereign people. Article VII of the Constitution had used the word “state” in this last sense, and so did the Republicans when they insisted the states had created the Federal Government.

Meanwhile, Adams threw a thunderbolt among his own Federalist Party. While Hamiltonians wanted a military buildup in preparation for a war with France, the president sent negotiators to work out a peace. When Hamilton’s allies in his Cabinet protested, he told them they were fired.

Hamilton, incensed, circulated a “private” pamphlet explaining at great length why he held Adams unfit to be reelected. Predictably, the pamphlet made its way into the papers. Republicans privately expressed great glee at the spectacle at their opponents’ leading hero (Washington having died in 1799) attacking their president.

Elections to the New York legislature further damaged Adams’ prospects. In New York City, Aaron Burr engineered a swing from the Federalist into the Republican column, turning the legislature pro-Jefferson. In state legislatures, politicians in several states debated changing the ways that Electoral College electors from each state were allocated. Hamilton wrote to fellow Federalist Governor John Jay saying that New York should change its laws to give the outgoing Federalist rather than the incoming Republican legislature the task of casting New York’s votes. Jay, prim and proper to the death, wrote on Hamilton’s letter that it recommended a party measure it would not become him to adopt.

In Virginia, on the other hand, Madison had no such scruples. From his new perch in the House of Delegates, he moved swiftly to revise Virginia law. Where formerly the Old Dominion’s presidential electors had been assigned on a district basis, now they would be elected statewide; the few islands of concentrated Federalist support would no longer be able to divert one or two Virginian electors to John Adams.

With New York now in the “R” column and Virginia solidly Jeffersonian, Republicans took control of the Executive Branch in the 1800 election, beating the Federalists by three votes. His running mate Burr tied Jefferson in the Electoral College, however, which meant it took three dozen House ballots to make the Master of Monticello president. Jefferson, Madison, and their fellows espied both Burr’s perfidy and Federalist machinations in these developments. So too did they find Adams’ post-election decision to sign the Judiciary Act of 1801, which opened up several new federal judgeships for him to fill in his final days as president, problematic. Jefferson took it as a personal and philosophical affront: he and his party had won control of the government, and Federalists should not be ensconcing his enemies in judicial posts to try to thwart him.

There was no bipartisan mood in Washington, D.C., then, when Jefferson headed to his March 4, 1801 inauguration. He memorably said in his First Inaugural Address there would be no punishments of the defeated party’s leaders (as there had been in republican France). John
Adams did not hear this vow, however: he rose early and headed back to Massachusetts without a “fare thee well.” The transfer of power was non-violent, but the anger and hurt feelings roused by the politics of John Adams’ administration kept former friends Jefferson and Adams estranged for many more years.

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In the summer of 1798, the capital of Philadelphia was gripped by several fevers. Ships from the tropical West Indies brought Yellow Fever to several port cities including Philadelphia, causing thousands to flee for their lives as the number of victims escalated. The epidemic, however, hardly compared to the political fever taking hold over the country.

War fever also raged among the people as America mobilized for war due to the recent revelations of the XYZ Affair. When American diplomats sought to discuss French violations of American neutrality when French privateers seized hundreds of American vessels, their French counterparts had demanded a hefty bribe and loan of millions to receive American diplomats.

Congress quickly raised taxes to mobilize the American Navy and created a Provisional Army under General George Washington but actually commanded by Alexander Hamilton. Outraged Americans took up the slogan, “Millions for defense, but not one cent for tribute.” Many feared an impending French invasion of the United States would be supported by Fifth Columnist French citizens in America and their Republican Party sympathizers (whatever the unlikelihood of an invasion).

A raging fever of increasingly fierce partisanship swept through the country. Despite the universal hatred of political parties as instruments of faction that would destroy the common good, Federalist and Republican parties had emerged in the 1790s because of differences over domestic and foreign policies. Newspapers at the time were generally organs of party and launched vituperative attacks on the other side generally seeing them as unpatriotic and self-interested. The idea of a legitimate opposition criticizing the policies of the other party had not yet entered the American mind.

In the wake of the XYZ affair in the early summer of 1798, Congress passed and President John Adams signed, several Alien Acts into law which targeted immigrants and foreigners in America. The length of naturalization increased from five years to fourteen, aliens were subject to registration and surveillance, and most ominously, the president could deport foreigners deemed to be a “threat to public safety.” Republicans were inclined to support a pro-French foreign policy and denounced the acts. In the end, three alien French residents were deported, but the law provided for a dangerous expansion of federal and executive powers.
Ironically, the Senate assembled on the Fourth of July and voted to stifle free speech in the new nation. It approved a sedition bill along party lines with the Federalists supporting the measure. The House of Representatives then narrowly approved the bill by a mere three votes. Federalists thought it a necessary, emergency war measure, but Republicans such as Albert Gallatin asserted it was an “unconstitutional and arbitrary law.” Although President Adams had not sought out the bill, he signed the bill into law and supported administration officials who eagerly executed the law.

The Sedition Act made it a crime to speak out against the government. It became illegal to “write, print, utter or publish . . . any false, scandalous and malicious writing . . . against the government of the United States, or either house of the Congress of the United States, or the President of the United States.” It would expire on March 3, 1801. Although the act did not institute “prior restraint” of publication and provided for truth as a defense unlike the British common law, the act was a blatant violation of the First Amendment and restrained criticisms of government by the people and the press.

Thomas Jefferson condemned “all violations of the constitution to silence by force and not by reason the complaints or criticisms, just or unjust, of our citizens against the conduct of their agents.” Freedom of the press was, in Jefferson’s words, a “bulwark of liberty” because the right to criticize government in a constitutional republic was an essential right of the sovereign people.

The Sedition Act led to the partisan arrest of some two dozen editors and citizens who made derogatory comments in writing and speech about Adams, Congress, and the Sedition Act itself. The Federalist administration immediately targeted and prosecuted Republican newspaper printers such as Benjamin Franklin Bache and his successor James Duane. One Congressman, Representative Matthew Lyon, wrote against the act and spent time in jail where he was duly re-elected by his constituents. One unfortunate inebriated citizen joked about cannon-fire hitting President Adams’ rear-end and was jailed. Another was prosecuted for helping erect a liberty pole in protest and leading a discussion of Thomas Paine’s *Age of Reason* because of its unorthodox religious views. In total, the government prosecuted seventeen individuals and all except one were found guilty of sedition.

The Republicans were not cowed by the suppression of dissenting views. Jefferson and others sent money to help beleaguered editors. More importantly, Jefferson and James Madison respectively wrote the Kentucky and Virginia Resolutions, which argued that the Alien and Sedition Acts were unconstitutional. Jefferson’s proposed remedy of a state’s right of nullification of a federal law it considered unconstitutional was more radical than Madison’s constitutional remedies. The resolutions were roundly denounced by most other state legislatures. Whatever the outcome of the resolutions, the Republicans stood firmly for constitutional principles against the politically-motivated repression of free speech and a free press.

The Alien and Sedition Acts played an important and prominent role in the election of 1800. Republicans thundered against the laws and made them campaign issues. The laws seemed to confirm what they feared to be the centralizing tendencies of Federalist policies and ample evidence for arguing that a change to a Republican administration was necessary.
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1800, Electoral College Tie Between Jefferson And Burr, Throwing An Election Into The House Of Representatives For The First Time – Guest Essayist: Professor Joerg Knipprath

Today, having the House of Representatives elect the president seems strange, almost freakish. But to the Framers, the participation of the House in this process was expected to be commonplace. The problem arises out of the practical need for at least a two-step procedure. There first must be a mechanism to nominate a number of candidates for the office and, second, a process to select the winner from those nominees.

In modern elections, the first step occurs through the political parties and their primaries, caucuses, and conventions. The second happens when the people vote or, more accurately, when the electors selected by the people under state law cast their votes for president. In 1787, however, the advent of the modern programmatic political party was still in the future. Political organizations had more the structure of classic “factions,” that is, as James Madison wrote in Federalist 10, “a number of citizens, whether amounting to a majority or minority of the whole, who are united or actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.”

The first half of Madison’s definition is descriptive. A faction has no permanence. It is born from a hot political issue of the moment or, in classic republican forms, coalesces around a charismatic leader. Hence, it dissolves when that issue is resolved or, unless a successor appears, the charismatic leader dies. The second half of the definition, characterizing the faction as contrary to the general interest of the community, reflects a pejorative view common among serious republicans, then and now. As Madison described the constitutional structure, it was set up, in significant part, to control the destructive effect of factions, an effect most pronounced in governments resting on participation by the public.

Hamilton, writing in Federalist 68, saw the mechanism to elect the president in similar vein. Having a body of citizens (themselves selected by qualified voters or by the state legislatures) choose candidates for the office of president balanced the desire for popular participation with the realistic concern that direct popular election would promote individuals with, as Hamilton sneered, “talents for low intrigue, and the little arts of popularity.” Direct popular election would inevitably be driven by popular passion, magnified by the influence of organized factions, and produce candidates whose main attraction would be “those brilliant appearances of genius and patriotism, which, like transient meteors, sometimes mislead as well as dazzle.” Corruption and the influence of faction would be avoided by the temporary tenure and limited duty of the electors, the disqualification of federal office-holders from the position, the relatively large number of electors, and the fact that they meet in their respective states at the same time.

Nominating the candidates would be the role of the Electoral College; electing the president from those nominees would fall to the House of Representatives. The nominating process was likely to
result in a collection of “favorite-son” selections of state politicians by electors voting in their respective states. A smaller number of well-respected regional candidates likely also would be nominated, since each elector cast two votes, at least one of which had to be for someone from another state. Thus, it was thought natural that no one (at least after George Washington) would receive a majority vote of electors, and that the House would choose the president.

A problem was that the influence of faction could not be so readily dismissed once the House of Representatives became involved. Indeed, Hamilton and Madison had repeatedly acknowledged in *The Federalist* that factions, arising out of human nature itself, sooner or later appear in all deliberative bodies. Hamilton tried to assure his readers that there was little concrete danger regarding the election of the president by the House, because congressmen have to worry about re-election and will avoid corrupt bargains that are odious to the voters.

In *Federalist 6*, Hamilton urged readers to “[L]et experience, the least fallible guide of human opinions, be appealed to for an answer” to the questions raised in the debates over the Constitution. At least as regards the election of the president, experience soon exposed the weaknesses of the constitutional design, including the role of the House. By 1800, the First American Party System, as it has been called, was fully operational. Each party’s members in Congress, (Jeffersonian) Democratic-Republican and Federalist, chose the presidential and vice-presidential nominees in coordination with state party structures who designated the electors and directed their votes.

The Federalists opted to re-nominate President Adams and chose South Carolina’s Charles Cotesworth Pinckney—the cousin of the 1796 Federalist vice-presidential nominee, Thomas Pinckney—as his running mate. The Republicans, maintaining the Virginia-NewYork political axis that they had formed prior to the 1796 election, re-nominated Jefferson and Aaron Burr. Since each elector cast two votes, Jefferson and Burr each received 73 votes to 65 for Adams and 64 for Pinckney. One Federalist elector cast his second vote for John Jay, to insure that Adams would be president if the Federalist candidates prevailed. The Jeffersonians had blundered by failing to account for this possibility, with the resulting tie between Jefferson and Burr throwing the election into the House. In a bit of humorously clumsy political trickery, one New York elector voted twice for Burr, but his infraction was discovered and one of his two votes reassigned to Jefferson.

Although it was well known that the Democratic-Republicans wanted Jefferson as president, Burr refused to budge. The winner required an absolute majority in the House, but a majority determined by number of states, not members. With 16 states in the Union, 9 states were needed to settle the election. Matters were complicated further by the fact that the outgoing, lame-duck House membership, controlled by the Federalists 60-46, would decide the election, rather than the new House, controlled 68-38 by the Jeffersonians.

Through 35 ballots, including an all-night session, the House remained deadlocked. The seven delegations fully controlled by the Jeffersonians all voted for Jefferson over Burr, as did one Federalist state. But two states were tied, and six voted for Burr. Many Federalists in the House supported Burr, a savvy (or, from a different perspective, “cynical”) politician over the dangerous “Jacobin,” Jefferson. Talk became more strident, including exhortations to prevent the
election altogether. Virginia militia were rumored to be preparing to march on the capital. On the other side, some die-hard Federalists saw this as an opportunity to refuse to turn over the government. Fortunately for the young republic, President Adams would have none of that.

Eventually, the Federalists’ hopes about Burr were dashed. The New Yorker refused to promise them anything. Relief for Jefferson came in the unlikely person of his long-time political and ideological nemesis, Alexander Hamilton. Not long before the election, Hamilton had persuaded New York’s governor, John Jay, to change the state’s election law in an ultimately unsuccessful maneuver to prevent “an atheist [emphasis in the original] in religion and a fanatic in politics”—Jefferson—from winning the state’s electoral votes and becoming president. Yet by early, 1801, Hamilton saw Jefferson as, by far, the lesser evil. Jefferson let it be known discreetly that he would not scuttle the new Navy or dismiss Federalists from lower offices that they already held. Hamilton, in turn, persuaded three Federalist congressmen to cast blank ballots in the 36th round of voting. Jefferson received the backing of ten states and was elected president. Hamilton’s effort on behalf of Jefferson was seen by Burr as another, but not yet the last, in a series of affronts. Eventually, Burr’s abiding resentment of his rival in New York politics led to their ill-fated duel in 1804.

To prevent such electoral stalemate in the future, the 12th Amendment, adopted in 1804, provided for separate, distinct votes for president and vice-president. The political storm that had broken in the “Revolution of 1800” soon washed away the Federalist Party. However, unsurprisingly, factionalism survived and led within a generation to another critical presidential election decided in the House of Representatives.

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1804, Thomas Jefferson Defeats Charles Pinckney: The Significance Of The 12th Amendment – Guest Essayist: James Legee

The election of 1804 is markedly less significant than the “Revolution of 1800.” While the triumph of Jefferson’s Democratic-Republicans over Adams and Hamilton’s Federalist Party is noted by Jefferson as an event that “will ameliorate the condition of man over a great portion of the globe,” 1804 failed to merit such hope for the future of humanity. It would, however, measure the ability of the new Constitution to remedy itself through the amendment process and lead us to questions on the nature of the executive branch and what representation in a republic means.

The election of 1800 proved that a peaceful transition of power from one political party to another was possible, but it brought to the fore a flaw in the new Constitution. Chiefly, it was
unprepared to handle a political system in which parties existed. Prior to 1803 the Electoral College cast ballots for candidates individually, that is to say, whoever got the most ballots became president, whoever received the next greatest amount was to be vice president. In the case of a tie, the House of Representatives was to decide. This had, in practice and theory, served the nation over the first two administrations.

In the midst of the ratification debate, Hamilton as Publius in *Federalist 68* lauded the mode of electing the President, “[if] it be not perfect, it is at least excellent.” Hamilton goes on to discuss the way in which the republican nature of the Electoral College safeguards the Executive from intrigue domestic and insulates it from foreign influence. The presidency, dependent upon the people, would attract “characters preeminent for ability and virtue.” The rise of parties was so unexpected by the framers that the executive branch would be the first major reform.

In regards to electoral politics, the election of 1800 proved more sordid, with Jefferson and Aaron Burr tying for President. The Democratic-Republicans had intended Jefferson to be President and Burr as Vice President, but Federalists saw an opportunity to confound their rivals and perhaps install a president more easily swayed than Jefferson. As a consequence, the vote moved to the House of Representatives. There were 35 unsuccessful votes, when finally on February 17 of 1801 the 36th Ballot led to Jefferson’s election over Burr—with help from Federalist leader Alexander Hamilton, given his valid doubts over Burr’s character. This bitter fight led to the same tensions that plagued the Adams/Jefferson administration, and would contribute to Hamilton and Burr’s fateful duel. Most significantly, it led directly to the passage of the 12th Amendment.

In response to this gridlock in appointing the chief executive, as well as the resentment that grew out of the Adams/Jefferson and Jefferson/Burr tickets, the 12th Amendment was proposed in the House in December of 1803 and ratified by the summer of 1804. Effectively, rather than vote for two candidates, with the highest recipient becoming president and second highest becoming vice president, the tickets were separated. Electors voted for a presidential candidate, then cast a second vote specifically for a vice presidential candidate. Additionally, it narrowed the pool of candidates electors could vote for in the event no candidate received a majority from 5 to 3. The same qualifications already in Article II for executive and for electors still applied. Today, this is all fairly straightforward and unchanged from 1804, when the new system successfully brought President Jefferson and Vice President George Clinton to a second term of office.

The 12th Amendment does not seem to bring very much to bear on the course of American governance; it appears at first blush a procedural change to accommodate the rise of parties. However, at closer examination, two fundamental questions arise. The first is the role of the vice president and republicanism in presidential elections. *Federalist 68*, one of the only to mention the vice president, Hamilton contends that the office should attract an “extraordinary person,” given the role as President of the Senate and potential successor to the President. Outside of these two tasks though, what role does the vice president play? This is not clearly defined by the Constitution, but let’s consider Hamilton’s exhortation that the mode of election be republican and dependent upon the people. Before the 12th Amendment, the vice president could have served as a representative of the minority view in the executive. In fact, Jefferson wrote of the Vice Presidency in a 1797 letter to Eldridge Gerry, “those who may
endeavor to separate us, are probably excited by the fear that I might have influence on the executive councils; but when they shall know that I consider my office as constitutionally confined to legislative functions…” Jefferson opposes the idea of the Vice President as a partisan foil to the President, but it is illustrative that the idea existed prior to 1800.

We see, in part here, the defect of the Convention in not better anticipating partisanship both among the political class and among the citizenry. The vice president, as the office was originally appointed, could have served as a voice for the minority in the executive branch. As a consequence of the 12th Amendment, to some extent, this is lost. Given the life appointments of the Supreme Court, and the reflective nature of the legislature being appointed by state governments and directly chosen by the people, all principles of the people are manifest. The executive branch, while tempered in government by checks and balances, is in effect, a reflection of only majority will of the people. Every other branch of government is more reflective of the people themselves. Is the presidency republican if the minority is not represented? Certainly the hope for an impartial executive that represents the whole of the people has only remained a hope, and to some, would in fact be a dereliction to the majority. Conversely, should something happen to the President, is it republican that the representative of the minority take control of the executive branch?

A second major consequence of the 12th Amendment is the rise of parties and unintentional support of a two-party system. The vice president became an electoral tool for parties to build coalition support for a ticket, rather than find Hamilton’s “extraordinary person.” The second name on the ticket is useful in building regional coalitions, and as America’s demographics shift, could be useful in mobilizing demographic blocks. However, the need to build a broader base of support can act as a moderating influence, much in the way a split administration suggested above could. Indeed, it is likely a better solution, as an executive that fails to function could harm public faith in government, as much as an overzealous executive.

In limiting the option of electors from 5 to 3 in the event of no candidates receiving a majority of votes, the 12th Amendment helps to constrain America’s political system to two parties. The two-party system is confounding to Americans who possess beliefs somewhat outside of the mainstream; Greens, Libertarians, etc. It lends itself to an executive branch reflective of the majority, but in republican government, is this necessarily a flaw? In order to protect the rights of both the majority and minority from passions inflamed by circumstance, does there not need to be a distillation of extremes – Libertarians siding with Conservatives, Progressives with Democrats – to keep the system running, sensitive to the desires of the minority of Americans, but reflective of the majority?

The election of 1804, and the success of the 12th Amendment, has aided in the survival of the American Republic for nearly 240 years. Questions of how active, and how reflective, we want the executive may remain, but we are perhaps well served by the efforts of the Founders to alleviate the impact passion has on the execution of the law.

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1804, The Constitutional Significance Of The Louisiana Purchase: An Election Issue – Guest Essayist: Professor Robert McDonald

The best argument against Thomas Jefferson’s 1804 reelection might well have been his presidency’s greatest success. The purchase of Louisiana doubled the nation in size, ensured the free flow of commerce along the Mississippi, and removed from the continent the threat of Napoleon Bonaparte’s France, which would soon take possession of the territory from Spain. Yet it was also unconstitutional—as Jefferson understood.

Did Jefferson’s approval of the 1803 Louisiana Purchase treaty make him a hypocrite?

During the administrations of George Washington and John Adams, Jefferson rose to prominence as a defender of the Constitution. He opposed the national bank, the Alien and Sedition Acts, and other measures on the grounds that they exceeded powers granted by the Constitution or violated limits set by the Bill of Rights.

A compromise between regions and interests, the national charter provided the United States no power to add new territory. Include Louisiana, and the marriage of the North and the South might become an uncomfortable ménage à trois with the West.

Unsettling the Union by shifting the balance of power was bad enough. Worse yet, Jefferson believed, was setting a bad example for future presidents who might be tempted, in less pressing circumstances, to ignore the Constitution’s restraints.

At first Jefferson drafted an amendment to the Constitution specifically authorizing the purchase. Then he allowed James Madison, his secretary of state, to talk him out of the effort. What if it slowed down the Senate’s ratification of the treaty and the House’s allocation of the necessary funds? What if it gave France—or Spain, which had no desire to see the expansion of its continental rival—an excuse to back out? What if it failed to secure the approval of three-fourths of the states?

It was not as if the Louisiana Purchase, although wildly popular, didn’t face opposition from Jefferson’s Federalist rivals, who displayed their own hypocrisy. For months members of the Federalist opposition had advocated spending up to $5 million to send as many as 50,000 troops to take New Orleans by force. Now they opposed acquiring peacefully, at only three times the cost, not only the city but also 530 million acres.

Few Federalists, who during the 1790s had read between the lines of the Constitution to discover implied powers, were hypocritical enough to oppose the Louisiana treaty on the grounds of strict construction. Instead they raised other objections.

Paying $15 million for the land amounted to an “unconscionable bargain,” one Federalist complained, by which “France is to be aided in her designs against Great Britain.” Was it right for America to tip the scales between the rival nations?
And was the land even worth the price? As the 1804 election approached Federalists mocked accounts of the territory’s supposed natural riches. They belittled reports that it included a mountain of salt 180 miles long and 45 miles wide. They laughed at the notion—advanced, they claimed, by the treaty’s supporters—that in Louisiana “pigs, geese, and turkeys roast themselves… and then come beg you to eat them.” Jefferson, they maintained, had been duped by Napoleon.

Federalists also confronted the long-term political implications. The Louisiana Territory, a writer predicted, could “be cut up into states without number, but each with two votes in the Senate.” The future residents of Kansas would have little in common with Massachusetts cod fishermen—and little reason to vote with them. Like the people of “imperial Virginia” they’d be farmers.

For Jefferson, however, preserving America as a nation of farmers was the greatest benefit of the Louisiana Purchase. He believed that “those who labour in the earth are the chosen people of God” because farmers enjoyed strong incentives to be hardworking, honest, and community-spirited. They provided for themselves and answered to no one. They were ideal citizens.

Yet America’s population had been doubling every twenty years. Eventually the United States would run out of land for agriculture. Citizens would have to work for others, compromising their independence of mind and means. Louisiana’s vast acreage, by delaying that day of reckoning, would help sustain the American character.

If exceeding the bounds of the Constitution violated Jefferson’s principles, so would passing up the opportunity to preserve the nation’s peace while expanding its reach and enhancing prospects for success in its experiment with self-government. Jefferson’s dilemma was a private one. Most Americans focused on the benefits of the purchase of Louisiana, ignoring the constitutional costs.

Adding the new territory—together with his elimination of all internal taxes, his reduction of the national debt, and his refutation of critics’ predictions that he would unleash in America all the excesses of the French Revolution—helped Jefferson in 1804 to secure a landslide 162-14 electoral vote victory. Even Massachusetts, the former Federalist stronghold, sided with Jefferson.

At the Hartford Convention ten years later, however, Massachusetts and several of its neighbors, convinced that new states in the West would reduce them to a permanent electoral minority, flirted with secession. In 1860, the election of Abraham Lincoln, who promised to halt the expansion of slavery in the West, led the South to leave the nation Jefferson thought the Louisiana Purchase would strengthen. It is impossible to imagine the United States without the land west of the Mississippi. But it is also impossible to deny that disputes over how best to divide and define this territory helped provoke the bloodiest war in U.S. history.

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On June 22, 1807, the American frigate *USS Chesapeake* set sail from Norfolk, Virginia for the waters of the Atlantic to join in a squadron heading to the Mediterranean to battle the Barbary Pirates. The 50-gun British warship *HMS Leopard* immediately pounced upon the ship and sought to board her seeking deserters from the Royal Navy. When American Commodore James Barron refused the demand, the *Leopard* fired a warning shot and then loosed a deadly broadside at the *Chesapeake*. The thunderous barrage was followed by others, and the beleaguered American ship could only offer meager resistance. As the smoke drifted around the opposing ships, three American sailors lay dead and eighteen wretched in agony from horrific wounds. Barron had no choice but to surrender, and the British seized four seamen though only one was a British subject.

The *Chesapeake* incident set off a wave of outrage in the United States. Many Americans wanted war, and the administration of Thomas Jefferson responded in an appropriately bellicose manner. Even though Jefferson had assailed the Washington and Adams administrations for their supposed centralizing tendencies of federal taxes to support a peacetime military establishment particularly during the 1798 Quasi-War with France, Jefferson quickly adopted similar policies to deal with the British.

President Jefferson implemented a warlike stance that resembled the vision of his old nemesis, Alexander Hamilton. Jefferson strengthened the coastal defenses, built up the Navy, asked the state governors to mobilize 100,000 militiamen, and won congressional authorization for $4 million to add eight new U.S. Army regiments. But, like his predecessor, John Adams, Jefferson continued to pursue peace as an alternative to actually going to war. Therefore, he went to Congress and asked for a trade embargo to punish the British and pressure them to respect American neutral rights.

By this time, Great Britain and France had been at war more or less continuously for a decade and a half. Both empires had violated American neutral rights by seizing American vessels and impressing their sailors into service for the respective navies. In fact, the 1790s were a history of repeated violations and failed attempts to reconcile the issue satisfactorily. The controversy only heated up recently when the British tightened its restrictive policy of foreign nations trading with France and seized scores of American vessels in the summer of 1805. The French followed in late 1806, when Emperor Napoleon Bonaparte announced his Continental System banning all trade with the British. Tensions boiled over with the *Chesapeake* incident.

Besides Jefferson's mobilization for war, Congress obliged another of the president's requests and passed the Embargo Act in the waning days of 1807. The Embargo Act prohibited all American ships from trading internationally and banned all American exports, though curiously it did not ban British imports carried by their ships. The embargo resulted in a disastrous collapse of American trade and had significant effects on American domestic politics.

Ironically, the Embargo Act was remarkably successful in hurting Americans a lot more than the British. American exports declined a whopping eighty percent while imports dropped sixty percent. American ships, sailors, and dock workers sat idle across the Atlantic seaboard, but no region was as materially affected as New England, the bastion of the Federalist Party. New Englanders were so irate they spoke openly of secession. It seemed to be a golden opportunity for the Federalists to recover their political strength after eight years of Jeffersonianism and the electoral triumph of the Republicans.

The Republican candidate was James Madison, who had served as Secretary of State under Jefferson and ran with New Yorker George Clinton. Madison was roundly and severely criticized for his vehement support of the embargo in the months leading to the election, but the Federalists could not
capitalize on this and were rapidly becoming a spent force in electoral politics. The Federalists ran a geographically-diverse ticket of Charles Cotesworth Pinckney from South Carolina and Rufus King of New York but could only muster victories in the Electoral College in five New England states. James Madison won a resounding victory by winning twelve states including some in the North.

The Congress voted to repeal the hated Embargo Act, and the repeal took effect the day President Madison took office on March 4, 1809. Although the Congress would pass weaker trade restrictions, the European belligerents would continue to violate American neutrality. As a result, the Congress would declare war against Great Britain in the War of 1812. The Federalists generally opposed the war and that unpopular stance was coupled with a seemingly disloyal convention for secession. Within a decade of the 1808 election, the Federalists disappeared from the American party system.

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James Madison Defeats DeWitt Clinton: The Wartime Election Of 1812 – Guest Essayist: Sam Agami

The waging of war is the greatest challenge any person in national authority can face. It is an all-consuming task. It is an undertaking that can destroy both leader and nation. Of all governments, Constitutional Republics face the greatest challenge. Conscripting armies, rationing materials, the issuing and obeying of unquestionable orders; all of these go against the very nature of a Constitutional republic. In a time where national sovereignty is at stake, it is tempting to overlook the importance of core principles such as the consent of the governed and rule of law. How many republics across the globe have transitioned into military dictatorships that started as temporary states of emergency? As Abraham Lincoln so famously reflected in Gettysburg in 1863, “...we are engaged in a great civil war, testing whether that nation or any nation so conceived (in liberty) and so dedicated can long endure...”

Challenging a leader in time of war walks the fine line between democracy and undermining the war effort. The prospect for a wartime election was inevitable in our Constitution’s provision for a short four-year term for the Commander-in-Chief. Lincoln handled this admirably, when in 1864 he was challenged by none other than George McClellan, a Union General that Lincoln had relieved of command earlier in the war. Franklin Roosevelt also prevailed in a wartime re-election, earning an unprecedented fourth term. Richard Nixon easily prevailed in 1972 in a contest against “peace” candidate George McGovern. Most recently, George W. Bush won re-election over John Kerry in 2004 in the midst of the Iraq and Afghanistan wars.

In wartime elections, the incumbents usually make the successful case that wartime is not the time to oust incumbents. As Lincoln’s 1864 campaign slogan famously said, “Don’t change horses in midstream.” Opponents during these elections usually take the tact that they would be able to run the war more efficiently than the incumbent, while carefully trying to avoid any criticism of the military which would come off as unpatriotic.

However much more we remember the great tribulations of Civil War and the masterful statesmanship of Lincoln, his administration was not the first so tested to preserve the republic’s
democratic nature during wartime. In the closing months of James Madison’s first term, only the sixth term since the ratification of the Constitution, war came to the United States. Great Britain pursued a hostile policy toward the United States on the high seas; ignoring the flag and seizing cargos and crews at will. This led to the Non-intercourse Act of 1809, which cut off trade with Britain (and France) until the situation improved. By 1812 the situation had become unbearable. On June 1st, Madison spoke to Congress in what would become known as his “War Message.” Madison explained the many grievances against American sovereignty, and the many diplomatic steps that had been taken to resolve the issue peacefully. This is the first time an American President has made the case for war to the American people through their representatives. It became a precedent that has been followed by every wartime President since. He offered those representatives a stark choice, “Whether the United States shall continue passive under these progressive usurpations and these accumulating wrongs or, opposing force to force in defense of their national rights...”

The House of Representatives did, for the first time, declare war. It was far from unanimous however. A house divided by party and region, voted 98-62 in favor of war, with 14 members abstaining. All 39 House Federalists voted against the war declaration. Republicans from the south and west voted for war, but 23 Republicans from New York and New Jersey did not.

This decision to go to war was made with the re-election campaign looming large. Madison has been re-nominated little more than two weeks prior to delivering his War Message. The nomination itself was clouded by the prospect of war. Madison was forced to consider both national and political goals at the same time. The Republican “War Hawks” pressured Madison to act aggressively. Others urged caution, as Samuel Harrison of Vermont wrote to Madison on May 11th, “...You may lay aside all expectations of a new election to the presidency, if you do declare war. On this single criterion depends your support, or neglect at the ensuing election...”

Madison was nominated by a vote of the Democratic-Republican Party nominating caucus on May 18, 1812. The regional split appeared at the caucus, as third of the delegates, primarily from New England, boycotted the proceedings.

The Federalist Party, on the other hand, wanted to both avoid war and a second Madison term. The Federalists, almost solely from the New England region were weary of the “Virginia Dynasty,” which had elected four of the first five chief executives. The Federalists also felt Madison was too close to France, and too hostile towards the British, with whom they shared a mercantile interest. As former Secretary of State Timothy Pickering wrote, “...I would vote for any man in preference to Madison. I am disposed that neither Thomas Jefferson nor James Madison have dared resist the will of Napoleon; because I presume they stand committed to him.”

The Federalists feared that they did not have a candidate that could compete with Madison in a national election, so they embarked upon a radical path. The Federalists combined with the northeastern Republicans and formed the “Fusion” party ticket. They eventually settled on nominating New York’s DeWitt Clinton for President, a Republican. Clinton was seen as giving the best chance for a defeat of Madison, yet he was far from an enthusiastic choice, “No
Federalist will vote for Clinton, except from the despair of getting in a federal President. It is not out of regard to him they support his pretensions, but from their utter inability to run in any man of their own side,” wrote the anonymous “Boston Patriot” in the Republican Raleigh Register and North Carolina Gazette on September 12, 1812.

Campaigns in the early nineteenth century were conducted in print and by surrogates, as travel was so difficult. Clinton’s New York supporters formed a “Committee of Correspondence” which issued what was basically a platform for the campaign. It did not come out completely against the war, but did not make vague statements critical about Madison’s execution of it. Madison was criticized as having taken the United States to war without adequate preparation, while Clinton would be an effective war leader, but one who would seek to end the war soon. However in New England Clinton was portrayed as a peace candidate, while in the south a strong war leader who would bring victory. This deception was denounced by Madison’s surrogates. Madison was portrayed as the natural defender of the Constitutional order; the sure hand guiding the nation in a time of crisis. The nature of the Clinton campaign turned John Quincy Adams, who would become the final Federalist President, against his fellow Federalists. Adams even pledged to be an elector on behalf of Madison, representing his home district in Massachusetts.

The Clintonites portrayed the potential re-election of Madison in the starkest terms imaginable. As the anonymous “Statesman” wrote in the Boston Weekly Messenger on November 6th, “If you have not mercy on your defenders – if you like to see human blood and national glory trifled with, go! Do all you can to support Madison…but if there remains in you bosom one single unextinguished spark of patriotism, go! Vote against him!”

The voting took place from late October until early November, yet no results were known until the first week of December, 1812. The states had fallen along regional lines, as expected. The solid south, along with Pennsylvania, Vermont, and Ohio gave their 128 electoral votes to Madison. It is worth noting that the three states outside the south were states on the front lines of the war. The other New England and Mid-Atlantic states cast their 89 electoral votes for Clinton. Madison had been re-elected. Vice President-elect Elbridge Gerry offered his congratulations to Madison on December 12, “I am happy, extremely so, in the prospect of your re-election; for the reverse of this would, in my mind have given Great Britain a complete triumph over our most meritorious administration…and would have been considered by her and probably all of Europe as a sure pledge of the revocation of our independence...”

It had been proven that our republic could withstand war politically, as well as militarily. The commander-in-chief could be publically challenged: he could respond to that challenge on a political level without using his military power, and preserve both the nation’s sovereignty and its democracy at the same time.

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1816, James Monroe Defeats Rufus King: The Hartford Convention – Guest Essayist: Professor Joerg Knipprath

Rufus King: delegate from Massachusetts to both the Confederation Congress and the Constitutional Convention in Philadelphia (where, he was one of five members of the influential Committee of Style), long-time U.S. Senator from New York, unsuccessful candidate for governor of New York, two-time American ambassador to Great Britain (where his first successor was James Monroe), and three times unsuccessful Federalist Party candidate for high executive office in the general government—twice for vice-president and once for president. It was this patriot’s lot to lead the disgraced and disintegrating rump of the Federalist Party in its last national campaign.

James Monroe: delegate from Virginia to the Confederation Congress, U.S. Senator and governor of Virginia, American ambassador to France and, subsequently, Great Britain (where Rufus King was his predecessor), member of the cabinet during the Madison administration, and two times successful candidate for president. It was this patriot’s lot to lead the victorious Democratic-Republican Party in its last national campaign, before its collapse into competing factions in the election of 1824 ended the First American Party System and the New York-Virginia axis that had dominated it.

The election of 1816 followed the generally disastrous War of 1812. The Jefferson administration’s diplomatic incompetence and its namesake’s ideological hostility to Great Britain, along with the British government’s lack of forward vision, had produced a drift to an entirely avoidable war. As minister to Great Britain, Monroe had negotiated a treaty in 1806 to
extend the expired Jay Treaty of 1794. Like its predecessor, the proposed treaty would have protected beneficial commercial access for American merchants to British markets. However, Jefferson refused even to submit the treaty to the Senate for approval. When relations with Britain soured over the Royal Navy’s boarding of American ships and impressment of American sailors, Jefferson recalled his proposals from the 1790s on how to deal with such matters and opted for economic sanctions.

The Embargo Act of 1807—supported in early 1809 by an extraordinary military enforcement act—prohibited American shipping to foreign ports, all American exports, and many British imports. As a result, for more than a year, American shipping was generally confined to American ports. The embargo was not airtight. Smuggling relieved some economic effects of the disastrous policy. Large shipowners already had ships abroad and avoided the embargo. But small and medium-sized shippers were financially ruined. The economy suffered, with the worst effect in New England and New York. The frustrated Jefferson was prodded to proclaim an insurrection in a portion of New York and to order several—unsuccessful—treason prosecutions.

In reaction, the New York legislature in 1808 nominated Vice-President George Clinton to become the Democratic-Republican candidate for president, rather than Jefferson’s hand-picked successor, James Madison. Virginia followed suit. A group of self-styled “Old Republicans,” led by the fiery John Randolph of Roanoke, the party’s leader in the House of Representatives, nominated James Monroe. An attempt at a temporary morganatic marriage between these Republican dissidents and the fading Federalist Party failed, so that Madison was elected.

However, the Federalists controlled the New England state governments. In a preview of future events, in February, 1809, a serious proposal was launched to gather a convention of New England states to nullify the Embargo Act. When Jefferson and his successor, Secretary of State Madison, denounced these efforts, the Federalists cited the Virginia and Kentucky Resolutions, drafted by these two eminences in 1798 in opposition to the Alien and Sedition Acts. The administration’s leaders were further shocked by a flurry of resolutions from New England towns, some of which threatened secession from the United States.

Relations with Britain continued along their slow arc towards war. The British and the French intensified their seizure of neutral shipping in their efforts to cripple the other’s economy. The United States, caught in the squeeze, responded with “non-intercourse” legislation. Madison eventually used this on March 2, 1811, to prohibit American commerce with Britain. Combined with Napoleon’s similar strategy, the policy hurt Britain economically in the short term. However, in the longer term, it triggered a de facto British blockade and devastated American commerce. That result, in turn, emboldened the young and rising congressional war hawks. Madison, who had little political skill or personal charisma, was left with no political maneuvering room. War was declared, over the strident opposition of the New England, New York, New Jersey, and Maryland delegations.

New England was still controlled by the Federalist Party. Indeed, the anti-war fever in the region increased their popularity and brought them a temporary respite on their trek to oblivion. When Madison sought military assistance from the states, the governors of Massachusetts, Rhode Island, and Connecticut refused to release their militias, claiming that they were needed to
protect the region and using them as the core of separate state armies. Federalist merchants refused to purchase war bonds. The government’s finances were in disarray. The national debt tripled in four years. Funding by Congress was insufficient. By 1815, looming insolvency threatened the government’s ability to meet its bills.

In 1814, Britain extended its blockade to New England. In October of that year, Massachusetts called for a New England Convention to meet at Hartford, Connecticut, to discuss “their public grievances and concerns” and “defence against the enemy…and also to take measures if they shall think proper, for procuring a convention of delegates from all the United States, in order to revise the Constitution thereof.” The Convention met secretly in December, 1814, with delegates mainly from Massachusetts, Connecticut, and Rhode Island, but also a few from municipalities in New Hampshire and Vermont.

Radicals at the convention sought an entirely new federal constitution, with special protections for New England, to be presented to the original thirteen states. If those did not approve, there would be secession and a separate peace with England, points that met with favor in the British press.

Fortunately for the Union, more moderate voices prevailed. Drawing on the principles of states’ rights and Madison’s and Jefferson’s arguments in the Virginia and Kentucky Resolves, the Convention in its report on January 5, 1815, merely urged state interposition against unconstitutional federal conscription and militia laws. It further proposed seven amendments to the Constitution, among them representation in the House to be based on free population only, a two-thirds vote needed to declare war or impose an economic embargo, a single term for the president, and no successive presidents to come from the same state—a blow against the recent dominance of Virginia over that office. Another convention was to be called if the war continued and the federal government failed to respond favorably to these proposals. While secession was ruled out as inexpedient, its specter was useful both to mollify the more militant delegates and to encourage serious consideration by the other states of New England’s demands.

These proposals suffered the same political ignominy as had Jefferson’s and Madison’s efforts in 1798. Only Connecticut and Massachusetts approved, while nine states formally disapproved or dissented. However, the Hartford Convention had two lasting impacts. First, on the constitutional level, it showed the national value of appeals to state sovereignty and state-driven constitutional amendment as counterbalance to oppressive and unconstitutional federal action. What Virginia and Kentucky started, New England continued, and South Carolina subsequently refined and expanded is still a part of constitutional politics, as seen in the reaction to feckless federal action regarding the country’s borders and in the calls for an “Article V Convention of States.”

Second, the convention affected the political landscape. With the issuance of its report and the end of the War of 1812, secession fever broke. The belated and militarily inconsequential victory of Andrew Jackson at the battle of New Orleans and the peace treaty with Great Britain allowed the Madison administration to seize the political heights. New England was blamed for federal blundering in the war, and the Federalist Party was tainted with lack of patriotism. Mortally wounded, it never recovered.
The two antagonists in the 1816 election, Monroe and King—so similar in background and talent—suffered such different fates. Monroe received 183 out of 217 electoral votes and served two terms as president. King, who carried only Massachusetts, Connecticut, and Delaware, continued as U.S. Senator and, eventually, as ambassador to Britain. But, like the party whose last standard-bearer he was, he has passed into historical obscurity.

The historian Samuel Eliot Morison eulogized this party “that contained more talent and virtue, with less political common sense, than any of its successors…. [They led] an inchoate nation to enduring union…. But their chosen basis, an oligarchy of wealth and talent, was not sufficiently broad or deep. Neither their patience nor their vision was adequate for their task…. The expanding forces of American life enveloped and overwhelmed them.”

An expert on constitutional law, Prof. Joerg W. Knipprath has been interviewed by print and broadcast media on a number of related topics ranging from recent U.S. Supreme Court decisions to presidential succession. He has written opinion pieces and articles on business and securities law as well as constitutional issues, and has focused his more recent research on the effect of judicial review on the evolution of constitutional law. He has also spoken on business law and contemporary constitutional issues before professional and community forums. Read more from Professor Knipprath at: http://www.tokenconservative.com/.

1816, Constitutional Issues Surrounding The Second Bank Of The U. S. – Guest Essayist: Professor Kyle Scott

The debate over the First and Second Banks of the United States expose the difficulties of constitutional interpretation. Additionally, the debate surrounding the Second Bank of the United States is a study of how principles can give way to political expediency. The following essay will provide a brief overview the Banks, discuss the constitutional debate surrounding the Banks, and then discuss the Second Bank as it relates to the presidential election of 1816 in which James Monroe succeeded James Madison by defeating Rufus King.

After the ratification of the Constitution, the American political power structure quickly formed two parties at the national level: the Democratic-Republicans and the Federalists. Thomas Jefferson and James Madison aligned with the first and Alexander Hamilton and John Adams with the second. George Washington remained unaffiliated with either party but followed many of the Federalist recommendations like the establishment of a national bank.

The debate over the national bank divided along partisan lines with the Federalists arguing the implied powers of the Constitution granted congress the authority to establish a bank. This power, they argued, was derived from the necessary and proper clause: “Congress shall have the power… To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” (Article 1, Section 8, Clause 18). Alexander Hamilton and George Washington, two delegates at the Constitutional Convention, found the authority to establish a national bank implied within this Article. As Secretary of the Treasury in the Washington administration, Hamilton pushed for a national bank that would,
through various measures, create liquidity for the national government and private enterprise. Congress granted a twenty-year charter expiring in 1811 for the establishment of a national bank. The bank was a private entity that functioned as a de facto central bank.

Thomas Jefferson, then Secretary of State, and James Madison, then serving in the House of Representatives, opposed the new bank for fear it would benefit the industrial North and the investor class at the expense of the South and the population in general. They also argued that a strict construction of the Constitution gave no such power to the government but only to the states and the people as stated in the 10th Amendment. Nowhere in the Constitution was such a power explicitly given to the national government.

Madison and Hamilton were both at the Constitutional Convention in Philadelphia and both had a major role in its drafting and ratification, particularly when they collaborated on *The Federalist* under the name Publius, and yet the two could not agree about what the Constitution actually said on this question. This exposes the difficulty of constitutional interpretation for if the people who had a hand in writing the document could not agree upon what it meant then there is very little hope that those who come along over 200 years later will be able to create a definitive interpretation of a document as it relates to matters non-existent at the time of the founding. This does not mean those of us engaged in political disputes today should simply give up on understanding the Constitution, but we should give pause when confronted with the notion that the Constitution gives a clear and definitive answer to all questions. No greater minds have existed in our country than in James Madison and Alexander Hamilton and yet they could not agree on what the Constitution said. Thomas Jefferson was equally brilliant but was in France when the Constitutional Convention convened. But Madison and Hamilton were both in the room and influential in seeing it drafted and ratified. Their disagreement should humble those of us who propose to know what the Constitution “really” says for if those two cannot agree it is doubtful any of us truly knows.

What the debate over the Second Bank of the United States exposes is that adherence to constitutional principle often times gives way to, or is shaped by, one’s political disposition or political pressures. Perhaps the debate between Hamilton and Madison, and their reading of the Constitution was ideological. But if that is the case then Madison seems to switch allegiances on the question when he threw his support behind the bank as President.

After the War of 1812 the issue of the bank arose again as the initial charter had expired in 1811 and now the country faced war debts. Madison, now President, vetoed the first bill asking for a second bank in 1814. But in 1816 he signed the bill into law and the bank’s charter was renewed for another twenty years. Madison abandoned his earlier opposition to the bank. To do this he had to abandon his earlier constitutionally based arguments opposing the bank. Madison sacrificed principle for political expediency.

One of the primary planks within the Federalist Party platform was the need for a national bank. When James Madison, a Democratic-Republican, changed his position on the bank, and on protective tariffs which he and Jefferson had initially opposed as well, Rufus King lost his chance to become president as the Democratic-Republicans, and their candidate James Monroe, had coopted their policy positions.
Monroe won in a landslide. The victory would not have been possible had Madison not abandoned his principled constitutional position for a political expedient position. Had the bank charter not have been granted by Madison the Federalists would have used that as a campaign issue as most Americans supported a bank thus potentially changing the outcome of the election.

Madison was one of the best political theorists our country has produced, but he was also a political tactician who knew what was necessary for his party to retain power. This is similar to Thomas Jefferson who, despite great opposition to extensive executive authority and adherence to a strict reading of the Constitution, abandoned his principles when he purchased the Louisiana territory from France in 1803. For the Louisiana Purchase James Madison (“Father of the Constitution”) was Secretary of State and gave his full-throated support to Jefferson. Both men, in this instance and others, were willing to abandon a strict construction of the Constitution for policies that would benefit the country and their party.

It may be a hard pill to swallow but our Founders were first and foremost politicians. Had they been anything else the United States would have remained only an idea. They had clear-eyed principles that guided them but they were willing to abandon those principles when circumstances demanded. This is not to diminish their accomplishments or question their integrity. Rather, this is an attempt to recognize that all men, no matter how much we admire them, are not perfect. As Madison wrote, “if all men were angels no government would be necessary.” The Founders were wise enough to know that a constitution was necessary to contain the appetites of men but no document would be sufficient. It was, and is, the responsibility of an enlightened and energetic citizenry to make sure politicians act within the bounds of the constitution and our Constitution provides avenues for citizens to exert their will if they choose.

This study of the election of 1816 within the context of the debate surrounding the second national bank has two relevant lessons for those of us focused on the current political debate. First, interpreting the Constitution is no easy matter and very likely not as clear as most of us would like to think. Two men who were at the Convention, Hamilton and Madison, among others, could not agree on what the document said. When considering this fact we should all recognize that those of us living today lack the ability to know precisely what the document meant to the founders. Second, we should not treat politicians as the embodiment of principles. All men are prone to error and capable of abandoning principles when the proper conditions arise. As citizens we must remain actively engaged at all times, and not just during election season, to hold our elected officials accountable.

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1820, James Monroe Won Unopposed: The Missouri Compromise –
Guest Essayist: Daniel A. Cotter

The Election of 1820: The Uncontested Race and the Missouri Compromise

The election of 1820 was the last presidential contest in which the ticket ran virtually unopposed. President James Monroe and his Vice President, Daniel D. Tompkins, won all but one electoral vote, which went to John Quincy Adams. The only other president elected without opposition had been George Washington in 1788 and 1792. The Federalist Party ran no presidential candidate and the election effectively marked the end of the Federalist Party. Monroe’s re-election came in the wake of Congressional debate on Missouri Compromise, which had been passed by the Senate and was still pending in the House at the time of the election.

The Candidate

James Monroe was the Democratic-Republican incumbent in 1820. In the 1816 election, he had won 68% of the popular vote and more than 80% of the Electoral College. With no real opposition in 1820, he would win 81% of the popular vote and all but one electoral vote. Monroe was the fifth President of the United States and the last of the “Founding Fathers.” He refused to attend the Constitutional Convention but then attended the Virginia Ratifying Convention as an anti-Federalist because the Constitution lacked a bill of rights. Virginia voted for ratification by a very slim margin and Monroe later decided to push for the bill of rights after the Constitution was ratified and the nation established.

Monroe was elected as a United States Senator by the Virginia state legislature. He soon became Senate leader. Monroe served in the Senate from 1790 until 1794, when he became a United States Minister to France. Upon his return to the United States, Monroe practiced law and served two separate terms as Governor of Virginia. He also returned to France to negotiate the Louisiana Purchase in 1803 and then was sent to Great Britain to negotiate an important treaty that would have extended the Jay Treaty, but President Jefferson refused to submit the Treaty to Congress for ratification.

Monroe was appointed as Secretary of State by President James Madison and took the position on April 2, 1811. Despite never formally resigning as Secretary of State, Monroe also served as Secretary of War from September 1814 until March 1815, thus holding two Cabinet posts simultaneously. He continued as Secretary of State until 1817, when he began his first term as President.

During Monroe’s first term, one of the topics taking center stage was slavery and what to do with new territories. Congressional leaders worked to develop what was hoped to be a legislative solution, which came to be known as the Missouri Compromise.
The Missouri Compromise

The Missouri Compromise was an effort by the United States Congress to address slavery and create a balance between the slaveholding and free states. Congress struggled with the issue for some time. In 1819, Missouri applied for statehood. Admitting Missouri to the Union as a “slave state” would give the Southern states a numerical majority and more power in Congress. New York Representative James Tallmadge, Jr. introduced an amendment to Missouri’s statehood application, including restrictions on slavery and its eventual elimination in the state. The Tallmadge Amendment stated:

“And provided, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years.”

The Tallmadge Amendment passed the House but failed in the Senate. The debate on Missouri statehood continued for a year, until Maine (formerly part of Massachusetts) sought statehood. Speaker of the House Henry Clay from Kentucky proposed that if Maine became a state, then Missouri should as well. A solution was developed that states would be admitted in pairs, one slaveholding and one free, to maintain the balance of power. The Clay solution became known as the Missouri Compromise.

The Missouri Compromise was debated over a period of time, with the Senate passing it on March 2, 1820, before the 1820 Presidential election, and the House debating it much longer, not passing it until February 26, 1821, long after the 1820 election.

On March 9, 1820, Congress had passed a law directing the Missouri Territory to hold a convention for the purpose of organizing a government and drafting a constitution. At the time of the 1820 Presidential election, there was considerable debate about the electoral votes of Missouri. If those votes were counted, it would be a conclusion that Missouri had become a state. Congress therefore passed a law that the Missouri electoral votes would only be counted if they would make a difference in the election, and the President of the Senate read the totals with both Missouri included and excluded. Given Monroe’s landslide victory, Missouri’s electoral votes had no bearing on the outcome.

Conclusion

The Missouri Compromise served to temper Congressional debate over slavery for the next three decades, until California was admitted as a free state in 1850 with no slaveholding state admitted at the same time. Effectively overruled by the Kansas-Nebraska Act in 1854, the Missouri Compromise was also found to be unconstitutional by the much-denounced 1857 Supreme Court decision, Dred Scott v. Sandford, which held that Congress had overreached in its enactment of the Missouri Compromise. The decision was only the second one in which the Supreme Court found an act of Congress to be unconstitutional.
McCulloch v. Maryland: Not Quite A Campaign Issue? –
Guest Essayist: Professor Robert Lowry Clinton

McCulloch v. Maryland, 4 Wheaton (17 U.S.) 316 (1819), is widely regarded as the landmark case defining the boundaries of power between national and state government in the American federal system. In McCulloch, the United States Supreme Court, in a unanimous opinion written by Chief Justice John Marshall, explored the extent of implied congressional power under the Necessary and Proper Clause of Article I, Section 8 of the Constitution. The Court also determined the effect of the National Supremacy Clause in Article VI when an exercise of state authority conflicts with a national law.

The case arose when McCulloch, cashier of the Baltimore branch of the Second Bank of the United States, refused to pay a stamp tax which had been levied on the assets of banks not chartered by the Maryland legislature. McCulloch claimed that it was not within the power of a state to tax a congressionally-chartered instrument of the national government. Maryland sued and won in its own courts, and McCulloch appealed to the U. S. Supreme Court.

Counsel for Maryland presented the Supreme Court with two major arguments. First, the state contended that Congress had no power to charter a national bank in the first place, since no such power is specified in Article I, Section 8 or anywhere else in the Constitution. Second, the state contended that even if Congress had such power, the state was acting within its legitimate taxing authority when it taxed a bank doing business in its territory.

After enumerating the powers of Congress in the first 17 clauses of Article I, Section 8, the Constitution adds an “implied” power to enact laws that are deemed “necessary and proper” for making the other powers of the government effective. Maryland argued that this amounted to a restriction of the implied power to laws that are “absolutely necessary” for accomplishing the objects of the assigned powers. The Court rejected this restrictive interpretation, holding instead that the words “necessary” and “proper” must be read together to mean “appropriate” or “conducive to” the accomplishment of those objects. Read this way, the bank could be viewed as an appropriate extension of the fiscal, monetary, and other powers of the national government. Marshall also strongly suggested in his opinion that the Court’s decision was compelled by considerations of judicial self-restraint, since the choice of appropriate “means” to accomplish legitimate constitutional objectives should be left within the discretion of Congress, not that of the courts.

As to the state’s power to tax the bank, the Court ruled that such a tax would amount to taxation without representation, in effect allowing the citizens of Maryland to levy a tax upon citizens of the United States that were not represented in Maryland’s legislature. Again, the Court strongly
suggested that considerations of judicial self-restraint were important, since allowing states to tax instruments of national government would inevitably require courts to draw the line between “allowable” and “destructive” taxation with great precision. Involving the courts in such inquiries about the degrees of permissible taxation by states would have placed them squarely in one of the most dangerous political thickets of the time.

Despite Marshall’s plea of judicial restraint, the political thicket was not avoided. On the contrary, McCulloch proved to be one of the most controversial decisions in Supreme Court history. The Court’s opinion inspired a set of published critiques by two prominent Virginia judges, William Brockenbrough (“Amphyction”) and Spencer Roane (“Hampden”). These critiques began to appear within weeks of the decision, and were so vigorous that Marshall himself felt compelled, pseudonymously, to reply to the Court’s critics in print. The critics were apparently less offended by the decision itself (Roane himself had bought shares of the bank’s stock) than by the reasoning that Marshall had employed in its’ defense. According to one commentator, the critics “required an obsequious, silent opinion without reason” (Baker, p. 606). Chief among their concerns was Marshall’s insistence that adoption of the Constitution was an act of the whole people of the United States, not an act of the states as such (as the Articles of Confederation had been). This primary concern reveals the “states’ rights” perspective of the critics, and harks back to the original opposition of Roane particularly to adoption of the Constitution in the first place.

The attacks on the Court continued throughout 1819 and 1820, and would undoubtedly have been a major campaign issue in the election of 1820, had there been a real campaign. Additionally, the fact that the bank was highly unpopular in some sections of the country and had been blamed by many for causing the Panic of 1819, would have greatly intensified the issue. However, fortunately for the Court—and perhaps for the country at the time, the Federalist party had breathed its’ last and was unable to nominate a candidate to challenge incumbent James Monroe, so the 1820 election turned out to be the last in which a presidential candidate would run unopposed (Washington being the only other).

On the horizon, the issue of the bank, and of the Court’s interpretation of the Constitution in McCulloch, would linger for years. The congressional rechartering of the bank would be vetoed once-and-for-all by Andrew Jackson in the 1830s, and the issue of federalism versus confederalism would require the Civil War for its’ settlement. Even beyond the 1860s, the McCulloch opinion would serve as the foundation of innumerable controversies over the balance of power between the national government and the states. And this issue would find expression in many subsequent presidential campaigns.

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1824, John Quincy Adams Defeats Henry Clay, Andrew Jackson, And William Crawford: Party Nominating Conventions And Popular Votes In Elections – Guest Essayist: Professor Joseph Postell

The 1824 presidential election produced the infamous “Corrupt Bargain,” in which the House of Representatives selected John Quincy Adams as President rather than Andrew Jackson, who finished first in the popular vote and in the Electoral College (but did not reach a majority in either). More important, however, is the fact that the 1824 election led to the creation of strong political parties and the system of national nominating conventions for the two main parties.

The person who recognized the problems of the 1824 election most clearly was Martin Van Buren, the great (and often-overlooked) architect of the 19th Century party system. The Corrupt Bargain happened in the first place, he determined, because of the lack of a two-party system. John Quincy Adams’ predecessor James Monroe had attempted to put an end to party strife once-and-for-all. As he argued in a letter to Andrew Jackson in 1816, on the eve of assuming the presidency, “Many men very distinguished for their talents are of the opinion that the existence of the federal[ist] party is necessary to keep union and order in the republican ranks, that is that free government cannot exist without parties. This is not my opinion.” He told Jackson that his object is to “exterminate all party divisions in our country.” Thus he presided over the “Era of Good Feelings” in which there was, in effect, only one party in existence throughout the country. Monroe ran unopposed for a second term in 1820 and won all but one vote in the Electoral College.

But Monroe’s vision of a party-free republic led to serious problems. Within the only party remaining there was internal strife and personal animosity. By 1822, halfway through his second term, an exasperated Monroe wrote to James Madison, “I have never known such a state of things as has existed here during the last Session, nor have I personally experienced so much embarrassment and mortification.” Monroe’s success, he explained, “has overwhelmed the federalist party, so that there is no division of that kind to rally any persons together in support of the [Monroe] administration.” Even worse, “The approaching election [of 1824], tho’ distant, is a circumstance that excites great interest in both houses….There being three avowed candidates in the administration is a circumstance which increases the embarrassment.”
Monroe’s presidency revealed important truths about the role of parties in a popular form of government. In a two-party system there is enough loyalty within each party to allow it to rally around and support a presidential candidate. In the absence of parties, personalities within the dominant party will divide up the party and turn elections into lengthy contests of personality and recrimination. As Monroe complained, the election of 1824 was well underway two years beforehand, and “In many cases the attacks are personal, directed against the individual.” Since all the candidates were within the same party, the attacks had to be personal rather than based on ideas, since the candidates were so similar in their principles.

Looking back at the carnage of the 1824 election, Van Buren concluded that it was time to revive the old two-party system and strengthen the political parties to avoid these contests of personality in the future. He hatched a plan, communicated in a letter to Thomas Ritchie of Virginia, to set up a party convention for the purpose of nominating presidential candidates. This idea, he argued, would revive the two-party system, “concentrating the entire vote of the opposition” back into the other party and achieving “the substantial reorganization of the Old Republican Party.”

In addition, Van Buren claimed, a nominating convention would “substitut[e] party principle for personal preference as one of the leading points in the contest.” If the candidate was nominated by a party of like-minded people united behind a national platform, then voters would be selecting the party platform when they voted for the party’s candidate. Otherwise, they would be merely selecting a candidate based on “personal preference,” a fundamentally unprincipled way to vote.

Van Buren’s plan eventually became a reality, and by the 1840s a two-party system – the Whigs and the Democrats – had re-emerged. Both parties were utilizing national nominating conventions, devising platforms to address the pressing questions of the day, and mobilizing voters to become engaged in the political process. Though these strong parties were not perfect, they ensured that the personalities and ambitions of candidates would be subordinated to the principles of the party that nominated them for office.

In recent decades parties have once again become weak, and we are back to the corrupt bargains of the 1820s. Today candidates win the presidency not based on the voters’ agreement with the party’s platform (which most voters and candidates never read), but based on the attractiveness of their personalities and the personal ideas of the candidate. Without internal party loyalty, each party has multiple candidates vying for the same office, producing a lengthy nomination process in which candidates of the same party attack and vilify each other on personal grounds. Contests are about popularity rather than principle. In these times we would do well to revisit the lessons learned from the 1824 debacle, and like Van Buren, seek to restore and strengthen the political parties to avoid these results in the future.

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The election of 1824 was eerily similar to the 2016 campaign. It was characterized by fierce personal attacks launched by the surrogates of candidates and by the candidates who accused each other of corruption. Several establishment candidates ran but failed to rouse the base. One highly popular candidate ran as an anti-establishment, Washington outsider and was widely accused of being a demagogue. The partisan media lined up for their favorite candidates. Economic issues ruled the day with many concerned about government intervention in the economy while others railed against “the interests.”

On the night of January 8, 1824, the campaign for president kicked off with a most remarkable event as one candidate, Secretary of State John Quincy Adams, hosted a reception for his opponent, military hero and Senator Andrew Jackson. One thousand guests attended the event, though if Adams thought Jackson would be consequently willing to serve as vice-president, he was sorely mistaken.

Secretary of the Treasury William Crawford of Georgia had recently suffered a massive stroke, but his supporters hid him from public view and thought that winning a congressional caucus would ensure him the election as it did in previous elections. The caucus was held on February 14, and Crawford did indeed win. But, few congressmen showed up, and the caucus died because it was perceived as an elitist relic in an increasingly democratic age.

At the time, candidates did not openly campaign because such ambition was perceived to be unseemly and contradictory to public service. However, newspapers at the time were openly partisan and launched fierce personal attacks on opponents. Adams wrote in his diary in the summer that, “The Presidential canvassing proceeds with increasing heat.”

In the fall, voters in eighteen states out of twenty-four selected presidential electors pledged to support a candidate for the Electoral College, while state legislatures did so only in the remaining six. When the results came in, Jackson led the pack with 99 votes, Adams was a close second with 84, the debilitated Crawford had 41, and Speaker of the House Henry Clay trailed with only 37.

No candidate won the required majority in the Electoral College. While some historians have described a similar election in 1800 that went into the House as a “crisis,” the Constitution in fact provided for such an outcome. The election went to the House of Representatives where each state would have one vote and choose from among the top three winners in the general election. The horse-trading really began as candidates lobbied members of Congress for their support and where Speaker Clay exercised great power and influence.

On a frigid, snowy evening of January 9, Speaker Clay ventured to the lodgings of Adams. The two warmed themselves by a fire for over three hours during which Clay assessed Adams as an alternative to Jackson, whom he considered a demagogue and would-be military dictator. They also agreed on most political principles and ideas about using internal improvements as an engine of economic development.
A month later, on another snowy day, February 9, the members of the House of Representatives assembled and settled in for what they might have expected to be a long day with a contentious series of ballots. However, they elected John Quincy Adams on the first ballot when he won thirteen of twenty-four states. Adams was able to win over some of the state delegations whose states had voted for Jackson in the general election, and Clay swung some of his states into Adams’ corner.

President Adams offered Clay the Secretary of State because of their shared political principles and the latter’s statesmanship. Jackson and his supporters immediately suspected foul play and claimed he lost because of a “corrupt bargain.” Jackson bitterly accused that, “The Judas of the West has closed the contract and will receive the thirty pieces of silver. His end will be the same.”

The election of 1824 dramatically and successfully demonstrated the complex constitutional mechanisms that resolved elections according to the principles of federalism in the House of Representatives when no winner emerged in the Electoral College. The historic election would also see the decline of the one-party system and subsequent rise of the Democratic and Whig Parties in upcoming elections.

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1828, Andrew Jackson Defeats John Quincy Adams: The Two-Party System – Guest Essayist: Professor Mark Cheatham

Andrew Jackson’s defeat of John Quincy Adams in the 1828 presidential election has often been heralded as the beginning of the second American party system. While historians today offer a more complicated interpretation of the two-party system that emerged in the 1820s and 1830s, the 1828 contest between Jackson and Adams was unquestionably a pivotal turning point in American political history.

A significant demographic change that furthered the growth of the two-party system began with the 1828 campaign. For the first time that year, a majority of the voting-eligible population, 57% to be exact, cast a vote for a presidential candidate. The previous election, in 1824, had seen an estimated 27% of eligible voters participate. A common interpretation of the increase in participation has been that voters, almost exclusively white men, flocked to the polls to support Jackson because he championed the people. It is clear, however, that rather than Jackson sparking a democratic upsurge among voters, he instead benefitted from changes in state electoral and suffrage laws. In 1824, for example, six states still chose electors via state legislatures; four years later, only two (Delaware and South Carolina) maintained that process. State constitutional changes allowing for universal white manhood suffrage also increased the number of potential voters.

Enticing these new voters to the polls required work, however. One significant change in that regard came with the reconstitution of partisan identities. With the Federalists a fading national
presence and a diminishing regional influence, it appeared obvious that future political divisions would largely come from among the National Republicans, whose factionalism had been apparent to all during the 1824 election. Leading the way in shaping the new partisan landscape was New York politico Martin Van Buren. In January 1827, he described to Richmond, Virginia, newspaper editor Thomas A. Ritchie his vision for American politics. Van Buren wanted national conventions to select candidates. He also stressed the need for convincing party members to “substitut[e] party principle for personal preference.” Van Buren hoped for a partnership “between the planters of the South and the plain Republicans of the north,” and he chose Jackson as his new party’s candidate of choice. It took his opponents time to respond with their own organization, but when they did, the modern two-party American system with which we are familiar was born.

As Van Buren indicated, the murky political divisions of the 1820s needed to be sharpened in order to differentiate candidates, so the emerging political parties attacked both policies and personalities. While personal attacks on presidential candidates were not unknown prior to the 1828 campaign, the amount of mud-slinging by both the Adams and Jackson camps set a precedent all too often emulated in future elections. Jacksonians emphasized the incumbent president’s robbery of the people in the 1824 election, criticizing Adams and Henry Clay for reaching an suspected agreement to trade the presidency for a cabinet appointment. The “corrupt bargain,” as they called it, was not the Jacksonians’ only criticism. The Adams campaign had a far easier time lobbing charges at Jackson, whose personal life and public career provided his enemies with plenty of ammunition. The president’s supporters focused on Old Hickory’s temper, duels, and brawls; his illegal invasions of Spanish Florida on two occasions; his connection to the treasonous actions of Aaron Burr’s secession movement during Thomas Jefferson’s second presidential term; and his direct involvement in the domestic slave trade. Adams men also introduced the questionable circumstances of Jackson’s marriage to his wife, Rachel, in the newspapers. Never before had a campaign stooped to character attacks on this scale, but they have become a common feature of American presidential politics.

The 1828 election was not the first time that two American political parties opposed one another or the first time that personal attacks were used against candidates. Nor was it the bellwether of democracy that some Americans have regarded it. Nevertheless, it signified a new era in U.S. politics, one that we see playing out as we watch Democratic and Republican hopefuls jostle for position ahead of the 2016 national party conventions. In our rush to celebrate the American Revolution and mourn the sectional infighting that produced the Civil War, take a moment to reflect on how the two-party politics of the Jacksonian era linked the two events. By attempting to preserve the Founders’ legacy, Jacksonian politicians laid the foundation for four years of bloodshed when perpetuating that legacy proved impossible.

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1828: The General and the Presidency

Americans remember Andrew Jackson’s victory over John Quincy Adams in 1828 as the General’s revenge for his narrow loss to Adams four years earlier, when no candidate received a majority in the Electoral College, the election devolved to Congress, and Henry Clay threw his support to the man most likely to endorse his “American System”—the network of public works or “internal improvements” Clay fought for throughout his career. In accepting the grateful president-elect’s offer of the Secretary of State, Clay opened himself and his ally to the charge of a “corrupt bargain”—a charge Andrew Jackson fervently believed true, and one he and his political allies kept alive for the next four years.

But the 1828 campaign also saw an interesting and important Constitutional dispute. No one doubted Jackson’s right to run for the presidency; he was fully eligible, legally speaking. More than that, his spectacular record as a military commander in several wars against Indian nations and in the War of 1812 evidently fitted him for the role of Commander in Chief. While the nickname “Old Hickory” is the one that has lasted, in his own lifetime he was equally known simply as “The Hero”: the hero of the Battle of New Orleans, redeemer of American pride at the end of a mostly ignominious war against our still-detested former imperial oppressors, the British, whom the adolescent Jackson had fought, suffering wounds and imprisonment, during the War of Independence. “Bloodied, but unbowed,” the phrase made by a British poet later in the nineteenth century, already described Jackson, how Americans felt about their country, and about him.

John Quincy Adams came from a line of decidedly unmilitary sorts—great men, too, but great civilians. His partisans in 1828 needed somehow to turn the Hero-General’s record against him, and in his years of soldiering Jackson had in fact left behind some ammunition for their use.

Adams’s partisans began by citing the Constitution. As with many of its important features, the Constitution’s laws for civilian-military relations leave room for interpretation and controversy. Having experienced the difficulties associated with citizen militia—those sunshine soldiers and summer patriots Thomas Paine decried—the Framers had come around to seeing the necessity as well as the danger of a standing army. They permitted one, controlled by biannual appropriations, which would keep ambitious officers on a short leash—or rather purse-string. Further, Article I, section 8 gives Congress “Power to… make rules for the Government and Regulation of the land and sea forces.” This ensures that military men will be tried in military courts under military law, but also that military law will be written by Congress, not by the military. It was John Adams, John Quincy’s father, who wrote America’s first military code, years before the Constitution, and it endured largely unaltered until the First World War.

Similarly, the Constitution places civilian control of the military in its actual operations firmly in civilian hands—those of the President. Article II, Section 2 states, “The President shall be Commander in Chief of the Army and Navy of the United States,” and of the militia, too.
Controversy continues to this day over the question of whether it is the President or the Congress who may *initiate* a war, but this is a question of which *civilian* branch has that authority, not one of military independence.

By 1828, Andrew Jackson had served his country not only as a military officer but as a member of the House of Representatives and as a United States Senator. Although his admirers and detractors united in calling him “General” Jackson, he was long decommissioned. What possible problem could there be in a Jackson presidency, then?

The difficulty lay not in his eligibility but in his temperament, as shown by his record. Andrew Jackson was a warrior spirit. Like all such spirits, he chafed under the governance of unmilitary souls. After the Battle of New Orleans he had suspended the writ of habeas corpus in the city as a precaution against civil disorder. A few years later, infuriated by the Treaty of Ghent’s restoration of Indian lands taken in the War of 1812, he challenged the authority of President Madison and Secretary of War William H. Crawford, inducing them to renegotiate with the Choctaws, Chickasaws, and Cherokees, re-taking their lands, and effectively driving many of them into Florida, where they renamed themselves “Seminoles.”

That wasn’t enough for Jackson. He wanted Florida and, for that matter, Cuba too, for his country, having no more love for Indians and Spaniards (then Florida’s nominal rulers) than he had for the British. Stretching the limits of his instructions, he proceeded to take Florida, along the way trying and hanging a couple of Brits who had encouraged the Seminoles to fight. As with so many such expeditions before and since, the record shows an ambitious military officer doing rather more than he was told to do, with possible winks and nods from his civilian superiors. The Madison Administration grumbled but did not prosecute. And it did retain Florida for the United States.

A decade later, Adams’s partisans hoped they had an issue. Jackson’s longtime rival Henry Clay had once intoned, “Rome had her Caesar, England her Cromwell, France her Napoleon…. Let us be wiser than those nations.” He was quoted more than once in the campaign; against the charge of corruption, supporters of Adams and Clay charged insubordination and the danger of an elected military dictatorship.

The argument didn’t work in the election campaign because Jackson’s strongest defender in Madison’s cabinet had been none other than Secretary of State John Quincy Adams, who had argued that if Spain could not control the Seminoles (and they couldn’t), the America military commander on the spot had not only the right but the obligation to fight. As for the Indians themselves, Adams had cited the law of nations, as enunciated by such well-known authorities as Hugo Grotius and Emer de Vattel, which stipulated that a civilized nation had every right to punish nations or other groups that do not themselves respect the rules of just war. This teaching had been echoed by the Declaration of Independence, which defined “savagery” among some of the Indian tribes as the indiscriminate slaughter of women and children. Whatever the merits of Adams’s argument, the fact remained that he had made it, and published it at the time. The ammunition Jackson had left for his political opponents was overwhelmed by the ammunition left behind by their own candidate.
Electioneering notwithstanding, the complaints about Jackson in 1828 illustrate an important political principle, one that remains current in the United States today and in every political regime around the world, to one extent or another. The dilemma is easily stated: If you are for the people, for 'the many,' and against the aristocrats, the oligarchs, 'the few,' how shall you proceed? Although the many, being many, outnumber the few, the few, being few, are often better organized and better positioned for self-defense than the many. That being the case, do the many not need a champion? Do they not need one who will stand up for them, defeat the few in alliance with the many? But having done so, will 'the one' keep his promises? Or will he tyrannize over the many after defeating the few—the only group strong enough to resist the one?

Americans in 1848 remembered Napoleon, the real winner of the French Revolution. Thirty years dead, Napoleon lived on in the minds of republicans everywhere. And during Jackson's own presidency his aggrieved opponents caricatured him as “King Andrew the First” (as a famous cartoon of the day portrayed him). They also called themselves “Whigs,” after the opponents of British monarchs, and after the American founders themselves, who had appropriated the same good old name. At the end of Jackson's second term, the French political writer and parliamentarian Alexis de Tocqueville visited the United States and worried that increased democratization of civil society could lead to despotism, as democrats (effectively if not intentionally) gave more and more of their sovereignty to their political heroes, duly elected to the central government in Washington. As a staunch unionist and defender of states’ rights under the Constitution, Jackson himself maintained a balance between democratic society and republican institutions, but a century later, as a result of subsequent presidential elections, Americans would begin to lose their good fortune.

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1832, Andrew Jackson Defeats Henry Clay, William Wirt: Re-Chartering Of The Bank Of The U.S. – Guest Essayist: Professor Joerg Knipprath

“The Bank, Mr. Van Buren, is trying to kill me, but I shall kill it,” President Andrew Jackson ominously declared on July 4, 1832, to his political confidante and future vice-president, Martin Van Buren, during the apex of his struggle with the Second Bank of the United States.

His challenge was duly accepted. “This worthy President thinks that because he has scalped Indians and imprisoned judges, he is to have his own way with the Bank. He is mistaken.” Thus wrote a defiant Nicholas Biddle, president of the Second Bank of the United States, in February, 1834.

These ringing, and some might say overheated, rhetorical flourishes characterized the “Bank War” of the early 1830s. It was a war that, in retrospect, was wholly unnecessary and, ultimately, left no winners. As such matters often are, it was the result of political missteps grounded in
character flaws of the leading antagonists, with the sparks of the conflict heated into consuming fire by blowhards in politics and the press seeking advantage of money or power.

Chartering the Bank had been a constitutional battleground since before the adoption of the Constitution. The “Financier of the Revolution,” the then-Superintendent of Finance of the United States, Robert Morris, and his protégé, Alexander Hamilton, obtained a charter from the Confederation Congress to set up the Bank of North America. That bank was to stabilize credit, lend funds, and act as a government depository, in effect becoming a national bank. Doubts about Congress’s authority under the Articles of Confederation to charter such a bank led to its eventual demise.

The next round came in 1791 with the chartering of the First Bank of the United States, guided through Congress by Secretary of Treasury Hamilton. While there was no express power in the new constitution for such a congressional charter, Hamilton argued that Congress had the implied power to do so in order to achieve its express powers. Thomas Jefferson, James Madison, and other “strict constructionists” vociferously challenged this expansive reading of Congress’s powers, but lost the battle.

The First Bank’s charter expired in 1811 on a tie vote in the Senate. By that time, its former opponents, grudgingly accepted it as a necessary evil to maintain the United States’ credit and a stable economic system. Though he never lost confidence in the righteousness of his constitutional opinion, even Jefferson had become resigned to its utility. President Madison initially declined to renew the bank. The financial lessons of the War of 1812, taught by an unforgiving reality, forced him to abandon the luxury of theoretical purity. Summoning the ghost of Hamilton, Madison urged Congress to re-charter the bank in 1816. The Supreme Court gave its imprimatur to the new constitutional order in 1819 in *McCulloch v. Maryland*, with Chief Justice Marshall cleverly using this history and Madison’s epiphany to provide for the Bank a constitutional foundation through custom where the document’s text was lacking.

After its re-charter, the Bank’s management initially made some financial missteps that exacerbated the Panic of 1819. At the urging of President Monroe, the directors appointed Nicholas Biddle, the President’s friend and former secretary, head of the Bank. Biddle, who had worked on behalf of the Americans on the financial details of the Louisiana Purchase while still a teenager, was a financial and management master. Economic conditions improved, and the Bank engaged in a prudently expansionary credit policy. That prudence endeared it to Northerners and Southerners alike. However, the Bank was still unpopular in the West, because its anti-speculative policies frustrated the easy issuance of paper bank notes by state banks to finance loans to purchase and improve land.

By 1832, the constitutionality of the Second Bank of the United States was generally accepted even by its opponents. At least one man begged to differ—Andrew Jackson. To him, the “monster bank” was an abomination on many levels, beginning with his constitutional outlook as a “states-rights man.” More viscerally, he shared the West’s fear of the Bank as an Eastern “money power” and enemy of democracy. As he told Biddle, “I do not dislike your bank more than all banks, but ever since I read the history of the South Sea Bubble, I have been afraid of banks.”
All of these sentiments coalesced into Jackson’s famous veto message on the bill to re-charter the Bank in 1832. The Bank’s charter was not up for renewal until 1836, but Jackson’s anti-Bank screeds in his annual messages to Congress left little doubt about his inclinations. Still, Biddle (who, according to the historian Samuel Eliot Morison, “had the same dislike of democracy that Jackson had of banking”) trod a careful path to keep the bank out of politics. Part of that strategy was to devise, through political intermediaries like Secretary of the Treasury Louis McLane, a course of assisting Jackson in monetary and fiscal policies, such as paying off the national debt by 1836 while smoothing a path to the re-charter. Jackson apparently was amenable to this but wanted any attempt at re-chartering to wait until after the election of 1832 to avoid having to make a potentially difficult political decision that might enrage his supporters.

The delicate political maneuvering came undone when opponents of the Bank, including Attorney General Roger Taney, objected to the terms of a carefully worded draft message to Congress by Jackson in 1831. Jackson substituted wording that was less supportive of re-charter. Still, when the speech was delivered, the Bank’s opponents in the press and in Congress howled. That response in turn triggered swift action by the Bank’s supporters. The National Republican faction of the old Jeffersonian coalition from which Jackson’s Democrats had split in 1828, met in convention and nominated Henry Clay of Kentucky for President. The Democrats, meeting in a convention of state delegations, re-nominated Andrew Jackson by acclamation. John Calhoun, who had been John Quincy Adams’s vice-president as well as Jackson’s, was out. Instead, the convention chose, with somewhat less enthusiasm, one of the founding organizers of the new Democratic Party, Martin Van Buren of New York (“Old Kinderhook” from whose later campaign slogan would emerge the expression “OK”).

Clay was a consummate politician and, on the basis of experience, highly qualified for the presidency. He was also the opposite of Jackson: urbane, charming, calculating, intellectual, and an accomplished orator. He saw Jackson as a dangerous man, a demagogue likely to become a tyrant, and unsuited by temperament to be president—merely a “military chieftain” in Clay’s contemptuous dismissal. On that point, Clay was not alone. Thomas Jefferson, commenting on the 1824 election to his guest, Daniel Webster, had opined, “I feel much alarmed at the prospect of seeing General Jackson President. He is one of the most unfit men I know of for such a place. He has very little respect for laws and constitutions, and is, in fact, an able military chief…. [He] is a dangerous man.”

Still smarting from his loss in 1824, when he had lagged behind John Quincy Adams, Jackson, and William Crawford, Clay was confident that the way to success in 1832 lay in forcing Jackson to face the bank controversy. Either Jackson would sign a charter bill and reverse his notorious opposition to the Bank, or he would suffer the political consequences of a veto that would endanger the popular Bank and risk economic chaos. Enlisting the aid of Senator Daniel Webster, Clay persuaded a reluctant Biddle to agree to move an early bank re-charter bill through Congress. Despite their Democratic majorities, both chambers approved the bill.

The bill landed on Jackson’s desk in early July, 1832. At first, there was silence. But on July 10, Clay’s plan exploded when Old Hickory struck with his veto message. That message was a pungent mix of constitutional theory and outright political demagoguery. Jackson denounced the Bank as a monopoly of the “money interests” that oppressed the average person and against
which the law had long protected. At the end of the message, the wily President got in front of Clay’s parade and openly made his veto a prominent part of the campaign, asking for popular approval and declaring that, if he were “sustained by his fellow citizens” he would be “grateful and happy.”

On the constitutional issues, the message was a strong claim for executive power and states’ rights. On the former, Jackson broke with constitutional custom that had always restricted the veto to constitutional objections. Henceforth, the veto would be exercised for policy reasons, and Congress would have to consider the President’s political objections to any bill passed. This shifted the balance of power in the President’s direction in a novel and fundamental manner. Jackson vetoed 12 bills, more than all of his predecessors combined.

Jackson also struck at the Supreme Court, challenging two of Chief Justice Marshall’s most important opinions, *Marbury v. Madison* and *McCulloch v. Maryland*. On the former, he rejected the emerging claim that the Supreme Court’s opinions on constitutional matters bound the other branches. Instead, Jackson vigorously affirmed the old Jeffersonian doctrine that each co-equal branch of the government must “for itself be guided by its opinion of the Constitution” when exercising powers committed to that branch, “except where the acquiescence of the people and the states can be considered as well settled.” On the latter, among several objections, he rejected the Court’s finding that the Bank was a federal instrumentality and could be immunized from state taxes. Instead, argued Jackson, Congress’ attempt to do so benefitted a private entity and attacked the “most essential powers reserved by the States,” something never imagined by the Framers.

Congress failed to override that veto. Jackson was resoundingly re-elected, winning 54% of the vote to Clay’s 37%. He carried 16 states, with 219 electoral votes, to Clay’s 6 states, with 49 electoral votes. William Wirt of the Anti-Masonic Party carried Vermont and received 7 electoral votes, while John Floyd of the “Nullifiers” received the 11 electoral votes awarded by the South Carolina legislature.

After the election, Jackson ordered his Treasury Secretary to withdraw government funds from the Bank and to place them in a group of “pet banks” in different states. When two successive Treasury Secretaries refused to comply, Jackson precipitated another constitutional dispute, now over the president’s power to fire department heads and to control the cabinet. Once more, the result was to strengthen executive power in the office of the President.

The Bank struck back, tightening credit and triggering a brief recession. That maneuver backfired and lost the Bank much of its remaining public sympathy and political capital. It was eventually re-chartered as a state institution but went out of existence in 1841. Despite occasional efforts, no successor emerged to the Bank until the Federal Reserve System was created in 1913.

However, Jackson’s victory proved to be Pyrrhic for the Democrats. Van Buren was able to follow Jackson to the Presidency, but the absence of the Bank’s stabilizing influence helped produce the Panic of 1837, one of the most severe economic contractions in American history. The recent federal budget surpluses disappeared, and the hard-won elimination of the national
debt became nothing but a memory. Jackson and Van Buren were blamed for the calamitous state of affairs, and Van Buren lost the election of 1840 to the Whigs.

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1832, The Anti-Masonic Controversy – Guest Essayist: Daniel A. Cotter

The election of 1832 featured the incumbent Democratic President, Andrew Jackson, against National Republican Party candidate Henry Clay as the main contender. Jackson easily won re-election. A third party, the Anti-Masonic Party, also nominated a candidate, William Wirt, who received just under 8% of the popular vote but only 7 of the 286 Electoral College votes. Formed as a single-issue party, the Anti-Masonic Party had a short lifespan on the American political stage.

Freemasonry

Freemasonry traces its roots to the Fourteenth Century, when fraternities of stonemasons regulated qualifications and client interactions. The first Masonic Lodges in the United States appeared in Pennsylvania. Criticism of Freemasonry has been based on politics and religion and there have been numerous conspiracy theories lodged against Freemasonry. The criticism and suspicion of Freemasonry reached a high level in the 1820’s, leading to the Anti-Masonry Movement.

The Movement and Formation of a Party

The Anti-Masonic Party or Movement was formed in upstate New York in 1828. The genesis of the Movement was the disappearance of a renegade Mason from upstate New York named of William Morgan, who vanished in 1826 shortly after threatening to publish a book on the inner workings of the Masons. Prior to Morgan’s disappearance, an attempt had been made to burn down the business of the publisher of his proposed book. Morgan was subsequently arrested on unrelated and flimsy charges in an attempt to prevent the book’s publication. The publisher paid for his bail and Morgan disappeared shortly after his release. Morgan was never seen again, although a decomposed body that washed up in 1827 may have been him and those remains were buried under his name.

The Movement’s single issue was opposition to Freemasonry, which the Movement believed was elitist and corrupt. Many community leaders, including politicians, businessmen and lawyers, were Masons and so much of the general population considered the organization to be elitist. Many churches instituted rules banning Masons, and in upstate New York, meetings were
held to withhold support of any Masons running for public office. The Movement became an opposition Party and although it lost the 1828 New York gubernatorial election, its candidate made a strong showing. The Anti-Masonic party became the main opposition party in New York and the first “third party” in United States politics.

**The Election of 1832**

The Anti-Masonic Party held the first national nominating convention in American history when it gathered from September 26 through September 28, 1831, in Baltimore, Maryland. Former President John Quincy Adams sought the nomination, but party leaders were concerned that running Adams as its nominee was too risky because of his unpopularity. The 111 delegates from 13 states who attended the convention instead selected William Wirt from Maryland as their nominee for President and Amos Ellmaker from Pennsylvania as his running mate. Ironically, Wirt was a Mason and defended the Order of Freemasons in his acceptance speech. (Wirt also hoped for the National Republican nomination, which subsequently went to Henry Clay. Wirt did not withdraw his nomination under the Anti-Masonic Party and ran in the general election.)

Wirt and the Anti-Masonic Party had no real chance of winning the Presidential election. Jackson easily won re-election, securing the majority of the popular vote for the second time. No President until 1872 would repeat that feat when Ulysses S. Grant did so. Only two other Democratic Presidents won the popular vote majority twice (Franklin Delano Roosevelt in 1936 and Barack Obama in 2012). After Jackson, no President was re-elected until Abraham Lincoln’s victory in 1864.

Jackson also easily won the electoral college with 219 of the 286 votes. While Wirt only picked up seven electoral college votes, the Anti-Masonic Party’s emergence as a third party raised constitutional questions of ways in which a third party could throw the presidential election into the House of Representatives by winning a key state or two. In the two party system created through this 1832 election, questions of no major party candidate receiving the majority of electoral college votes had not been raised.

**Conclusion**

The Anti-Masonic Movement arose from suspicion and distrust of the Freemasons, but it disappeared over the next several election cycles, when many from the Party moved to the Whig Party. The Anti-Masonic Party had some success on the state level, electing governors in Vermont and Pennsylvania, but made virtually no inroads on the federal stage. No Anti-Masonic candidate seriously competed for the Presidency and no Party member was ever elected to the United States Senate. The Party did seat several United States House of Representatives members. Notwithstanding its lack of electoral success, the Anti-Masonic Party was the first to hold a national nominating convention and create a party platform. Both the convention and the platform remain features of the American political system almost 200 years later.

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1836, Martin Van Buren Defeats William Henry Harrison, Daniel Webster, Hugh White: The Unusual Practice Of Running Three Candidates By One Party (The Whigs) In Different Parts Of The Country –
Guest Essayist: Lisa Ice-Jones

Martin Van Buren was victorious over the Whig Party and its slate of candidates in the election of 1836, but the preparation for this victory had been a long time coming. Van Buren had been championing the causes of Jefferson’s Democratic Republican party since early in his career. He was, through his affiliation with his own political machine the “Albany Regency”, described as one of them and having great ability, great industry, indomitable courage and strict personal integrity.” He later illustrated that he was capable of shrewd political maneuvering. He chose to “tred generally in the footsteps of President Jackson” (Moore, 2007) but he also knew when to distance himself. Because Jackson was a popular President with the people, they liked Van Buren’s alignment with Jackson. They also liked the fact that Jackson trusted Van Buren even though Henry Clay, with his political magnetism, tried to convince the people that Van Buren was Jackson’s puppet and that Jackson would be controlling him from behind the scenes.

Even Jackson’s popularity was not enough to insulate him from the backlash of his efforts to steer federal funds to favored state banks and dismantle the Bank of the United States. Many believed that Andrew Jackson was too reckless and high handed in his removal of federal deposits from the Bank of the United States. Some even felt it bordered on tyrannical behavior. This among other issues seemed to be enough to organize Jackson’s bitter political enemies.

By the mid 1830’s the Whig party, as the opposition came to be known, was able to battle the Democratic party on almost equal terms throughout the country. The Whig party was now a meshing of the National Republicans, anti-Masons and anti-Jacksonian Democrats. In March, 1834, Whig leader, Henry Clay, sponsored unprecedented resolutions that censured Jackson for having “assumed upon himself, authority and power not conferred by the Constitution” (Unger, 2015). Van Buren, now thought by many to be heir apparent to the Presidency, asserted that the principles that would govern his calling to the county’s highest duty would be “adherence to the letter and spirit of the Constitution and those that framed it.”

Clay and Van Buren both appear to uphold the Constitution. Clay, one of America’s most loved politicians, seemed a likely candidate for the Presidency; however, when his daughter died he abruptly resigned from the Senate, retired from politics and returned home to Kentucky. The Whig party had been united in their opposition to “King Jackson” and his disregard for congressional and judicial authority, but they were now without a clear candidate (Meacham, 2009).
The issues were different in all parts of the country. Fragmented and unable to agree, the Whigs ran three regional candidates against Van Buren: Daniel Webster, a strong abolitionist, great orator and popular senator from Massachusetts, had substantial appeal in New England; Hugh Lawson White, who had appeal in the South due to his moderate views on State’s rights issues was not well liked in the North and William Henry Harrison, born in Virginia with the legacy of being the son of a Signer of the Declaration of Independence and now a retired General who had fought in the Battle of Tippecanoe, appealed to the west and to the Anti-Masons in Pennsylvania and Vermont. The Whig party strategy was to throw the election into the House of Representatives where the Whigs would then unite behind a single candidate.

The Whigs attacked Van Buren on all sides and their plan to prevent any candidate from having the majority vote failed. Like Jackson, Harrison was a frontier hero and he was the most effective of the opponents, but Van Buren’s superior party organization carried the day, earning him a majority of the popular vote. Although the Whig party did not win the Presidency in 1836, they now had the makings of fundamental political analysis and voter preferences that would serve them well in the next campaign when they would package their candidate to be “the” candidate that could and would be elected the next President of the United States (Cleaves, 2010).

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The Election of 1836: The Tariff Issue, Nullification and the Constitution

The 1836 Presidential election saw Democratic incumbent Vice President Martin Van Buren win the election in a campaign that featured four candidates from the newly-formed Whig Party running against Van Buren by region against a background of Southern threats of nullification and secession, caused chiefly by opposition to federal tariff laws as well as by the issue of slavery. The two-term incumbent, Democrat President Andrew Jackson, decided not to seek a third term and supported his Vice President, Van Buren. Jackson’s second term and the tariff issue and nullification strategy helped lead to the formation of the Whig Party, which was formed in 1834 in opposition to Jackson and his policies. The 1836 election was the first in
which the Whig Party sought to have a party member as President. The Whig Party strategy to regionalize the electoral votes in 1836 failed, with Van Buren capturing the Presidency.

**The Tariff Acts**

The Tariff Act of 1828 was passed by Congress on May 19, 1828. Labeled by the South as the “Tariff of Abominations,” it was designed to protect Northern interests against the losses they faced from the importation of cheap goods from overseas. Passed during President John Quincy Adams’ term, the Tariff of Abominations hurt the South because it increased the price of products they bought from the North and also made it difficult for the British to pay for the cotton the South exported to them. The Tariff of Abominations and Tariff Act of 1832 would lead to the Nullification Crisis, led by South Carolinian John Calhoun. Calhoun served as Jackson’s vice-president during his first term, but resigned the post in December 1832 to become one of South Carolina’s senators.

The Tariff Act of 1832 was enacted on July 14, 1832. The Act of 1832 was a protectionist tariff designed to lower the burdens created by the steep tariffs in the Tariff of Abominations. However, the lowered tariffs did not satisfy the South, leading to the Nullification Crisis.

**The Nullification Crisis**

The tariff acts of 1828 and 1832 created great resistance in the South, with South Carolina most vocal in its discontent. Displeased with what the state considered inadequate tariff reductions in the Act of 1832, South Carolina called a state convention where it adopted the Ordinance of Nullification, declaring the tariff acts of 1828 and 1832 null and void within South Carolina after February 1, 1833. The Ordinance asserted that the tariff acts were unconstitutional and as a result, South Carolina was not bound by them. As the “Nullification Crisis” continued, South Carolina began military preparations to defend against any Federal attack against the state and threatened secession from the Union.

The action by South Carolina in adopting the Ordinance of Nullification was the first nullification action directed directly at the question of slavery and regional differences, but was not the first time that a state had resisted federal authority by asserting a “state’s rights” theory. From the beginning of our nation, states had challenged and opposed Federal laws. Most notably, in 1813, the Virginia Supreme Court refused to accept a mandate from the Supreme Court of the United States, holding that the Constitution did not give the Supreme Court appellate authority over State court decisions. (The Virginia Supreme Court’s decision was reversed in 1816 by the U.S. Supreme Court in *Martin v. Hunter’s Lessee*, establishing the Supreme Court’s authority over state courts in matters of federal law).

President Jackson and Congress took immediate action in response to the Ordinance adopted by South Carolina. On March 2, 1833, Congress passed the Force Bill, which gave Jackson broad presidential powers to enforce the federal tariffs against South Carolina, including the use of the United States Army. On the same date, Congress, through the lead efforts of Senator John Calhoun and House of Representatives Speaker Henry Clay, passed the Tariff Act of 1833, also
known as the Compromise Tariff. Calhoun and Clay proposed the Compromise Tariff as a solution to the Nullification Crisis. The Compromise Tariff was designed to reduce the tariff rates gradually from those set by the Act of 1832, with all tariff rates above 20% reduced by one tenth every two years with the final reductions back to 20% coming in 1842. The Compromise Tariff was acceptable to South Carolina.

On March 15, 1833, the South Carolina convention reconvened and repealed the Ordinance of Nullification. However, as a means of maintaining pride, the convention nullified the Force Bill on March 18, 1833. Federal courts did not address the South Carolina actions of 1832, but no Federal court has ever upheld a state’s efforts at nullification. In 1868, the Supreme Court ruled in *Texas v. White* that secession by Texas from the United States was illegal.

### Conclusion

The Nullification Crisis had its roots in the tariff acts of 1828 and 1832, but also was intertwined with the question of slavery. This constitutional and sectional crisis was deferred by the Compromise Tariff. However, in 1860, South Carolina would be the first state to secede from the Union and Civil War would ensue.

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1840, William Henry Harrison Defeats Martin Van Buren: The Appeal Of Running Military Heroes For President And The Issue Of Generalship As A Qualification For Executive Office – Guest Essayist: Lisa Ice-Jones

“The President holds the sword of the community” and the Congress “not only commands the purse but prescribes the rules.” The “judiciary has no force or will, but merely an opinion.” Alexander Hamilton states all of this in his Federalist paper #78. The framers knew this separation of power was an important one. Knowing how to wield a sword designated an American patriot but could not and would not be the sole source of power. (Paulsen, 2015)

Article II of the United States Constitution provides that all Executive powers are vested in a President – what these powers are is what the framers derived from experience with the English king. The President has the whole executive power of the King EXCEPT that which is transferred to Congress. Congress has the power to declare war. The President retains the power to direct and control the conduct of war on behalf of the nation.

Directing and controlling the war would come only after war was declared, and a President could not do this on his own. To be able to declare war, rather than make war, was an important distinction to the framers. James Madison and Elbridge Gerry “change make, to declare” and the intent here was for the President to have the ability to protect the nation when actions of Congress would be too slow (Paulsen, 2015). The President has the power to defend and
Congress cannot interfere with how the war is conducted, but it can raise armies, cut off money and in effect stop the war. The power of the purse is separate from power of the sword, but while the nation is at war, executing the war is solely the responsibility of the President.

As George Washington learned in his experience with the Continental Congress, you can’t run a war by committee. Washington didn’t speak as he presided over the debate, but his presence was no doubt an influence. Military decisions and judgments in time of war would be vested in a single ultimate commander, not in a large legislative body. Washington, probably the most admired man in America, wielded power, but did not cling to it. He was virtuous enough to lay down his sword and go home to Mt. Vernon and not jump at the chance to be “King George”. Washington leading the Continental Army defeated the far better equipped British during the American Revolution. He then resigned after victory thus affirming his commitment to democracy and separation of powers.

The idea that Presidential candidates should have military experience is deeply rooted in American Society. Early in the country’s history, Americans fought to claim a continent both from native inhabitants and foreign powers that sought after its riches. Voters felt connected to those who shared combat experience and respected those who served. With twelve United States Presidents having served as generals and still others making their name in uniform, excellence in service was a way to demonstrate leadership. Military service used to virtually be a prerequisite for the job. Pew Research released May, 2014 shows that the public still highly favors it. (Moore, 2007)

William Henry Harrison was a Whig military candidate and retired general when he ran in the election of 1840, after a respectable showing in 1836. His military background and personal qualifications benefitted the Whig party. He was then living a simple farm life in North Bend, Ohio making him a “common man” against the incumbent aristocrat Van Buren. For nearly 50 years of his life he had been active in the west and that part of the country had no better known patriarch. He was called “Eagle of the West” and “Father of the West”. He was appointed Governor of the Indiana Territory in 1800 by President John Adams due in part to his service at the Battle of Fallen Timbers. He travelled to Vincennes, Indiana, built a family home, center for government and fortress, Grouseland, the White House of the West.

Following his service in the War of 1812, he joined his family in North Bend, Ohio. Citizens from everywhere still flocked to seem him. Discourses about the Battle of Tippecanoe in 1811 and the Battle of the Thames in 1813 were still being talked about. He remembered not all of his officers, but all of his men. Campaign orators recalled Harrison’s kind treatment of the men in his army and his generosity to toward bereaved families. Harrison uttered his final words as ninth President after only a month in office, “I wish you to understand the true principles of the government. I wish them carried out. Nothing more.” (Cleaves, 2010).

Lisa Ice-Jones is Administrator of William Henry Harrison’s Grouseland. The Grouseland Foundation is the Home of the 9th President of the United States, Indiana Territorial Mansion, Presidential Home and National Historic Landmark.

1841, The Presidency Of John Tyler – Guest Essayist: John S. Baker


Tyler understood the president’s role under the Constitution. His defense of the presidency against Congress and his own party should have earned him a more appreciated place in history.

John Tyler BORN: March 29, 1790, Charles City County, Virginia

WIVES: Letitia Christian (died 1842), Julia Gardiner (married 1844)

RELIGION: Episcopalian

PARTY: Whig

MILITARY EXPERIENCE: Virginia militia (captain)


TOOK OFFICE: April 4, 1841

VICE PRESIDENT: None

LEFT OFFICE: March 4, 1845

DIED: January 18, 1862

BURIED: Richmond, Virginia

John Tyler set plenty of precedents as president. He was the first vice president to become president upon his predecessor’s death. The circumstances surrounding that accident of history produced several other constitutional and political precedents. Some other precedents were personal. Tyler was the first president born after adoption of the Constitution. Widowed while in office, Tyler was the first president to marry during his term. He fathered fifteen children by his two wives, more than any other president.
Tyler was the sixth president from Virginia. Like fellow Virginians Washington, Jefferson, Madison, and Monroe, but unlike his immediate predecessor, William Henry Harrison, Tyler understood the president’s role under the Constitution. His defense of the presidency against Congress and his own party should have earned him a more appreciated place in history.

Tyler was the second half of the odd couple known as “Tippecanoe and Tyler too.” The Whig Party, which held a majority in Congress, had nominated Harrison in the expectation of controlling his presidency. For vice president, in order to attract votes from Southern states’ righters, the Whigs chose Tyler, a former Democrat who had broken politically with Andrew Jackson. When Harrison died after only one month in office, Senator Henry Clay and other nationalist Whigs learned that they had placed in the presidency a man who would oppose their legislative agenda. As a states’ rights republican, Tyler rejected the nationalist Whig program for a national bank, high tariffs, and federally financed internal improvements.

The Constitution provides that upon the president’s death, “the Powers and Duties” of the office “shall devolve on the Vice President.” When Harrison died, the meaning of this language was in question. Members of Harrison’s cabinet, mostly chosen by Clay, considered Tyler to be only the vice president, acting as president. Yet, although a “strict constructionist,” Tyler rejected this reading and insisted that he was the president. He therefore took the oath as president and moved into the White House. Today it is unquestioned that upon a president’s death, the vice president assumes the office of president, not merely its “powers and duties.” But for Tyler’s precedent, it might have been otherwise.

Although an unelected president, Tyler was more presidential than his predecessor. Apparently, Harrison had agreed that executive decisions would be based on a majority vote among members of the cabinet, with the president having one vote. Although Tyler retained all of Harrison’s cabinet, he rejected this proposal as inconsistent with his responsibilities as president. Had he not resisted power sharing, Tyler would have lacked the unity of decision making that he later exhibited when insisting on the prerogatives of the president in appointments, removals, legislative inquiry into the executive branch, his execution of the laws, and especially his exercise of the veto.

President Tyler made his mark with the veto. He vetoed Clay’s attempts to recharter a national bank and to set high tariffs. After the bank vetoes, the Whig Party expelled Tyler, and his cabinet resigned en masse, except Daniel Webster, who did so later. Whigs in the House initiated an impeachment effort. Tyler thus became the first president expelled from his own party, the first president to face an impeachment resolution (it failed), and the president with the most cabinet changes in a single term. As a final, ignominious first, on his last day in office, on a minor piece of legislation, Congress for the first time overrode a presidential veto.

Tyler’s opposition to a national bank and higher tariffs reflected classic Jeffersonian republicanism, but his use of the veto did not. Legislative supremacy was an article of faith among Jeffersonian republicans. Jefferson’s strong presidency accomplished his “revolution” with the help of a friendly Congress. President Madison’s limited use of the veto was constrained by his understanding of congressional supremacy. Jackson, the first Democratic president, was the first to use the veto as a policy-making weapon against Congress.
As a senator, Tyler supported President Jackson’s veto of a national bank as a defense of the states. But he eventually broke with Jackson because he concluded that on other matters—especially the Force Bill, which gave Jackson the power to collect the tariff taxes by force if necessary—Jackson had departed from Jeffersonian principles. Still, when Jackson exercised his veto, he justified it in constitutional terms. While Tyler gave constitutional reasons for vetoing the bank, his reasons for vetoing an increased tariff were nonconstitutional. Thus Tyler reverted to the Hamiltonian view of the veto power as an instrument of presidential independence.

Tyler’s defensive use of the veto differed from the way Jackson used it. Jackson was not politically dependent on Congress, because he was the first president since Jefferson who was neither elected by the House nor nominated by a caucus of the party’s congressional members. In contrast, Tyler, an unelected president without a party, lacked the political support to act other than defensively.

Tyler’s strength as president was grounded in a faith in his constitutional principles. His constitutionalism coincided with the politics of his region, but his was not a parochial presidency. Certainly, he represented the planter, slaveholding class of Virginia. He attempted, however, to moderate the threats posed by sectional factionalism. He vetoed high tariffs, which favored the manufacturing interests of the North and West over the agrarian interests of the South. As he had as a senator, he sought a compromise that raised revenue, but not the protectionism that fueled Southern secessionism. He cooperated in the passage of the Log Cabin Bill, which allowed settlers, rather than speculators, to purchase public lands in the Northwest.

Tyler had an aristocratic manner, which enabled him always to deal most courteously with Congress, despite their differences. But he lacked the common touch necessary for popular appeal. For a president seeking reelection, without the support of a party, that posed quite a problem. He attempted to form a reelection campaign around support for annexation of Texas.

Texas had proclaimed itself a republic, independent of Mexico, in 1836, and Tyler tried to annex it through a treaty. But because of the presence of slavery in Texas, the president was unable to win the support of the requisite two thirds of senators. He planned to run in 1844 as an independent against his former friend Henry Clay, the Whig candidate and an opponent of annexing Texas. Tyler thought that Van Buren, who also opposed annexation, would be the Democratic candidate. Instead, Democrats nominated James Polk, who supported annexing Texas. At the urging of Jackson, who wanted to block Clay, Tyler withdrew from the race and supported Polk. When Polk won, Tyler was able to get congressional approval for the annexation of Texas and, three days later, the annexation of Florida.

The admission of Texas as a state set another constitutional precedent. Instead of a treaty, on which only the Senate votes and which requires approval by a two-thirds vote, Tyler brought Texas into the Union as a state via majority votes in both houses of Congress. Tyler and his supporters relied on Congress’s power to admit new states under Article IV, Section 3 of the Constitution. This maneuver was based on the constitutional text, but was hardly an example of “strict construction.”
Tyler has been controversial among scholars. Some have characterized him as a principled, states’ rights constitutionalist. Others have described him as an ineffecctual political opportunist. Tyler’s construction to the Constitution, which made him president rather than acting president; his exercise of the veto for nonconstitutional reasons; and the incorporation of Texas without a treaty were not examples of “strict construction,” in the sense of narrow construction. At least the first two, however, reflected the Framers’ view as expressed in the Federalist Papers.

Tyler’s presidency demonstrated the difficulty of operating as a Jeffersonian republican within a constitutional system derived from different principles. As president, Tyler could not both protect and balance state interests while deferring to a Congress intent on overriding the interests of Southern states. On constitutional and policy grounds, Tyler used the veto to protect state interests in an effort to defuse secessionism. Tyler’s respect for the Constitution’s doctrine of limited powers required a strong presidency. His presidency confirmed the observation of Federalist No. 51 that the interests of the man will defend the office.

Even after leaving office, Tyler was caught in the conflict between adherence to the “compact theory” underlying Jeffersonian states’ rights republicanism and preservation of the Union. As president, his vetoes were efforts to keep the divisions between North and South from widening, although those divisions did widen during his term. Years after leaving the presidency, Tyler convened a peace conference that attempted to negotiate a compromise to avert a war between the states. When that failed, he joined his state in secession. He died as a member of the Confederate Congress.

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1844, James K. Polk Defeats Henry Clay, James Birney: Texas Annexation As It Related To The Issue Of Slavery – Guest Essayist: Daniel A. Cotter

The election of 1844 was notable in that the incumbent Whig President, John Tyler, who ascended to the Presidency when President William Henry Harrison died one month after his inauguration, was not nominated by his party to seek a second term as President. Tyler’s focus on the annexation of Texas as a slave state set the themes for the 1844 presidential election and also led to James K. Polk becoming the Democratic President.

The Candidates and the Presidential Election

Tyler became the first Vice President to succeed to the Presidency in our nation’s history and, because of the very short duration of Harrison’s tenure, was the longest serving President in United States history who was not elected to the White House. The Twenty-Fifth Amendment to the United States Constitution eventually codified the protocol under which Tyler took office after Harrison’s death.

Tyler was a strict constructionist of the Constitution, vetoing many bills passed by the Whig-controlled Congress and believing much of the Whig platform and positions
unconstitutional. The Whigs derisively referred to Tyler as “His Accidency” and, based on his conduct and differences with the party, expelled Tyler from the Whig Party. Tyler focused on the annexation of Texas his last two years in office. Tyler originally wished to be elected President to serve a full elected term, but with the loss of support of the Whigs as well as the Democrats, he withdrew from the race in August 1844 after being assured that annexation of Texas would be completed under a James Polk administration.

The 1844 Democratic nominating convention was held in Baltimore, Maryland. The main question for the attendees was the issue of Texas annexation. Former President Martin Van Buren was the leading candidate for nomination entering the convention. However, his opposition to immediate annexation due to concerns about sectional crises that might result from such a movement led the convention to consider other candidates and Van Buren did not receive enough votes to secure the nomination. After a number of ballots, Massachusetts delegate George Bancroft proposed that former Speaker of the House James K. Polk be the nominee. Polk was the first “dark horse” candidate for President and eventually received unanimous support of the Democratic Party delegates.

The Whig Party also held its nominating convention in Baltimore, Maryland. Unlike the Democratic nominating convention, there was little doubt who would be the Whig nominee—Henry Clay, who had led the Whig Party since its inception in 1834. Clay’s task was to calm the concerns of Northern Whigs, who feared annexation of Texas would create an “Empire of Slavery,” while also calming those of Southern Whigs, who feared annexation would increase the price of slaves leading to property price declines in their states. On April 17, 1844, Clay, a slaveholder, wrote the “Raleigh Letter” to his fellow Southern slaveholders, in which he strongly denounced the Tyler annexation bill. Clay was concerned that annexation might lead to war with Mexico and also assured the Whigs he would not annex Texas if it would cause any sectional crisis. The Whigs rallied around a platform of no acquisition by the United States of another slave state. The platform hurt Southern Whigs in their efforts during the 1844 election.

James Birney, an abolitionist, also ran for President in 1844 as the anti-slavery Liberty Party candidate. Birney published a weekly abolitionist newspaper, The Philanthropist, and had been the Liberty Party candidate for President in 1840. Joseph Smith, founder of the Church of Latter Day Saints, was also a candidate for President as an independent until his murder in a Carthage, Illinois jail on June 27, 1844.

Polk committed to following through on the annexation of Texas that began with Tyler. Polk’s plans for westward expansion, what came to be known as “Manifest Destiny,” was a powerful message in a presidential election in contrast to Clay’s balancing of interests and timidity concerning westward expansion. “Manifest Destiny” also shifted the focus away from the spread of slavery and onto general expansion of our nation. Despite the widely different views on westward expansion and the annexation of Texas, the presidential election was an extremely close one, with Clay winning the Northeast and border South, while Polk won in the Southern States. Polk received 49.5% of the popular vote and 170 of the 275 Electoral College votes. Clay received 48.1% of the popular vote and 105 Electoral College votes. Clay’s position against annexation of Texas likely cost him close races in New York and Michigan as well as the Presidency.
Texas Annexation

Texas declared its independence from the Republic of Mexico in 1836. A large majority of Texans favored annexation by the United States, but both Whig and Democrat leaders were reluctant to bring Texas into the difficult political climate surrounding the question of slavery. As noted above, President Tyler decided to pursue annexation in an attempt to solidify his popularity leading to the 1844 election. After negotiations with Sam Houston, President of the Texas Republic, Tyler secured a treaty of annexation in April 1844. Details of the treaty leaked and led to the selection of Polk as the Democratic nominee. In June 1844, the Whig-led Senate overwhelmingly rejected the treaty.

Post-election, Tyler advocated that Congress use the Constitutional provisions for adding a state by joint resolution rather than by treaty. The lame duck Congress passed the joint resolution in February 1845 and lame duck President Tyler signed the bill into law on March 1, 1845, three days before the end of his term. Tyler had assured Congress he would sign the joint bill but that would leave implementation to Polk. On March 3, 1845, Tyler reneged on his promises, dispatching via courier an immediate offer to the Republic of Texas for annexation. When Polk became President the next day, he had the option of recalling the dispatch, but decided not to do so for practical reasons. Texas accepted the annexation terms on December 29, 1845, becoming the 28th state.

As Clay had feared, Mexico did not accept the annexation lightly and while it did not follow through on its threats to wage war against the United States if annexation of Texas occurred, Mexico did continue to dispute the border with Texas. In November 1845, Polk sent John Sidell to Mexico to negotiate the border and to acquire additional territory. When the mission failed, the United States declared war on Mexico.

Conclusion

The annexation of Texas raised already heightened tensions around the question of slavery and was the featured issue of the 1844 presidential election. Tyler’s hopes for an elected term were crushed by his annexation plans and Polk rode his strong views on westward expansion to the White House. Polk followed through on his promise to serve only one term, having fulfilled his goals, including westward expansion (in addition to the Texas annexation completed in his term, he also oversaw acquisition of the non-slave Oregon Territory, the territory that became New Mexico, California, and other western states). Less than sixteen years after the annexation of Texas was completed, the slavery question would lead the nation to division and the Civil War.

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Fifty-Four Forty or Fight!

In the early 1840s, thousands of settlers from the Midwest traveled to Independence, Missouri, where they loaded hundreds of pounds of food, tools, and supplies on their oxen-drawn wagons. They launched an epic overland trek 2,000 miles to the Oregon Territory and braved its dangers in order to participate in the fur trade in earlier decades, but now mostly for farm land. The individual decisions of these ordinary Americans in search of opportunity in the West would have implications for international affairs and the election of 1844.

In April, 1844, most Americans were focused on Texas and whether the United States would annex the independent republic. Secretary of State John Calhoun successfully signed a treaty of annexation with Texas, but the Senate decisively rejected it by a 35 to 16 vote. The question of admitting Texas as a slave state was highly divisive and incensed sectional ire. But, the Oregon issue was significant as well.

Both the Whigs and Democratic conventions met in Baltimore in May. The Whigs convened first and nominated Henry Clay for president. As a symbol of the innovative technology of industrial revolution, a telegraph transmitted the news to Washington, D.C. Clay and the Whigs were primarily concerned about Texas and did not pay as much attention to the Oregon question.

Later that month, the Democratic National Convention assembled and nominated the unexpected “dark horse” candidate, James K. Polk of Tennessee and a former Speaker of the House. Polk and the Democrats generally had much greater ambitions of territorial expansion and spreading the system of slavery. They pursued the idea that the white race had a “manifest destiny,” or a providential mission to conquer and settle the American continent. In particular, one of the Democratic planks read, “That our title to the whole of the Territory of Oregon is clear and unquestionable; that no portion of the same ought to be ceded to England or any other power.”

Indeed, many Democrats embraced the popular slogan “Fifty-four Forty or Fight!” The phrase was an allusion to the fact that the United States and Great Britain both claimed disputed territory just south of the forty-ninth parallel. The Americans owned most of the land between the 42nd and forty-ninth parallel whereas the British held clear title to the territory between the forty-ninth parallel north to the Russian-held territory at fifty-four, forty parallel. Expansionist Democrats demanded all the territory and threatened to go to war if the United States did not receive it.

Actually, Polk was generally less bellicose and more agnostic on Oregon than other Democrats. However, he had to preserve their congressional and sectional support for the annexation of Texas which he greatly favored. He was willing to compromise with Great Britain over Oregon at the forty-ninth parallel for a peaceful resolution of the issue, but he quietly bided his time until after the election to make this known.
The November election was one of the closest in American history and demonstrates the importance of individual participation in voting and well as the effect of third parties in swaying elections. Polk beat Clay by only 38,000 votes, and abolitionist James G. Birney garnered 62,000 votes as a candidate for the Liberty Party (which was primarily dedicated to the eradication of slavery). Birney drew enough votes away from Clay to cost the Whigs New York and Michigan. Thus, the third-party candidate cost Clay the election as he lost the Electoral College by a margin of 170 to 105.

Democrat Andrew Jackson was so happy that “Young Hickory,” as Polk was called, that he was supposed to aver, “I thank my God that the Republic is safe, & that he had permitted me to live to see it.” The aged Jackson said, “I can say that in the language of Simeon of old ‘Now let thy servant depart in peace.’” He passed away a few months later.

Polk would settle the dispute over the Oregon Territory with Great Britain peacefully even as he went to war with Mexico over the annexation of Texas. The president never entertained going to war over Oregon. He assumed a tough public stance but was willing to compromise and settle the issue diplomatically with the British. After several fits and starts, in April, 1846, a treaty was signed, and the Senate quickly ratified the treaty in which both countries agreed to the forty-ninth parallel by a wide margin.

Tony Williams is the author of five books including Washington and Hamilton: The Alliance that Forged America, co-authored with Stephen Knott.


The Missouri Compromise of 1820, it has been said often, delayed the Civil War for a generation. The act could not, however, eliminate the reality of slavery and the inherent contradiction of such an institution existing in a society founded on the idea of freedom. The Compromise had loaded the dice in favor of at least a gradual erosion of the slave states’ power, thereby also virtually guaranteeing a serious clash, if those states eventually found themselves in an existential political trap.

The tariff and nullification crises with South Carolina and the political realignment and social upheaval of the Age of Andrew Jackson preoccupied Americans in the period between the Compromise and the Mexican War in 1846. The event of a forthcoming American victory quickly marked that war for many Northerners as a tool for the expansion of the “slave power,” especially coming shortly after the incorporation of Texas into the Union as a slave state. As a strong believer in Manifest Destiny, President Polk welcomed the opportunity to gain California and the Southwest, either by paying off Mexican president Santa Anna or by military conquest. Much of the new territory would lie directly west of the slave states, and anti-war and anti-slavery sentiment in the North overlapped.
As had been the case with the Missouri Compromise, constitutionally and politically, the issue was two-fold. Immediately, there was the question of Congress’s power to ban slavery in the territory and to prevent Southerners from migrating there if they took their slaves. In the longer term loomed the question of whether a state organized in that territory could be admitted as a slave state to maintain the political balance between free and slave states in the Senate. In the midst of the simmering controversy over the war, an obscure Democratic congressman, David Wilmot, dropped a political bomb in the form of an amendment to a bill over war funding. The amendment provided that, inasmuch as the territory now controlled by Mexico was free, “neither slavery nor involuntary servitude shall ever exist” within its boundary.

Though from Pennsylvania, Wilmot was a member of the congressional wing of a radical anti-slavery, pro-Van Buren political faction in New York (the “Barnburners”). Van Buren had been passed over for the nomination in 1844 in favor of James Polk, so that faction was generally opposed to the President. But Wilmot himself had good relationships with the President and many Southerners.

If Wilmot was not a radical, his proposal was. On the surface, it seemed conventional, since Congress several times had legislated about slavery in the territories. Still, to Southerners, the proposal was revolutionary. Since the beginning of the country, as reflected in the statutes that organized the Old Northwest and the Old Southwest, slavery in the territories and in the states had been addressed through geographic division. The Missouri Compromise had made this approach explicit. To the South, this custom had become so established that it had the force of a constitutional settlement. Wilmot’s proposal exploded that accommodation and, hence, to the South, was unconstitutional.

Wilmot’s proposal did not pass. Neither did Polk-backed alternatives in 1846 and 1847 simply to extend the Missouri Compromise to the Pacific. The voting on these proposals was generally sectional, not partisan, a foreboding of the rending of the national fabric in the next decade.

The Wilmot Proviso produced four responses to the question of slavery in the territories and Congress’s power to prohibit it. The radicals in the Democratic Party, along with anti-slavery Whigs and moderate abolitionists, took the Proviso’s position that Congress had full sovereignty over the territories based on its constitutional power to make “all needful Rules and Regulations respecting the Territory or other Property of the United States.” Those groups eventually combined in the Free Soil Party and selected Martin Van Buren as their candidate for president in the 1848 election.

Polk’s unsuccessful proposals represented a second view, namely, that Congress had the power to regulate slavery in the territories, but that the solution was a geographic extension of the dividing line between slave and free territory within the framework of the Missouri Compromise. Had that been adopted, more territory would have been closed to slavery than what was possible through the Compromise of 1850, but abolitionists opposed any slavery in the newly-acquired territory.

The third view was espoused by Senator John C. Calhoun (and by Chief Justice Roger Taney in the Dred Scott case) and was adopted in resolutions of the Virginia legislature in 1847. This
“platform of the South” denied congressional power to regulate slavery in the territories because governing sovereignty lay in the states. In respect to territories the federal government acted only as a trustee of the states’ interests. The territories, Calhoun asserted, “belonged to the States United, not to the United States,” in the pithy aphorism by the historian Samuel Eliot Morrison. Congress could neither prohibit slavery nor establish it in the territories by legislation. Of course, the territorial legislatures likewise could not abolish slavery. Only once the territory was ready for statehood could the issue of slave or free be decided. In the meantime, slave-owners must have the same rights of citizenship to take their property into national territory as did emigrants from free states. Slavery would follow the flag. Any interference with those constitutional rights was to be resolved through court cases, not legislation.

The fourth approach to slavery in the territories was “popular sovereignty.” It represented a compromise advocated by moderate Northern Democrats to balance pro-slavery interests and national unity. The slavery issue was not to be decided by Congress in organizing the territory, nor was it to be left open until statehood. Rather, the people of the territories would decide for themselves. Gone would be artificial distinctions based on lines on a map. Rather, those affected most directly would decide through democratic means.

“Popular sovereignty” was grounded philosophically in notions of the social contract and consent of the governed that gave it a thoroughly American pedigree. As Senator Lewis Cass of Michigan, one of the original supporters of this compromise, expressed it, “[L]eave it to the people, who will be affected by this question to adjust it upon their own responsibility, and in their own manner, and we shall render another tribute to the original principles of our government ….”

On a pragmatic level, the doctrine reflected the practice of how territories in fact long had been organized. Local self-government, colorfully described as “squatter sovereignty,” had been the moving force behind the organic growth of institutions within the territories. Congress provided the legal and political framework of government in the enabling laws, but the people built the enduring structures that led to the territories’ eventual recognition as states.

With the ill and exhausted President Polk opting out of re-election, Senator Lewis Cass of Michigan became the Democratic nominee in 1848. Cass, like Polk, was an expansionist. Again like Polk, Cass desired to placate the South for national unity’s sake. His leadership role in formulating “popular sovereignty” as a moderate compromise—with the potential once more to paper over sectional differences on slavery and the territories, as well as solving the more immediate problem of organizing the land newly acquired from Mexico—also made him acceptable to most factions within the party.

The Whigs nominated for President a political novice, Zachary Taylor of Louisiana, “Old Rough-and-Ready,” the hero of the Battle of Buena Vista in the Mexican War. Millard Fillmore was to be Vice President. True, three other generals had been elected president before him (Washington, Jackson, and William Henry Harrison), but they had been involved in politics. Taylor had never even voted in a presidential election. Though a Southerner and slave-holder, he was foremost a unionist and had no strong pro-slavery political sentiments.
The sand in the gears proved to be the third-party candidacy of Martin Van Buren of the Free Soil Party ("Free soil, free speech, free labor, and free men"). He carried no states in the election and drew only 10% of the vote overall, but cost Cass enough votes in New York that the Whigs won the state. With New York’s 36 electoral votes in his column, Taylor won the election with 47.3% of the vote and 163 electoral votes from 15 states. Cass received 42.5% of the vote and 127 electoral votes from 15 states.

Due to Taylor’s Southern background, the election was not sectional. Whigs and Democrats both won Northern and Southern states. However, still waters can run deep, and that seeming unity would soon be severely tested, as the issue of slavery in the territories lurched to its next stage, over the admission of California and the organization of New Mexico Territory. The result, the Compromise of 1850, based partly on Cass’s “popular sovereignty,” would be Senator Henry Clay’s swan song. Then, with the passing of the generation of Senatorial giants Calhoun, Clay, and Webster, the task of holding together a country increasingly rent by the fissure of slavery would fall to Senator Stephen Douglas, the last great advocate of “popular sovereignty,” in the ill-fated Kansas-Nebraska Act of 1854.

An expert on constitutional law, Prof. Joerg W. Knipprath has been interviewed by print and broadcast media on a number of related topics ranging from recent U.S. Supreme Court decisions to presidential succession. He has written opinion pieces and articles on business and securities law as well as constitutional issues, and has focused his more recent research on the effect of judicial review on the evolution of constitutional law. He has also spoken on business law and contemporary constitutional issues before professional and community forums. Read more from Professor Knipprath at: http://www.tokenconservative.com/.

Election Of 1848: Abolitionism And The Constitution –
Guest Essayist: Daniel A. Cotter

The 1848 election pitted former President Martin Van Buren of the Free Soil Party against Zachary Taylor of the Whig Party, Gerrit Smith of the Liberty Party, and Lewis Cass of the Democratic Party. The incumbent, President James Polk, did not seek reelection due to his declining health and his prior promise to serve only one term. A major focus of election was the question of slavery and whether it would extend to the Western states. Zachary Taylor narrowly won the election, becoming the third of four Whig Party members to become President of the United States. As described below, Van Buren’s candidacy on behalf of the Free Soil Party likely influenced the outcome in Taylor’s favor.

The Candidates

Taylor was a career military man, serving forty-one years in the United States Army and achieving the rank of Major General. Taylor fought in the Mexican-American War as well as in the War of 1812, including defending Fort Harrison in Indiana Territory against Native Americans led by Tecumseh. The Whig party nominated Taylor (the Democratic Party also sought to enlist him as its candidate) even though he had never previously voted in an election
nor had he disclosed his political beliefs or views on any substantive topic. Taylor was from Louisiana and owned more than 100 slaves.

Prior to joining the Free Soil Party, at the Democratic Party convention, Van Buren fought hard for the nomination. However, on the fourth ballot, the Democratic Party nominated Cass, who was a former Michigan Senator and Governor, and had also served as an Ambassador to France and as Secretary of War under President Andrew Jackson. The Democratic Party refused to take any position on slavery. As a result, many Democrats left the convention and formed the Free Soil Party. Many suspected Cass of being pro-slavery.

Van Buren served as the 8th President of the United States from March 4, 1837 to March 4, 1841. During his presidency, Van Buren supported anti-abolitionist positions such as purging the mail of antislavery materials and the automatic tabling of all antislavery petitions before Congress. However, Van Buren changed his views on slavery, due to his frustration with the growing power of the Southern slave states, and supported the formation in 1848 of the Free Soil Party, which opposed slavery. The Party was led by Salmon P. Chase, John P. Hale and others. Van Buren did not believe that he could win the White House, but instead ran to divide the Democratic Party vote.

The Liberty Party originally nominated Hale to be its candidate for President. However, Hale left the Liberty Party along with other anti-slavery members, being disappointed with the party’s platform and formed the Free Soil Party. As a result, a small faction remained in the Liberty Party, nominating Gerrit Smith to be its candidate. Smith was a lifelong abolitionist from New York who was a member of the Secret Six, a group responsible for funding John Brown’s Harpers Ferry raid. Smith was a candidate for President in 1848, 1856 and 1860. In 1853-1854, he served as a Free Soil Party member of the United States House of Representatives.

**The Election Campaign**

Despite all the jockeying relating to the issue of slavery leading up to the election, that issue was not debated or discussed in the election campaign itself. Indeed, future presidents Abraham Lincoln and Rutherford B. Hayes both campaigned for Taylor, making it clear in the South that Taylor was a slave owner.

The Democratic division on the issue of slavery in the Northeast provided Taylor the opportunity to dominate the vote in that region. The Free Soil Party was able to get on the ballots in only 19 of the 29 states. When the popular vote and Electoral College vote was counted, Taylor won with 1.4 million (47.3%) of the popular vote and 163 of the 290 electoral votes (146 needed to win). Taylor won in eight of the fifteen slave states and seven of the fifteen non-slave states. Cass finished second with 1.2 million votes and 127 electoral votes. Van Buren was successful in dividing Democratic support and received 300,000 votes.

**Impact on Constitution**

The 1848 election highlighted the deep divide in the nation on the issue of slavery. Shortly after the election, Senate Majority Leader Henry Clay came up with the Compromise of 1850, one
final attempt to keep the nation united. Around that time, Taylor became sick with an unknown digestive ailment and died on July 9, 1850. His Vice President, Millard Fillmore, served out the remainder of Taylor’s term.

Conclusion

The issue of slavery helped shape the outcome of the 1848 Presidential Election, even if it was not a major topic of debate during the election campaign. The next twelve years would see increased threats of secession and great debates on the question of slavery. That question would not be decided for another 17 years, after the significant bloodshed and loss of lives of the Civil War.

Dan Cotter is a Partner at Butler Rubin Saltarelli & Boyd LLP and an Adjunct Professor at The John Marshall Law School, where he teaches SCOTUS Judicial Biographies. He is also Immediate Past President of The Chicago Bar Association. The article contains his opinions and is not to be attributed to Butler Rubin or any of its clients, The Chicago Bar Association, or John Marshall.

1852, Franklin Pierce Defeats Winfield Scott, John Pitale: The Controversy Over The Fugitive Slave Act Of 1850 – Guest Essayist: Daniel A. Cotter

The 1852 election pitted Franklin Pierce of the Democratic Party against General Winfield Scott of the Whig Party, John P. Hale of the Free Soil Party, Daniel Webster of the Union Party, Jacob Broom of the Native American Party, and George Troop of the Southern Rights Party. In nominating Pierce, the Whig party refused to renominate the incumbent, President Millard Fillmore. Pierce won the election in a significant Electoral College landslide over General Scott, 254-42. As with the 1848 election, and for the next several presidential elections, a major focus of the election was on the question of slavery, especially the Fugitive Slave Act of 1850 and the Compromise of 1850.

The Candidates

Pierce served as Brigadier General in the US Army during the Mexican-American War and also served in both the US House of Representatives and Senate, leaving Congress to return to private practice. Pierce won the Democratic nomination on the 49th ballot. Pierce viewed the abolitionist movement as a significant threat to the continuation of the union of the North and South, and, as a presidential candidate he advocated the passage of the Kansas-Nebraska Act and strong enforcement of the Fugitive Slave Act of 1850. The Democrats saw Pierce as a compromise candidate who could fuse both regions and avoid threats of secession.

General Scott was a lifelong military man, beginning his military career when he joined the United States Army just before his 22nd birthday as a Captain. Scott served in the Army for the next fifty-three years. Known as “Old Fuss and Feathers” because of his insistence on protocol and discipline, Scott was Commanding General of the US Army for twenty years, longer than anyone else in history. During his long military career, Scott oversaw forces in the War of 1812,
the Mexican-American War, and briefly for the Union in the Civil War. Scott is credited with devising the Anaconda Plan, which was instrumental in the Union defeating the Confederacy. The Whig Party was deeply divided at its convention, with the South favoring President Fillmore and Scott favored by the North. On the 53rd ballot, Scott won by a very small margin.

Webster had also been a Whig Party candidate for President, receiving twenty-one votes on the 53rd ballot. Webster was recognized as one of the great statesmen of his time as well as a leading courtroom lawyer. Webster served fourteen years in the House of Representatives and another nine years in the United States Senate. He also served twice as Secretary of State. The Union Party had been formed in 1851 as an offshoot of the Whig Party. After the Whig Party nominated Scott, the Union Party nominated Webster as its candidate. Webster died shortly before the Presidential election, but his name remained on the ballot in some states.

The Native American Party, or Know-Nothing Party, originally also nominated Webster for its candidate as well, without his permission. When Webster died, the party quickly replaced him with Jacob Broom, a lawyer who had presided over the convention nominating Webster as the Party’s candidate.

Hale had been a potential nominee for President in 1848. In 1852, the Free Soil Party handily nominated Hale as its candidate. The Southern Rights Party was a Southern faction of Democrats who favored secession. Troop, a former US Senator, was nominated.

**The 1850 Actions and the Election Campaign**

The Fugitive Slave Act, passed as part of the Compromise of 1850, required escaped slaves to be returned to their owners and compelled public officials and citizens in the free states to comply with this requirement. The Act was not well received by the Northern states or by abolitionists because it made them complicit in enforcing slavery. The Compromise of 1850 was a series of laws designed to resolve the tensions between the North and South. The Compromise simply postponed, but did not prevent, the Civil War. As described above, both the Act and Compromise had a significant impact on the lineup of political parties and candidates for President.

The election campaign was confusing because the positions of both the Whig and Democratic parties were very similar and without any clear distinctions. Much of the focus during the campaign was on the candidates themselves. Scott was not favored in the South given his abolitionist views, while Pierce and the Democratic Party supported the Compromise and wished to avoid further agitation over slavery. As a result, voter turnout was low. Pierce easily won the Presidency, capturing more than 50% of the popular vote and the Electoral College, 254-42.

**Impact on Constitution**

The 1852 election showed the continued division of the nation on the issue of slavery. While the Fugitive Slave Act and Compromise of 1850 postponed secession and the Civil War, they also drew a sharper focus on the issue of slavery.
Conclusion

The question of slavery continued to shape Presidential elections in 1852, with Pierce’s views on accepting and enforcing the Fugitive Slave Act and Compromise resulting in his large margin of victory and inauguration as the 14th President. Pierce served only one term and, like his predecessor, was rejected for renomination by his political party, in part due to his views on the Kansas-Nebraska Act. Slavery would continue to divide the nation, leading up to eventual secession and the Civil War.

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1856, James Buchanan Defeats Millard Fillmore, John C. Fremont: The Kansas-Nebraska Act – Guest Essayist: James D. Best

1856 Race for President—James Buchanan defeats Millard Fillmore and John C. Fremont

The political scene in 1856 was chaotic. The Whig Party had collapsed because of a regional dispute over slavery. The American Party (Know-Nothings) had scooped up Whig remnants to rail against immigrants and Catholics. The new Republican Party, formed to fight slavery, feverishly pulled together abolitionists from wherever they could find them. Democrats, the last functioning national party, worked hard to stifle their own rift between the free and slave states. These three parties, one wounded and two newborn, would fight for the presidency. A dubious prize since seven presidents in a row had served a single term or less.

The country was close to dissolution. Senator Stephen A. Douglas aggravated the disharmony by engineering the passage of the Kansas-Nebraska Act (1854). The Missouri Compromise (1820) held the slavery conflict in check for over three decades by drawing a line of demarcation at 36°30´. The act allowed slavery only below that latitude. Douglas had other ideas. The Kansas/Nebraska Act was couched in virtuous language which asserted that the people in the territories had the right to choose their own path. Despite the high-minded rhetoric, the real purpose was to repeal the Missouri Compromise to retain the balance between free and slave states. Tempers erupted with passage of the act, and then Kansas violence and corruption flung kerosene onto this firestorm. Bitterness imbued the nation as the parties searched for candidates that could cobble together a majority of the electoral vote.

The American Party nominated Millard Fillmore, the 13th president in the hope that he would attract votes because he had held the position once before. When nominated, Fillmore was out of the country and had never attended an American Party meeting.

Desperate for acceptance, the Republican Party nominated a celebrity. John C. Frémont, known as The Pathfinder, was a renowned war hero and frontiersman.
Franklin Pierce, the sitting president, sought re-nomination by the Democrats, but was rejected by his party. James Buchanan, called Old Buck, won the Democratic Party nomination partly because he had been out of the country for years as an ambassador, and had thus escaped a partisan taint by taking a side on slavery. Buchanan was also popular in the Democratic Party because he had advocated buying Cuba or taking it by force. Cuba was contemplating freeing its slaves, which American slaveholders could not abide, especially so close to home.

The Kansas-Nebraska Act was the overriding issue of the campaign. Republicans vehemently opposed the act with the slogan “Free speech, free press, free soil, free men, Frémont and victory!” Republicans argued that if the Missouri Compromise could be ignored, the Kansas/Nebraska Act could be ignored as well. Democrats, on the other hand, steadfastly supported the act. A persuasive element of the Democrat campaign was to fan fears that a Republican victory would cause southern states to succeed. They argued Buchanan could hold the Union together. The American Party, meanwhile, insisted that they were the only true “national party”, because Democrats drew their strength mostly from the South and Republicans came primarily from the North. The Know-Nothings railed against immigrants and Catholics, but fear of the Pope and other foreign influences couldn’t suppress their own internal conflicts over slavery.

In the free states, there was a three-way campaign, which Frémont won. The Republicans did not compete in the slave states, making it a two way race, which ended up delivering a majority of electoral votes to Buchanan.

Buchanan had served five terms in the House, a decade in the Senate, been Secretary of State, and Minister to Russia and Great Britain. His curriculum vitae and untarnished reputation were not nearly enough. Buchanan became the eighth president in a row to serve a single term.

At Buchanan’s inaugural ball, the Russian minister Baron de Stoeckl supposedly told the wife of the French minister that the gala reminded him of the ball he attended just before the French Revolution of 1830—at which Talleyrand had said, “Sire, we are dancing on a volcano.”

James D. Best, author of *Tempest at Dawn*, a novel about the 1787 Constitutional Convention, *Principled Action*, and the *Steve Dancy Tales*.

**1856, The Rise Of The Republican Party – Guest Essayist: Professor Joerg Knipprath**

The 1850s was, for the American political party system, a decade of “creative destruction,” to borrow a concept from the Austrian economist Joseph Schumpeter. This process of collapse and rebirth, sometimes referred to as a political “realignment,” was triggered by the internal contradictions of a constitutional order resting simultaneously on the animating principle of liberty and the continued protection of slavery. The catalyst was the 1854 Kansas-Nebraska Act, the Lewis Cass-Henry Clay-Stephen Douglas “popular sovereignty” approach to slavery in the territories, and the resultant spectacle of “Bleeding Kansas” as the preface to the Civil War.
The electoral drubbing the Whigs received at the hands of the Democrats in 1852, when General Winfield Scott—he of Mexican War glory—lost to the handsome, but politically untested Democratic dark-horse nominee Franklin Pierce, shattered the party. Their nation-oriented perspective was made unfashionable by Americans’ devolution to sectional identity. The Democrats had done their best to remain silent about slavery and had been rewarded with the political support of a majority of Americans unified temporarily only by their weariness after the latest row over slavery had culminated in the Compromise of 1850.

This false peace lasted but two years, before slavery and sectionalism once more burst their chains. During this interlude, another issue distracted Americans. Large-scale immigration in the late 1840s caused by crop failures in Ireland and revolution in Germany alarmed many. That a portion of the German “forty-eighters” were radicals who preached the “gospel according to St. Marx,” in the words of Samuel Eliot Morison, did not help matters.

The aroused nativist (and, to a degree, anti-Catholic) mood was vented in ways political and “extra-parliamentary.” Regarding the latter, native-born Protestants formed a secret “Order of the Star-Spangled Banner.” They became known as the “Know-Nothings.” When asked by outsiders about their group, its passwords, or its rituals, they were to say, “I know nothing.” More ominously, during the 1854 election season, bands of “plug-uglies” violently harassed Baltimore voters who did not have the proper password of nativist groups and who, therefore, likely were not supportive of the anti-immigrant agenda. In St. Louis, battles between gangs of Americans and Irish Catholics had to be put down by a force of 700 specially hired men after the police were unable to do so.

The political impetus could not find an outlet in a Democratic Party traditionally in favor of immigration and otherwise preoccupied with muffling the slavery controversy. Nor was there for Americans focused on the immigration issue a home in the disintegrating Whig Party or in a not-yet-conceived Republican Party. Rather, the Know-Nothings became an eponymous party in several states, though in some of them it changed its name to the Native American Party. In 1854, the Know-Nothings won control of the state government of Massachusetts and almost did likewise in New York. In coalition with several other parties, it gained control of the U.S. House of Representatives and elected as Speaker one of its leaders, Massachusetts’s Nathaniel Banks. By 1855, the movement went national as the American Party, held a convention dominated by Southerners, adopted a proslavery platform, and decided on former President Millard Fillmore, late of the Whig Party, as their nominee for the election of 1856. Ironically, Fillmore never joined the American Party and was an anti-slavery moderate, to boot. He was abroad when nominated. The pro-Southern tilt of the convention prompted a schism, with the anti-slavery faction forming its own party and eventually fusing with the Republicans.

The chimerical national peace over slavery dissolved spectacularly when that issue once more took center stage in American politics as a result of the Kansas-Nebraska Act of 1854. Illinois Senator Stephen Douglas now sought to paper over the Democrats’ factional cleavages by unifying the party through a grand vision of western expansion, starting with Nebraska Territory. This was the last unorganized portion of the old Louisiana Purchase. The territory’s location also happened to provide an ideal transit route for a much-discussed transcontinental railroad from Illinois to the Pacific. There were competing proposed routes for the railroad, such as a southern
route urged by Secretary of War Jefferson Davis. Douglas was deeply invested in Chicago real estate and Western land, so the central route was critical to his fortune. But Nebraska Territory could only be organized if Southern opposition could be blunted by concessions on slavery.

As three months of debate raged over a series of Douglas’s Kansas-Nebraska compromise bills, the sectional positions became more entrenched. Practical reality mattered less and perceived honor more. In the words of Morison, “Everyone forgot about the railroad. The South had not asked for Kansas, did not want Kansas; but ‘Southern rights’ were involved. Few slaveholders planned to carry [their slaves] further west, but Southern honor demanded that slavery follow the flag.” Northern threats about non-enforcement of the Fugitive Slave Act fanned the flames from that end.

The Democratic majority in Congress forced the bill through, and President Pierce eagerly signed it. The language was sufficiently ambiguous to enable the Democratic factions to read into the bill their own interpretations of its moving principle, “popular sovereignty.” The Democratic Party’s façade of unity was maintained—for the moment.

On February 23, 1854, in response to the controversy over the looming adoption of the Kansas-Nebraska Act, a meeting was held in Ripon, Wisconsin. The purpose was to consider political means to oppose the extension of slavery. The meeting resolved that a new, “Republican” party be formed. Similar meetings were held in other Midwestern states throughout the year. Anti-slavery leaders, particularly Northern Whigs, were yet loath to jump ship from the established parties or from the older anti-slavery party, the Free Soil Party. Thus, Republican Party organizing outside the Midwest initially was slow. Passage of the Kansas-Nebraska Act and the resulting turmoil in Kansas accelerated the process. By June, 1856, the Republicans had coalesced into a sectional anti-slavery party.

The first Republican nominating convention in Philadelphia attracted many well-known men of politics and business. The party selected John C. Fremont, the “Great Pathfinder” and former Senator from California, as its presidential nominee over such men as Senator William Seward of New York, Senator Charles Sumner of Massachusetts, and Supreme Court Justice John McClean. The nominee for the vice presidency was former Senator William Dayton, who got the nod over former Congressman Abraham Lincoln.

Fremont was a former explorer who had led several expeditions to survey California and Colorado. He had a powerful political and financial backer for those explorations in Missouri’s Senator Thomas Hart Benton (“Old Bullion,” so nick-named because of his hard-money views), whose daughter Jessie had married Fremont. Despite earlier having shot Jackson in a street brawl, Benton became a political ally of Andrew Jackson and a useful conduit for Fremont to Washington politicians.

Fremont had a brief (and contested) tenure as military governor of California during the Mexican War. As a military officer, he had accepted the surrender of Mexican troops at Cahuenga Pass that, effectively, ended the war in California. In 1849, a massive lode of gold was discovered on Fremont’s otherwise useless property in the Sierra Nevada foothills. The discovery made Fremont very wealthy, indeed. After participating in the first California constitutional
convention, he was elected the first Senator from the new state, as a free-soil Democrat. He served only briefly. California was deeply split over slavery, and Fremont was defeated for re-election in 1851.

The Democrats nominated as their presidential candidate James Buchanan of Pennsylvania, an old political war-horse from the Andrew Jackson wing of the party. Buchanan and Martin Van Buren had been crucial in laying the foundation for the Democrats to evolve into a cohesive national party under the titular leadership of the charismatic Jackson. As early as the contested election of 1824, Buchanan had sought to broker a deal between Henry Clay and Jackson to have the House elect the latter as President, instead of John Quincy Adams. Unsuccessful in that task, Buchanan had concocted the charge that the Adams-Clay alliance was the result of a “corrupt bargain,” an innuendo that had helped cripple the Adams administration. That had been the opening salvo in Jackson’s successful 1828 campaign.

By 1852, Buchanan was one of the “Big Four” at the Democratic convention, along with Lewis Cass (the party’s unsuccessful nominee in 1848), Stephen Douglas, and William Marcy. None of them had been able to prevail at the convention, which, on the forty-ninth ballot, turned to the dark horse Franklin Pierce. In 1856, Buchanan again was one of four candidates for nomination, the others being Cass, Douglas, and Pierce. Pierce, as incumbent President, should have been the odds-on favorite. He was hurt by the Democrats’ catastrophic defeat in the 1854 congressional elections that cost them nearly half their seats in the House for a loss to the Know-Nothings and their coalition allies. Hampered by the party’s 2/3 vote rule for nomination, it took 17 ballots to select Buchanan.

The candidates personified their parties: Buchanan, the 65-year-old political wheeler-dealer, represented the latest installment of the same threadbare and predictable political balancing act over slavery being replayed yet again; Fillmore, removed from American politics, represented the vocal anti-immigrant groups who were distracted from the political drama over slavery that gripped the majority; and Fremont, the 42-year old can-do “glamour boy” from exotic and distant California, represented a new and energetic party in no mood to compromise on the extension of slavery. The election was anticlimactic; the old order carried the day. However, it was a harbinger of things to come.

The Republicans were too strident for many and lacked the thorough organization needed to compensate for their sectional appeal. Fremont could not carry his home state; indeed, he placed third. He also lost the entire South, where Democrats, in a dress rehearsal for the next election, ominously warned of secession should Fremont be elected. The Republicans were not even on the ballot in the 12 Southern and border states, and South Carolina’s legislature predictably voted for Buchanan. Still, campaigning under the slogan, “Free soil, free speech, and Fremont,” the Republican candidate received 1,342,000 votes and carried 11 Northern and Midwestern states with 114 electoral votes. Fillmore won only Maryland’s 8 electoral votes, but received 873,000 popular votes and placed second in 14 states.

The winner, Buchanan, received 1,836,000 votes and carried 19 states with 174 electoral votes. A purely sectional result was avoided because Buchanan carried 5 non-slave states, with 62
electoral votes. The next election would have no such electoral fig leaf to hide the corrosive sectionalism that had eaten away the country’s foundation.

An expert on constitutional law, Prof. Joerg W. Knipprath has been interviewed by print and broadcast media on a number of related topics ranging from recent U.S. Supreme Court decisions to presidential succession. He has written opinion pieces and articles on business and securities law as well as constitutional issues, and has focused his more recent research on the effect of judicial review on the evolution of constitutional law. He has also spoken on business law and contemporary constitutional issues before professional and community forums. Read more from Professor Knipprath at: http://www.tokenconservative.com/.

1860, Abraham Lincoln’s Cooper Union Address And Mathew Brady’s Lincoln Photo: The Making Of The President – Guest Essayist: James D. Best

The Making of the President 1860—Mathew Brady and the Cooper Union Address

Abraham Lincoln won the 1860 presidential campaign, yet on a national level, he had served only a single term in the House of Representatives. He had gained renown from his famed debates with Senator Douglas, but remained a minor political figure. How did he make himself a viable candidate? He pulled off this feat in a single day—Monday, February 27, 1860.

In the evening, he would address New York Republicans at Cooper Union. This was part of a debate series sponsored by the Young Men’s Republican Union. Instead of resting that afternoon, Lincoln made an appointment with Mathew Brady.

Lincoln wore a new black suit, new shoes, and a new top hat to the photography session. Brady still faced a challenge, however. People were taken aback by Lincoln’s appearance and irregular movements. He was tall and gangly. His face and body angular. He walked with a slouch and took each step with the flat of his foot instead of the heel. And he was perpetually disheveled.

For props, Brady used a painted Doric column and stacked books on the small table. He straightened Lincoln’s hair, raised his shirt collar, and snugged his suit with clothespins. He had Lincoln stand tall and touch the books with his fingertips. Then he took a full body shot that accentuated Lincoln’s height. He had taken a scrawny giant and used his features to their greatest advantage. The portrait made Lincoln appear stately and commanding.

That evening, Republicans paid twenty-five cents to hear Lincoln speak. Most expected homespun yarns from the bucolic West. Instead, Lincoln’s grammar and diction were flawless. Rather than using countrified stories, he artfully used repetition to drive his point and add levity. Lincoln made faces, threw his head, and modulated his voice to captivate the audience. When he mimicked the Douglas stentorian style, he not only succeeded in mocking the little giant, but caused his audience to laugh uproariously and stomp their feet with abandon.

He blamed the senator for raising the specter of slavery in the territories. In a Harper’s Weekly article and speeches, Douglas claimed the Founding Fathers would have supported his side of
the slavery issue. Lincoln presented a reasoned challenge to the Douglas assertion. He showed that twenty-one of the thirty-nine signers of the Constitution had voted for bills that restricted slavery in territories and only two had recorded votes that showed opposition to restricting slavery.

Lincoln made a tight legal case with skills acquired as a highly successful lawyer, but he elevated the debate above the law. He made it an issue of right or wrong.

“We hear that you will not abide the election of a Republican president! In that supposed event, you say, you will destroy the Union; and then, you say, the great crime of having destroyed it will be upon us! That is cool. A highwayman holds a pistol to my ear, and mutters through his teeth, ‘Stand and deliver, or I shall kill you, and then you will be a murderer!"

“To be sure, what the robber demanded of me—my money—was my own; and I had a clear right to keep it; but it was no more my own than my vote is my own; and the threat of death to me, to extort my money, and the threat of destruction to the Union, to extort my vote, can scarcely be distinguished in principle.

“What will convince slaveholders that we do not threaten their property? This, and this only: cease to call slavery wrong and join them in calling it right! Silence alone will not be tolerated— we must place ourselves avowedly with them. We must suppress all declarations that slavery is wrong, whether made in politics, in presses, in pulpits, or in private. We must arrest and return their fugitive slaves with greedy pleasure. The whole atmosphere must be disinfected from all taint of opposition to slavery before they will cease to believe that all their troubles proceed from us.

“... All they ask, we could grant, if we thought slavery right. All we ask, they could grant if they thought it wrong. Right and wrong is the precise fact upon which depends the whole controversy. Thinking it right, as they do, they are not to blame for desiring its full recognition. Thinking it wrong, as we do, can we yield? Can we cast our votes with their view and against our own? In view of our moral, social, and political responsibilities, can we do this?”

(The hall burst with repeated shouts of “No!”)

“Let us not grope for some middle ground between right and wrong. Let us not search in vain for a policy of don’t care on a question about which all true men do care. Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the government.

“Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it!”

Lincoln stepped back from the podium and the Cooper Union Great Hall exploded with noise and motion. Everybody stood. The staid New York audience cheered, clapped, stomped their feet, and many waved handkerchiefs and hats.
Lincoln claimed many times that the Brady photograph and Cooper Union speech made him president. It took more than that, but it certainly put him on the road.

I borrowed the title for this essay from Theodore White’s iconic book, *The Making of the President 1960*. In another book, *In Search of History*, he wrote, “Threading an idea into the slipstream of politics, then into government, then into history … is a craft which I have since come to consider the most important in the world.”

Abraham Lincoln achieved this lofty standard.

*James D. Best, author of *Tempest at Dawn*, a novel about the 1787 Constitutional Convention, Principled Action, and the Steve Dancy Tales.*


The election of 1860 would polarize the nation and challenge the durability of the Constitution. In 1787, the Constitutional Convention in Philadelphia established a new government for the United States of America. For over seventy years, the country had fought fierce political battles over slavery and federalism. Compromises, pacts, and informal precedents managed to hold the country together. This still-young nation would soon become engulfed in a savage civil war that would eventually complete the work begun in 1787.

As 1860 dawned, old quarrels over slavery put extraordinary pressure on the increasingly shaky union. The Supreme Court’s Dred Scott decision and the Kansas-Nebraska Act destroyed the Missouri Compromise. The Whig Party had collapsed. Democrats had split into two warring factions. The new Republican Party tried to gather the disillusioned from both parties. Eight Presidents in a row had served only a single term—one with note.

Senator Stephen Douglas had championed the Kansas-Nebraska Act to curry favor with the South, but then had straddled the issue to win re-election in Illinois. Douglas’ presumed wavering in support of slavery lost him support in the South and split the Democrat Party. Democrats deadlocked at their Charleston convention, but Lincoln convinced Republicans that Douglas, who was from Illinois, would be their eventual opponent. He further argued that this made Illinois crucial to a Republican win against a divided Democrat Party.

Lincoln had a four step plan to secure the nomination. Step one was to pretend he was disinterested in the nomination while building a stronger national reputation. Step two was to convince his party that the convention needed to be held in Chicago in order to defuse Douglas’s advantage in the state. Step three was to maneuver to be everyone’s second choice. Step four would take advantage of the convention being held in Lincoln’s home state. (For example, he packed the hall with his partisans.)
The chief contenders for the presidential nomination were Seward, Lincoln, Chase, Cameron, and Bates. Seward and Chase did not have the support of the moderates. Bates had offended foreign-born Americans. Cameron was embroiled in political scandals. On the first ballot, Seward led with 173-1/2 votes. Lincoln had 102, Cameron had 50-1/2, Chase had 49, and Bates had 35. On the second ballot, Cameron withdrew, and most of the Pennsylvania delegation switched to Lincoln. Seward now had 184-1/2 votes, Lincoln 181, Chase 42-1/2, and Bates 35. On the third ballot, four Ohio delegates switched their votes to Lincoln. This started a stampede and when his nomination was secure, the convention voted to make Lincoln their unanimous choice for president.

On November 7, 1860, 4.7 million white males went to polls. This represented 80% of eligible voters. Lincoln did not win a majority of the popular vote, but he handily won the electoral vote.

Victory must have felt hollow. Southern militants had threatened to secede from the Union if Lincoln was elected. In December, South Carolina seceded. By February, Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas had followed. President Buchanan did nothing to stop the secessionist movement, and President-elect Lincoln remained silent on the issue, possibly believing that pro-Union sentiment would reassert itself. It did not.

Did states have a right to secede? The South believed they did. They viewed the Constitution as a voluntary confederacy, stronger than the Articles of Confederation, but a confederation nonetheless—one that allowed states to join or secede. The South also cited the Declaration of Independence to justify their actions, which stated that, “when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government.”

Lincoln had a different perspective. He believed the concept of a confederacy went by the wayside when a full-blown nation came to fruition with ratification of the Constitution. Holding that nation together was his sworn duty. He believed people had a natural right to choose their leaders and those who supported someone else must accede to election results. Letting unhappy states leave would be a horrific precedent and destroy the country. Further, the Constitution was the “supreme law of the land,” so the states could not be supreme.

From a legal and political perspective, reliance on the Declaration of Independence provided a more solid footing than the Constitution, but the words in the Declaration of Independence did not secure liberation from Great Britain. Independence required seven years of bloody fighting.

Civil wars are brutal. The American civil war was no exception. It tested the strength of government under the Constitution. It also tested men. In the end, President Lincoln kept a nation together while preserving an intact—albeit bruised—Constitution. (Amendments to this same great document provided the mechanism to outlaw slavery.) Neither Seward, Chase, Cameron, nor Bates could have accomplished this Herculean mission.

Lincoln revered the Founding Fathers and earned the right to stand beside them.
James D. Best, author of *Tempest at Dawn*, a novel about the 1787 Constitutional Convention, *Principled Action*, and the *Steve Dancy Tales*.

1860, Stephen Douglas’ Understanding Of The Constitution –
Guest Essayist: David J. Shestokas

“Tell them to obey the laws and uphold the Constitution.” – Stephen A. Douglas, deathbed instructions for his sons, June 3, 1861[1]

Stephen Douglas’ instruction to his sons to uphold the Constitution should have been quite clear. He had spent three decades in public life, including 18 years in the United States Congress. He had given hundreds if not thousands of speeches on the critical constitutional issues of his day: organization and admission of new states and the regulation of slavery in territories purchased from France and won in war with Mexico.

An examination of Douglas’ thoughts on the Constitution needs the context of his lifelong competition with Abraham Lincoln, and the meteoric trajectory of his career. Douglas had constitutional thoughts, but these thoughts derived more from politics rather than legal training, morality or philosophy.

For nearly three decades Abraham Lincoln and Stephen Douglas were competitors, in love, courtrooms and politics. They were both transplants to Illinois, Lincoln from Kentucky in 1831 and Douglas from Vermont in 1833. Douglas had dated Mary Todd before she married Lincoln. They battled in court, Lincoln as defense counsel and Douglas as prosecutor. For thirty years they were political rivals in the Illinois legislature, the United States Congress and ultimately as candidates for president in 1860.

When Douglas arrived in Illinois he was a young man in a hurry. Within a year he became a state prosecutor, and in the following six years he would serve as Illinois Secretary of State, and be appointed Associate Justice of the Illinois Supreme Court at the tender age of twenty-seven. After two years on the court, he was elected to the United States House of Representatives, and at age 34 became the junior United States Senator from Illinois. He sought the Democrat nomination for president in 1852 and 1856. He was nominated by a fractured party in 1860. He died seven months after the presidential election of 1860, only 48 years old. He had come in second in the popular vote to Abraham Lincoln.

**Constitutional and Political Questions Facing Stephen Douglas**

Douglas arrived in the Senate in the middle of the Mexican-American War. The War’s end left the United States with vast new territory and Douglas’ Senate Committee on Territories grappling with the constitutional and political implications. Constitutional questions revolved around the extent of Congress’ power in the new territory and the expansion of slavery.
Politically, the southern slave states pressed for slavery’s expansion into the new territories and demanded that new states admitted to the Union from the territory be equally divided between slave states and free states.

Stephen Douglas was clearly ambitious. He had one eye on the White House; the other was on the Pacific Ocean. These visions for himself and for his country would find expression in his explanation of a crucial constitutional distribution of government power. He would espouse a constitutional doctrine to meet his political needs: Popular Sovereignty.

**The Concept of “Popular Sovereignty”**

The North and South had conflicting views about congressional power to regulate slavery in the new territories. The Northern view was that Congress could regulate and even outlaw slavery in the territories, as it had done beginning in 1787 with the Northwest Ordinance. Congressional regulation had continued with the 1820 Missouri Compromise, defining some areas as free, some as slave.

Despite this history, the Southern view was that owners of property, could legally bring any property, including slaves, anywhere in the territories and that Congress lacked the power to prohibit possession of slaves in the territories. This North and South conflict was troublesome for Douglas’ aspirations for the White House, as he calculated his own need for Northern and Southern support to achieve that goal.

As a middle ground, Douglas became a proponent of allowing the residents of the territories to decide the question of slavery for themselves. In Senate debates and public speeches he extolled the virtues of this concept as “Popular Sovereignty”. Douglas pushed Popular Sovereignty as the solution, both for himself and the country. Beginning with his work on the Compromise of 1850, which resolved issues of Texas, New Mexico, California and Oregon and continuing with the Kansas-Nebraska Act of 1854, Popular Sovereignty would, in Douglas’ words: “...triumph & impart peace to the country & stability to the Union.”

**Stephen A. Douglas, Popular Sovereignty and the Supreme Court**

Douglas’ apparently elegant solution to questions of congressional power in territories that were not yet states did not live up to his prediction. He had failed to define the territorial residents who would exercise “Popular Sovereignty”. The territory of Kansas would be flooded, not with settlers, but with abolitionists and slavery supporters in efforts to control the exercise of “Popular Sovereignty” in Kansas on the issue of slavery. Over the next five years, at least 56 people would die in violent confrontations between the factions.

While Popular Sovereignty was not working well in Kansas, it suffered another setback with the Supreme Court’s infamous Dred Scott Decision. In that case, beyond declaring that blacks were not and could not be citizens, the Court asserted that Congress and territorial governments were powerless to interfere with the property rights of slave owners. The Court agreed with the Southern position on the limits of congressional power, in effect declaring the idea of territorial Popular Sovereignty null and void.
“Bloody Kansas” and *Dred Scott* placed Douglas in an awkward position, both politically and legally. During their famous debates of 1858, Abraham Lincoln ridiculed Douglas as a proponent of “Squatter’s Sovereignty” referring to the Kansas immigrants who had flooded the territory, and asked Douglas to defend “Popular Sovereignty” in light of *Dred Scott*.

Douglas’ response to Lincoln revealed the depth of his constitutional thought. He explained how Popular Sovereignty could be used to get around the Supreme Court. According to Douglas, if a territory remained opposed to slavery, despite the Supreme Court’s ruling, all it had to do was not pass any laws protecting slavery. Douglas was now promoting a strategy for a territory to effectively nullify the Supreme Court.

A year later, in the September, 1859 issue of *Harper’s Magazine*, Douglas would publish a long article in an attempt to reestablish the constitutional credibility of Popular Sovereignty in the territories. The article harks back to the issues of local government involved in slavery dating to 1699, how local control of the slave trade contributed to the American Revolution, the 1784 role of Thomas Jefferson in proposing territorial government, and attempts to show that the Founders thought that citizens of territories had the same rights to self-government as citizens of States. In today’s constitutional language, Douglas made an “original intent” argument on behalf of his concept of Popular Sovereignty.

While it may have been the most carefully constructed constitutional argument of his career, the nation was careening toward civil war. Stephen Douglas was trying to rehabilitate his own reputation in advance of the 1860 presidential election. Stephen Douglas during his undeniably consequential career did much to give shape to the continental reach of the United States. In the months before his death he actively worked on behalf of the Union cause, and on the issue of Civil War, he was quite clear:

“There are only two sides to the question. Every man must be for the United States or against it. There can be no neutrals in this war; only patriots or traitors.”

The meaning of his deathbed instruction for his sons to uphold the Constitution is unclear. He had once argued that Popular Sovereignty was a constitutional fix for the country’s problems. He would later argue Popular Sovereignty could undo the effect of a Supreme Court decision. Douglas was a practical man of accomplishment and ambition. His actions through his career were clearly steered by the chance conditions of the moment, rather than by fixed principles. The same can be said about his constitutional thought.

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The Northwest Ordinance banned slavery in the Ohio Territory that would become the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin. It was enacted by the last Congress under the Articles of Confederation and reenacted in 1789 by the First Congress under the Constitution.

These conflicting positions developed despite the Constitution’s Art. I, Section 3 provision: “The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.”

Resolving these questions would also move forward another item on the Douglas agenda, a transcontinental railroad running through Chicago. Not so incidentally, Douglas owned property along the proposed route.

60 U.S. 393 (1856)

1860, John C. Breckinridge’s Understanding Of The Constitution – Guest Essayist: Professor Joerg Knipprath

Election of 1860

John C. Breckinridge of Kentucky entered the year 1860 as Vice President, having been elected to that office in 1856 as a Democrat from the Stephen Douglas wing of the party. Taking the oath of office when barely 36 years old, one year above the constitutional minimum, he remains the youngest man elected to that office. When the Whig party collapsed because its intrinsic identity as a national party was ground up between the sectional millstones over slavery, the Republican Party emerged as, initially, a staunch anti-slavery movement. Buoyed by its success in the 1858 congressional elections, the party expanded its political agenda. It strongly supported the Union, and moderated, but did not abandon, its official opposition on slavery. By 1860, it was the party of the North, which former Northern Whigs joined enthusiastically.

For most remnants of Southern Whiggery, however, their support of slavery and loyalties to their states made joining the Republicans problematic. Their course was to join the Democrats or found a new party. They did both.

The Democrats met in Charleston, South Carolina—truly a symbolic venue. In this home of the late John C. Calhoun and the heartland of the “Nullifiers” of the 1830s, the party undertook the difficult task of papering over the sectionalism that had destroyed the Whigs. It proved unable to do so. The 2/3 rule for nominating a candidate, adopted in 1832, dead-locked the convention.

Southerners believed that the vote leader, Stephen Douglas, the “Little Giant,” had cheated them. They had backed Douglas’s “popular sovereignty” approach to slavery in the territories in the debates on the Kansas-Nebraska Act in 1854. For their troubles, they had expected to open Kansas for slavery but had been thwarted when the settlers elected an anti-slavery legislature. Worse, Douglas had insisted that, consistent with “squatter sovereignty,” the people of Kansas be given an opportunity to vote on the status of slavery in the territory’s application for statehood. This doomed Douglas in the South.
Southern leaders at the convention, among them Jefferson Davis of Mississippi and William Yancey of Alabama, insisted on platform planks that Congress would apply a “black code” to all territories and declare that slavery was right. When the convention refused, eight “cotton states” delegations withdrew. Both factions then re-convened in Baltimore. The “Bolters” were replaced by men loyal to Douglas, and he was finally nominated as the official Democratic candidate. The Southern Democrats at their convention nominated John C. Breckinridge for president and Senator Joseph Lane of Oregon as vice-president, and adopted the Southern platform rejected in Charleston.

It would be easy to assume that Breckinridge was intricately involved in formulating what has been characterized as the “Southern” perspective regarding slave ownership as a right, expansion of slavery into the territories, and secession. But, while he was the “Southern” candidate, the political and constitutional aspects of the Southern platform are more readily ascribed to others, such as Jefferson Davis.

Davis forsook the politically safest position to protect the South’s “peculiar institution,” which was to have a unified Democratic Party win the presidency. Instead, according to the historian Samuel Eliot Morison, Davis wanted to prevent a majority vote in the Electoral College by having multiple candidates. That would throw the election into the House of Representatives, where there would be a deadlock because the state delegations were so closely divided. In the Senate, the Democrats had the majority. There, Davis expected Joseph Lane, Breckinridge’s running mate and—though from Oregon—a reliably pro-slavery politician, to be elected vice president. With the House unable to agree, Lane would become president. Risky, devious, constitutional, but, ultimately, too clever by half.

On the constitutional side, the Southern position was distilled from assumptions about the Union as a compact among states traceable to the Antifederalists of the 1780s, and proceeding through Jefferson’s and Madison’s Virginia and Kentucky Resolutions in 1798, New England states’ arguments against the Embargo Act of 1807 and in the Hartford Convention in 1814, South Carolina’s actions to nullify federal tariffs of 1828 and 1832, and abolitionists’ efforts to prevent enforcement of the Fugitive Slave Act of 1850. Those historical examples were not identical and did not provide a blueprint for secession to be applied mechanically in 1860. Rather, they show an evolution of arguments adapted to the peculiar challenges of their times.

Jefferson in the first Kentucky Resolutions broadly hinted at a state’s power to nullify unconstitutional actions of the general government, but express language in that direction in a draft was excluded from the final version, as was language supporting a power to secede. Madison in the Virginia Resolutions expressly supported interposition of the states to the enforcement of unconstitutional federal laws, but the text suggested that this be done by collective action of the states. There was also language that at least implied a power to nullify unconstitutional federal laws. Later, during the Nullification Crisis of the 1830s, Madison claimed that his position had always been for only collective action.

John C. Calhoun refined these positions. First, in the Exposition of 1828, secretly authored by him while vice-president and published (though not formally adopted) by the South Carolina legislature, he argued that interposition and nullification could be done by individual states, not
only collectively. He also clearly raised the possibility of secession as a last resort. Yet Calhoun did not entirely reject the collective basis of nullification. A state’s nullification of a federal law was, in effect, only a suspensory veto over the law. The state must then call a convention of states to consider the nullified law. If three-quarters of the states agreed, the statute was nullified. If they did not, the instigating state could reconsider its nullification or it could secede.

Second, Calhoun rejected the original Jefferson-Madison reliance on state legislatures to act. Because these contests involved fundamental constitutional decisions arising out of the nature of the Union, only state conventions representing more broadly the people and reflecting more authentically the principle of “consent of the governed,” could nullify laws or authorize secession. Accordingly, the South Carolina convention in 1832 nullified federal tariffs of 1828 and 1832. Once the crisis was resolved politically, the South Carolina convention met again and repealed its earlier nullification—and nullified the Force Act that Congress had passed to authorize Andrew Jackson to use military force against the state.

Further, through his *Disquisition on Government*, published posthumously in 1851, Calhoun laid out his theory of “concurrent majorities.” Like the constitutional devices of the presidential veto, judicial review of legislation, and the structure of the Senate, Calhoun proposed this theory as a means to guard “liberty” and the rights of the political minority (in this instance, Southern slaveholders) against run-away majoritarian power. Calhoun posited that, at least for matters of fundamental constitutional significance that fell hard on a particular state or region, a majority in Congress was not enough. There must also be support by a concurrent majority in the legislatures of the burdened states.

All of Calhoun’s doctrine rested on two premises. There was, of course, the long-argued “compact” theory of the Union. Connected to it was the issue of sovereignty. Federalist theory had, in the later words of Justice Anthony Kennedy “split the atom of sovereignty” between the general government and the states. Calhoun argued for the classic constitutional theory of Roman law and post-medieval Europe that sovereignty was unitary and indivisible. Echoing Madison’s anti-Federalist critics, Calhoun acknowledged that sovereignty lay with the people in a republic, but the people identified with and through their states.

As the country slid towards disunion, Jefferson Davis assumed Calhoun’s role. Though he accepted Calhoun’s fundamental assumptions about the Union, Davis departed from Calhoun on a significant point. Calhoun’s nullification still sought to preserve the Union. Secession was a last-step “nuclear option” to be used as an *in terrorem* political bargaining chip. Actual secession would be a monument to political failure.

For Davis, nullification was an unjustifiable challenge to the binding obligation owed to the constitutional order to which the people in that state still professed allegiance and whose benefit they still enjoyed. He agreed with Calhoun’s critics that nullification by a single state was hypocritical, in that the state arrogated to itself the freedom to disobey the laws of the Union while still claiming the benefits of membership. Secession, though, was proper under principles of self-determination and was an unrestricted right. However, if exercised, the state also must forego any benefits of union. Thus, the brake on secession would be its concrete costs.
Breckinridge’s views on the constitutional dimension of these matters are unclear. He was an ardent supporter of “popular sovereignty.” While in the House of Representatives, he had worked with his friend Senator Stephen Douglas to pass the Kansas-Nebraska Act of 1854. During his time in Congress, he also supported the Whig theory of the constitutionality of federal support for internal improvements, which depended on maintaining the Union. His cousin Mary Todd married Abraham Lincoln, and Breckinridge and the future president became friends. He was no militant. Yet, during the election, he clearly supported Southern rights and interests.

The election proved to be a national disaster in the short term. Lincoln won all states in the North, earning an overwhelming electoral vote victory of 180 votes. However, he received less than 40% of the popular vote. Douglas received about 30% of the popular vote, but won only 12 electoral votes. Breckinridge won the South and two border states for 72 electoral votes and 18% of the popular vote. Finally, John Bell of Tennessee carried Virginia, Kentucky, and Tennessee for 39 electoral votes and about 12% of the popular vote. Bell was the candidate of the Constitutional Union Party, representing mainly the traditional Whig constituency. Bell’s attempt to win the election by appeals to Union, Constitution, and patriotism, while sweeping the slavery issue under the rug, proved woefully anachronistic.

After he lost the election, Breckinridge supported last ditch efforts to avoid secession, such as the Crittenden Compromise. He, like Jefferson Davis, unsuccessfully labored to douse the secessionist fires that both had fanned before and during the election. Their efforts to contain forces they had helped unleash proved as unavailing as Bell’s effort to ignore those forces altogether.

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1860, John Bell’s Understanding Of The Constitution – Guest Essayist: Daniel A. Cotter

The election of 1860 featured a number of candidates vying for the Presidency, with the tensions over slavery at the forefront. Abraham Lincoln would carry the North for the Republican Party and win the election over numerous candidates, including three contenders that garnered significant votes. Other essays in this series cover the 1860 Presidential election and certain of the candidates. This essay focuses on John Bell, the 1860 nominee for President from the newly formed Constitutional Union Party, and his understanding of the Constitution.
John Bell’s Life and Career

Bell was born near Nashville, Tennessee, on February 18, 1796, to Samuel Bell, a farmer and blacksmith, and his wife Margaret (Edmiston) Bell. Bell attended Cumberland University (later known as the University of Nashville), graduating in 1814. Bell then studied law and was admitted to the bar in 1816, establishing his private practice in Franklin, Tennessee. In 1817, he successfully ran for the Tennessee Senate, where he served one term but refused to run for reelection. He returned to private practice in 1819, partnering with Henry Crabb in Nashville.

In 1827, Bell ran for the United States House of Representatives from Tennessee’s 7th District. Bell won a close contest and served seven terms in the House of Representatives, including as Speaker of the House from March 1834 to March 1835. As a Representative, Bell opposed the Tariff Act of 1828. In his second term, he wrote the Indian Removal Act, which was signed by President Andrew Jackson and led to the “Trail of Tears” during the 1830’s. Bell opposed efforts of South Carolina during the Nullification Crisis and was a supporter of the Force Bill. The Nullification Crisis was a sectional crisis during 1832 and 1833 in which South Carolina was most vocal that challenged tariffs that the Federal government had enacted in 1828 and 1832. South Carolina declared the acts null and void, leading President Jackson to push Congress to pass the Force Bill in 1833, which authorized the President to use whatever force was needed to enforce the tariffs. The Nullification Crisis ended when South Carolina repealed the Nullification Ordinance it earlier had passed. Bell voted in favor of the Force Bill and vocally spoke out against South Carolina’s nullification efforts. Bell was also very much opposed to the spoils system of government appointments and jobs, something he would be criticized for in 1841 when he was appointed Secretary of War in part as a reward for his campaign efforts on behalf of President-elect William Harrison.

When Harrison died shortly after his inauguration, President John Tyler agreed to retain all of Harrison’s cabinet appointments. Bell resigned in protest from his position on September 13, 1841, claiming that Tyler had not stayed loyal to Whig principles, and returned home to Tennessee.

Bell returned to politics in 1847, having been elected to the Tennessee House of Representatives. Shortly after the election, the Whig-led Tennessee legislature had responsibility to fill a vacant United States Senate seat. After numerous rounds of voting, Bell obtained a majority vote and returned to Congress, this time as a Senator. In the Senate, Bell proposed a compromise that would have permitted California to be admitted as a State, which was put aside in favor of the Compromise of 1850 proposed by Senator Henry Clay. In 1854, Bell was one of two Southern Senators to oppose the Kansas-Nebraska Act and its amendment repealing part of the Missouri Compromise of 1820.

Presidential Candidacy and the Election

Bell was distressed by the sectional strife over slavery he witnessed in the Senate and considered forming a third party to attract moderates. In May 1860, Bell and other former Whigs met in Baltimore, Maryland, forming the Constitutional Union Party. The Party developed a broad platform that was intentionally silent on the question of slavery. Bell and Sam Houston were the
main candidates for the Party’s Presidential nomination, with Bell beating Houston for the nomination. The Party’s slogan was, “The Union as it is, and the Constitution as it is.” Bell campaigned on the message that he could save the Union from the inevitable secession of southern States that would result from a Lincoln victory. Given the fragmented, sectional candidacies and the split of North and South on the question of slavery, Bell was not successful in defeating Lincoln. Bell finished fourth with just under 13% of the popular vote, placing third in the Electoral College with 39 of the 303 total votes. Bell won Virginia, Kentucky, and Tennessee.

Post-Election

Shortly after the 1860 election, Bell began to doubt Lincoln’s statement to him that he had no intent to use force against the South. Bell became a strong advocate for Tennessee to become part of the Confederacy, defecting from the Unionist views he had advanced for years leading up to the election. Bell’s defection shocked many who knew him, and was attributed to his panic over the prospect of President Lincoln and the Union taking over Tennessee. On June 8, 1861, shortly after the Battle of Fort Sumter, Tennessee seceded from the Union. Bell soon retired from public life.

Bell’s Understanding of the Constitution

Bell and the Constitutional Union Party maintained a platform “to recognize no political principle other than the Constitution of the country, the Union of the states, and the enforcement of the laws.” As noted, the Party and Bell believed that the Constitution and the Union were best served by remaining as they were. Bell, a Southern slaveholder, opposed slavery’s expansion during the 1850’s while in the Senate but maintained that the United States Constitution protected the institution of slavery as it currently existed, but not its expansion to newly admitted states. Bell argued that this position on slavery could best maintain the Union and prevent secession.

Conclusion

Bell was proved correct after he warned the nation that it was about to become a “House Divided” with the election of Abraham Lincoln as President. Civil War commenced soon after Lincoln’s election and Tennessee, Bell’s home state, seceded from the Union. However, it is doubtful that the election of Bell instead of Lincoln would have led to long-term peace in the United States, given the tensions that had existed in the nation for many years prior to the Civil War and leading up to the 1860 election. The intentional silence on the question of slavery by the Constitutional Union Party was not likely to be a solution to the strife and threats of secession brewing at the time.

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“One would start with great confidence that he could convince any sane child that the simpler propositions of Euclid are true; but, nevertheless, he would fail, utterly, with one who should deny the definitions and axioms. The principles of Jefferson are the definitions and axioms of free society.” – Abraham Lincoln, Letter to Henry L. Pierce in 1859

Euclid’s geometry begins with five postulates or axioms (e.g., the first postulate, a straight line may be drawn between any two points) that cannot be demonstrated from other principles. The axioms to which Lincoln refers are, of course, the “self-evident” propositions in the Declaration of Independence that all men are created and equal and entitled to inalienable rights. Just as a right triangle cannot be comprehended if the first postulate of Euclid is denied, to Lincoln’s understanding a free society cannot be constructed if Jefferson’s postulates of equality and inalienable right are denied.

Prior to the American Revolution, the authority of government relied on a principle of inequality: divine right. In the West, divine right looked to the authority of Saul and David described in the Book of Samuel and the authority of Caesar. Expressions of authority reflected this even in defense of liberty, such as in the Magna Carta (1215), the Declaration of Arbroath (1320), and the Mayflower Compact (1620). Each of these examples appeals to the divine right of kings for their claims of freedom – freedom from arbitrary power of King John over the English nobles (Magna Carta), freedom from the depredations of King Edward II against Robert the Bruce and the Scots (Declaration of Arbroath), and the freedom to establish civil government by charter (Mayflower Compact). In his debates with Stephen Douglas in 1858, Lincoln asserted that the claim of divine right is fundamentally indistinguishable from the claim of a slaveholder over a slave. “That is their argument, and this argument of [Stephen Douglas] is the same old serpent that says you work and I eat, you toil and I will enjoy the fruits of it.”

A theorem is a claim that can be logically demonstrated from certain axioms, the truth of which must be admitted. From the axiom of human political equality of the Declaration comes a theorem that all government derives its just powers from the “consent of the governed.” If each person is equally sovereign to govern themselves, to agree or not agree, then by agreement each person may bind themselves to a government. The preamble to the Constitution thus, famously, begins “We the People”. It is a claim of authority often cited today by confident and strident pluralities and majorities. Undoubtedly this did not represented to Lincoln the claim of majority rule – the Constitution employs majorities in places but is not a charter of majority rule – but the formal recognition of the source of authority of the Constitution rooted in the principles of the Declaration, as opposed to the divine right of kings, the logic of which would have implied a text such as “for the Glory of God” (Mayflower Compact) or “by the grace of God” (Magna Carta).

“We the People” is famously echoed in the peroration to the Gettysburg Address as a defining attribute of the government of the United States: “. . . that government of the people, by the people, for the people, shall not perish from the earth.” Importantly, the reference that Lincoln makes at the close of the Gettysburg Address again is not actually to rule by a majority, but to the authority of the compact made by consent, which in Lincoln’s view could not be undone
without the consent of all the others. It was, after all, by the vote of localized majorities by which the states of the Confederacy had sought to dissolve the Union, and it was Lincoln who led the Union to oppose this with force.

Article I Section 2 of the Constitution includes the “three fifths clause”. Article I Section 9 restricts Congress from prohibiting the slave trade until 1808. Article IV Section 2 contains the fugitive slave clause. These provisions embedded the institution of slavery in the Constitution. Lincoln’s political life is defined in large part by Lincoln’s recognition that of all institutions, the institution of chattel slavery – the status of a person as property – is most violently at odds with the principle of individual human equality set forth in the Declaration. Lincoln maintained throughout his political career that the Constitution was anti-slavery and that the Constitution’s provisions protecting slavery were compromises with the institution of slavery for the sake of union, made with a view towards the eventual eradication of slavery.

Lincoln in his Cooper Union Address in 1860 laid out this view. He said, “True, we do, in common with ‘our fathers, who framed the Government under which we live,’ declare our belief that slavery is wrong” [Emphasis added]. In support, Lincoln demonstrated that “our fathers, who framed the Government” gave the power to Congress to prohibit the territorial expansion of the institution of slavery, which they had done through the Northwest Ordinance of 1787, and did again in 1789, ratifying the Northwest Ordinance under the under the Constitution.

Lincoln’s Cooper Union Address is unequivocal that the anti-slavery character of the Constitution is what makes the Constitution’s conservation, American conservatism, compelling. “What is conservatism?” Lincoln asked in the Cooper Union Address. Despite pro-slavery voices to the contrary, Lincoln demonstrated that the right of property in a slave is not “expressly and distinctly” affirmed in the Constitution, and Lincoln forcefully argued that attempts to attribute a pro-slavery principle to the Constitution were new and radical. “It was not we, but you who discarded the old policy of the fathers,” Lincoln said to pro-slavery factions.

Besides the documentary case Lincoln made in the Cooper Union Address, Lincoln thought the Constitution’s tolerance of slavery could only be a compromise with the institution aimed at its eradication, because tolerance of the slavery from indifference or favor would repudiate the authority of “the People” to form a government by consent.

There is a well-known case, Calder V. Bull (1798), which is not good law, in which Justice Samuel Chase held that the principles of natural justice of the Declaration limit the scope of legislative authority. Nothing Lincoln wrote or said suggests that he thought the principles of natural right of the Declaration could be read into the Constitution in a manner that placed natural right as a natural law above positive law to be construed by judges and officers of the Government. Instead, Lincoln saw the principles of the Declaration as the source of the authority of the positive law, i.e., of the Constitution and the inferior positive laws passed by the legislature. Acts of the legislature could be inconsistent with this source of authority, just as a king could act in a manner inconsistent with divine right. A humble act of a king could not empower his ministers to amend the king’s powers; likewise courts (or once law, the President or any officer of the government) could not judge whether an act of the legislature was valid based
on its inconsistency with natural justice. To do so would empower courts, judges and office holders as high priests of natural justice rather than interpreters of positive law.

Lincoln therefore claimed no power to address the issue of slavery except as was express or implied by the Constitution. Lincoln thus committed himself to enforce the repugnant Fugitive Slave Act of 1850. Even the Emancipation Proclamation was narrowly tailored to fit within the Constitutional war powers of the Presidency, emancipating slaves only in states in rebellion, so as to further the war aims of the United States. Lincoln claimed that, in peace, the Constitution’s terms only permitted the legislature to restrict the territorial expansion of the institution of slavery. Lincoln would reiterate this at the end of the Civil War in his Second Inaugural Address: “[T]he Government claimed no right to do more than to restrict the territorial enlargement of it.”

While Lincoln did not suppose that the principles of the Declaration empowered officials to act lawlessly in pursuit of natural justice, Lincoln did suppose that the terms of the Constitution could not be construed correctly if not understood as an expression of the principles of the Declaration or if the compromises of the Constitution were confused with its principles. In this light Lincoln rejected the construction of the Constitution of Dred Scott v. Sanford (1857) as “erroneous,” which construed the Constitution to rest on the authority of the Declaration of Independence, but then absurdly read the Declaration as a pro-slavery document which excluded slaves from the definition of men. Justice Taney’s error in construing the Declaration had been to suppose that if the signers of the Declaration had meant the universal equality they expressed it would have obliged them to immediately abolish the institution of slavery in the pursuit of natural justice without regard to the practical circumstances of their revolution. Of this Lincoln said the decision was “based on assumed historical facts which are not really true.” What the signers of the Declaration meant, Lincoln continued:

“They defined with tolerable distinctness, in what respects they did consider all men created equal—equal in certain inalienable rights, among which are life, liberty, and the pursuit of happiness.” This they said, and this meant. They did not mean to assert the obvious untruth, that all were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere.”

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1860, Abraham Lincoln’s Understanding of the Constitution, Part 2: The Importance Of The Union – Guest Essayist: David J. Shestokas

“... if constitutionally we elect a President, and therefore you undertake to destroy the Union, it will be our duty to deal with you as old John Brown has been dealt with.”
– Abraham Lincoln, December 3, 1859

John Brown had been hanged for treason on December 2, 1859. Brown had lead a raid on the federal arsenal in Harper’s Ferry, Virginia on October 16. Brown and his group had intended to secure weapons to arm slaves for a revolt against their masters. The United States Marines, commanded by Colonel Robert E. Lee captured the raiders, foiling the plan. On November 2, Brown received his death sentence.

The day after Brown was hanged, Abraham Lincoln was in speaking in Leavenworth, Kansas. He was nationally known from his famous debates with Stephen Douglas the year before and a leader of the fledgling Republican party. In Kansas that day Lincoln made clear his belief that seceding from the Union would be treasonous; the penalty for secession should be no different than Brown’s: death by hanging.

Fifteen months later, on March 4, 1861, Lincoln would take the oath of office as the sixteenth president. His inaugural address that day laid out his view of the Union and the Constitution. While more nuanced and legally argued, the message was ultimately the same as on that December day in Kansas.

Anticipation of Lincoln’s Inaugural Address

Presidential campaigns were much different in 1860 than in the modern era. Active campaigning by candidates was generally considered undignified. The candidate would stand on the platform promulgated by his party and surrogates would actively campaign. Following his May, 1860 nomination and November, 1860 election, Lincoln rarely left his Springfield home. He had maintained a careful silence leading up to his inauguration.

The silence was intended to avoid further fanning the flames of secession. Six weeks after his election, South Carolina became the first state to declare it was leaving the Union. By Lincoln’s March 4 inauguration, Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas had joined Georgia’s declaration.

After almost ten months of silence, Lincoln’s critical inaugural address was much anticipated. In the face of the secession crisis, the new president’s view of the constitutional nature of the Union was needed to be clearly stated.

The First Inaugural, the Constitution and Slavery

The Constitution took center stage in Lincoln’s First Inaugural Address, perhaps more than ever before and ever since. Lincoln would rely upon the Constitution to work to allay the fears of the secessionists, and yet affirm the authority of the federal government in the face of secession.
Given that slavery was tearing the country apart, Lincoln initially addressed both his understanding of his constitutional authority and his intent:

“I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so.”

He then quoted from the party platform that he stood upon for his election:

“That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend...”

Having denied any constitutional authority to interfere with slavery within a state, he quotes the Constitution’s Fugitive Slave Clause[1]. Having addressed the president’s lack of constitutional authority to interfere with slavery, the right of states to regulate what happens within their borders and the affirmative duty of all taking an oath to uphold the Constitution to facilitate the return of slaves, Lincoln has summarized his view that membership in the Union does not imperil a state’s “domestic institution”.

Lincoln asserts that he takes the presidential oath of office[2] without reservation and fully understanding the nature of the Union as regards to slavery.

**The First Inaugural, the Constitution and the Union as Perpetual**

A theory of the Constitution among secessionists was that it was a voluntary contract or agreement among the states to create an association. The contract theory included the premise that as a voluntary association, each state had the legal right to leave the association if it so decided. This was a theory with which Lincoln clearly disagreed.

In the inaugural, on the subject of perpetual union, Lincoln starts with his clearly stated conclusion that no government builds into its basic law the seeds of its destruction:

“I hold that in contemplation of universal law and of the Constitution the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination. Continue to execute all the express provisions of our National Constitution, and the Union will endure forever, it being impossible to destroy it except by some action not provided for in the instrument itself.”

Lincoln the lawyer, reminds adherents to the contract theory that while parties to a contract can violate the contract, a contract may only be lawfully rescinded if all parties agree. Without such agreement, the contract remains in effect.

To strengthen his conclusion of perpetual union, Lincoln goes back to a time before the Constitution even existed. The colonies created the Articles of Association in 1774, the
Declaration of Independence in 1776, the Articles of Confederation in 1778, and finally the Constitution in 1787.

The relationship between the Articles of Confederation and the Constitution as found in the Preamble is Lincoln’s final stitch in his argument of the Union’s inviolability. The Articles had created a “perpetual union”. The Preamble listed among the Constitution’s purposes the creation of “a more perfect union”. If any state could simply leave and destroy the Union, the result would have been something less perfect than existed before the Constitution.

With that in mind, Lincoln explained:

“It follows from these views that no State upon its own mere motion can lawfully get out of the Union; that resolves and ordinances to that effect are legally void…”

In Lincoln’s view of the Constitution and the Union, neither Georgia, Mississippi, Florida, Alabama, Georgia, Louisiana, nor Texas had left the Union.

In the balance of his address, Lincoln struck a conciliatory tone, speaking of bonds, history, heritage and the practical aspects of sharing the continent. Despite this tone, despite the legal, common sense arguments, anyone aware of his statement the day after John Brown was hanged, knew Lincoln saw any effort to destroy the Union as a treasonable offense worthy of the death penalty.

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[1] No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due. Constitution, Article IV, Section 2, Clause 3.

[2] “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.” Constitution, Article I, Section 1, Clause 8

1864, Abraham Lincoln Defeats George McClellan: Constitutional Issues Raised By Lincoln’s Conduct Of The War – Guest Essayist: Daniel A. Cotter

The Election of 1864: Constitutional Issues Raised by Lincoln’s Conduct of the War
The 1864 election pitted the incumbent, Republican President Abraham Lincoln, against George McClellan of the Democratic Party. It was the first election since 1840 in which an incumbent was renominated by his own party. A major focus of the election was the Civil War and the divided Union. Lincoln’s actions as President would also be considered by the electorate, which reelected him in a landslide.

The Candidates

Abraham Lincoln was the Republican incumbent in 1864. His election in 1860 was followed by Southern secession by a number of states before he was sworn in as President. Shortly after his first inauguration, the Civil War commenced with the attack on Fort Sumter. Lincoln declared martial law and suspended the right to writs of habeas corpus. On January 1, 1863, Lincoln issued his now famous Emancipation Proclamation. The war was still in full force when Lincoln was faced with the additional burden of a re-election campaign. Seeking unity of a nation divided, Lincoln ran under the National Union Party label.

In the summer of 1864, the North, under the leadership of General Ulysses S. Grant, was facing tough fights and a military stalemate with the South. Some political leaders, such as Salmon P. Chase (who would become Chief Justice of the Supreme Court in late 1864) and Benjamin Wade, opposed Lincoln’s renomination believing he could not win reelection. Indeed, Lincoln himself did not believe that he would be reelected. Fearing defeat, Lincoln signed a pledge and placed it in a sealed envelope and asked each of his Cabinet members to sign that envelope without first reading its contents. The pledge made it clear that Lincoln intended to win and end the Civil War regardless of whether he was reelected:

This morning, as for some days past, it seems exceedingly probable that this Administration will not be re-elected. Then it will be my duty to so co-operate with the President elect, as to save the Union between the election and the inauguration; as he will have secured his election on such ground that he cannot possibly save it afterward.

Lincoln easily won the nomination for reelection by the Republican Party.

Democrats were split between those favoring continuing the Civil War and those who desired immediate peace without Union victory. McClellan was a longtime member of the United States Army and, when former Presidential candidate Winfield Scott retired, McClellan became Commander-in-Chief of the Union Army. Seeking a candidate that would unite the party, Democrats nominated pro-war candidate McClellan for President and anti-war candidate George Pendleton for Vice President.

The Election Campaign

Not since the War of 1812 had an election campaign taken place during a time of war. Lincoln made emancipation the central issue. Only 25 states participated in the election, and when the votes were tallied, Lincoln had decisively won reelection with 55% of the popular vote and the Electoral College victory by a vote of 212-21. Union soldiers, many of whom were permitted to vote by their home states, mostly voted to reelect Lincoln.
Lincoln’s Conduct of the War and Impact on the Constitution

President Lincoln aggressively exercised his Presidential powers. Early in his first term, just after the Battle of Fort Sumter, Lincoln asserted unprecedented war powers, imposed a blockade on Confederate shipments, used funds not yet appropriated by Congress, and suspended the *writ of habeas corpus*. Many asserted that Lincoln’s actions were unconstitutional. Chief Justice Roger Taney was one, ruling Lincoln had no power to suspend the *writ of habeas corpus*. Lincoln ignored that ruling (which was upheld by a new court five years later) and countered to his critics that his acts were taken in order to suppress a rebellion, which is specifically mentioned in Article I, Section 9, Clause 2 of the U.S. Constitution, rather than in connection with fighting a war.

On January 1, 1863, Lincoln issued his Emancipation Proclamation, setting free all slaves in Confederate states. Many questioned the constitutional authority of a President to issue such a proclamation; Lincoln asserted that it was within his authority as a “war power.” On November 19, 1863, Lincoln gave the Gettysburg Address, one of the most quoted speeches in our country’s history, in which he assured the nation that the bloodshed would not be in vain, but that there would be an end to slavery. In the summer of 1864, he declared martial law by Proclamation 113.

Lincoln was a vocal enemy of the Chief Justice of the Supreme Court, Roger B. Taney. The relationship was extremely contentious – the two disagreed on the issue of *habeas corpus* as well as slavery. When Taney died on October 12, 1864, Lincoln made no public announcement and did not attend the funeral.

Conclusion

The Civil War and the divided Union were main focuses of the 1864 Presidential Election. Months later, the war all but over, and three days after giving a speech advocating voting rights for blacks, Lincoln would be dead, assassinated by John Wilkes Booth. The end of slavery would come in 1865 with ratification of the Thirteenth Amendment. No President since has exercised Presidential powers as aggressively as Lincoln.

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1864, Holding A Presidential Election During A Civil War –
Guest Essayist: Professor Joerg Knipprath

When asked what might derail his agenda for his new Conservative Party government, former British Prime Minister Harold MacMillan is said to have responded, “Events, dear boy. Events.” That aptly describes how the political fortunes of war-time Presidents play out. It is surprisingly
difficult for incumbent commanders-in-chief to win even if military campaigns are successful. True, Franklin Roosevelt won in 1944. But, even as the Allies were defeating the Axis powers, the popular Roosevelt won with the lowest percentage margin of victory of his campaigns. When elections occurred while the war effort appeared to be flagging, incumbents have fared badly. In 1952, as a result of the Korean War stalemate, President Harry Truman could not even win renomination by his own party, and the Democrats lost decisively. In a similar vein, in 1968, President Lyndon Johnson declined to pursue the Democratic Party nomination for re-election after the newscaster Walter Cronkite and other elements of the media turned the disastrous and strategic military defeat of the Viet Cong during the Tet offensive into a prevailing popular tale of American defeat.

It is, then, not surprising that Abraham Lincoln, running in 1864 for re-election during the bloodiest conflict in American history—and a war between Americans, to boot—faced a daunting task that would be shaped decisively and unpredictably by events. Unlike typical peacetime elections that are referenda on the incumbent and determined primarily by the state of the economy, the election of 1864 was a verdict on Lincoln’s war and security policies judged in light of the progress made on the ground against the Confederate States’ military.

Lincoln’s war-time policies have often been equated to a war dictatorship—and not just by unreconstructed admirers of the Southern struggle. To a degree, this is hyperbole, as Lincoln consistently sought Congressional support, and received it in droves. Sometimes, indeed, that support became unwanted meddling. The “Radical” faction of abolitionists foisted on Lincoln the Joint Committee on the Conduct of the War, which proved to be a constant thorn in the President’s side.

Yet, there was some truth to the “dictatorship” characterization of what was an unprecedented expansion of executive power. Without waiting for congressional authorization, Lincoln called for 75,000 volunteers to suppress the insurrection after the Confederate shore batteries fired on Fort Sumter. He ordered a blockade of Southern ports, an act equivalent to a declaration of war and at odds with the Union’s position that the South was not an independent belligerent but an area wracked by domestic insurrection. A month later, he unilaterally ordered increases in the sizes of the army and navy and ordered $2 million paid out of the Treasury for that purpose. He pledged the government’s credit for a quarter billion dollars. He unilaterally suspended the writ of habeas corpus in certain areas of the country. He ordered the military to arrest and detain citizens who were engaged in or contemplating “treasonable practices.”

In 1862, Lincoln extended the scope of these detentions and the suspension of the writ of habeas corpus to all persons discouraging enlistments, resisting the draft, or “guilty of any disloyal practice affording aid and comfort to rebels.” Such persons would be subject to martial law, and “liable to trial and punishment by courts martial or military commissions.” As Lincoln bluntly declared, these seemingly arbitrary arrests were preventive sweeps and were made “not so much for what has been done, as for what probably would be done.”

One such military arrest and trial was of former Ohio Democratic Congressman Clement Vallandigham, who had strongly challenged Lincoln’s conduct of the war and, according to witnesses at his trial, had even had the effrontery to call the President “King Lincoln.” For this
agitation, he was sent to military prison and, eventually, expelled to the Confederacy. Though he remained there only a few months, his case aroused heated controversy in the North. Lincoln defended this action and his general policy of conducting the war under his concept of the “war constitution” in a long letter to a prominent Democrat, Erastus Corning, on June 12, 1863.

Lincoln relied heavily on his presidential oath to “preserve, protect and defend the Constitution,” as well as authority broadly implied from his own constitutional powers as chief executive and commander in chief. That noted, Congress approved Lincoln’s actions in the overall conduct of the war and in promoting internal security and order by adopting various laws to authorize (in many cases retroactively) the President’s actions. Whether such retroactive approval made Lincoln’s actions constitutional at the time they were taken is subject to debate, but Congress’s responses showed that Lincoln’s conduct was not bereft of popular support.

However politically controversial the constitutional niceties of Lincoln’s program might be, that paled in comparison to the political effect of the perceived progress of the war itself. The Democrats had scored a political victory in the 1862 congressional elections, in significant part due to the inability of the Union’s overwhelming advantage in manpower and industrial capacity to vanquish the Confederacy. The patriotic fervor that had gripped much of the North after the fall of Fort Sumter had faded and war weariness was setting in.

By 1864, success appeared even dimmer. Late spring through mid-summer was a lean time for Union Army successes. General William Tecumseh Sherman was halted in his march on Atlanta. General Ulysses S. Grant was bogged down in trench warfare against General Robert E. Lee after suffering significant losses in a failed attempt to capture the Confederate capital. Worst of all, Confederate General Jubal Early invaded Maryland and, on July 11, reached the District of Columbia. Though he was eventually pushed back after a battle the President witnessed from Fort Stevens within the District, Early’s exploit so strengthened anti-war sentiment in the North that a dump-Lincoln movement emerged in his own party.

Lincoln by that time was the nominee of the National Union Party. The Republicans temporarily adopted that name for the national party to accommodate pro-war Democrats and old Constitutional Union Party supporters from the border states. Lincoln’s vice-president, Hannibal Hamlin, a political ally of the Northern Radicals, was dropped from the ticket and replaced with Andrew Johnson, a pro-war and pro-Union Democrat who was then military governor of Tennessee. The platform strongly commended Lincoln, called for prosecution of the war until the South unconditionally surrendered, and demanded a constitutional amendment to abolish slavery. A break-away faction of Radicals calling themselves the Radical Democracy Party separately nominated John C. Fremont.

The Democrats chose General George McClellan, from the pro-war wing, and balanced that with Ohio Congressman George Pendleton, a “Copperhead” from the Radical Peace faction of the party. The party platform condemned the administration’s war effort and its domestic security policies and called for an immediate end to hostilities and a new convention of states to restore the Union. Sensing a future political debacle, McClellan rejected the platform.
That platform was largely the product of the Radicals led by Clement Vallandigham. Yes, that Vallandigham. After his expulsion to the Confederacy, Vallandigham was treated as an enemy alien by the Confederate government. Vallandigham then travelled to Bermuda and, from there, to Canada. While in Canada, Vallandigham became the Democrats’ nominee for governor of Ohio in 1863, but was defeated in the election. The following year, he slipped across the border and ended up as a delegate to the Democratic convention. Lincoln knew about Vallandigham’s capers, but chose to ignore the matter to avoid a repeat of the political tempest that had arisen from Lincoln’s earlier expulsion order. Vallandigham became an informal part of the Democratic ticket when he was put forth as--of all posts--the presumptive Secretary of War in a McClellan administration.

McClellan as nominee was a propitious choice. Lincoln had given him command of the Army of the Potomac in 1861 when McClellan was only 34 years old. He was handsome and had an engaging personality. He was intelligent, having graduated second in his class at West Point. He had excellent skills of organization and preparation, which helped immensely in training the Army of the Potomac. He was an able technical commander, whom Robert E. Lee after the war called his ablest opponent. Ulysses S. Grant was more reserved in judgment, declaring McClellan to be “one of the mysteries of the war.” The problem for Grant (and Lincoln) was that McClellan was cautious to a fault and failed, time and again, to press the war against the Confederates. Eventually, the general’s failure to act increased pressure on Lincoln to remove McClellan over time from his various commands. By the end of 1862, after the Battle of Antietam, McClellan was effectively sidelined when Lincoln transferred command of the Army of the Potomac to General Ambrose Burnside.

However, McClellan personally remained popular with the public and with his men, and the Democrats hoped that his nomination would obscure the influence of the “Copperhead” faction. McClellan viewed Lincoln with contempt, judging the President as unworthy of the office and referring to him disparagingly as a baboon and similar designations in his correspondence.

With the unresolved military situation, some Republicans sought a “do-over” to rescind Lincoln’s nomination. Prominent among those was Lincoln’s Treasury Secretary and future Chief Justice, Salmon P. Chase. Chase was one of the most prominent and powerful Republicans in the country. He longed to be president and was a failed nominee at the 1860 Republican convention. He was aligned with the Radicals, although he was ecumenical enough in his ambition for the office that he did an expedient about-face in 1868 and wooed the Democrats unsuccessfully at their convention. Foiled again, Chase helped form the Liberal Republican Party in 1872 as an alternative to Ulysses S. Grant and sought to become their nominee. Third time was not the charm for Chase, as he was passed over by his new party in favor of Horace Greeley, publisher of the New York Tribune.

A more direct attack on Lincoln came from Radicals chafing at Lincoln’s pocket veto of a Radical bill on harsh reconstruction of the South. Politicians and Greeley began a call for a new Republican convention to nominate General Benjamin Franklin Butler, a politically well-connected, but militarily incompetent, sometime ally of the Radicals.
Lincoln was so gloomy about his prospects in August, 1864, that he gave a sealed letter to his cabinet, to be opened only after the election. The letter read,

“It seems exceedingly probable that this administration will not be re-elected. Then it will be my duty so to co-operate with the President-elect as to save the Union between the election and the inauguration, as he will have secured his election on such ground that he cannot possibly save it afterward.”

Suddenly and dramatically, the political calculus changed. Atlanta fell to Sherman. Union armies won significant victories in the Shenandoah Valley and at Mobile Bay, Alabama. Northern confidence rebounded. Fremont removed himself from the election and supported Lincoln, and Chase likewise then campaigned for the President. Despite having rejected his party’s “peace platform,” McClellan and the Democrats could gain little traction.

Demonstrating Harold MacMillan’s aphorism about the importance of chance “events” in shaping political outcomes, the election turned into a rout. With the Confederate states out of the picture, Lincoln received 55% of the popular vote. The military’s vote was even more lop-sided. Despite McClellan’s standing among the troops, the soldiers voted about 75% for their commander-in-chief. Lincoln carried 22 states in the Union for 212 electoral votes; McClellan carried 3 states for 21 electoral votes. Two Southern states under Union control, Louisiana and Tennessee, also voted for Lincoln, but their 17 electoral votes were not counted.

An expert on constitutional law, Prof. Joerg W. Knipprath has been interviewed by print and broadcast media on a number of related topics ranging from recent U.S. Supreme Court decisions to presidential succession. He has written opinion pieces and articles on business and securities law as well as constitutional issues, and has focused his more recent research on the effect of judicial review on the evolution of constitutional law. Read more from Professor Knipprath at: http://www.tokenconservative.com/.

Civil War Amendments – Guest Essayist: James Legee

For nearly the first century of her existence, America had left a promise unfulfilled to both the souls that resided within her borders, as well as humanity at large. That promise, largely taken for granted today, cost the blood of nearly five thousand in the American Revolution and hundreds of thousands in the Civil War, is the revolutionary idea expressed in the Declaration of Independence that every person is born equal. The Civil War and Reconstruction fundamentally altered the Union, and most certainly for the better. The Civil War Amendments, the 13th, 14th, and 15th, sought to fulfill the promise of equality for those enslaved.

In the Thirteenth Amendment, which abolished slavery in the United States, Lincoln and the Republican Congress sought to enshrine the Emancipation Proclamation in what they saw to be a more republican and enduring manner. Specifically, Lincoln wanted passage in the branch of the Federal government closest to the people, and then in the state assemblies, rather than relying on
an executive order. The intent was to eliminate possible future challenges to the end of slavery in the Union.

Prior to the thirteenth amendment, some of the Border States sought to abolish slavery in their own constitutions. There is debate, though, as to whether this was a truly representative effort. Many of the Border States required loyalty oaths; thus, supporters of the Confederacy were disenfranchised. Missouri, for example, only passed a state constitution abolishing slavery on January 11, 1865, by a mere 1,862, and this was in large part due to the votes of Union soldiers.

Furthermore, the states in rebellion did not get a say in the drafting of the Amendment, nor did their representatives ever vote on it in Congress. Rather, adoption of the Thirteenth Amendment was a condition of restoration to the Union. Regardless, in a tense vote in the House on January 31, 1865, sixteen Democrats broke party lines to join Republicans in passing the 13th Amendment 119 to 56. Within three months, nearly every state still in the Union had ratified it.

Lincoln, regrettably, did not live to see the Fourteenth Amendment, which came with greater controversy and difficulty. President Johnson lacked Lincoln’s deft hand in dealing with Congress, and was furthermore opposed to the Fourteenth Amendment. Elements of the Republican Party were concerned with the disenfranchisement of former slaves in southern states and feared that they would be relegated to effective slave status. Johnson, on the other hand, was sympathetic to southern concerns over states’ rights, and was dubious of the social equality of blacks. His sympathetic views were largely rejected in the midterm elections of 1866, and Congress was able to effectively take control of reconstruction.

In 1867 the Military Reconstruction Act was passed, over a presidential veto, dismissing state governments approved of by the Johnson administration and replaced them with military commanders. In a further effort to limit Johnson, the Congress passed the Tenure of Office Act, which prevented him from removing anyone that had been confirmed by the Senate. This left Johnson irate and unable to prevent nearly any aspect of Republicans’ reconstruction plan. In 1868, Congress sought to protect the rights of former slaves and passed the 14th Amendment, which ensured birthright citizenship, due process, and “equal protection of the laws.” States that had previously been in rebellion were also denied say on the 14th Amendment; full return to the Union and representation in Congress was not granted until they accepted the Amendment.

Of all the Reconstruction Amendments, the 14th is perhaps the most significant to jurisprudence today, and the most hotly contested. It paved the way for the Slaughterhouse cases of the 1870s and later the doctrine of “separate but equal” in Plessy v. Ferguson in 1896. A narrow reading of the Amendment protected only certain rights pertaining to citizenship, voting, jury duty, etc., and fails to ensure any sort of equal treatment socially, hence the rise of Jim Crowe legislation around the United States. Understood more broadly, which would take Brown v. Board, it is a guarantor of Federal protection of civil rights by the Federal government, at not only the federal level, but empowers the Federal Government to protect citizens from state governments infringing on the Bill of Rights.
The final Reconstruction Amendment is the 15th, ratified February 3, 1870. The 15th Amendment reads about as straightforward as the 13th, and like the previous two amendments, entailed a bitter ratification fight, particularly in the South. It enshrined the right to vote for all persons, regardless of “race, color, or previous condition of servitude.” It also empowered congress to enforce this via “appropriate legislation,” later echoed in the Voting Rights Act of 1965. Republicans, not altogether altruistically, viewed the vote of Africans Americans as necessary to their electoral future, but also a fundamental right. However, a narrow reading of the 14th Amendment, combined with a narrow reading of the 15th Amendment, led to poll taxes, literacy tests, and litany of other attempts by state governments to suppress the vote of nonwhites throughout the South.

Notably, the passage of each amendment and its enactment is done in ways that are inherently undemocratic – particularly to today’s citizens and politicians. All of the Amendments are drafted by what are considered radicals in the period’s political rhetoric. The South was barely allotted a say in their acceptance of such laws, to say nothing of a voice in their formation. A military governor, laws written without vote by the citizenry, and a hostile military presence could easily describe 1776. Today’s rhetoric enshrines the majoritarian principle; the president has a mandate from the people to enact his agenda (with or without congress), a majority party in the Senate should ignore a presidential appointment until the people have spoken in the next election, and legislation is just if 50+1% of a body politic pass it, leaving 49% of the public ambivalent or on the wrong side of history. Given the adoration of democracy today, how can we exalt the Reconstruction Amendments?

The dissonance of the voting public, intelligentsia, and talking heads aside, how can we understand the 13th, 14th and 15th Amendments, given the undemocratic nature of their passage? Is it that the ends simply justify the means? Jefferson, in a September 20, 1810 letter to John B. Colvin (editor of The Republican Advocate) contended, “The laws of necessity, of self-preservation, of saving our country when in danger, are of a higher obligation. To lose our country by a scrupulous adherence to written law, would be to lose the law itself, with life, liberty, property, and all those who are enjoying them with us; thus absurdly sacrificing the end to the means.” It is logical to extend this to the letter of the Constitution in the Amendment process, to a strict adherence to democracy. Democracy is not the end, rather it is a process, just as America, as a state, is not the end, rather, it is the preservation of the rights of man as expressed in the Declaration. The law, democracy, and America as a state are Jefferson’s means, and are the means here.

While Jefferson helps us understand this was not merely an instance where the ends were used to justify the means, Lincoln aids us in understanding the principles at stake. Years before his Presidency in his October 16, 1854 speech at Peoria, he articulates that slavery was an institution that undermined democracy not merely as a political process, but the very foundation of self-government and natural right. “…if the negro is a man, is it not to that extent a total destruction of self-government, to say that he too shall not govern himself? When the white man governs himself that is self-government; but when he governs another man that is … despotism. If the negro is a man then my ancient faith teaches me that ‘all men are created equal’; and that there can be no moral right in connection with one man’s taking a slave of another.”
The Reconstruction Amendments, though seemingly undemocratic in their enactment, and a long
time coming in a broad reading of rights, were steps towards protecting the natural right not just
of African Americans, but ensuring the preservation of rights of all Americans.

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1868, Ulysses S. Grant Defeats Horatio Seymour: Reconstruction And The
Constitution – Guest Essayist: Professor Forrest Nabors

Fearless and firm under fire, unflaggingly modest despite reverent acclaim, and always practical
– these outstanding qualities of Ulysses S. Grant are acknowledged, whether begrudgingly or
enthusiastically, by the many critics of his presidency as well as by his defenders. Grant was
quintessentially American, and yet as a leader he proved that his particular mixture of
quintessentially American qualities represented the best of us, which might explain why his
soldiers trusted him, the northern people adored him and the southern people respected him.

In the election of 1868, Grant accepted the nomination of the Republican Party for President of
the United States when the party’s national platform affirmed its determination to secure “equal
civil and political rights to all,” and to make the principles of the Declaration of Independence “a
living reality on every inch of American soil.” But Grant was not always a Republican. In 1856
he voted against the Republican presidential ticket, and on the eve of the Civil War in 1860, for
the unionist Democrat, Stephen Douglas. His second choice was Abraham Lincoln; his least
favored candidate was the proslavery John C. Breckenridge.

Grant’s political positions before and after the war reveal the logic of a quietly principled mind
that is slow, deliberate and fair in forming judgments, but firm as iron once decided. Before the
war, he was for compromise to preserve the Union, and eschewed the sectionalism of both
antislavery Republicans and “fire-eating” Democrats. The war changed Grant. In “Chattanooga,”
his last published writing before his magnificent, posthumously published memoir, Grant
confessed that throughout the war the source of our national calamity was clear to him – the
southern ruling class that had made a wreckage of our free, prosperous American way of life in
the South, for both ruled whites as well as ruled blacks. Northern victory, he believed, would
liberate and benefit the South.

Grant was mugged by reality. Lincoln and the Republicans had been right all along; now Grant
understood that his “unionism-at-all-costs” political sentiment was the product of misguided
patriotism. Taught this lesson, Grant accepted his nomination in 1868, knowing that he would be
waging war again, a political war against those who resisted making the principles of the
Declaration of Independence “a living reality on every inch of American soil,” or in other words,
those who resisted regime change.

His opponent in the election of 1868 was former New York Governor Horatio Seymour, a
Democrat. The political positions of Seymour and Grant before the war were barely
distinguishable. Seymour urged conciliation and compromise between North and South to
prevent southern disunion.
But the war did not change Seymour. Though professing to support the northern war effort, as Governor he continued to blame the war on both North and South, especially the North. He opposed the Union Army’s confiscation of southern property as a war measure, criticized the arrest of the traitor Clement Vallandigham of Ohio, and was a prominent opponent of conscription, which probably helped light the fuse of the destructive New York draft riots of 1863. Seymour’s critics noted that he leveled harsh rebukes against the Lincoln administration’s war-time restrictions of civil liberties in the North, and fretted about Lincoln’s prospective overthrow of constitutional government, while saying nothing about the southern leaders’ actual overthrow of constitutional government and decades-long oppression of the southern people’s liberties.

The point from where the differences between Grant and Seymour arose was their war experience. While marching and fighting through the South, Grant saw first-hand the southern leaders’ end-game, the way of life for which they had risked all. He came, he saw, and he overcame the former moral equivalence that shaped his view of North and South. Seymour never interrogated a Confederate private taken prisoner of war on the battlefield, and never heard how little these common soldiers knew about the contest in which they had been dragooned, that to them, it was a “rich man’s war, poor man’s fight.” Hence, Seymour remained in thralldom to the constitutional sophisms of antebellum southern leaders, which were intended to conceal and advance their oligarchic system of government and way of life that had broken from the republicanism of the American founders.

This difference sharply distinguished them in 1868. As the Democratic nominee in the campaign of 1868, Seymour extended President Andrew Johnson’s attacks on Congressional attempts to reconstruct southern political society. Since the end of the war the Republican-dominated Congress had enacted a host of legislation aimed at vindicating equal civil and political rights in the South, and had sustained them over President Andrew Johnson’s veto. To Seymour, reconstruction legislation was “revolutionary and not simply unconstitutional,” because such measures encroached upon the right of the states. Yet, not even Johnson had maintained, as Seymour had, that the southern states had a constitutional right to secede, which was pure southern doctrine, invented and repeatedly used by antebellum southern leaders to extract concessions from the North. In 1868 Seymour’s candidacy was a vehicle by which the aims and ambitions of antebellum southern rulers might survive the war and lead the nation.

Victorious in the war, Grant and the Republican Party could no longer be coerced by southern threats of secession to obey southern wishes. And they had disabused themselves of the late constitutional doctrines intended to protect and advance southern oligarchy. They saw clearly that for decades before the war, southern government had not aligned with Article IV, section 4 of the Constitution, requiring all state governments to be republican in form. According to their constitutional view, the Fourteenth Amendment that declared citizenship equality and forbade state assaults on citizenship equality, was a redundancy, although it was politically necessary to clear away the false constitutional doctrines of the past.

The task faced by Grant and the Republican Party was monumental, due to three years of serious political deadlock in Washington that had allowed the South to escape the surgery of regime change. Though President Johnson had hated the ruling class of the South before the war, he also
expressed antipathy for the emancipated after the war. In opposing Congressional
Reconstruction, Johnson played into the hands of the old oligarchy. Post-war politics made them
strange bedfellows. Johnson pardoned rich and high-ranking rebels, restored their landed estates
and winked at the southern states’ black codes that almost returned the emancipated to the
condition of slavery. An infuriated Congress and the President became locked in a political
showdown that might have become violent, testing legislative supremacy in the same way that
the English civil war between the King and Parliament had tested Parliamentary supremacy. Just
as the Parliament tried Charles I, Congress impeached and tried Johnson.

Still a general in those years, Grant stood with the Republicans in Congress, and there was only
one other man in all America whose military prestige rivaled his. President Johnson therefore
created a new standing army, the Army of the Atlantic, headquartered in Washington, D.C. and
ominated William Tecumseh Sherman to its command, equal in rank to Grant, reporting to
Johnson alone. But the trust, moderation and friendship shared by Grant and Sherman diffused
the budding conflict. After conferring with his friend, Sherman refused the nomination, averting
the possible renewal of hostilities. Johnson was impeached and barely acquitted.

On the campaign stump Republicans waved “the bloody shirt” of the fallen to persuade the
American people to vote against false constitutional doctrines of antebellum southern leaders,
and to vote for the man who intended to press on with Reconstruction. The American people
responded and voted for their hero over Seymour. Amidst the terrible difficulties in Washington,
Grant took up his duties as President of the United States.

The results were mixed. Division in Washington for three years had given southern leadership
time and space to regroup and resist. The southern people, who had much more at stake – their
inherited way of life – than the northern people, fought to reconstitute the remnants of their
political society. But Grant crushed the life out of the Ku Klux Klan before it was resurrected in
the Twentieth Century, successfully championed the Fifteenth Amendment that prohibited the
denial of the vote on the basis of race, and presided over the peaceful resolution to the contested
election of 1876, which also threatened to re-inaugurate war. Although the Reconstruction Era
fell short of the lofty ambitions of the Republican Party, Grant prevented worse calamities, and
preserved the possibility that someday, the principles of the Declaration of Independence would
become “a living reality on every inch of American soil.”

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1868, Constitutional Issues Surrounding Black Suffrage –
Guest Essayist: Professor Forrest Nabors

How should we understand the laggard steps of the United States towards the legal enforcement
of equal civil and political rights for black Americans? A prevailing sense among Americans
today is that the end of legal discrimination was the result of historical evolution. That is,
beginning from a morally retrograde starting point, the nation grew and gradually shed its impure prejudices. Partial victories opened new opportunities for more victories, until this evolution culminated in the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Many scholars have reinforced this view by denying that the achievement of equal citizenship after the constitutional abolition of slavery in 1865 was plausible. Their judgment rests upon an assumption, a philosophy of history, dogmatically demanding that moral and political change must follow a linear path of historical development. Hence, for them, we should not wonder whether the United States might have vindicated the equal civil and political rights of black Americans after slavery, or to put the question another way, we should not ask why the 1860s did not realize the achievements of the 1960s. The American people were not ready. History had to prepare them first.

This is wrong. First, we should recognize that the facts from the past do not support the philosophy of historical change that only recognizes linear patterns. In short, the prospects for racial equality were relatively brighter during America’s Founding Era, dimmed after 1820, then brightened brilliantly after the Civil War. But the high hopes for equality were dashed and a long, dark night of racial segregation and discrimination followed, from which the United States only began to emerge in the mid-Twentieth Century. In this essay, we will consider the first one-hundred years, ending with the election of Ulysses S. Grant to the presidency and the difficulties of Reconstruction.

A cardinal principle in the American theory of republican government, the type of government that the Americans wanted to establish in 1776, is that the people are sovereign by natural right. Related to this principle is another, that each of the sovereign people must be equal before the law inasmuch as they are equal by nature. That is, if the law limits liberty in any fashion, the disability must fall on all alike. The principles of republican government forbid the law from disabling or privileging one class of citizens separate from another.

Such laws based on nature may discriminate only if the classes of citizens differ by their natural function or by their natural capacity. For example, a baby is a citizen but, by nature, lacks the developed natural capacity to intelligently exercise liberty. Therefore, it is not unjust or inconsistent with natural right to withhold the suffrage, that is, the privilege of voting, from that class of citizens.

Republicanism was popular when America achieved independence, despite the fact that the only political societies in the new nation that actually lived and governed themselves according to its principles were in New England. Proceeding southward, the practice of republicanism weakened. Nevertheless, even in aristocratically governed Virginia, a majority of the ruling aristocrats preferred what they did not practice. Immediately after American Independence, these Virginia aristocrats, led by Jefferson, set about reforming their state government, aiming for New England’s republican model.

Therefore, a good guide showing how a republican government ought to address the question of race is the first state constitution of Massachusetts, drafted by John Adams, and ratified in 1780. African slavery did exist in Massachusetts before Independence, and freed slaves lived there. But
the constitution is silent about black and white and none was prohibited from voting based on color. It affirms natural equality, and on that basis, the high court of Massachusetts decided that slavery could not exist there shortly after the ratification of the constitution.

Similarly, the Constitution of the United States, ratified in 1788, was modeled after the Massachusetts constitution and is also silent about black and white. The U.S. Constitution also rested upon the moral foundation of natural equality, though explicitly stated in a separate document, the Declaration of Independence. If the Declaration could have been determined to have had standing in federal constitutional law, just as the statement of natural equality in the Massachusetts constitution had standing in Massachusetts constitutional law, it is possible that slavery could have been nationally abolished by a federal court.

But although a majority of American statesmen during the Founding Era denounced and opposed African slavery in principle, many of those conscientious opponents were divided on the practical question of when and how the institution could and should be totally extirpated. Political opposition to hasty abolition rested on one good argument that we ought to remember: Although nature had endowed slaves with the natural right and capacity to participate in republican self-government, the experience of slavery had, in the words of Virginian St. George Tucker, “unfitted” the slave for liberty. Any human being emerging from such a condition was not expected to exercise liberty well. In states like Virginia where the raw numbers and density of slaves was very high, immediate emancipation would inject great numbers of former slaves into the population, and endanger the survival of republican government yet in its infancy. For this reason, emancipation policy in many states was gradual, and accompanied by plans to assist freed slaves in adopting the republican culture of good citizenship. Benjamin Franklin drafted such a plan for Pennsylvania.

In many states during the Founding Era, former slaves and their descendants could and did vote. Later, a new wave of discrimination grew and spread, along with the rise of a new breed of southern statesmen who proclaimed the “positive good” of African slavery. The proslavery argument and the spreading wave of discrimination rested on a new premise, that people with black skin were inferior by nature and lacked the natural capacity to be equal citizens. This claim directly attacked the moral premise of natural equality in the Declaration, from which derived our republicanism, the form government required by Article IV, section 4 of the Constitution.

Restrictions on the liberty of black Americans spread throughout the Union. Yet, as late as 1833 in Maryland, 1835 in North Carolina and 1834 in Tennessee, black Americans could still vote. It was not only historically false, but apostasy, when Chief Justice of the Supreme Court Roger B. Taney wrote in the 1857 Dred Scott case, that during the Founding Era, black Americans “had no rights which the white man was bound to respect.” In fact, many slaveholding American Founders acknowledged the natural rights of black Americans, and the laws of many states recognized those rights. Taney falsely appropriated the revered reputations of the American Founders, as many did, to justify discrimination and slavery.

In 1865 the Republican-dominated Congress originated a resolution that became the Thirteenth Amendment, prohibiting slavery in the Constitution. The abolition of slavery presented a new question – what to do about the legal status of the emancipated.
In 1866 Congress originated the Fourteenth Amendment, which the states ratified in 1868 during the height of the presidential campaign between Ulysses S. Grant and Horatio Seymour. The Fourteenth Amendment corrected the false gospel of Taney, affirming equal citizenship and prohibiting states from violating equality or liberty. This amendment explicitly confirmed the ideas bound up in the simple statement that all state government shall be republican in form, as per Article IV, section 4 of the Constitution. But the growing prevalence of false constitutional doctrines after the Founding Era necessitated the explicit confirmation.

Many who fought for abolition and believed in natural equality expressed skepticism about immediately vesting freed slaves with the right to vote. Their position echoed the problem understood by St. George Tucker, that despite natural capacity of all human beings to exercise liberty, slavery “unfitted” anyone from exercising liberty well. However, the fearful strength of principled opposition to republicanism in the nation rallied support for black suffrage, most eloquently advanced by Senator Charles Sumner in February, 1866.

If states did withhold the vote from a class of citizens, section 2 of the amendment gave Congress the punitive power to reduce representation in the House of Representative by the exact numbers of the class disenfranchised. This provision was immediately invoked in 1868 when it became clear that states were disenfranchising freed slaves. But because the delegations of most southern states had been readmitted to Congress, the Republicans faced considerable difficulty in applying the statutory remedy to reduce their representation.

In response, newly elected President Grant threw his prestige behind another resolution that became the Fifteenth Amendment, prohibiting the denial of the right to vote based on “race, color, or previous condition of servitude.” After a tough ratification campaign, this amendment became part of the Constitution in 1870.

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1872, Ulysses S. Grant Defeats Horace Greeley: The Continuing Controversies Over Reconstruction – Guest Essayist: Professor Forrest Nabors

The old bromide that politics makes strange bedfellows was never truer than during Reconstruction, from 1865-1877, a period of profound political chaos. Coalitions unexpectedly broke apart and unexpected coalitions formed. And never did America experience a presidential election that was more strange than the presidential election of 1872. The deep cause of this chaos was that the entire American political regime was undergoing change.

The Civil War, 1861-1865, was an inter-regime war, and the final act of a long dramatic political conflict between the principled republicanism of the American Founders and the principled, revolutionary oligarchy of antebellum southern statesmen. In its aftermath, the American government attempted the most difficult task in human affairs, regime change. They aimed at
politically destroying southern oligarchy and to re-establish republicanism on the restored principles of the Declaration of Independence.

The American Founders inherited slavery and aristocracy, but sought to re-shape their new nation into a republic in which slavery would be eliminated and all would be equal citizens, according to their natural rights principles. They knew that the political effect of the master-slave dyad was to degenerate republicanism and raise up a ruling oligarchy, or the rule of the few who ruled for their own advantage. Thus, the American Founders say that not only was slavery wrong but it threatened the survival of their grand project, the firm establishment of republicanism.

Despite the hostility of most American Founders for slavery, it escaped their ban and grew. The sons and grandsons of the southern founders abandoned the republicanism of their fathers and grandfathers, aggressively advanced slavery and minority rule, and distorted the Constitution to create doctrines that supported both. These doctrines were part of the project of John C. Calhoun, whose formidable intellect served the oligarchic cause.

Under the control of this inter-state ruling class, government in the South became increasingly tyrannical from 1820 forward. Whites did not rule over blacks in the South; some whites (slaveholders) ruled over both the majority of whites and all blacks. Civil liberties were restricted. Common school education was suppressed. Freedom of conscience was legally proscribed. Legislation taxed all, but funded projects that served the further enrichment of the oligarchic class.

Opponents of slavery in the late antebellum period were not all northerners inspired by the Bible and the Declaration. Many were also poor whites from the South and their descendants who found refuge in the West. They understood that slavery was the cause of their oppression, and for many who had found refuge in westward lands, they did not want slavery, from which they fled, to follow them. To demonstrate the depth of poor white antipathy for the slavery-supported southern oligarchy, we might only need to point to the fact that during the Civil War, Union regiments composed of whites were drawn from ten of the eleven states that had seceded and formed the Confederacy. A Union recruiting office was set up in northern Alabama. Confederate home guards visited bloody reprisals on unionist, poor white districts of their own states.

Republicans in Congress had hoped that these poor whites would politically unite with the emancipated slaves, crush southern oligarchy and, supported by the national government, re-establish republican government in the South. President Andrew Johnson, from Tennessee, was drawn from this class of poor whites. His selection to join Lincoln on the presidential ticket in the re-election campaign of 1864 reflected these hopes. Before the war, none was more vituperative at attacking the ruling class of the South and its basis, slavery, than Senator Andrew Johnson. But as president, he was a sore disappointment, and his conduct mirrored the conduct of the poor whites.

Johnson fought every congressional measure to raise up the emancipated to equal citizenship and to succor the slaves. Rather than join with the emancipated in a political coalition, poor whites mercilessly attacked them in a campaign of violence that has no parallel in American history. Here is why:
Many poor whites hated both masters and slaves. Both masters and slaves were essential parts of the system that caused the oppression of poor whites. Since time immemorial poor whites could see that the master class, who expected submission, selected a specific class of people, marked by distinguishing heritable attributes, to be their slaves. They did not enslave whites, but blacks. The leap of logic, however false, that blacks were inferior seemed superficially obvious to infer by poor whites who lacked formal education. They could see the demeaning consequences of slavery on a human being in front of their eyes, and misattribute that demeaned condition to a lower nature. Therefore, opposition to black equality was a superficially obvious moral conclusion to draw, enforced by popular and intelligent agreement.

For their part, poor whites painfully felt the denial of their American birthright for a long time. After their masters lost the Civil War, they asserted their claim to reclaim that birthright and attacked any proposal to give the same rights to the allegedly inferior former slaves. When the Congress of the United States enacted its measures to promote the equal citizenship of black Americans, the South exploded, led by poor whites, whom President Johnson encouraged.

Poor whites and the class of formerly ruling whites united to oppose equal citizenship for black Americans. The old, mutual hatreds between ruling and ruled whites were patched over. They created the so-called “Solid South,” and together they reinterpreted the Civil War as a noble, “Lost Cause.”

During the first presidential administration of Ulysses S. Grant that began in 1869, he declared martial law in several counties in South Carolina to make an example of them, destroyed the Ku Klux Klan and worked with Congress to enforce order. But due to the long lapse of time between the end of the war and the start of Grant’s presidency, his administration had to act quickly and forcefully if Reconstruction was going to achieve success. Time was running out.

The continued presence of the military and federal agents of the Freedmen’s Bureau in the South seemed uncomfortably antagonistic to constitutional government. Opponents of reconstruction policy hurled the charge of “military oligarchy” back upon the Republicans, who had first used that charge against the southern rulers. These charges chipped away at northern support. The northern public was losing patience, and was growing tired of the perennial stories of trouble in the South. But each report of a new atrocity delayed their opposition to Reconstruction, even though their desire to suture the wounded Union between North and South inclined them to withdraw the federal presence.

The strategy employed by the Democratic Party was to promote its acceptance of Reconstruction before the nation, and complain of the continued federal occupation of the South, while at the same time, undermine reconstruction policy aims within the southern states. This would drive a wedge between national Republicans and Republicans in the southern states. The strategy worked.

In the 1872 presidential campaign a new party formed, the Liberal Republican Party, whose leading members included prominent, former abolitionists and leading founders of the Republican Party. Their candidate was newspaperman Horace Greeley, a chief political operative of his day. They urged for an end to Reconstruction and restoration of the South to full
fellowship with the Union. The national Democratic Party, home to southern proslavery men, surprisingly accepted Greeley’s candidacy as well, creating one of the oddest coalitions in our nation’s history. Before the electoral votes in the election were counted, Greeley died, leaving Grant once again, in command of the field.

However, the strategic duplicity of Democrats in the election of 1872 was revealed one month after Grant took the oath of office a second time. When at home in the South, Democrats sang a different tune. In Colfax, Louisiana, white Democrats attacked local Republicans defending the courthouse from voter fraud. A pitched battle ensued with cannon and rifles, and ended in a cold-blooded massacre of dozens of black Americans. Once again, the North was reminded that Reconstruction was far from over. As Grant said in his second inaugural address, the freed slave “is not possessed of the civil rights which citizenship should carry with it. This is wrong, and should be corrected. To this correction I stand committed, so far as Executive influence can avail.” Grant remained committed, but with all of the southern states now restored to their place in the national government, the federal arm was enervated.

The result of the battle of reconstruction was that the class ranks that distinguished the old oligarchy were partially flattened. Before the war, a few whites ruled over many whites and blacks. After Reconstruction, white ruled over black. This was not republicanism, but white republicanism, which is not republicanism at all.

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1872, Civil Service Reform – Guest Essayist: Professor Forrest Nabors

The regular appearance of remarks on financial corruption in the proceedings of Congress in the Nineteenth Century might seem to indicate that American Government always was susceptible to the highest bidder. Rather, these comments are markers of Americans’ strong dislike and fear of corruption than they are proof that financial corruption was in fact eating the roots of their republicanism. The Americans had good reason to regard financial corruption in their government as an unmitigated evil, and so they loudly denounced it when they espied it, and publicly shamed, if not impeached, corrupt politicians upon discovery.

Financial corruption is a direct enemy and threat to republicanism. That is because when an officer of the government is suborned by gift or gain, he or she is representing the policy aims of the giver of gain, and not the people for whom his or her service is due. In aristocracy or monarchy, as Alexander Hamilton correctly observed in his remarks on the British monarchy, corruption actually strengthens those types of political regimes. When the monarch dispenses gifts to the officers of the government, he insures their subordination to his sovereign will. Royal money in the pocket of a member of Parliament might seem to be unseemly to a republican, because in fact, the practice does tilt the regime away from republicanism, but such money or other gifts, like the grant of a title of nobility serve the same purpose – loyalty to the king.
Hence, corruption unifies monarchy. In a republican regime, gifts to government officers divides the allegiance of the government between the givers of gifts and the people.

Institutionalized corruption first entered the American regime after the success of the Jacksonian Democrats in the late 1820s and 1830s. Before the rise of Jacksonian Democrats, political parties were used to organize like-minded government servants, so that party leaders could more easily count on the support of the rank-and-file. They needed to be able to count on this support so that when they struck deals with their political opponents, they could deliver the votes that they promised.

But Democrat Martin Van Buren, Andrew Jackson’s right-hand man, pioneered a new use for political parties, the organization of the people. Van Buren built up the Democratic Party into the first national party, by merging the state organizations and extending them into the electorate. The mass party was born, and vaulted Andrew Jackson into the White House.

The glue that held the Democratic Party together was not just their party platform, but also, “spoils,” later known as patronage. As a reward for supporting the party, the victorious party handed out low-level government jobs to its supporters. Criticism for this patronage system was mild, partly because the system was transparent, the people themselves were the beneficiaries of the patronage, and partly because the parties still lived and died according to popular votes. As a result, when the Whig and Republican parties adopted the mass party model pioneered by Van Buren, they also used patronage to hold their supporters together.

But more importantly, the total expenditures for the patronage system could not ever amount to much. From the formation of our first government under the Constitution until well into the Twentieth Century the total expenditures for federal, state and local government during peacetime never exceeded ten percent of the gross domestic product (GDP), or all the new wealth created by the American economy per year. A few postmaster and customs house jobs handed out to the party faithful barely scratched the national wallet. In our day, federal, state and local government spends about forty percent of GDP, which was just shy of $18 trillion in 2015.

In the Nineteenth Century the practice of limited government guaranteed that government budgets were low relative to GDP. Low government budgets meant less money available to spread around and sneak back into the pockets of party supporters and politicians. Small government was one surety against corruption.

During the first presidential administration of Ulysses S. Grant, 1869-1873, a series of scandals made corruption into a national issue. The tremendous expense and industrial needs of the Civil War accelerated the development of the economy and the sophistication of finance. A new breed of financiers and industrialists arose in America, and their activities mixed with politics and tarnished the Grant administration.

New York financiers Jay Gould and Drew Fisk attempted to corner the gold market in 1869. They were able to use their political connections to plant their associate, Abel Corbin, in the Department of the Treasury. Corbin was Grant’s brother-in-law and used his influence on Treasury policy to drive up the price of gold. Then, in 1870, Henry and Charles Francis Adams,
Jr., great-grandsons of John Adams, began to publish a damning series of articles on the corporate wars for ownership of the Erie Railroad. Each side in the struggle owned their own set of politicians and judges; fortunes rose and fell. Shareholders were gulled and bankrupted. Finally, the Credit Mobilier scandal broke in 1872, when Grant was seeking re-election. Congress had used nearly $150 million in federal funds, on the credit of the United States taxpayer, to fund the Union Pacific Railroad. But some Senators and United States Representatives who voted on the legislation were stockholders. Worse still, common shareholders, that is, ordinary Americans, were defrauded.

More scandals followed. Grant’s biographers usually conclude that although he was never involved, he befriended or allied himself with bad characters, and was too loyal to them when they were discovered to have betrayed his administration. Grant’s particular weakness permitted the proliferation of scandals that weakened Americans’ trust in government, although he remained popular.

Amidst these scandals, Republican Senator Carl Schurz from Missouri proposed the formation of a new political party to combat corruption. The existing parties were inadequate to meet the exigencies of the times due to the patronage system. Schurz read into the record two letters that he intercepted, proving that the Republican Party was levying funds from Republican office holders and attempting to maintain control of the manner by which they discharged their duties. The patronage system prevented conscientious public servants from doing their duty and was forcing them to do the bidding of the party, which was in bed with new financial powers. The party was accountable to these powers and not to the people.

Schurz, a German émigré, wanted greater regulation of business. Instead, Congress enacted the first civil service bill in 1871, which Grant signed into law. The act created the Civil Service Commission. By executive order, the Commission was expected to appoint officers in the agencies of government according to merit, often by qualifying exams. This reform was intended to break the back of the patronage system, so that public servants would serve the public, and not bend to the will of the parties. Although Congress refused to fund the Commission in 1875, this reform paved the way for more permanent reforms, especially the Pendleton Act of 1883, signed into law by President Chester Arthur. The movement to professionalize civil service in the federal government continued, but did not fully address the question of how to prevent collusion between government and business to the detriment of the public good.

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1876, Rutherford B. Hayes Defeats Samuel Tilden: The End of Reconstruction – Guest Essayist: Professor Forrest Nabors

We remember 1865 as the year when our Civil War ended. But by another measure, the standard of von Clausewitz, that war is politics continued by other means, the political conflict that
erupted into formal war did not end until after Rutherford B. Hayes was sworn in as president in 1877. The period known as Reconstruction after the war continued that political conflict and was also violent, though the combatants were paramilitaries and its wars were not wars of maneuver with grand armies.

General Robert E. Lee surrendered his military forces to General Ulysses S. Grant at Appomattox on April 9, 1865. The next week, Confederate General Joseph E. Johnston showed that a militarily defeated opponent still has resources, and can use them to obstruct his enemy from achieving his political goals. Johnston still commanded a larger force than Lee had surrendered. He offered surrender on the condition that the opposing general, William Tecumseh Sherman recognize the full restoration of the South to its political rights under the Constitution.

This would mean that rebels would immediately rejoin the national government that at that very moment they were still violently opposing. It would mean that southerners would participate in any decision by the national government to judge the South. Rebels would sit in judgment over themselves. In his favor, Johnston could count on Sherman’s eagerness to end bloodshed, and on obvious southern willingness to incur bloodshed to achieve their political goals. Only restraint by the War Department halted Sherman’s consideration of these terms.

This brief negotiation between Johnston foreshadowed the terms of political gamesmanship during Reconstruction. For the next twelve years, a frustrated and sometimes deliberately misled northern public would wonder when the South would obey the letter and spirit of the many Reconstruction Acts and Amendments originated by Congress. The South could use deception, unofficially sanctioned violence, and sympathists in the national government to outlast northern patience and to resist the political goals of their military conquerors.

The war changed political coalitions. Antebellum opponents of slavery were not all alike. Some always were principled opponents, like abolitionist William Lloyd Garrison, and would be reliable supporters of equal citizenship for the emancipated. Some, like the representative of the poor white class of the South, President Andrew Johnson, hated slavery because it supported a ruling oligarchy, but cared not at all for the natural rights of the human beings who were slaves, which was revealed when he actively opposed equal citizenship for the emancipated after the war. Solid northern Republicans before the war, like Joseph P. Bradley, appointed to the Supreme Court in 1870, later acquired strange new respect for southern-style states rights, which permitted paramilitary violence to rage against white and black Republicans.

Before the war, some northern Democrats like Benjamin Butler of Massachusetts believed that patriotism required compromise with the South on the question of slavery, and he did not meditate on the denial of the slave’s natural right to equal liberty. But the war opened his eyes. At New Market Heights he led colored troops and observed their courage in battle. Seeing the faces of the dead, “upturned in the shining sun to heaven,” he felt that by his prior course of conduct before the war, he had wronged them. Speaking for a Civil Rights bill in 1874 on the floor of Congress, Butler remembered the battle, and “among my dead comrades there I swore to myself a solemn oath, ‘May my right hand forget its cunning and my tongue cleave to the roof of my mouth if I ever fail to defend the rights of these men who have given their blood for me and my country this day and for their race forever.’” Butler promptly switched parties and
transformed from a state rights Democrat into a radical Republican. Surprisingly this effect of the war also fell upon former Confederates and brought some into the Republican Party, which was pledged to uphold the equal citizenship for the emancipated. Lee’s “Old War Horse,” General James Longstreet was one.

In short, all was chaos in Reconstruction. The politics of the past was no predictor of the politics of the future. Just as Lincoln said of their situation in 1862, that because “our case is new, so we must think anew, and act anew,” in 1865 the case was again new and required the wisest statesmanship to think and act anew.

The greatest loss to the Republican cause for equal citizenship was the defection of poor whites in the South. Conditioned by the ranked ordering of oligarchic political society, the poor whites would not accept equality with blacks when their oligarchic rulers were militarily defeated. This class turned against the emancipated and drove the anti-black violence, rather than form a powerful coalition with them. A lesser-recognized but important subtext of the history of the Ku Klux Klan and related organizations was that at first, the old oligarchy of the South deplored the anti-black violence perpetrated by poor whites and threatened violent retribution. The oligarchy was accustomed to presiding over order and peaceful submission of all to them. But the violence continued anyway, and the old ruling class gradually decided to use it.

The most important Supreme Court decision during Reconstruction was United States v. Cruikshank, which held that the Fourteenth Amendment only restricted state governments from violating the rights of citizens under the U.S. Constitution. Therefore, the Congress could not prohibit, and the executive arm of the United States government could not prosecute private persons for violating the rights of other citizens. Hence, the paramilitary bands that were murdering black Americans could only be interdicted by state law. But southern authorities and courts looked the other way. Cruikshank opened a political opportunity for violence to succeed. The old oligarchy accepted the invitation.

In the 1876 presidential election campaign between Republican Rutherford B. Hayes and Democrat Samuel Tilden, violence engulfed the South and blacks were disenfranchised. In Hamburg, South Carolina an army in-all-but-name assembled with the aim of killing blacks who insisted upon exercising their right to vote. Veteran Confederate officers drawn from the old ruling class once again led men in homespun uniforms, red shirts, but this time, the war was not a “rich man’s war, poor man’s fight.” This war was a poor white’s war, and they intended to redeem the South for the white man. The dead were counted; the northern public was shocked.

When he led Union troops, poor whites in Confederate uniform feared and respected Ulysses S. Grant. Now as a lame duck president, restrained by the Supreme Court, he was impotent. Grant called the Hamburg massacre, “cruel, blood-thirsty, wanton, unprompted,” and “a repetition of the course which has been pursued in other Southern States within the last few years…. How long these things are to continue, or what is to be the final remedy, the Great Ruler of the universe only knows…. There has never been a desire on the part of the North to humiliate the South. Nothing is claimed for one State that is not fully accorded to all others, unless it may be the right to kill negroes and republicans….This has seemed to be a privilege claimed by a few States.” But he could do nothing.
This was the president’s reply to a request by South Carolina Governor Daniel Chamberlain for federal intervention. Chamberlain was born in Massachusetts and educated in law at Harvard, from where American republicanism had sprung and covered the land. He served those ideals that accompanied the American Founding as a Republican, and as a combat officer in the Union Army. Transplanted to South Carolina after the war, his installation as governor represented the high water-mark of regime change in the South. But the next year, 1877, the last Union troops in the South were removed from South Carolina, where oligarchic rule in America was first championed, where oligarchy-protecting, state sovereignty doctrine was first invented, and where secession and war began. South Carolina and her insurrectionary sister states, shrugged off regime change, and resumed a new course as a white man’s democracy.

The leaders of the Hamburg massacre included General M.C. Butler and “Pitchfork” Ben Tillman both combat veterans of the Confederate army. Butler was cousin to Congressman Preston Brooks who almost beat Charles Sumner of Massachusetts to death on the Senate floor, and came from a distinguished slaveholding family. He would go on to serve in the United States Senate for three terms. Tillman served as both Governor and U.S. Senator, and continued to publicly boast of and praise the murder of blacks, into the Twentieth Century. Second class citizenship for black Americans, if it be called citizenship at all, was henceforth secured, and the long night of segregation, discrimination and lynching commenced.

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1876, Rutherford B. Hayes v. Samuel Tilden: Controversy Over Election Returns In This Election – Guest Essayist: Professor Forrest Nabors

Not long after the Civil War began, the poet Julia Ward Howe witnessed a procession of Union troops near Washington, D.C. Later that night, words stirred her from her sleep; she arose and caught them on paper. The lines of the Battle Hymn of the Republic that Howe penned that night alerted the hearer that God’s retributive justice had awakened, as Jefferson predicted (“his justice cannot sleep forever”), and at that moment, was moving upon the earth.

In her poem, an apocalypse has finally come, brought on by the Moloch of American slavery. The world is transformed. Union military camps become temples; their flaming campfires spell out the long-suffering God’s final sentence. A “fiery gospel writ in burnished rows of steel” supplants the gentle gospel of peace. Men are called away from peaceful pursuits and become pious instruments of their God’s “terrible, swift sword.” Ready to “die to make men free,” marching Union soldiers would exact atonement for America’s original sin.

The remarkable career of Rutherford B. Hayes followed Howe’s prophetic script. Hayes was a devout Christian, raised among Ohio abolitionists. At the outbreak of hostilities, he was a middle-aged, Harvard-educated attorney, a husband and father, and knew nothing of war. Yet, after the shelling of Fort Sumter and the war began, he immediately volunteered, writing in his
diary, “I would prefer to go into it, if I knew I was to die or be killed.” Thus began the surprising transformation of the Christian gentleman into the determined Christian warrior.

Appointed to a minor command, Hayes learned war on the job. Future President William McKinley knew Hayes as “sunny, agreeable” and “generous,” but in battle, “his whole nature seemed to change.” His demeanor became “intense and ferocious.” Despite rising in rank, Hayes personally led his men into hand-to-hand combat with the enemy, participated in the bloodiest battles of the war, was cited for conspicuous gallantry and was wounded five times.

The Republican Party nominated him to run for Congress before the war ended. At the suggestion of party leaders that he take temporary leave of the army so that he could campaign, Hayes answered, “An officer fit for duty who at this crisis would abandon his post to electioneer for a seat in Congress ought to be scalped.” His congressional district elected the absentee candidate anyway. By war’s end, Hayes was breveted major general, joined Congress and came out in favor of the civil and political equality of black Americans. Hayes maintained this policy in his subsequent two terms as governor of Ohio.

This was the man who was poised to succeed Ulysses S. Grant as President of the United States in 1876. However, electoral success and continued presidential support for black American citizenship, was far from secure.

The Democrats had shrewdly nominated New York Governor Samuel J. Tilden to oppose Hayes. Tilden had favored permitting the South to secede, criticized the Lincoln administration for restricting civil liberties during the war, and then supported speedy readmission of the recently defeated insurrectionary states into the Union. To deflect attention away from these sins against the Union, Democrats touted Tilden’s incorruptible character, which was genuine.

As chairman of the Democratic State Committee in New York after the Civil War, Tilden took steps to purge his own party of corruption. He courageously broke up the Tweed ring that ran the Democratic Party in New York City and orchestrated the prosecution of the ringleader, Boss Tweed. Voters rewarded Tilden by making him governor, and Governor Tilden insured that Tweed remained in jail where he died.

The selection of Tilden as presidential candidate in 1876 was the right strategic choice in that year. After many scandals in the previous Grant administration, Tilden’s reputation for probity stood a good chance of outweighing his lukewarm support for the Union during the war.

But while national Democrats promoted the incorruptible Tilden for president, southern Democrats used widespread fraud and violence to check the voting power of white and black Republicans in their region. The probity of Tilden concealed the corruption of his party’s southern lieutenants.

The election of 1876 was very close. To win the presidency, one of the two candidates had to win a simple majority, amounting to at least 185 electoral votes. Tilden swept the South, New York, Connecticut and New Jersey, and Hayes won the rest of the North and West. But electoral votes from Florida, South Carolina and Louisiana were in dispute, and one elector for Hayes
from Oregon was disqualified. The total number of undisputed electoral votes was 184 for Tilden and 165 for Hayes. The disputed electoral votes were 20. The Constitution provided no roadmap to deal with the problem.

To complicate matters, the House of Representatives was in the hands of Democrats, and Republicans controlled the Senate. The nation was once again in uncharted waters. The disputed election led to incendiary talk, especially by northern Democrats who urged armed resistance. But southern Democrats calmed their northern colleagues, sometimes with ridicule. Georgia Democrat Benjamin Hill noted that northern Democrats were “invincible in peace, and invisible in war.”

Once again, President Grant’s prestige provided a means to resolve the crisis. He negotiated an agreement with Congress. An Electoral Commission would be formed from five House members, five Senators and five Supreme Court Justices, all split along party lines. The Commission was charged to determine the rightful winner of the disputed electoral votes.

But behind the scenes, party leaders made a deal. Sensing an opportunity, the Democrats offered to accept Hayes as president if he would agree to withdraw the last national soldiers from the South. The report of the Electoral Commission threw the votes to Hayes, and Hayes removed national troops. Before doings so, he asked for a pledge that the rights of black Americans would be respected. Wade Hampton, former Confederate general and newly elected Governor of South Carolina, agreed. This pledge was immediately broken.

President Hayes, the Christian warrior for American equality, was impotent. Northern patience with Reconstruction was exhausted. The federal courts soon narrowed the meaning of the Fourteenth Amendment to a nullity. Southern states revised their constitutions and planted new devices in them by which they could effectively prohibit the black vote. In *Plessy v. Ferguson* (1896) the Supreme Court approved of a Louisiana law providing for “separate but equal” accommodations for black and white passengers on public transportation. The legal basis for racial discrimination by state government and indifference towards private citizens’ assaults on the civil rights of others, was established. The first phase of Reconstruction was dead.

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**1880, James Garfield Defeats Winfield Scott Hancock: The Tariff Controversy, Post-Civil War – Guest Essayist: Kirk Higgins**

When one reflects on the history of the United States, the politics of the Gilded Age are often overlooked. Many find little value in understanding the intricacies of the political wheeling and dealing, often engineered by political machinery in both major parties. Nevertheless, these elections are as a part of the collective American consciousness as any before or since. They are
central to understanding the American political character as it dealt with the aftereffects of the great national tragedy that was the American Civil War.

The conflict itself had officially ended in 1865. The process of reconstruction that followed the war had effectively ended with the controversial election of Rutherford B. Hayes in 1876. But, fifteen years later, the shadow of the war still hung over the country. Both of the 1880 major party candidates were Civil War generals. Even the candidate of the newly formed Greenback party was a Civil War general. In addition, several of the major political issues of the campaign had their origins in the war. The very political rhetoric of the campaign was rooted in the war. The scar was slow to heal.

Rutherford B. Hayes won the election in 1876 with a majority in neither the popular vote nor the Electoral College. Only the promise of the end of reconstruction by Republican Party members allowed for a deal to be struck and Hayes to be elected. Upon his election, Hayes promised to serve for one term only. This created the opportunity for both parties to hold open conventions four years later.

The Republicans held their convention on 2 June 1880 in Chicago, Illinois. The party was suffering from severe infighting engendered by a political spoils system that had come to consume party loyalties. The two major factions, known as the Stalwarts and the Half-Breeds, were divided by rhetorical differences more than substantive ones. The Stalwarts favored traditional machine politics, while the Half-Breeds called for civil service reform. Both ultimately wanted more sway in the naming of the nearly 100,000 political appointees the president got to make upon assuming office.

This infighting meant that there was no clear favorite going into the party convention. The three strongest candidates were Ulysses S. Grant, running for an unprecedented third term, James G. Blaine of Maine, and John Sherman, the brother of the famous Union General William Tecumseh Sherman. After thirty-five ballots failed to produce an absolute majority to any one candidate, James A. Garfield of Ohio was introduced as a “dark horse” candidate. After the thirty-sixth ballot, Garfield won the nomination and the longest Republican convention in history was adjourned. Garfield, a Half-Breed, named as his vice-president Chester A. Arthur, a Stalwart, in order to attempt a reconciliation between the two warring factions.

Later that June in Cincinnati, Ohio, the Democrats held their own convention and nominated Winfield Scott Hancock, a career army officer, as their party’s candidate. Hancock’s pro-unionist record as a decorated Union General, best known for his stand at Gettysburg against Pickett’s charge, combined with his states’ rights positions, made him a strong candidate for the Democrats. He chose for his running mate William Hayden English of Indiana, then a swing state.

Two of the major issues of the campaign, tariffs and currency, could trace their origins directly to the Civil War. Tariffs had been steadily increased throughout the duration of the war as the waging of the war demanded an ever-increasing supply of revenue. After the war, northern industrial interests did what they could to hold onto this revenue stream. The Republicans campaigned strongly in favor of these high tariffs, claiming they protected American jobs and
prosperity. The Democrats, representing mostly southern interests, believed the tariffs artificially increased the price of goods and hurt their constituents.

The debate over hard or soft currency traced its roots back to the introduction of so-called “greenbacks” during the war. The cost of the war caused the United States government to issue as legal tender this paper currency that was based on government bonds rather than hard currency. This move helped pay for the war but caused severe inflation. As a result, those who held government bonds and loans wished to see the government revert to hard currency in order to stabilize the price of the debt they owned. On the other hand, those who owed money benefited from the inflation and resulting decrease in the value they owed. These positions were again generally regional, with the debt owners in the north, and the debtors in the south.

This regional divide stratified the two parties, with the Republicans polling strongly in the north, and the Democrats in the south. As the campaign kicked off, both candidates followed tradition and returned to their homes for the campaign. Garfield returned to his home in Ohio and Hancock, who was still in the military, to his duty station in New York. The Republican machine kicked into gear on behalf of Garfield. They returned to the theme that had won them favor since the conclusion of the war. Called “waving the bloody shirt,” the Republicans blamed Democrats for starting the Civil War and warned that their policies could undo everything the nation had fought for. They also attacked Hancock for a vague statement he made concerning the tariff and for his lack of political experience. The Democrats, meanwhile, criticized Garfield for his alleged involvement in the Crédit Mobilier scandal.

The political shots went back and forth. Although the substantive difference between the two parties was slight, voter turnout was extraordinarily high: Nearly 78 percent of the nation’s voters cast a ballot in the 1880 election. When the ballots were tallied, the popular vote was very close. By some accounts, fewer than 2,000 ballots separated the two candidates. However, the Constitution dictates the Electoral College, not the popular vote, decides presidential elections, and the Electoral College was dramatically one sided.

The results showed the continued stark regional divide between north and south. Hancock and the Democrats dominating in the south, but the 155 electoral votes he won there were not nearly enough. James A. Garfield’s dominance in the north gave him 214 electoral votes and won him the presidency.

The election of 1880 was a snapshot of the American political landscape as it existed in the wake of the Civil War. Powerful political machines battled for control of high political office and continued to grapple with the aftereffects of policies passed during the war. The country had concluded the great struggle over its identity, but what it would do with its newfound peace was still being worked out. With the election of Garfield, many hoped that the country would make strides toward resolving the conflicts. Unfortunately, their hopes would be dashed in just four short months following the election.

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1884, Grover Cleveland Defeats James G. Blaine: The Issues Surrounding The Furor Stirred By The “Rum, Romanism, And Rebellion” Slogan, Regarding Religious Freedom And Anti-Catholic Prejudice – Guest Essayist: Peter Roff

The election of 1884 was the first to put a Democrat in the White House since the Civil War. That it did, albeit narrowly was a testament to the way even the earliest stages of industrialization had transformed the country, setting it on the road to something far removed from its, rural, agricultural, protestant roots.

The winner of the contest, New York Governor Grover Cleveland, was a reform-minded, anti-corruption Democrat whose successful battles with New York City’s Tammany Hall machine gave him a national platform. In many ways, though, he was an accidental victor, a beneficiary of the discord within the Republican Party that had been festering for some time.

The GOP had not lost the White House since 1860. Beginning with the administration of President Ulysses Grant in 1868, it began to acquire a corrupt aspect that impinged on its credibility with the voters. In 1876 Republican Rutherford B. Hayes lost the popular vote to Democrat Samuel Tilden, but thanks to what some termed a “grand bargain,” the votes of enough Southern electors were flipped to the Hayes column to give him the presidency in exchange for his agreeing to pull the Union Army out of the South and end reconstruction.

The circumstances surrounding his elevation to the nation’s highest office led Hayes to pledge he would only serve one term. He was succeeded by James Garfield, another reformer whose views on racial equality were perhaps superior to Lincoln’s. His life was cut short by an assassin, Charles Guiteau, who was deluded enough to believe he would be rewarded for his treachery with a position in government by the so-called regular Republicans or “Stalwarts” whom Garfield had beaten to win the nomination and who were brought back into power by the assentation of one of their own, Vice President Chester A. Arthur to the presidency.

The 1884 GOP nominee, former House Speaker, U.S. Senator, and Secretary of State James G. Blaine was considered by some to be a liberal reformer in the mold of several of his predecessors. Others, noting he had been linked to at least two financial scandals involving railroads over the course of his long political career, saw him as a continuation of the corrupt politics of the Stalwarts despite the fact none of the charges against him were ever proven. The latter belief gave rise during the election to a faction known as the “Mugwumps,” a group of prominent Republicans who, claiming to put morality before party threw in with Cleveland.

None of this particularly relates to the constitutional questions at stake in the election, but it is necessary to understand the national landscape in order to see how the issue of religious tolerance, a core value at the nation’s founding, had the impact on the race it eventually did.

Prior to leaving the speakership, but before entering the Senate, Blaine worked with Grant advocating for a free public education for the nation’s children. This is a matter on which the
Constitution is silent; even today many reputable scholars suggest it is a matter best left to the states under the 10th Amendment – but the two men pushed ahead anyway.

Blaine, seeing an opportunity to both make himself more prominent and to help draw attention away from the scandals enveloping the Grant Administration, proposed what has become known as “The Blaine Amendment” – a resolution that supposedly codified the separation of church and state by prohibiting any federal money or other support for schools to go to those “under the control of any religious sect.”

Congress never approved the measure but a number of states adopted similar laws still on the books today, their constitutionality affirmed by the courts. These laws, known in some circles as “Mini Blaine Amendments” are still being challenged – only this time those arguing against them are supporters of the right of parents to send their children to schools of their choosing. The idea of education vouchers is in part an invention to get around the strictures of these state laws.

Whether the separation of church and state argument will continue to hold where public education is concerned is not clear. What is clear is that his support of it more than 100 years ago made Blaine a hero of sorts to Protestants fearful of the changes the influx of largely Catholic immigrants from Europe might bring to America who, as a result, rallied to the Republicans’ side. To those potentially affected adversely by these measures, however, it branded Blaine as anti-Catholic.

All this came to a head late in the campaign when a visible Blaine supporter, a New York Presbyterian minister named Samuel Burchard gave a speech denouncing the Democrats as the party of “Rum, Romanism, and Rebellion.” The phrase, which he meant to apply to most all recent immigrants, not just the Irish was meant to create a fear they were all drunkards whose allegiance was to the Pope and were ready to overthrow the United States government in favor of one that took its orders from the Vatican.

Even for 1884, a time when YouTube, Twitter, Facebook did not exist, the slur spread quickly. In the end it probably cost the Republicans New York, which they lost by about 1,000 votes, and sent the already shaky Blaine campaign down to defeat in the Electoral College by a vote of 219 to 182. Cleveland carried 20 states to Blaine’s 18 as the Democrats won 4,914,482 ballots in the popular vote to the Republican’s 4,856,905 – a difference of just 0.6 percent.

The inability of politicians to decide on the meaning of the 1st Amendment’s “establishment” and “free exercise” clauses as well as their ability or inability to enact laws that help immigrants assimilate into the national culture are constitutional questions that were issues in 1884 and are still with us today. There is, however, another element unique to this particular election worth noting as it was a leaping off point for a different constitutional debate that would not be settled for almost a quarter century.

Though the 14th Amendment expanded the franchise by guaranteeing the right of black men to vote, the Constitution and many state laws were still silent on the subject giving the vote to women. Unhappy with the lack of progress they were making on women’s suffrage in 1884 a
group of women established the Equal Rights Party. Its main objective: Secure for women the right to vote.

In San Francisco the new party nominated a lawyer named Belva Ann Lockwood – “I cannot vote but I can be voted for” – as its presidential candidate. Marietta Snow, first woman to ever preside over a presidential nominating convention, was chosen as her running mate.

The party had no money. Lockwood reportedly subsidized her campaign activity by giving paid speeches. She won just over 4,000 votes – hardly enough to sway even as close an election as 1884’s turned out to be. Lockwood will be, however, forever remembered as a constitutional pioneer whose efforts help ultimately produce the adoption and ratification in 1920 of the 19th Amendment guaranteeing the right of women to vote.

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1888, Benjamin Harrison Defeats Grover Cleveland: The Constitutional Issues Raised By Cleveland’s Veto Of Pension Legislation For Veterans – Guest Essayist: Brion McClanahan

Portions of this essay are from the chapter “Grover Cleveland” in Brion McClanahan, 9 Presidents Who Screwed Up America and Four Who Tried to Save Her (Regnery History, 2016).

Grover Cleveland lost the 1888 election to Benjamin Harrison through voter fraud, and it involved what may be considered the first major lobby group in American history, the Grand Army of the Republic, a Union veteran’s organization that had deep pockets and the ability to swing elections in favor of the Republican Party, the real brawn behind the organization.

Why did this organization target Cleveland in 1888? Because Cleveland waged a one-man war against illegal and unconstitutional pension bills during his first term in office. It did not help that Cleveland was a Democrat or that he had paid the substitute fee during the war to avoid dying on the bloody battlefields of the South. To many Union veterans, that made Cleveland as bad as a draft dodger, shirker, or even a deserter. But many Northerners of means had taken this route and because Cleveland did not support Northern policies on the home front and while he generally supported the War, this option offered an alternative to open denunciation of Abraham Lincoln. It also let him focus on his political and legal career. That didn’t matter nor did it matter that the GAR would eventually embrace shirkers and deserters as “veterans” in need of a pension.

Following the War, a Union Army veteran could apply to the Federal Bureau of Pensions for financial relief. If the Bureau rejected the claim, the veteran could appeal to his congressman to present a bill overriding the bureau’s decision. This happened with such regularity that when Cleveland assumed office in 1885, the Congress was setting aside one day a week during the legislative session for pension bills. It had become a form of open corruption, a way for
congressmen to buy votes and curry favor with their constituents. The American people viewed it as an expensive and corrupt waste of time. Cleveland considered fraudulent pension bills to be a form of government welfare and an abuse of taxpayer dollars that had to be stamped out. As president he vetoed over two hundred pension bills for Union Army veterans. That accounted for nearly half of his total number of vetoes while in office. Yet, he also allowed over two thousand pension bills to pass unmolested, and he never objected to credible claims.

Cleveland’s veto messages were brief but hard hitting. For example, he explained that he could not understand why a man who took the fee to serve as a substitute in March 1865, only three weeks before the war ended, contracted measles, spent the next month in a hospital, and then was mustered out of service in May 1865 needed a government pension because his “brilliant service and this terrific encounter with the measles” did not warrant government aid. He vetoed another bill when the claimant had insisted that “sore eyes among the results of his diarrhea” merited an increase in his pension. Another veto was inspired by the fact that the widow of a deceased veteran applied for a pension because her husband had fallen off a ladder in 1881, fully sixteen years after the conclusion of the War. Cleveland could not ascertain how this accident was related to his war injury. He wrote that “we are dealing with pensions and not gratuities.” Cleveland vetoed pensions for deserters, one of which was filed for by a family after their son drowned in a canal while trying to make it back home. Another widow claimed her husband died of a cerebral apoplexy that was related to a hernia injury he had incurred in 1863 while in the army. Cleveland’s war against government waste was best summarized by one pension veto: “I believe this claim for pension to be a fraud from beginning to end. . . .”

When Congress sought to transform individual pensions for wounded soldiers into a general federal welfare system for veterans, Cleveland vetoed the bill. The “Dependent Pension Bill,” otherwise known as the Blair Bill after sponsor Henry W. Blair of New Hampshire, who himself was a veteran, would have granted a $12 monthly pension to all Union veterans who had served at least three months and were honorably discharged and to their dependent parents. No longer were combat wounds a prerequisite for government money. The drunk, the vagabond, and the shiftless rent-seeker would have been on equal terms with the men who had lost a limb in the wheat field at Gettysburg or in the trenches at Petersburg. The GAR lobbied hard for the bill’s passage. They sold the bill on emotion, claiming that thousands of Union veterans were languishing in poor houses across America. When critics countered with fears of fraud, Blair and other supporters insisted that the GAR would ensure that the millions of dollars set aside for the project would be administered in good faith.

Cleveland’s veto message emphasized the already voluminous number of fraudulent pension bills that crossed his desk on a weekly basis. He believed that no wounded veteran who had suffered from valiant efforts in defense of the Union would approve of a bill that placed his efforts on the same plane with the behavior of shirkers and deserters. Cleveland insisted that “there can be no doubt that the race after the pensions offered by this bill would not only stimulate weakness and pretended incapacity for labor, but put a further premium on dishonesty and mendacity.” The Blair bill would strain the treasury and keep the American people saddled with “Federal taxation . . . still maintained at the rate made necessary by the exigencies of war. If this bill should become a law, with its tremendous addition to our pension obligation, I am
thoroughly convinced that further efforts to reduce the Federal revenue and restore some part of it to our people will, and perhaps should, be seriously questioned.”

Cleveland offered no criticism of the bill on constitutional grounds, but this veto, and every other bill for individual relief, could have been defended with that argument. The Constitution does not empower Congress to provide stipends for individual citizens for any reason, including military service once discharged. Certainly, veterans who had been wounded or maimed by American wars, including those of the American War for Independence, had been granted pensions, but not until many years after the conclusion of hostilities and only in dire circumstances.

This did not make them constitutional. Americans regarded pensions as morally responsible, and yet only around one hundred twenty thousand pensions had been granted between 1789 and 1861. Then from 1861 until 1886, the general government granted over half a million pensions to Union war veterans. The constitutional question, however, had never been answered. Pensions were the first round in a dramatic expansion of federal benefits for individuals—something never approved by the framers and ratifiers of the Constitution. Cleveland vetoed pension bills because they were fraudulent and a waste of taxpayer money, but he could have vetoed them because they were unconstitutional. For this and other vetoes, he has been viewed as a callous ideologue, but his oath of office meant something. More than anything, Cleveland wanted a republic of laws, not of men. Even the progressive historian Allan Nevins called his veto “an act of principle, without a trace of partisanship. . . .”

Cleveland won the popular vote in 1888 but lost in the Electoral College. The powerful and illegal efforts of the GAR in New York and Indiana sealed the deal. Cleveland would return to the executive mansion in 1893, but it was a principled defense of the Constitution that led to his defeat in 1888. We should be so lucky as to have another Grover Cleveland in the White House today.

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Grover Cleveland: Twenty-Second And Twenty-Fourth President Of The United States – Guest Essayist: Juliette Turner

Grover Cleveland

Twenty-second and Twenty-fourth President of the United States

Nickname: The Veto President

Terms in Office: 1885–1889; 1893–1897

Fast Stats
• Born March 18, 1837, in Caldwell, New Jersey
• Parents: Richard and Anne Neal Cleveland
• Died June 24, 1908, in Princeton, New Jersey; age 71
• Age upon Start of First Term: 47; Age upon Conclusion of First Term: 51
• Age upon Start of Second Term: 55; Age upon Conclusion of Second Term: 59
• Political Party: Democratic
• Religious Affiliation: Presbyterian
• Height: 5 feet 11 inches
• Vice Presidents: Thomas A. Hendricks (1885) and Adlai E. Stevenson (1893–1897)

The Bottom Line

Grover Cleveland was the twenty-second and the twenty-fourth president of the United States, and the only president to serve two nonconsecutive terms. His first term began in 1885 and ended in 1889, during which he worked to balance federal spending. In his second term, from 1893 to 1897, Cleveland struggled to restore the American economy after the Panic of 1893.

“While the people should patriotically and cheerfully support their Government, its functions do not include the support of the people.” – Grover Cleveland

What Was He Thinking?

As the first Democrat to win the presidency in twenty-four years, Cleveland remained true to his Democratic platform by representing the concerns of workers and the rights of laborers. Cleveland also pushed for tariff revision and further limitation of Chinese immigration. Like the Republican presidents before him, Cleveland believed in appointing jobs based on merit instead of patronage. Cleveland also believed in a strong central government and a strong presidency that should be able to act independently from Congress.

Why Should I Care?

Through his many vetoes, Grover Cleveland worked to transform the federal government from one that spent unnecessary money on a variety of projects to a government of frugality. Although the Panic of 1893 occurred under Cleveland’s presidency, it was caused by the actions of Benjamin Harrison and his spending. Cleveland realized the danger of instability in the federal treasury and worked cautiously to restore Americans’ confidence in the economy. He initiated no federal aid to businesses or the American people during the collapse, however, setting a precedent that the federal government should not interfere in the free market economy—a precedent only to be broken by Franklin Delano Roosevelt.

Breakin’ It Down

Early Life

Stephen Grover was the fifth of nine children born to Richard and Anne Cleveland. Grover’s family had lived in America for nearly two hundred years, ever since Moses Cleaveland (the a
was later dropped) emigrated from England to Massachusetts in 1635. Named after Stephen Grover, the first minister of the First Presbyterian Church in Caldwell, New Jersey, young Stephen eventually dropped his first name and used his middle name, Grover, for the rest of his life. In 1841, when Grover was about three years old, the Cleveland family moved to a town near Syracuse, New York, for Richard Cleveland’s preaching job and lived there for nine years.

Though he did not enter formal school until age eleven, Grover enjoyed his education, especially debate, and hoped to attend Hamilton College. However, when Grover’s father died in 1853 just as Grover turned sixteen, the family could no longer afford his college tuition. Instead, Grover accepted a teaching position at the New York Institution for the Blind and sent his paychecks to his mother to help her in her economic struggles. He left the position after one year to travel west, stopping in Buffalo, New York, on his way to stay with his uncle. Grover never left. In Buffalo, he worked on the construction of the Erie Canal and as a store clerk for a short time, but eventually he joined a law firm, where he quickly developed his skills as a lawyer, impressing judges and juries with his eloquent, memorized arguments.

When the Civil War began, Cleveland did not join the army but paid Polish immigrant George Brinske $300 to go in his place (a completely legal action under the Federal Conscription Act, which allowed men solely providing for their family to pay other men to go in their place).

*First Couple*

While president in 1886, Grover Cleveland married Frances Folsom who was twenty-one at the time and twenty-seven years his junior, making her the youngest first lady to ever occupy the White House. He was the second president (after John Tyler) to get married while president. He and his wife yearned for a place of their own out of the limelight of the Presidential Palace. They purchased a twenty-seven acre plot of land three miles from the White House in an isolated area near Georgetown.

While first lady, Frances held two receptions a week. One was held on Saturday afternoons and was open to the public. At the public reception, Frances welcomed any woman who held a job, and once greeted over eight thousand guests at a single reception. They were married for over twenty years—until Cleveland died in 1908. Together they had five children.

*Fun Facts*

- Cleveland proposed to Frances by letter after she and her mother (recently widowed) visited the White House several times. Newspapers speculated that Cleveland would propose to the older Ms. Folsom, but Cleveland responded to the speculations by asking why the press kept marrying him to old ladies.

- Cleveland wished to travel west, but traveling required money he did not have. He borrowed twenty-five dollars from a neighbor to fund his travels, but ended up settling in Buffalo, New York. Regardless, Grover Cleveland paid his old neighbor back, even with interest.
• Grover Cleveland was the only president of the seven presidents between Andrew Johnson and William McKinley to not serve in the Civil War.

**Previous Political Career**

While many men his age were off fighting in the Civil War, Grover Cleveland began his political career. In 1863, the district attorney for Erie County New York appointed Cleveland as his assistant district attorney. Cleveland later won the Democratic nomination for district attorney but lost to the Republican candidate, ironically a man with whom he later practiced law. In 1870, Cleveland was appointed Erie County Sheriff, where he once had to personally hang two men when the executioner lost his nerve—thus Cleveland remains the only president to have killed two men (outside of war), criminals though they were.

Eleven years later in 1881, Cleveland assumed the position of mayor of Buffalo, New York. Here, he began his legacy of constantly vetoing legislation. He believed public officials were “trustees of the people” and as such should run a clean and efficient government. Thus, Cleveland vetoed nearly all contracts and bills that would benefit politicians at the expense of Buffalo taxpayers, granting him the nickname Veto Mayor. In his first year in office alone, Cleveland saved the city one million dollars. He also realized patronage positions were causing an increase in government disapproval among the people and worked to end his involvement in the practice.

Riding his popularity and success as mayor, Cleveland became governor of New York in 1882. He won the position by 190,000 votes, earning 58.47 percent compared to his opponent’s 37.41 percent. While governor, Cleveland refused to grant any patronage positions and only appointed skilled and qualified men. Partnering with New York state assemblyman Theodore Roosevelt, Cleveland enforced a state-wide civil service program. Additionally, Cleveland signed a bill approving a one and a half million acre park around Niagara Falls.

**BTW:**

The veto mayor led to the veto governor, which led to the veto president.

**Election Results**

*Election of 1884:* Cleveland was an ideal candidate for the Democratic Party in 1884: he was a spotless reformer and could easily win the vital state of New York. He campaigned on his old motto, “Public Office Is a Public Trust.” However, Cleveland did not end up being the immaculate candidate the Democrats had imagined. During the campaign, it was released to the press that Cleveland, a bachelor, had actually fathered a child out of wedlock.

The Republicans were already campaigning on the fact Cleveland had paid his way out of army service, and when news broke of the scandal, the Republicans released news editorials surrounding the sketch of a child sobbing, “Ma, Ma, where’s my pa?” Voters waited for
Cleveland to react to the rumor, and, shocking the whole nation, Cleveland actually told the truth and explained the whole matter: he had fathered the child and sent financial aid to the boy until he was adopted. Additionally, Cleveland had the boy’s mother, the supposedly unstable Maria Halpin, institutionalized in a mental asylum. The Democratic party responded with their own slogan, accusing James G. Blaine of being a liar and corrupt politician: “Blaine, Blaine, James G. Blaine! Continental liar from the state of Maine!”

Due to the scandals, the win was not as decisive as the Democrats had hoped; instead, Cleveland won the election by less than 1 percent of the popular vote and won the electoral vote largely due to his win of New York—Cleveland won twenty states to Blaine’s eighteen. When Cleveland came out on top in 1884 after the ballots were cast, the Democrats finally replied to “Ma, Ma, where’s my pa?” with “Gone to the White House, ha, ha, ha!”

**Election of 1892:** In stark contrast to Cleveland’s first presidential campaign experience, the campaign of 1892 remained surprising peaceful and well-tempered. However, the reasoning behind the unique campaign stemmed from the distressing fact that sitting president Benjamin Harrison’s wife had fallen severely ill. Both presidents agreed to not campaign out of respect for the ill first lady and the worried president by her side. The Election of 1892 was the first time both presidential candidates had held the presidency and were vying for regaining it.

**Uncle Sam’s Election Results:** 1884 Popular: (1) Grover Cleveland/Thomas A. Hendricks—4,874,986—Democrat (2) James G. Blaine/John A. Logan—4,851,981—Republican; Electoral: (1) Cleveland—219 (2) Blaine—182

1892 Popular: (1) Grover Cleveland/Adlai E. Stevenson—5,556,918—Democrat (2) Benjamin Harrison/Whitelaw Reid—5,176,108—Republican (3) James B. Weaver/James G. Field—1,041,028—Populist; Electoral: (1) Cleveland—277 (2) Harrison—145 (3) Weaver—22

**Thoughts on the Constitution**

“On this auspicious occasion we may well renew the pledge of our devotion to the Constitution, which, launched by the founders of the Republic and consecrated by their prayers and patriotic devotion, has for almost a century borne the hopes and the aspirations of a great people through prosperity and peace and through the shock of foreign conflicts and the perils of domestic strife and vicissitudes.” – Grover Cleveland

**Presidency**

Grover Cleveland stood in front of the people gathered for his inauguration on March 4, 1885, and delivered his inaugural address without the aid of any notes—the second president (Franklin Pierce had done so before him) and the last person to do so. Soon, however, Cleveland was faced with the tasks of the presidency, none of which were easy. First, he continued the civil service reform implemented by the Republican presidents before him and actually doubled the number of federal workers who met the requirements under the Civil Service Commission. As the veto mayor turned veto president, Cleveland carefully examined each federal pension bill placed on
his desk—often staying up late into the night to do so—and rejected more than two hundred he believed to be fraudulent attempts by veterans to receive aid from ailments they suffered after the Civil War concluded. Cleveland also used his veto to decline bills he considered progressive legislation and public waste that would cost the working class unnecessary tax money.

**Liberty Language**

**Federal Pension Bill:** a piece of legislation appropriating the amount of money to be paid to individuals working for the federal government.

**Relations with Native Americans**

On the issue of America’s relations with the Native Americans, a topic that had not been majorly addressed since Ulysses S. Grant’s presidency, Cleveland supported the Dawes Act of 1887, an act that encouraged Native Americans to buy plots of land sectioned off by the federal government. However, this act led to a major reduction in the size of Indian Reservations, for the land given to the Native Americans was carved out of the reservations, leaving less room for the natives who wanted to remain on communal land.

**Monetary Reforms**

Then arose the great debate over silver and gold, an issue that had plagued the presidency since the Civil War. Cleveland wanted to repeal the Bland-Allison Act of 1878. By repealing this act he wished to decrease the amount of money (and silver) that left the Federal Treasury. Cleveland understood that the Federal Reserve was having a hard time because it had been working to pay off the large U.S. debt. In Cleveland’s view, the Bland-Allison Act made matters worse by making the nation’s treasury release money into the markets every month—money the treasury could have been spending on its bills. However, Congress refused to repeal the Bland-Allison Act. Cleveland did manage to prevent excessive spending in other areas, however, and created a large budget surplus in the Federal Reserve. Cleveland was also against the bimetallism movement, calling it “a dangerous and reckless experiment.”

**Liberty Language**

**Bimetallism Movement:** a movement that supported making both gold and silver the national currency.

**Pop Quiz!**

Do you remember the Bland-Allison Act? This act, passed in 1878, called for the federal government to purchase and coin millions of dollars in silver each month.
Interim

In 1888, Cleveland won reelection and then lost reelection. Although he won the majority of the popular vote by a very slight margin, he failed to secure enough states for an Electoral College win, making Benjamin Harrison the president-elect. Cleveland accepted his defeat but did not “throw in the towel.” Instead he planned to return to the White House after the election of 1892. During the term of Benjamin Harrison, Cleveland watched helplessly as the budget surplus he had fought so hard for slowly dwindled away because of Congress and Harrison’s spending.

The Panic of 1893

One month before Cleveland took the oath of office for a second time, the economy began to collapse in what would be one of the worst economic depressions until the Great Depression—the Panic of 1893. Cleveland shocked the nation when he refused to administer federal aid to banks and railroads or even organize public works efforts. Deemed “His Obstinacy” for sticking to his beliefs, Cleveland thought the economy should be able to fix itself naturally, without federal intervention, believing that interference would violate the Constitution. Congress worked to repeal the Sherman Silver Act, a bill Cleveland also opposed, believing it harmed the nation’s economy and drained the federal gold supply.

Congressional Corner

(1) Presidential Succession Act of 1886: this act established the line of presidential succession if both the president and vice president are unable to assume the duties of the presidency.

(2) Interstate Commerce Act of 1887: this act, passed in February of 1887, established the Interstate Commerce Commission, which would regulate railroad rates.

(3) Dawes Act of 1887: this act allowed the President of the United States to divide land in Indian Reservations to sell to Native Americans.

(4) Edmunds-Tucker Act: this act, passed in 1887, seized Mormon church property that was not used exclusively for worship. It also required Mormons to take an “oath of loyalty” before gaining voter eligibility and declared women as competent witnesses in Mormon trials.

(5) Chinese Seclusion Act (Scott Act): this act, passed on May 6, 1888, banned Chinese workers from immigrating or returning to the United States.

(6) Nelson Act of 1889: this act forcibly relocated the Native Americans of Minnesota to Indian Reservations.

(7) Wilson-Gorman Tariff of 1894: this act lowered the tariff rates set in place by the McKinley Tariff and imposed a 2 percent income tax.
Becoming a Global Power

Despite Cleveland’s domestic affair woes, he also focused his attention on issues of international significance. Cleveland believed the U.S. should avoid staking a permanent claim on Hawaii, believing that would be an act of American imperialism. Additionally, when rebellion arose in Cuba, Cleveland strove to remain neutral, yet encouraged Spain to initiate policy that would lead to Cuban independence. The Senate disagreed with Cleveland’s stance and the issue remained unresolved until the end of his term in office. On the other hand, when Venezuela requested American assistance in settling a border dispute with Great Britain, Cleveland agreed. War was almost ensured between America and Great Britain when Cleveland ordered U.S. naval ships to confront British ships off the coast of Venezuela. However, after the show of force, Britain came to the negotiation table, and war was avoided. Nevertheless, his actions over the border dispute in Venezuela remained one of Cleveland’s most controversial foreign policy decisions.

Presidential Personality

Grover Cleveland was a determined and stubborn man who was known to have limited patience and a quick temper. When he was not working, he was jovial, carefree, and outgoing. However, when he was in his office, his mood and attitude drastically changed: he was stern and highly dedicated to finishing his work.

BTW:

Grover Cleveland answered the White House telephone personally, almost every time it rang.

Post-Presidency

In 1897, Cleveland retired to New Jersey with his wife and two children. He and Frances had two more children before Cleveland’s death in 1908. Before his death, he became the trustee of Princeton University, earning the nickname “Sage of Princeton.” Cleveland also authored three books: Presidential Problems (1904), Fishing and Shooting Sketches (1906), and Good Citizenship (1908). In 1908, Cleveland died of heart failure, leaving behind four young girls and a forty-four-year-old wife.

BTW:

Last Words: “I have tried so hard to do right.” – Grover Cleveland

What Has He Done for Me Lately?

Grover Cleveland vetoed more legislation than any other two-term president: over 414 vetoes. That makes his veto tally close to 50 percent larger than the second highest record-holder, Harry Truman. Cleveland’s 414 vetoes were more than for all previous presidents combined. The
vetoes he issued were meant to protect the nation’s treasury and reign in unnecessary spending, but they also set a precedent for future presidents: the executive branch could veto as many pieces of legislation as they wanted, most of the time without consequences.

Fun Fact

Frances Folsom later met then-military-general Dwight D. Eisenhower under the presidency of John F. Kennedy. When Eisenhower heard Frances had once lived in D.C., he asked where she had lived. Frances replied, “The White House.”

The Presidential Times

Haymarket Riot

May 4, 1886, Chicago, Illinois—Today Chicago police advanced on a labor protest, where the laborers demanded eight-hour workdays. One of the protesters threw a bomb at the police force, causing the police to open fire on the protesters. Seven police and one civilian have now died as a result of the violence. Eight labor protesters have been arrested and are being convicted of connection with the violence, despite a lack of evidence.

Panic of 1893

March 18, 1893—America is still experiencing the aftermath of last month’s economic collapse. In February, the Reading Railroad and Philadelphia lines declared bankruptcy, sparking a railroad collapse across the country.

Soon, five hundred banks failed, millions were unemployed, and an additional thousand railroad workers initiated a nationwide strike, hurting the nation’s coal and transportation industries.

Unemployment is now at 19 percent—more than four million unemployed, with one in every five factory workers out of a job and farm prices are collapsing. The stock market collapse alarmed European investors, who began to withdraw their involvement in the American market.

The federal gold reserves have also reached a nearly all-time low with only $100 million in gold reserves. Cleveland worked to return America to a solely gold standard (instead of gold and silver), contradicting the views of his Democratic Party as well as the views of the majority of the American people in the south and west and, thus, the plan failed to materialize.

The Secret Operation

July 2, 1893—President Cleveland underwent a secret dental operation yesterday aboard his private yacht. The press was alerted that Cleveland would be spending the day on the yacht, but it was not known that Cleveland would spend the day tied to the mast of the yacht under anesthesia while five doctors and a dentist worked to remove a cancerous growth. The tumor was so large that the doctors removed several teeth and the entire left side of his jaw. To replace the missing bone, Cleveland was fitted with an artificial jaw. The president is said to be recovering well.
Pullman Railroad Strike

July 4, 1894—President Cleveland sent 2,500 federal soldiers to Chicago, Illinois, today to combat a local strike at the Pullman Place Car Company. Earlier this year, on May 11, 1894, a local strike ensued after the company cut workers’ pay by 25 percent as a result of the Panic of 1893. After the workers received no pay raise, the Union’s national council president Eugene Debs called for a national boycott, sparking strikes in twenty-seven states. Now that the federal soldiers have been deployed to control the situation, the strike is predicted to end within a week.

State of the Union

First term:

(1) States: 42
(2) Population 1885: 57,442,992;
(3) U.S. Debt: (1885) $1,826,922,432
(1889) $1,591,172,623
(4) Value of the dollar: $1 worth of 1885 dollars is now worth $24.39; $1 worth of 1889 dollars is now worth $25.64

Second term:

(1) States: 45
(2) Population 1893: 68,162,457;
(3) U.S. Debt: (1893) $1,581,930,666 (1897) $1,808,864,053
(4) Value of the dollar: $1 worth of 1893 dollars is now worth $26.32; $1 worth of 1897 dollars is now worth $27.78

Timeline

- 1886—Cleveland marries Frances Folsom in the White House
- 1886—Composer Franz Liszt dies
- 1886—the Statue of Liberty dedicated
- 1887—Queen Victoria of Great Britain celebrates her Golden Jubilee
- 1887—Sir Arthur Conan Doyle publishes his first Sherlock Holmes story, A Study in Scarlet
- 1888—the Edmunds-Tucker Act is passed (1888—the Great March snow blizzard hits northwest U.S., leaving $25 million in damages
- 1888—George Eastman develops his Kodak camera
- 1889—the Department of Agriculture is formed
- 1893—Cleveland’s second inauguration
• 1893—the Panic of 1893 takes place
• 1893—New Zealand becomes the first country to grant women the right to vote
• 1894—the Pullman Railroad strike takes place
• 1894—the Sino-Japanese War begins
• 1894—the Supreme Court rules that “separate but equal” is indeed constitutional
• 1895—Wilhelm Roentgen discovers the first x-rays
• 1895—J.P. Morgan bails out the federal government
• 1896—Utah becomes a state
• 1896—Ethiopia defeats Italy in the Italo-Ethiopian War

Platform Speeches

“The law of nations is founded upon reason and justice, and the rules of conduct governing individual relations between citizens or subjects of a civilized state are equally applicable as between enlightened nations.” – Grover Cleveland

Grover Cleveland said this in his message to Congress opposing the annexation of Hawaii in 1893. Cleveland opposed annexing Hawaii because he believed it was an unjust action of a powerful country oppressing a weaker country. He believed foreign affairs should always be founded on reason and justice.

“A government for the people must depend for its success on the intelligence, the morality, the justice, and the interest of the people themselves.” – Grover Cleveland

Grover Cleveland believed that the people, to protect their rights, must be educated in their government’s affairs.

Juliette Turner is the National Youth Director of Constituting America, and the author of three books: Our Constitution Rocks, Our Presidents Rock and the novel, based on life at her ranch with her mom, actress Janine Turner, That’s Not Hay In My Hair (all published by HarpersCollins/Zondervan).


William McKinley: Twenty-Fifth President Of The United States – Guest Essayist: Juliette Turner

Twenty-fifth President of the United States

Nickname: Major McKinley

Terms in Office: 1897–1901; 1901

Fast Stats

• Born January 29, 1843, in Niles, Ohio
Parents: William and Nancy Campbell Allison McKinley
Died September 14, 1901, in Buffalo, New York; age 58
Age upon Start of First Term: 54; Age upon Conclusion of First Term: 58
Age upon Start of Second Term: 58; Age upon Assassination: 58
Religious Affiliation: Methodist
Political Party: Republican
Height: 5 feet 7 inches
Vice President: Garret Hobart (1897–1899); Theodore Roosevelt (March–September 1901)

The Bottom Line
William McKinley was the twenty-fifth president of the United States. He served two terms in office, during which he oversaw the beginning and conclusion of the Spanish-American War and worked to resolve the bimetallism issue in America at the time. His second term was cut short when he was assassinated just over seven months into his term in office.

What Was He Thinking?
William McKinley believed in preserving the limited nature of the government, which came in handy during the start and end of the Spanish-American War. McKinley also wanted to ensure the stability of America’s economy by preserving the value of its currency. This belief prompted McKinley to end the bimetallism debate that was threatening to destabilize the U.S. economy.

Fun Fact

Bimetallism: Two factions of thought emerged during the debate over silver and gold. Much of the south believed that adding silver to the national treasury would allow the government to print more money and thus allow people to buy more necessities such as food and clothing. The northern portion of the United States believed adding silver to the treasury would lead to the devaluing of the dollar and inflation, causing economic instability in the country.

BTW:
William McKinley was the first president to ride in an automobile.

“That is all a man can hope for during his lifetime—to set an example—and when he is dead, to be an inspiration for history.”—William McKinley

Why Should I Care?
The Spanish-American War was a major war in the history of the United States. By winning this war, America acquired Puerto Rico, Guam, and the Philippines—the first time American land extended outside the North American continent. Also, McKinley returned America’s economy to the gold standard (with much help from the Klondike, Alaskan Gold Rush), preventing an economic collapse.

Breakin’ It Down

Early Life

William McKinley was the seventh of nine children born to William and Nancy McKinley in Niles, Ohio, where his father and grandfather worked in a small pig-iron factory. Young William had a very close relationship with his mother, a woman who taught the McKinley children religious values and the importance of education, hoping William would one day become a preacher. As a youth, William attended the Poland Academy, where the other students considered him unusually shy. His shy personality was not a reflection of his intelligence, however, which became obvious when the schoolteachers required William to sit in the back of the class to allow “slower” students time to catch up. Eventually, William outgrew his shyness, joined the school’s debate club, and became a great public speaker and even the president of the local community debating club.

William attended Allegheny College, but withdrew within a month of enrollment because of exhaustion, illness, possible depression, and a lack of funds. After abandoning higher education for the time being, he instead became a postal clerk and a part-time schoolteacher, although this, too, changed at the outbreak of the Civil War when he enlisted in the 23rd Voluntary Ohio Regiment at the age of eighteen. At the Battle of Antietam, McKinley was commissioned to deliver supplies through enemy fire to isolated Union units and barely escaped death when his wagon was hit with a Confederate cannonball. Later in the war, McKinley fought under future president Rutherford B. Hayes and eventually rose to the position of second lieutenant.

After the Confederate surrender, McKinley attempted to continue his education by enrolling in Albany Law School, but he failed to graduate this college as well. During the presidential election of 1864, McKinley campaigned for Ulysses S. Grant, helping the former Union general carry the state of Ohio. Intrigued by his first taste of politics, McKinley decided to run for office himself.

First Couple

In 1871, William McKinley married Ida Saxton during an extravagant wedding ceremony attended by more than one thousand friends, relatives, and guests. Ida and William had two daughters, but neither of them lived to adulthood: their first daughter succumbed to typhoid fever and their second daughter died shortly after she was born prematurely. After the death of both her children, Ida herself became ill and never mentally or physically recovered. Among other illnesses, she fell victim to epileptic seizures, depression, and phlebitis (the painful swelling of the veins). Despite her constant near-invalid state, William remained true to his wife and never left her side for more than a few days. William wasn’t embarrassed by his wife’s condition, and she frequently accompanied him to White House dinner parties or socials. When Ida had a
seizure in public, however, William would hold a large handkerchief over her face to hide her from embarrassment.

**Previous Political Career**

- **1867**: Elected county chairman for the Republican Party.
- **1876**: Elected to the U.S. Congress, holding the position until 1883.
- **1885**: Elected to Congress again, holding the position until 1891. During his time in Congress, two major issues arose: bimetallism and the raising/lowering of tariffs. McKinley supported bimetallism by voting for the Bland-Allison Act in 1878 and later the Sherman Silver Purchase Act in 1890. McKinley wanted to raise tariffs to protect businesses, even forming his own tariff legislation: the McKinley Tariff Act of 1890. McKinley’s bill raised tariffs to such extremes, however, that McKinley was voted out of the House.
- **1889**: Appointed the chairman of the House Ways and Means Committee until 1891.
- **1892**: Elected governor of Ohio, earning reelection two years later.
- **1892**: Served as the chairman of the Republican Convention, increasing his recognition in the Republican Party.

“I have never been in doubt ... that I would someday be president.”—William McKinley

**BTW:**

McKinley usually wore a red carnation in his jacket buttonhole for good luck.

**Fun Fact**

In 1878, while still serving in Congress, McKinley won the election for prosecutor of Stark County, Ohio, winning despite the Democratic majority in the region, and thus holding two government positions at once. However, McKinley lost reelection the following election cycle.

**Election Results**

**Election of 1896:** McKinley notably switched his views to match the party he represented in the election: instead of favoring bimetallism, McKinley favored the gold standard. This flip led many businesses to support the Republican candidate, which they would not have done if McKinley had remained true to bimetallism.

In turn, gold businesses gave somewhere between $3.5 million and $16 million to the McKinley campaign to ensure his election. McKinley’s opponent William Jennings Bryan, covered twenty thousand miles in three months to speak to constituents all across America, beginning the trend of “traveling campaigns.” Maybe it was in part because the McKinley campaign printed two
hundred million campaign pamphlets in fourteen different languages and distributed them across the United States.

**Election of 1900:** William McKinley campaigned once again from his own home, promising a “full dinner bucket” for everyone. He expressed his plans to increase America’s involvement in international trade as well as his concern about the growing business-monopolies. McKinley chose Theodore Roosevelt to serve as his vice president, bringing Theodore’s unique personality and recognition as a war hero to the ticket.

**Presidential Personality**
William McKinley was known as a man who genuinely enjoyed pleasing people. Among his constituents, he was very well liked and known to be a lighthearted optimist. He was often one to joke around, but this in no way undermined his ability to effectively lead the nation.

**Fun Fact:**
The inauguration of William McKinley in 1896 was the first recorded by a gramophone and a motion picture camera.

**Presidency**
The American economy was on the upswing after the Panic of 1893, when McKinley assumed the presidency. McKinley relaxed government interference in businesses, allowing them to prosper in the economic recovery, and increased tariff rates (though not nearly as dramatically as his McKinley Tariff) to protect American businesses even further. The bimetallism issue, so long at the center of American politics, finally came to an end when the Alaskan Gold Rush supplied enough gold for the federal treasury to become solely dependent on the gold standard.

**The Spanish-American War**
Americans across the country opposed Spanish occupation of the Cuban island, especially after the major newspapers owned by Joseph Pulitzer and William Randolph Hearst began spreading awareness of (and sometimes over-exaggerating) the despicable humanitarian treatment of the people on the island, including concentration camps. Two events occurred within the following months, which practically forced McKinley to declare war on Spain. William Randolph Hearst’s printing a supposed letter by the Spanish ambassador to America. Its validity was questioned because of Hearst’s reputation of printing anything that would sell more papers. In the letter, Enrique Dupuy de Lome called McKinley “weak and a bidder for the admiration of the crowd, [and] a would-be politician who tries to leave a door open behind himself while keeping on good terms with the jingoes [a pro-war faction] of his party.” Americans—and McKinley—were infuriated.
Then, an unexpected explosion occurred on the *U.S.S. Maine* while it was docked in a Cuban harbor, killing 226 American sailors. Although no one knew what caused the explosion, Americans used it as proof that Spain was out to attack the United States. In April, McKinley asked Congress to declare war, which they did by an overwhelming majority in the House (310 to 6) and a slightly narrower margin in the Senate (42 to 35).

**China, the Philippines, Hawaii, and Panama**

U.S negotiated an Open Door Policy with China, which encouraged trade between the two nations. McKinley also ordered seventy thousand troops to maintain order in the Philippines after the Spanish-American War, where the people of the Philippines had begun to rebel against the recent American takeover. McKinley hoped to secure the string of islands, because they proved an ideal location for the new China-America trade policies. Battles in the Philippines continued until 1902—a series of skirmishes sometimes referred to as the Philippine-American War—but finally the rebellion was controlled and America moved to officially take the region.

The United States continued to expand its borders elsewhere in the Pacific. McKinley believed that the long-standing American policy of Manifest Destiny called for the annexation of Hawaii, and this occurred after the signing of the Newlands Resolution.

**BTW:**

William McKinley demanded to be a part of every stage of the Spanish-American War. He was directly involved in the diplomatic negotiations before the war, demanded first-hand control of the war operations, and personally oversaw the peace negotiations.

**Thoughts on the Constitution**

“I shall use the authority vested in me by the Constitution and the statutes to uphold the sovereignty of the United States in those distant islands as in all other places where our flag rightfully floats. Aiming only at the public good, we cannot err.” — William McKinley

**Congressional Corner**

**Declaration of War on Spain:** this declaration was issued on April 25, 1898, and officially approved the Spanish-American War

**Newlands Resolution:** this resolution was approved by Congress on July 4, 1898, and issued the annexation of Hawaii

**Treaty of Paris:** this treaty, ratified on February 6, 1899, officially ended the Spanish-American War. Guam, the Philippines, and Puerto Rico came under U.S. control

**Gold Standard Act of 1900:** this act made gold the only medium of exchange in the national government and all national banks
Assassination

Shortly after winning reelection in 1901, McKinley planned a transcontinental tour. However, once the tour began, it took a terrible turn, as if it were cursed. First, Ida McKinley fell terribly ill. Then, at the Temple of Music in Buffalo, New York, McKinley was shot by Leon R. Czolgosz. Immediately after the shot was fired, McKinley begged his guards not to hurt his assassin, crying, “Don’t let them harm him.” McKinley then thought of his wife and her unstable health, and pleaded, “My wife—be careful … how you tell her—oh, be careful.” Only then did McKinley think of himself. The doctors used an X-ray machine to attempt to locate the bullets so they could remove them, and the president seemed to recover. After a week, gangrene set in. McKinley died eight days after Czolgosz fired his gun.

The Presidential Times

The Klondike Gold Rush

August 17, 1896—Gold has been found in the Klondike and Yukon Rivers in the Yukon Territory in Canada. It is expected that close to thirty thousand people will be rushing to the site in an attempt to make a quick fortune.

USS Maine Explodes! War Cries Erupt!

February 16, 1898—The U.S. battleship USS Maine exploded in Havana Harbor, Cuba, yesterday at 9:40 p.m. The explosion is being blamed on the Spanish and is calling many to advocate declaring war, though no substantial facts point to the Spanish as the perpetrator of the explosion. It is speculated that underwater mines placed by the Spanish in the harbor exploded beneath the bottom of the ship. A more realistic cause is that a spontaneous combustion of coal in a storeroom next to the ammunitions storeroom on the ship caused the explosion.

McKinley Assassin Executed

October 29, 1901—William McKinley assassin Leon Czolgosz was executed for treason early this afternoon. Last month, McKinley died eight days after being shot during his transcontinental tour. Czolgosz, a self-proclaimed anarchist, declared he believed McKinley to represent an oppressive government. It is believed he was inspired by the recent assassination of Italy’s King Umberto I, carried out by Gaetano Bresci. Despite McKinley’s pleas for his assassin to not be harmed, Czolgosz was executed by electrocution. Czolgosz’s last words? “I killed the president because he was the enemy of the good people—the good working people. I am not sorry for my crime.”

The Spanish-American War Begins . . . and Ends

The Spanish-American War lasted less than four months, ending in August 1898. American forces won quick and decisive battles in Cuba, Puerto Rico, and the Philippines. The first American war presence in the Asian theater occurred on May 1 in the Philippines in Manila Bay, when Admiral George Dewey destroyed the entire Spanish fleet without a single American casualty. At the conclusion of the war, America took possession of lands outside the North American continent for the first time in history: Puerto Rico, Guam, and the Philippines.
State of the Union

(1) States: 50

(2) U.S. Population: (1897) 73,455,418

(3) U.S. Debt: (1897) $1,808,864,053

(1901) $2,149,695,064

(4) Value of the Dollar: $1 in 1897 would be worth $27.78 today. $1 in 1901 would be worth $27.78.

Timeline

- February 15, 1898—the USS Maine sinks in Havana Harbor, Cuba
- 1898—Ernest Hemmingway is born
- 1898—Marie Curie discovers radium
- April 20, 1898—the U.S. declares war on Spain
- August 12, 1898—ceasefire with Spain takes place, leading to the end of the Spanish-American War
- 1898—the Newland Resolution orders the U.S. annexation of Hawaii
- 1899—the Second Boer War begins in South Africa
- 1899—the Boxer Rebellion breaks out in China
- 1899—the Philippine-American War begins
- 1900—the Gold Standard Act is passed
- 1900—a hurricane hits Galveston, Texas, leaving six to eight thousand dead
- 1900—McKinley sends five thousand troops to Peking, China, to rescue westerners caught in the crosshairs of the Boxer Rebellion
- 1901—the Platt Amendment is passed
- 1901—Queen Victoria of Great Britain dies; Edward VII becomes king
- September 6, 1901—McKinley is shot by Leon Czolgosz and dies eight days later

Platform Speech

“The credit of the Government, the integrity of its currency, and the inviolability of its obligations must be preserved. This was the commanding verdict of the people, and it will not be unheeded.” – William McKinley

McKinley said this in his first inaugural address in 1897. He believed that preserving the United States’ good financial credit was vital to the success of America.

What Has He Done for Me Lately?

William McKinley accomplished the rare and difficult task of starting and ending a war within a four-year term in office. This being said, small skirmishes continued within the Philippines, which preoccupied some of Theodore Roosevelt’s term in office. Yet, the Spanish-American War was a success, and an American victory increased America’s power in the world.
Juliette Turner is the National Youth Director of Constituting America, and the author of three books: *Our Constitution Rocks*, *Our Presidents Rock* and the novel, based on life at her ranch with her mom, actress Janine Turner, *That’s Not Hay In My Hair* (all published by HarpersCollins/Zondervan).


America’s politics leading into the 1896 election looks familiar. The political system was broken: In five presidential elections, no one received 50% and for 20 of 24 years, America had divided government and gridlock in which little got done. The animosity between the parties was beyond normal partisanship: they were still fighting the Civil War.

The country was in a deep depression and Americans were anxious about the country’s rapidly changing economy, roiled by technological disruptions and increasingly globalized, industrial and urban. Many farmers, especially those in the West and South with mortgages with high interest rates or dependent upon usurious loans from local merchants, were in open revolt against the country’s political and economic systems.

The 1896 campaign was fought over whether America would have a gold-based currency like major European powers or a bimetallic standard of gold and silver currency, maintained at the ratio of 16 units of silver for each unit of gold. It is hard for Americans now to understand the passions this “Battle of the Standards,” as it was called, produced as both major parties angrily split over the issue.

Republicans, dominated by Gold men, nominated Ohio Gov. William McKinley, who had supported bimetallistic measures in Congress and wanted to avoid the currency issue, preferring to base his campaign on the restoration of protective tariffs.

But after Western Silver Republicans bolted the GOP convention when its platform endorsed the gold standard and Democrats nominated a fire-breathing Free Silver Democrat from Nebraska, the 36-year old William Jennings Bryan, McKinley fell behind and was in danger of losing.

Bryan was not considered a credible candidate the day before being nominated. Silver Democrats had deliberately postponed picking a candidate in favor of a strategy of electing enough Silver delegates to dictate the platform, which required a simple majority of the convention, not the 2/3rds supermajority Democrats then required for their presidential nominee. At the convention, Silver men were astonished when they realized they had such a supermajority, though it required them to steal control of the Michigan delegation in the convention’s credentials committee.

The Democratic frontrunner had been Missouri Rep. Richard Bland, who for two decades had led the Congressional fight for silver. But bowing to the desires of fellow white metal advocates, he had not mounted a robust bid for the nomination.
So he was vulnerable when Bryan – as a result of seven accidents in the convention’s opening days – found himself the final speaker in the floor debate on the platform’s currency plank. Bryan’s “Cross of Gold” speech electrified the 20,000 people in the Chicago Coliseum and stampeded the convention, which chose the virtual unknown as the party’s nominee the next day.

By endorsing an inflationary currency, rejecting Democratic President Grover Cleveland’s gold policies, and nominating an eloquent Western spokesman for Free Silver, Democrats largely escaped responsibility for the economy and became the party of change, claiming that by backing the Gold standard, Republicans had endorsed the policies that brought on the depression.

Bryan argued the currency question pitted Eastern financiers against Western and Southern farmers, stockmen and miners and Eastern and Midwestern workingmen. The heart of his argument is familiar. “There are two ideas of government,” Bryan told the Democratic convention. Republicans believed “if you just legislate to make the well-to-do prosperous,” then “their prosperity will leak through on those below.” Democrats believed “if you legislate to make the masses prosperous their prosperity will find its way up and through every class that rests upon it.”

McKinley soon realized he must accept currency as the central issue and explain why conservative economic policies were better for farmers and workers. In his “Front Porch Campaign” in which 750,000 visited McKinley’s hometown of Canton, Ohio, to hear him speak from the steps of his modest home, the GOP nominee responded to Bryan’s bitter attacks upon Wall Street and gold.

He argued workers deserved to be paid in gold dollars, which were worth twice as much as silver dollars, given world prices for the two metals. An inflationary silver currency would cut in half the value of savings, pensions, homes, farms, and insurance policies. It would result in gold being hoarded and prices rising as goods were purchased with cheaper silver dollars. The workingman, McKinley said, deserved to be paid with money that would buy his family a full loaf of bread, not half a loaf.

“The Major,” as McKinley was known, ran the first modern presidential campaign. Directed by 31-year old Charles G. Dawes, the GOP effort distributed 250 million pieces of literature (18 pieces for every voter) and organized an enormous grassroots effort that helped generate nearly 90% turnout in many northern states.

McKinley won the votes of industrial workers in factories, smelters, mills and mines throughout the North and Border states, becoming the first president since Grant in 1872 to win more than 50%. McKinley’s election and subsequent administration ended a quarter century of gridlock, ushering in more than three-decades of Republican dominance, and making the 1896 contest one of the five great realigning elections in U.S. history.

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1904, Theodore Roosevelt Defeats Alton Parker: Anti-Trust Legislation –
Guest Essayist: Steven Aden

“The Most Absurd Political Campaign of Our Time”: Teddy Roosevelt, Alton Parker and the Election of 1904

The candidates who squared off in the presidential election of 1904, Republican President Theodore “Teddy” Roosevelt and Democrat Alton Parker, were both native to New York State; beyond that one commonality, they were a study in contrasts. Parker was tall and rangy, but with a tentative demeanor that seemed to apologize for looming over others. Parker resigned his post as the chief judge of the New York Court of Appeals, the state’s highest court, to run for the nation’s highest office. True to his calling and by all accounts a thoughtful decision maker on the bench, Parker was quiet and professorial, and an unimpressive speechmaker with a voice like a cracked reed. The barrel-chested, bull-voiced Roosevelt, on the other hand, had been tapped for the vice presidency by William McKinley on the strength of his renown as the Rough Rider who led his troops up San Juan Hill in 1898, as if he had carried the country on his shoulders to victory in the Spanish-American War. The living embodiment of the national will that found its expression in “Manifest Destiny” and the Monroe Doctrine, Roosevelt was arguably the most physical president America has ever had. Sometimes overcome by pent-up energy, Roosevelt would jump up from his seat in the Oval Office and hike in a straight line for five miles, climbing, jumping, and swimming all barriers natural or manmade he encountered on the way. This exercise exhausted the few staffers and security officers who could keep up with him, but Roosevelt would return refreshed and invigorated.

Although Roosevelt is best known today for his physical rigor, his intellectual rigor is scarcely matched among modern presidents. Roosevelt was the author of a multitude of books on topics as diverse as history, politics, geography, nature, conservation and the Bible, as well as his own autobiography, and was regarded in Europe as a man of letters who read and conversed on literary topics in several Continental languages. Once in office, he turned this prodigious intellect to the issues of moment – labor strife and the growing power of “trusts”, the interconnected corporate conglomerates controlled by tycoons like J.P. Morgan, who wielded power to set exorbitant rates in key industries such as transportation, oil and steel. Popular sentiment against the trusts was high, stoked by “yellow journalists” like Ray Stannard Baker and Upton Sinclair. “Busting the trusts” would take all Roosevelt’s talents deployed through both presidential terms.

Roosevelt started with the railroads because they were emblematic of Congress’s constitutional power to “regulate commerce… among the several states.” He deployed his attorney general, Philander Knox, to invoke the new Sherman Antitrust Act – passed in 1890 – against Northern Securities, a J.P. Morgan – brokered trust that was comprised of the stock of several transcontinental railroads. Formerly competitors, the Great Northern Railway and the Northern Pacific Railway attempted to merge after the latter went bankrupt in the 1890s, but were thwarted by the operation of state law. Morgan and other investors acquired a third rail line, the Chicago, Burlington & Quincy Railway, and combined the stock of all three into a controlling company, Northern Securities. The potential for one corporate combination to control the lion’s share of freight and passenger rates from Chicago to the West Coast was in violation of the
Sherman Act, Knox argued, regardless of whether Northern Securities actually utilized that power to set unfair rates. The Administration’s opponents could stomach federal action against actual restraints of interstate trade, but to them this smacked of Socialism. That the Supreme Court upheld this interpretation of the Sherman Act eight months before the election did not do much to temper this criticism.

The Democrats ran Parker because they needed a respectable candidate (Parker defeated the more radical William Randolph Hearst for the nomination), but they mostly ran against Roosevelt, portraying the president as an unstable and warmongering “Grand Old Pirate” and the Democratic Party as the party of safety and security. But Roosevelt had done his best in the three years since assuming office upon McKinley’s assassination to ameliorate his image as a “jingo imperialist” by promoting independence for America’s wartime acquisitions Cuba and the Philippines. This early example of image management for political purposes had its intended effect, and the Democrats’ attempt to make American imperialism the chief campaign issue failed.

A second national issue of currency, the question of the Gold Standard, was taken off the table by the Democrats’ acquiescence in Parker’s demand that “Free Silver” not form part of the party’s 1904 platform. Permission for private citizens to convert silver metal into coin was thought to favor working classes by engendering inflation, but populist William Jennings Bryan had twice shipwrecked Democrats’ chances for the presidency by running on that plank. Spooked nonetheless by the prospect of a Parker presidency reopening that question, Wall Street financiers, including J.P. Morgan and other targets of Roosevelt’s trust-busting efforts, drifted back into the Republican camp and filled GOP coffers with campaign donations. A $100,000 contribution from John D. Rockefeller’s Standard Oil was finally too much for the president, and he insisted that the campaign committee return it.

The campaign itself was largely anticlimactic; Parker delivered an ineffectual speech accepting his nomination, and the party leaders responsible for conducting the presidential campaign by proxy (campaigning by the candidate himself was considered unseemly at the time) dissipated campaign funds in far-flung locations. Parker secured electoral seats only in the Democratic South, but Roosevelt’s campaign — one of the first to target specific voter populations such as African-American, German-American and Jewish voters — won nearly everywhere else, drowning Parker in the final electoral count and winning 33 of 45 states. It had been, as an eminent historian of the day, Henry Adams said, “the most absurd political campaign of our time.” Mark Twain effusively declared Roosevelt “the most popular human being that has ever existed in the United States.” He had become, as the writer Henry James called him, “Theodore Rex.”

The first and great consequence of Roosevelt’s election to a full term of office was self-imposed: To the astonishment of many, Roosevelt announced he would not seek another full term. Considering his three-and-a-half years spent in his first term, and respecting the memory of George Washington’s presidency, he stated, “The wise custom which limits the President to two terms regards the substance and not the form.” William Howard Taft, Roosevelt’s Secretary of Defense, would carry the banner of the party forward four years later. But in the four years of Roosevelt’s second term, he would build aggressively on his efforts against the trusts. His
Justice Department bore down on other trusts also, securing indictments against the Great Northern Railway and members of the “beef trust” and also pursuing prosecutions against shipping companies. But Roosevelt’s great project of railroad rate reform, which he had begun by cajoling Congress to pass the Railroad Rebate Act of 1903, a fairly modest measure against rebating rail charges to favored shippers, would be carried forward in his second term as the advance thrust of a revolution in political thought: direct regulation of commerce, and especially of monopolistic pricing. In 1906, he sought and received from Congress expanded power for the Interstate Commerce Commission to directly regulate railroad rates. This was understood by many as nothing less than a sea change in the relationship between government and private capital, and an encroachment upon the right to private property. Roosevelt thought otherwise, reasoning that capitalism contained in its practice the seeds of its own destruction, and that it must therefore have its excesses checked for it to succeed. The notion that a president can work a “fundamental transformation” in a nation through his policies is not a recent one; according to Roosevelt biographer Edmund Morris, “Roosevelt understood that a ‘profound reconstitution [had] taken place in modern industrial society,’ and that change was in the direction of economic redress.”

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1904 And 1908 Elections: Theodore Roosevelt’s “Square Deal” vs. William Jennings Bryan’s Populism – Guest Essayist: Daniel A. Cotter

The United States Constitution is silent on the subject of corporations. After the Civil War, as American society began to quickly evolve from agrarian to industrial, politicians from both major parties raised concerns about the rise of corporations, banks, and businesses, and the need for protection of the individual. Against this backdrop, two important political figures emerged on the national scene. William Jennings Bryan was a leader of the Populist Party (which would merge with the Democratic Party in 1896) who unsuccessfully ran for President in 1896, 1900 and 1908. Republican President Theodore Roosevelt proposed a number of “progressive” initiatives through his “Square Deal” program and other policies and positions. Other essays in this series cover the various Presidential elections in which Bryan and Roosevelt were their parties’ nominees. This essay compares the progressive and populist views of Roosevelt and Bryan, respectively.

Bryan and Populism

The Populist Party, also known as the People’s Party, was formed in 1891 and focused primarily on agrarian issues and attracted support from farmers, while criticizing capitalism and favoring labor over the corporate interests. Bryan was a leader of the Party and in 1891 he won election to the United States House of Representatives from Nebraska’s 1st District as a Populist candidate. Bryan served two terms in the House, establishing himself as an enemy of the gold standard and of banks, while earning the nickname “The Great Commoner” because of his belief in the common man.
Bryan fought hard in the Presidential elections of 1896 and 1900, losing each time to President William McKinley. Although Bryan ran as a Democrat, he made sure that the Democratic ticket included populist ideas in its platform. During the 1896 campaign, Bryan gave more than 500 speeches, creating the “stump speech” tour common among presidential candidates today. Bryan’s most famous speech was delivered on July 8, 1896 at the Democratic National Convention in Chicago, where he advocated “free silver” while at the same time attacking the gold standard, concluding “you shall not crucify mankind upon a cross of gold.” The “Cross of Gold” speech secured Bryan’s nomination by the Democratic Party and is considered one of the great political speeches in our history.

In 1908, Bryan ran for the third and final time for President, pitted against Roosevelt’s handpicked successor, William Howard Taft. Bryan and the Democrats ran on a platform that alleged the Republicans were in favor of big business and monopolies and not the people, using the slogan “Shall the People Rule?” Bryan suffered his worst Electoral College defeat of his three runs, losing 321 to 162. In Bryan’s three Presidential contests, he received a total of 493 Electoral College votes, the highest total of any candidate not to become President.

**Roosevelt and the Square Deal**

After William McKinley was assassinated shortly after his second term began in 1901, 42 year old Vice-President Roosevelt became the youngest President in our nation’s history. Shortly after taking office, Roosevelt introduced his domestic policy, the “Square Deal.” The Square Deal was a pledge taken by Roosevelt that no group would be favored but that all would be treated fairly by the President and his administration. The policy received its name from a Roosevelt quote, “I shall see to it that every man has a square deal, no less and no more.”

Roosevelt was a Republican who believed strongly in progressive initiatives and political reforms. The Square Deal consisted of the “three Cs” of policy: 1) control of corporations; 2) consumer protection; and, 3) conservation of natural resources. Roosevelt during his Presidency addressed the first “C” through his trust busting efforts, including taking action against J.P. Morgan’s Northern Securities Company, expanding the role of the Interstate Commerce Commission, and signing the Elkins Act authorizing the ICC to impose heavy fines on railroads that offered shippers illegal rebates.

As for the second “C,” Roosevelt signed a number of acts to protect consumers, including the Meat Inspection Act (a direct response to Upton Sinclair’s book, *The Jungle*) and the Pure Food and Drug Act. On the final prong, Roosevelt made the first designations of National Monuments under the National Monuments Act, including the Grand Canyon.

**The Difference Between Populism and Progressivism**

Both populism and progressivism were aimed at the perceived favoring of business and political interests over the individual. Populism was developed in the late 1800’s by farmers and agrarian interests who believed industrialists, including bankers, were forming policies and protecting business interests at the expense of farmers. Populism sought to address these inequities by changing the economic system. Progressivism emerged at the dawn of the 1900’s and was a
political movement objecting to perceived slights to the middle class by the rich. Populism focused on changes to the economic system, while progressivism was focused on changing the political system.

Conclusion

As President, Roosevelt was able to implement much of his Square Deal. On the other hand, Bryan and the Democrats were not as successful in advancing their positions without executive power. An example of a constitutional blow to populist values was the Supreme Court decision, *Lochner v. New York*, in which the Supreme Court declared that “liberty of contract” was implicit in the Due Process Clause of the Fourteenth Amendment and held that bakers did not need protection from working excessive hours.

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1908, William Howard Taft Defeats William Jennings Bryan –
Guest Essayist: Daniel A. Cotter

The 1908 Presidential election featured the incumbent Republican President Theodore Roosevelt following through on his promise to not seek a third term and encouraging the Republicans to nominate Secretary of War William Howard Taft. While a number of third party candidates ran against Taft, the only non-Republican candidate who garnered any significant votes was the Democratic nominee, William Jennings Bryan. Bryan had been the Democratic nominee for President in 1896 and 1900, but the 1908 election was the most lopsided of his three defeats in the race for President.

The Candidates

Taft was an Ohio lawyer and judge who was recommended to President Benjamin Harrison in 1889 to fill a vacancy on the United States Supreme Court. Only 32 at the time, Taft actively sought the seat as becoming a Supreme Court Justice was his professional goal. Harrison filled the Court vacancy by nominating David Brewer, but Harrison nominated Taft to the position of United States Solicitor General. Taft served two years as Solicitor General, and in 1892 became a Unites States Circuit Court Judge for the Sixth Circuit. He served as a Circuit Court Judge for the next eight years.

In 1900, Taft was called to the White House to meet with President William McKinley. Taft hoped it was to be informed that he was being nominated to the Supreme Court, but McKinley instead requested Taft help form a government for the Philippines. Taft joined the commission to form the government and in 1901, became the 1st Governor-General of the Philippines, serving in that role until the end of 1903, when Roosevelt asked him to become Secretary of War.
The 1908 Republican nomination was notable in that it featured the first presidential preference primary process in American history. At the nominating convention in Chicago in June, Taft won the nomination by a landslide. His home state of Ohio, one of the primary states, overwhelmingly supported him as the Republican nominee.

Bryan was a Nebraskan who early in his career met the Nebraska Democratic Party Chair, James Dahlman, who supported Bryan over the years. In 1890, Bryan rode the Democratic wave that resulted in an electoral landslide by the Democrats, with Bryan being elected to the United States House of Representatives. Bryan served two terms as a Representative. Bryan first ran for President in the 1896 presidential election and ran again in 1900. 1908 was his third nomination for President by the Democratic Party. The Democratic nominating convention took place in Denver in July of 1908. Bryan easily won the overwhelming support of his party and received the nomination.

Other nominees for President in 1908 included: Eugene Debs (Socialist Party); Eugene Chafin (Prohibition Party); Thomas Hisgen (Independence Party); Thomas Watson (Populist Party); and August Gillhaus (Socialist Labor). Debs received less than 3% of the popular vote and no Electoral College votes, but was the leading vote getter of the group of third party candidates.

The Election of 1908

Bryan campaigned on a progressive platform against political privilege, using a slogan, “Shall the People Rule?” Taft adopted some of Bryan’s reform positions to soften Bryan’s appeal to liberals and progressives. Some Republicans used a slogan making sarcastic references to Bryan’s previous two runs for President. During the campaign, Roosevelt inundated Taft with advice and guidance, fearing that Taft would lose to Bryan. Taft tended to ignore Roosevelt’s advice. Bryan did not do well with labor, and businessmen voted for Republican Taft. Taft won the election, with 51.6% of the popular vote and 321 Electoral College votes to Bryan’s 43.0% of the popular vote and 162 Electoral College votes.

The Taft Presidency

Over the next four years, Taft and Roosevelt led the conservative and progressive wings, respectively, of the Republican Party. One legal legacy Taft left was appointing six Justices to the Supreme Court, the most by any President in our nation’s history except for Franklin Delano Roosevelt (eight) and George Washington (ten). In 1912, not happy with how Taft had governed the country and citing differences on antitrust and conservation issues, Roosevelt ran for President again, this time as nominee of the Progressive Party. With Roosevelt splitting the votes with Taft, Woodrow Wilson won the Presidency, making Taft a one-term President.

Taft preferred law to politics and did not enjoy his term as President. In 1921, Taft achieved his lifelong professional goal when President Warren Harding nominated Taft to fill the Supreme Court vacancy created by Chief Justice White’s death. Taft happily served as Chief Justice until his resignation shortly before his death in 1930.
Conclusion

While Chief Justice, Taft stated, “The truth is that in my present life I don’t remember that I ever was president.” Taft was responsible for securing new quarters for the Supreme Court, although he would not see the new Court building during his lifetime. Taft’s constitutional legacy is in his nominations of six Justices to the Supreme Court and, more importantly, becoming the first and only former President to serve as Chief Justice (or any Justice) of the Supreme Court. His main competitor in the 1908 election, Bryan, went on to challenge Darwinism and evolution, arguing for the prosecution in the Scopes Trial.

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Progressivism And The Constitution – Guest Essayist: Matthew Spalding

In The Federalist No. 47 James Madison asserted that “accumulation of all powers, legislative, executive, and judiciary, in the same hands…may justly be pronounced the very definition of tyranny.” Indeed, the importance of the separation of powers was so widely accepted by the American public in 1788 that Madison could confidently declare it to be “the sacred maxim of free government.” Today, however, government agencies routinely make, enforce, and adjudicate legally binding rules that have the full force and effect of laws passed by Congress. Such evidence leaves no doubt that there has been a revolutionary shift in the constitutional theory guiding American politics since the time of the American Founding. But how—and why—did this revolution come to be? The answer is to be found in a broad movement known as progressivism that came to dominate both the American academy and government in the late-nineteenth and early-twentieth century.

Progressivism arose at the end of the nineteenth century as both an intellectual and programmatic response to the overwhelming sense of change and widespread challenges unleashed by the industrial revolution, the expansion of urban society, and the development of the United States as a modern world power. Progressivism was not a monolithic movement. Its manifestations ranged from the establishment of new disciplines in the social sciences to the theological project known as the Social Gospel movement and its influence could be felt in nearly every aspect of society from the muckraking novels of Upton Sinclair, to the architecture of Frank Lloyd Wright and the revisionist history of Charles Beard.

But progressives of all stripes were profoundly shaped by two revolutionary, anti-foundational concepts. First, progressives rejected outright the very idea, at the heart of the Founders’ way of thinking, of political thought and practice being guided by permanent principles. They held that there were no fixed truths—certainly no objective or unchanging standards of right to guide politics—and that all truth claims are contingent, merely personal “values” relative to other equally valid claims. A second, related concept was what was called “historicism.” As developed
by the German philosopher Hegel and his students, historicism held that not only are ideas relative to each other but all ideas and their meaning (and status) are relative to their moment in time and must constantly be adapted to various historical developments. What might have been suitable for one century inevitably becomes outdated in another, making the past inferior to the present and the present but a step on the way to the future.

The combination of these two concepts—that there are no fixed truths and that all ideas change and evolve with time—led to a serious reassessment of American political thought and practice. A number of leading political thinkers came to believe that the Founders’ political science could not adequately address the emerging character of society. It was not that the principles and political science of the Founders were objectively wrong—they had been appropriate in their own time. The problem with the American Founders, these new thinkers argued, is that they did not understand and account for the lack of permanence and the constant flux and change in all things. Progressives thus did not understand themselves to be rejecting the American Founding outright, but to be correcting the Founders’ mistaken assumptions and updating their flawed handiwork to reflect the newly discovered concepts of relativism and historicism. For if all ideas change and evolve, then the American political order, both in principle and form, would have to be updated continually in order to allow and bring about historical progress.

And so it was that progressives looked for new foundational ideas and other models of governance to replace the constitutional order established in the American Founding. Progressives looked outside of the United States, in what were perceived to be more modern nations like England, France, and especially Germany, for new ideas. There they saw a new model of government that was not based on the consent of the governed but rather upon scientific governance by expert administrators. Progressives were also particularly inspired by the emerging evolutionary theory of Charles Darwin. Progressives argued that the American Founders had been influenced by the Newtonian theories of their day to construct an overly rigid model of government. But Darwin, they argued, taught that society is organic and must evolve with the times. Perhaps the clearest example of what this means for American politics and political thought comes from Woodrow Wilson, whose successful campaign for president of the United States in 1912 was premised on this new concept of progress. “Some citizens of this country have never got beyond the Declaration of Independence,” the former Princeton University president argued (in a speech titled “What Is Progress?”), but that document “did not mention the questions of our day” and “is of no consequence to us” unless it can be turned into a program of government action for modern circumstances. Consider how he describes the new idea of government and its relationship to the Constitution:

All that progressives ask or desire is permission—in an era when “development,” “evolution,” is the scientific word—to interpret the Constitution according to the Darwinian principle; all they ask is recognition of the fact that a nation is a living thing and not a machine. Government must develop consistent with the evolutionary theory of Charles Darwin. It must grow and change in order to keep fit and survive. It must be understood as a living organism, adapting to its environment. And so too must the Constitution be understood. In the minds of the new thinkers, this “refounding” marked the end of the old order and the birth of a new republic—based on a new theory of the state, a new understanding of rights, a new concept of national community, and a new doctrine of the “living” Constitution.
The new task of government was thus to be the principle voice and instigator of change. The progressives advocated more democracy and populist reform to open up the political system and to make it more responsive—hence their support for the open primary, the initiative process, and the referendum. They also advocated the direct elections of senators, which significantly weakened federalism by making senators elected by popular vote rather than appointed by (and so responsible to) state legislatures, an arrangement that had respected states as entities in the structure of the federal government.

But Progressives also insisted that change had to be directed according to new scientific methods of politics. In order to reconcile these seemingly contradictory objectives—allowing more democratic opinion and at the same time directing and managing that change—the progressives posited a sharp distinction between popular politics and what they called “administration.” Politics would remain the realm of expressing popular opinions (hence the need for democratic reforms to better reflect those opinions), but the real decisions and details of governing would be handled by administrators, separated and immune from the influence of opinion and partisan politics.

These administrators would be in charge of running a new form of government, designed to keep up with the expanding ends of government, called “the administrative state.” Where the Founders went to great lengths to moderate democracy and limit government, the progressives believed that barriers to change had to be removed or circumvented to speed popular change and grow government. Likewise, emphasis would be placed not on a separation of powers (which divided and checked government power) but rather a combination of powers (which would concentrate and direct government power) in order to bring about reform, consistent with the popular will.

The particulars of accomplishing the broad objectives of reform—the details of regulation and many rule-making functions previously left to legislatures—were to be given over to a new class of professionals who would reside in the recesses of agencies like the FCC (Federal Communications Commission), the SEC (Securities and Exchange Commission), the CPSC (Consumer Product Safety Commission), or OSHA (Occupational Safety and Health Administration). As “objective” and “neutral” experts, so the theory went, these administrators would act above petty partisanship and faction, making decisions mostly unseen and beyond public scrutiny to accomplish the broad objectives of policy reform.

The rise of this so-called modern administrative state has fundamentally changed the idea of self-government in America. The anti-foundational assumptions progressives established within the American tradition can be seen playing out over the course of the twentieth and now twenty-first centuries, and have become widely accepted in our society. The result of this is that America has moved far away from its original principles and constitutional design. Progressive ideas have not completely won the day and, in many important ways, those ideas have had to adapt to the realities still defined by the American political tradition. Nonetheless, progressive arguments have become dominant in our schools, in the public square, and in our politics and has significantly—perhaps even permanently—altered the very foundations of American constitutionalism.
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“The Professor and the Bull Moose” 1912 Election

In June, 1912, former President Theodore Roosevelt broke with the tradition of candidates not attending conventions and arrived at the Republican National Convention with great fanfare. He fervently announced, “We stand at Armageddon and we battle for the Lord.” He then proudly labelled himself a “Bull Moose.”

More cerebral, and less bombastic, was the Democratic candidate, Woodrow Wilson. Wilson was a southerner who had been a government professor, the president of Princeton University, and a progressive governor of New Jersey who ushered in many progressive reforms. Wilson and Roosevelt were rival progressives battling for the presidency and the future of America.

The 1912 election was one of the most contentious and dramatic in U.S. history and featured four major candidates, two dramatic conventions, a candidate who bolted the convention, and campaigns of three progressives, a conservative, and a socialist.

Roosevelt announced his candidacy in February by asserting “my hat is in the ring” and broke with the tradition of two terms established by George Washington. Roosevelt had served two terms after President William McKinley was shot in 1901, and then elected in his own right in 1904. That spring, Roosevelt ran for the Republican nomination against his hand-picked successor, William Howard Taft, whom he believed had parted with his policies. Taft was a constitutionalist conservative who had the support of the party establishment, though Roosevelt won many delegates in the primaries, which had been adopted by nine states in the last year alone.

Roosevelt stood for a very strong federal government with the executive branch as the “steward of the public welfare.” Robert LaFollette ran for the Progressive Party and rivalled Roosevelt with a successful record of progressive reforms in Wisconsin and then the U.S. Senate. In February, LaFollette, however, appeared unhinged when he delivered a disastrous, rambling two-hour speech that attacked audience members and the press.

In June, when the Republican leadership granted hundreds of contested delegates to Taft, Roosevelt bolted the convention and ran as a Progressive. Wilson, on the other hand, followed tradition and stayed at home while his campaign cut deals at the Democratic National Convention in Baltimore in late June. On July 2, after 45 ballots were cast with no winner, Wilson was nominated the Democratic candidate for president.
On the campaign trail, Wilson articulated his vision for governing America. Wilson tried to differentiate himself from Roosevelt’s plan for a large, federal regulatory state by adopting a program called the New Freedom. Influenced by the ideas of progressive lawyer, Louis Brandeis, Wilson articulated a view of destroying monopoly and restoring competition to an economy dominated by corporate trusts. He promised to prosecute individual businessmen for corporate wrongdoing.

While Wilson made some perfunctory remarks supporting Jeffersonian limited government as a nod to the states’ righters and small-government Democrats from the Solid South, the New Freedom sought to change American institutions and governance. Wilson believed in government regulation of enterprise and asserted, “America is not now and cannot in the future be a place for unrestricted individual enterprise.” He continued, “I am not afraid of the utmost exercise of the power of government . . . in the interest of the people.”

Wilson rejected the immutable, fixed principles of the Constitution and the self-evident truths of the Declaration of Independence. He believed that constitutional principles might have worked for the founding generation, but the modern age had challenges that made them obsolete and irrelevant. Moreover, constitutional devices that limited the power of government and tyranny such as checks and balances and separation of powers frustrated the ability especially of the executive to act for the good of the people.

Wilson’s “Living Constitution” political philosophy was rooted in Darwinian science. He posited that the political principles and framework of the Constitution must adapt and evolve with the times. He explained, “The trouble with the theory is that government is not a machine, but a living thing. It falls, not under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton.”

When Roosevelt was nominated by the Progressive Party at their convention in August, the American people had a choice of two progressive candidates whose ideas about government and the economy were fundamentally very similar. To the far left, Socialist Party candidate, Eugene Debs, advocated revolution against the capitalist system.

In October, the campaign took another dramatic turn when Roosevelt was shot in the chest by an assassin. He survived, thanks to an eyeglass case and a thick copy of his speech that partially deflected the bullet, and managed to give his speech. With manly determination, he said, “I don’t know whether you fully understand that I have just been shot, but it takes more than that to kill a Bull Moose.” Wilson honorably suspended his campaign while Roosevelt recuperated.

Wilson won the November election by a wide margin due to the split in the Republican Party. He won 42% of the popular vote but an impressive 435 electoral votes. Third-party Roosevelt won 27% of the popular vote, while Republican Taft settled for third with a dismal 23%. Debs won a surprising 900,000 votes. Wilson carried his party to victory in both houses of Congress and had a comfortable majority to implement his New Freedom vision.

Wilson may have attacked Roosevelt’s New Nationalism idea of a regulatory state during the campaign, but his presidency would clarify the ambiguities of the New Freedom. President
Wilson’s progressivism would institute a larger federal government with vastly increased executive power. The creation of the Federal Trade Commission and the Federal Reserve were just a few examples of a greatly expanded state that would in turn be dwarfed by the warfare state introduced during World War I.

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1912, Theodore Roosevelt’s “New Nationalism” –
Guest Essayist: Professor William Morrisey

By August 1910, Theodore Roosevelt had been out of office for a year and a half. He was unhappy with President William Howard Taft’s performance. Although Roosevelt had effectively designated Taft as his successor and continued to esteem him personally, Taft wanted no part of the rising Progressive movement in American politics. By 1910, Roosevelt did, for reasons that remain controversial.

What was Progressivism? The Progressives, who would rename themselves ‘liberals’ by the time of the New Deal, proposed not only a series of substantial reforms in American government and economics; they also put moral and political thought on foundation profoundly different from that of the American founders. As every reader of “Constituting America” knows, the founders embraced what the Declaration of Independence calls the Laws of Nature and of Nature’s God, set down by a Creator who endowed all human beings with equal and unalienable rights to life, liberty, and the pursuit of happiness. Governments, the Declaration goes on to say, derive their powers from the consent—the reasoned assent—of a given group of human beings, who design the form of their government with the intention of securing those natural rights. Paramount in the minds of the founders was the aim of limiting government to such powers and such tasks as secure such rights: nothing more. So, for example, although the United States Constitution of 1787 grants the federal government more powers than the Articles of Confederation of 1777 did, those powers are carefully enumerated and the government itself divided into three separate, co-equal branches, each capable of defending itself from encroachments by the others.

Progressives rejected the founders’ thought in two main ways. They replaced the Laws of Nature and of Nature’s God with what they believed to be the laws of History. That is, they derived moral and political right not from an understanding of the nature of human beings; this they deemed useless because human beings, like all other things in the universe, are constantly evolving, changing. To this day, politicians who think along Progressive lines promise us “change.” They further assume that this change will be good, and this is why they call themselves Progressives; History isn’t merely evolving, they contend, it is getting better and better as it does. Human beings—no longer beings with a fixed nature—are getting better all the time. Morality and politics have a trajectory, and that trajectory goes onward and upward.

This means that government need no longer be strictly limited. If human beings have natural rights but their nature remains flawed, then a strong but limited government makes sense. But if we are progressing, if we are evolving, if we are getting better than that, then surely can begin to
trust our government more. Surely government must evolve along with everything else, in order to have the power to do more good than ever before. With the new science of administration developed in Germany and France, then imported to the United States in the decades after the Civil War, government can now manage society more efficiently and justly than ever before. In America, we therefore need not only a republican or representative government but an administrative state, which will replace the old patronage system, scour out corruption, and regulate the selfish ‘special interests.’

By 1912, Theodore Roosevelt would split the Republican Party and run on the ticket of the Progressive Party as a full-throated advocate of these Progressive doctrines. Previously, before and during his presidency, Roosevelt had vigorously advocated reform of American government at every level (beginning with the city government in his native New York); as president he had enhanced executive power on the basis of his “stewardship” theory of the presidency. His foundational principles were, however, inconsistent. In the years 1880-1910 he can be found celebrating the Bible, nature, utility, and History, at various times and on various occasions, as the sources of moral and political right. Although his moral views themselves held steady, he seems not to have thought very hard about their basis. He was a moralist-politician indignantly opposed to the many immoralist-politicians, but he seemed not much to care where men and women took their morality from, so long as they held moral standards high.

Osawatomie, Kansas had seen a lot more trouble than even the ebullient Mr. Roosevelt wanted to cause. There, the abolitionist John Brown had fought the pro-slavery Kansans led by John Reid in 1856, two years before Roosevelt was born. Brown’s small band lost, and Reid’s men burned the town, but Brown became a hero to abolitionists.

The state of Kansas had become a battleground as a result of the Kansas-Nebraska Act, passed two years earlier, which repealed the Missouri Compromise of 1820 and placed the fate of slavery in the U. S. territories in the hands of voters. This led both abolitionist and pro-slavers to flood Kansas into the state, where they clashed bloodily. “Popular sovereignity” had been the cry of the foremost Northern Democrat, Senator Stephen A. Douglas of Illinois, a prime mover of the Act. When Douglas faced off against former Congressman Abraham Lincoln in the senatorial campaign of 1858, Lincoln opposed the founders’ doctrine of natural right to Douglas’s doctrine of unbridled majority rule. The issue of extending slavery into the territories ignited the highly combustible moral and political materials that soon fueled civil war.

Roosevelt began his Osawatomie speech by effectually attempting to reconcile “real democracy” with the principles of the Declaration. The “Square Deal” tries to square a circle. Speaking before veterans of the Civil War, Roosevelt praised the men for having “justified the wisdom of Washington and Washington’s colleagues”: “It was you who crowned Washington’s work, as you carried to achievement the high purpose of Abraham Lincoln.” Although America had had the Declaration of Independence “in name” since 1776, “we gave the lie to our acts to the words of the Declaration of Independence until 1865” by countenancing the existence of slavery on our soil—slavery, which contradicts the core Declaration principle of equal natural rights for all human beings. In so doing, the Union troops had also prevented the vast, rich lands of North America and their enterprising people from dissolving into “a dozen little squabbling contemptible commonwealths.” Instead, we belong “to the mightiest nation upon which the sun
shines. American nationalism rests not on shared blood—as it does in Europe—but in the shared
moral and political principles of natural rights and republicanism. The challenge today, in 1910,
is “to apply to the problems of the present precisely the qualities which in other crises enabled
the men of that day to meet those crises.”

What are the problems of the present? They stem from an economic problem. Quoting Lincoln
on the priority of labor to capital—capital is the result of labor done previously—Roosevelt
identifies the “actual conflict which faces us today” as the decline of “equality of opportunity”
for men and women to labor in such a way as to accumulate capital. This has caused a “conflict
between the men who possess more than they have earned and the men who have earned more
than they possess.” Those who possess more than they have earned form “the special interests”
which have exercised undue influence on the government in an exercise of what a century later
we call `crony capitalism.’ “We must drive the special interests out of politics” by refusing
corporations legal status as persons.

In doing so, Americans can then demand of corporations a level of public disclosure of their
activities that we would hesitate to demand of real persons. We should also “prohibit the use of
corporate funds directly or indirectly for political purposes”; supervise “the capitalization, not
only of public-service corporations, including, particularly, railways, but of all corporations
doing an interstate business”; and treat private industries that “control necessaries of life, such as
meat, oil, or coal” as we treat public-service corporations. Because trust-busting has
“substantially failed” to prevent the formation of monopolies and quasi-monopolies, the only
alternative lies “in completely controlling them in the interest of the public welfare” by means of
the administrative state. Accordingly, the powers of such agencies as the Federal Bureau of
Corporations and the Interstate Commerce Commission “should be largely increased.” “This, I
know, implies a policy of a far more active governmental interference with social and economic
conditions in this country than we have yet had, but I think we have got to face the fact that such
an increase in governmental control is now necessary.”

If anything, this is even more so in the financial sector than in manufacturing and commerce,
because “the really big fortune, the swollen fortune, by the mere fact of its size, acquires
qualities which differentiate it in kind as well as in degree from what is possessed by men of
relatively small means.” Roosevelt does not explain exactly what he means by this, but it is
likely that does call for investigation of the operation of the financial markets which have caused
“the people of the United States [to] suffer from periodical financial panics to a degree
substantially unknown in other nations.” This must mean that he suspects a man like J. P.
Morgan of deploying his vast wealth to manipulate the markets, profiting even as masses of his
fellow-citizens get thrown out of work.

These new conditions of economic life, which had arisen in the decades after the war for the
Union that ended slavery, require us to reconceive “the relations of property to human welfare.”
By pushing “the rights of property” “too far” against “the rights of man,” capitalists impel
Americans to insist that “every man holds his property subject to the general right of the
community to regulate its use to whatever degree the public welfare may require it.” Further, the
community also has “the right to regulate the terms and conditions of labor, which is the chief
element of wealth, directly in the interest of the public good,” specifically, with workman’s
compensation laws, the regulation of child and women’s labor, and vocational education in the schools. And still further, “the betterment which we seek must be accomplished, I believe, mainly through the National Government” and, within that, in large measure through the executive branch acting as “the steward of the general welfare.”

The New Nationalism consists in part of just such increased centralization of government as a counter to the increased power of the special interests. As a professional organization, this government will be staffed by more efficient administrators—more efficient because professionally trained, no longer political appointees. The democratic element of the regime will be maintained by the use of direct primary elections of nominees for representative offices; such elections will weaken the power of the party bosses who are too easily controlled by the special interests. None of this will work, however, without “a genuine and permanent moral awakening” among the citizens. This awakening has already begun in the movement for reform itself; two years later, Roosevelt’s nomination by the Progressive Party was celebrated by a rousing chorus of “Onward, Christian Soldiers” by the delegates. “The prime problem of our nation is to get the right type of good citizenship, and, to get it, we must have progress, and our public men must be genuinely progressive.”

Thus by 1910 we already see many of the elements of Progressivism marching in place in the mind of Roosevelt. Increased statism and nationalism inspired by “a genuine and permanent moral awakening” all suggest that what Roosevelt calls “the long struggle for the uplift of humanity” has reached or has nearly reached a new stage of historical evolution. The Square Deal can square the circle between Lincolnian natural right and Douglassite popular sovereignty through the ever-evolving course of human events, through the ever-upward march of History, which will uphold human rights through the very vehicle the founders thought both necessary and dangerous: the modern, centralized state.

Roosevelt nonetheless declines to jettison the principles of the Declaration of Independence altogether, although he does seem on the verge of transforming natural rights into historical rights—on the verge of the shift from nature to “natural history”—a term that had become more current since Darwin. The naturalist Roosevelt had grown up in the midst of that historicist re-conception of nature, and he had begun to apply it to an effort to transform the character of the American regime. By 1912 his re-conception would be complete, the rock upon which the Republican Party would split. This enabled the Democratic Party—now also firmly committed to its own brand of Progressivism as embodied by its candidate, Woodrow Wilson—to win the first of a series of electoral victories inspired by reformist novelties, including Wilson’s New Freedom, FDR’s New Deal, and Lyndon Johnson’s Great Society. Eventually, the regime designed by the founders would find itself much diminished, and the moral basis of that regime, animated by the (once) self-evident truths of the Declaration, would be obscured.

This remains so to this day, as presidential candidates along with the citizens who must choose among them struggle to define exactly what such baggy catch-phrases as “change” and “greatness” actually ought to mean to Americans.

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1912, Eugene Debs’ Socialism And The U. S. Constitution –
Guest Essayist: Professor Joerg Knipprath

Dissenting from the Supreme Court’s 1905 opinion in *Lochner v. New York* that found unconstitutional a maximum-hour law for bakery employees, Justice Oliver Wendell Holmes, Jr., declared, “[A] constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of laissez faire.” Holmes’s point is valid at least to the extent that the Framers—most of whom adhered to the then-dominant mercantilism—did not encrypt the grand contours of a particular system of political economy in the Constitution’s provisions aligning and balancing individual liberties and governmental powers. Yet, the Constitution also protects personal rights whose exercise is more likely to be realized in a political system premised on fundamentally liberal (in the classic meaning) conceptions of the role of the government and the individual’s relationship to the State than in a system that rests on a different view of such essential matters.

The interesting dichotomy Holmes sets up is the crux of a broader political and philosophic conflict that goes well beyond a single Supreme Court case about Mr. Lochner’s decision to permit a bakery employee to earn extra money before Christmas in violation of a state labor law. The traditional American view, represented in the Declaration of Independence and the Bill of Rights, assumed that an individual had certain rights that were not subject to the vicissitudes of shifting political majorities. The specific political mechanisms to protect those rights—while also recognizing the necessity of government to control acts harmful to the community—were balanced in the Constitution through a conscious design of separation of powers among branches of the national government and through a “dual federalism” that divided such coercive powers between the states and the general government.

Towards the end of the nineteenth century, the developing mass economy created by the technological advances of the Industrial Revolution and reflected organizationally in the division of labor and resources among workers, managers, and investors, produced an increasingly large and militant labor union movement. As Elihu Root, Theodore Roosevelt’s former Secretary of War, told the American Bar Association in 1912, “The relations between the employer and the employed, between the owners of aggregated capital and the units of organized labor…all present new questions for the solution of which the old reliance upon the free action of individual wills appears quite inadequate. And in many directions the intervention of that organized control which we call government seems necessary to produce the same result of justice and right conduct which obtained through the attrition of individuals before the new conditions arose.”

With that, the philosophic and constitutional traditions in which the American political system operated came under increasing attack. Rights were not inherent in the “individual,” and group interests were not perceived as built on individual choice. Rather, progressives such as Woodrow Wilson and Herbert Croly, characterized society as “organic” and composed of various interest groups, each of which had a role to play in the body of the state analogous to the functions of
organs in the human body. Just as a healthy human body required healthy organs, none of which were “out of sorts,” the interests of disparate groups in society had to be balanced to preserve the health of the State. Individuals were analogous to cells of these various organs, undifferentiated within their groups and valuable only for their contribution to the health of those groups and, by extension, of the State. “Rights” of individuals were derivative of rights of their group, which rights were defined, in turn, by the needs of the State. In jurisprudence, these ideas were represented in the sociological school of academics, such as Roscoe Pound and Benjamin Cardozo, and in the view that law, including “living” constitutional law, must be a tool to advance “beneficial” interest group policies rather than merely to provide basic rules of conduct to allow maximum freedom of individual pursuits within an orderly society.

In matters of constitutional governance, the Progressives reviled and ridiculed the Framers’ Constitution as an anachronism that stood in the way of a “new” relationship between the citizen and government, variously termed the New Freedom (Wilson, who had also written a book by that name) and the New Deal (Franklin Roosevelt). The organic nature of the State required rejecting classic American dispersal of power that reflected popular distrust of government, and embracing powerful and effective government as a benevolent force that would act for the good of all. Politically, this would be achieved by collective action channeled into direct participatory democracy. However, lest such democracy lead to unhealthy results caused by the uncontrolled self-interest of particular majorities, the system must be controlled by a powerful and independent executive and an elite of technocratic mandarins, just as the brain in one’s head rationally makes informed decisions for the whole body’s benefit. Wilson tellingly described the President as “the vital [political] link of connection with the thinking nation.”

As the author and journalist Jonah Goldberg has so effectively demonstrated in the book Liberal Fascism, Fascism, Socialism, and American Progressivism in their various iterations have drunk from the same brackish well of class identity, economic resentment, fallen—yet perfectible—human nature, and a politically militant but faceless majority led by a gnostic elite. To be sure, there have been clear differences in political goals among these groups and within them. More importantly, they often have differed about the means to achieve them. When they were rivals for political power, these groups could argue vigorously and, indeed, violently with each other. But the fundamental commonality Goldberg describes is striking, as is the commonality between the adherents of these ideologies in the early 20th century and their modern descendants on the Left, “liberal” and “progressive” alike.

More militant than the American Progressives were the Socialists, led by Eugene V. Debs in their political manifestation as the Socialist Party. Debs, a former steam locomotive fireman, had come to prominence in 1894 as the leader of the American Railway Union during the union’s support of the striking Pullman Company workers. The strike was broken in part by President Grover Cleveland’s decision to send in troops to guard the trains after Debs’ union defied a court injunction against obstructing the railroads and the delivery of the mail. Debs served a term in jail for contempt of court, where he immersed himself on his time and on the taxpayers’ dollar in the writings of Karl Marx and various socialists. Having converted to the “gospel according to St. Marx,” in the historian Samuel Eliot Morison’s memorable phrase, Debs parlayed his new notoriety into a nomination for President on the Social Democratic Party ticket in 1900. Debs received fewer than 88,000 votes, representing merely a fraction of a percent of the votes cast.
He ran in every election thereafter until 1920, except 1916. Each time, his vote totals increased, until he won nearly a million votes in 1920, while serving time in prison for his advocacy of non-compliance with the military draft during World War I.

In the United States, both Progressives and Socialists professed to stand for the common man, which, with the declining importance of farming as a livelihood, meant the American worker—or the “working class,” if one wishes to adopt more overtly socialist terminology. Organized labor had four long-sought goals: maximum-hour legislation, minimum-wage laws, a ban on child labor, and the elimination of “yellow dog” labor contracts, under which an employee promised as a condition of employment not to join a labor union. The movement had moderate success in obtaining the passage of favorable legislation in Congress and a number of states. However, the Supreme Court, in a series of famous decisions between 1905 and 1923 struck down many of these laws as violations of the liberty of contract of individuals found (or, according to critics, “discovered”) in the due process clauses of the Fifth and Fourteenth Amendments.

The foundering of these legislative initiatives on judicial shoals lurking beneath the surface of the constitutional text played into the hands of those elements of society who saw the courts and the traditional Constitution as an obstacle not just to be overcome, but to be replaced, on the journey to their “just society.” While the Socialists were among that group, they were distinguishable from the later Communists, in that they had a national outlook and still relied on American methods. Socialists ran for local, state, and national offices, winning the mayoralties of 18 American cities in 1911, and nearly winning those offices in Cleveland and Los Angeles. Like the Progressives, the Socialists were primarily a middle and upper-middle class movement, but, like their modern descendants, one even more centered on an intellectual elite. They were most certainly not a “workers’ party.” Debs himself regarded most labor leaders as corrupt.

In the 1912 election, the Progressives reached new heights of influence. Their wing in the Democratic Party obtained the nomination for one of their most prominent theoreticians, Governor Woodrow Wilson of New Jersey. The Republicans re-nominated William Howard Taft, nominally of the more traditional wing. Still, Taft had largely followed the path set by his predecessor, Theodore Roosevelt. Taft was more cautious in policy and more sober in political rhetoric than Roosevelt, thereby inducing the latter’s ire for Taft’s perceived insufficient dedication to the cause. But Taft’s administration sometimes produced more concrete results for Progressive programs than Roosevelt’s speeches had accomplished. Conservationism and “trust-busting” were two examples. Finally, there was Roosevelt himself, in his apotheosis as a progressive, running as the nominee of the Progressive Party he had helped to found. After their summoning by his oratory, “We stand at Armageddon, and we battle for the Lord!” his supporters would follow wherever he would lead. He assured them he was ready for the rigor of battle, “I am feeling like a bull moose.” Over four million of them followed him to the voting booths, more support than Taft could garner at the ballot box, but not enough to defeat Wilson, whose 42% of the popular vote was enough for a crushing electoral vote victory, 435 to 88 for Roosevelt, to just 8 for Taft.

Americans for whom this plethora of Progressives was not militant and dependable enough to secure their desired new constitutional, political, economic, and social new order, voted for Eugene Debs. They numbered slightly more than 900,000. While this was not Debs’ highest
number of votes, at 6% it was the largest percentage of the popular vote he or any other Socialist Party candidate would get in an American presidential election.

An expert on constitutional law, Prof. Joerg W. Knipprath has been interviewed by print and broadcast media on a number of related topics ranging from recent U.S. Supreme Court decisions to presidential succession. He has written opinion pieces and articles on business and securities law as well as constitutional issues, and has focused his more recent research on the effect of judicial review on the evolution of constitutional law. He has also spoken on business law and contemporary constitutional issues before professional and community forums. Read more from Professor Knipprath at: http://www.tokenconservative.com/.

1916, Woodrow Wilson Defeats Charles Evans Hughes – Guest Essayist: Daniel A. Cotter

The 1916 Presidential election pitted incumbent Democratic President Woodrow Wilson against Republican Supreme Court Justice Charles Evans Hughes. The election was a very close one and had significant ramifications for the “progressive” movement.

The Candidates

Woodrow Wilson was President of Princeton University from 1902 until early 1910, when he resigned from Princeton University to run for Governor of New Jersey. Wilson won the governorship and focused on an agenda of reform. In 1912, he ran for President of the United States. The Democratic Convention was one of the most dramatic and closest in history. After 46 ballots, Wilson was finally nominated as the candidate. In the general election in 1912, Wilson faced the incumbent Republican President William Howard Taft, and also former President Teddy Roosevelt, who had formed the Progressive Party (Bull Moose Party). Eugene Debs rounded out the ballot on the Socialist Party ticket. As Taft and Roosevelt divided support among Republican voters, Wilson won with more than 40% of the popular vote and 435 electoral votes.

President Wilson took office as the only Democrat other than Grover Cleveland elected President since 1856, and the first Southerner to occupy the White House since 1869, when Andrew Johnson left the White House (the last elected Southerner was in 1849). During his first term, Wilson focused on banking reform and keeping the United States out of World War I. On a personal level, his first wife died during his first term. Wilson remarried and became reenergized as the 1916 election approached.

Like Wilson, Charles Evans Hughes’ entry into governmental service was as a state governor. Hughes taught at New York Law School with Wilson for a short period of time. He was elected Governor of New York in 1907 and served until 1910. Hughes focused on reform of government processes as well as expanding general governmental, police and welfare powers. In 1910, Hughes was nominated by President Taft as an Associate Justice of the Supreme Court. On June 10, 1916, Hughes resigned his justiceship to accept the Republican nomination for president. Hughes was also overwhelmingly endorsed by the Progressive Party. Hughes
became the first and only Supreme Court justice to be nominated for president by a major political party.

**The Election of 1916**

The Democrats used the slogan, “He Kept Us out of War,” warning the country that war in Europe and in Mexico was almost certain should the Republican candidate, Hughes, be elected. Hughes pushed back on this attack, noting that the Wilson administration had intervened in the Mexican Civil War. Hughes’ campaign was boosted by strong support from former President Roosevelt, but Hughes failed to obtain the active support of influential California Governor Hiram Johnson.

The election was one of the closest in American presidential history. The nation waited for several days for the western states to report final results. When the dust had settled, Wilson had won the Electoral College, 277-254, and won 30 of the 48 states. At the time, 266 electoral votes were needed to win; had Hughes carried California with its 13 electoral votes, he would have been elected. Wilson became only the second president in our history to win re-election with a lower electoral percentage than his initial victory (James Madison was the other president with a decline in re-election). Wilson also became the first president to receive fewer overall electoral votes in re-election (only Presidents Franklin Roosevelt and Barack Obama would have similar results).

**Constitutional Impact of 1916 Election**

The 1916 election had no direct impact on the United States Constitution, but did as noted, mark the emergence of the progressives in the political landscape. However, Hughes’ defeat would eventually have consequences for the judicial branch. On February 3, 1930, President Herbert Hoover made his first of three Supreme Court nominations when he nominated Hughes to become Chief Justice of the Supreme Court. Hughes was confirmed by the United States Senate on February 13, 1930, replacing Chief Justice Taft, who had also lost a presidential election to Wilson. President Taft had nominated Hughes to his position as Associate Justice of the Supreme Court.

Faced with President Franklin Roosevelt’s court packing plan (stemming from FDR’s frustration with the Supreme Court’s hostile treatment of his New Deal initiatives), Hughes worked behind the scenes to make sure that new Congressional acts quickly moved up to the Supreme Court for review and were found to be constitutional. One element of Hughes’ work to slow Roosevelt’s attempts to revamp the Court became known as the “Switch in time that saved nine”- Justice Owen Roberts and Hughes had discussed Roberts’ positions before the court packing plan had been unveiled, and Roberts began to side with the four more liberal justices.

**Conclusion**

Had Hughes defeated Wilson in 1916 and become President, it is unlikely he would have become the Chief Justice of the Supreme Court. Hughes presided over the Supreme Court during a time when the Court had become more progressive, and Hughes joined his brethren in voting that
way. For 11 years, he served as Chief Justice and earned a reputation as one of the greatest chief justices of the Supreme Court. A few electoral votes’ difference in the fall of 1916 would have altered Supreme Court history to a significant extent.

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Warren G. Harding: Twenty-Ninth President Of The United States – Guest Essayist: Juliette Turner

Twenty-Ninth President of the United States
Nickname: Charming Harding
Terms in Office: 1921-1923

Fast Stats
- Born November 2, 1865, in Blooming Grove, Ohio
- Parents: George Tryon and Phoebe Elizabeth Dickerson Harding
- Died August 2, 1923, in San Francisco, California; age 57
- Age upon Start of Term: 55; Age upon Death: 57
- Religious Affiliation: Baptist
- Political Party: Republican
- Height: 6 feet
- Vice President: Calvin Coolidge

The Bottom Line

Warren Harding died from illness (possibly a heart attack) two years into his first term. During his time in office, Harding worked tirelessly to reverse the government takeover of the private sector in America, including reversing regulations on businesses, reducing taxes, and limiting government spending. He also worked to improve the status of blacks and women in American society.

What Was He Thinking?

Warren Harding very much wanted to please his constituents, listening to their needs and often compromising his own views to better serve the people. He won support from women in America by supporting their right to vote. As president during the era of alcohol prohibition, Harding outwardly supported the amendment, but he still drank at the White House by subtly bending the rules.
Harding was quite the party man. Besides bending the rules to serve alcohol in the White House, he also played golf and cards almost constantly. Once, Harding bet a set of White House china on a single hand in a card game … and lost.

*America’s need is not heroics but healing, not nostrums but normalcy; not revolution but restoration; not agitation but adjustment; not surgery but serenity; not the dramatic but the dispassionate; not experiment but equipoise.* – Warren G. Harding

**Why Should I Care?**

The Roaring Twenties were all about flapper girls, jazz music, crazy parties, and dancing out on the town. Warren Harding’s pro-business policies removed government regulation from the American private sector. Additionally, Harding worked hard to limit federal spending and balance the budget. As a result, the government was able to pass measures that enabled an economic boom and sense of stability that enhanced the American way of life.

**Breakin’ It Down**

*Early Life*

Warren Harding was the first president to be born after the Civil War. The oldest of eight children. Warren attended school in small, one-room schoolhouses in rural Ohio, but he was soon working as an errand boy for the city newspaper. He attended Iberia College (now Ohio Central College) and after graduation became a teacher – a job he later claimed proved to be the most challenging of his life.

At age eighteen, Harding took on the job of reporter for one of the local newspapers, though his Republican political beliefs soon cost him his position. After unhappily selling insurance for a while, Warren attempted a risky business venture: he joined with two friends to buy the bankrupt Marion Star newspaper for three hundred dollars. Warren’s investment paid off, and soon the paper became well known and eventually overshadowed the other newspapers in the region. The key to his success lay in the publication’s content: instead of printing the same Democrat-leaning positions popular among newspaper owners, Warren played to his consumers by printing more Republican leaning views while still remaining cautious to not offend Democrats. Warren’s newspaper become the moderate voice that sought common ground for both parties. After success in the private sector, Warren decided to move into the public eye by entering politics.

*First Couple*

In 1891, Warren Harding married Florence Mabel Kling DeWolfe. They met through Warren’s younger sister, who was Florence’s piano student. Florence was five years older than Warren, and at the time of their marriage, she was a divorced, single mother. Although the couple never had children together, it was rumored that Warren had two children with another woman during one of his two extramarital affairs. Florence forgave her husband for his unfaithfulness, and his affairs were not publicized until after his death. As first lady, Florence began a new tradition for
future first ladies to follow: she held her own press conferences and openly displayed her own beliefs on issues, a rarity for that day.

**BTW:**

Harding engaged in at least two extramarital affairs. Proof of these affairs was found in the dozens of love letters between the two women and Harding.

*Previous Political Career*

Spent twelve years campaigning for Republican candidates in national and state elections and speaking and promoting party unity.

1895: Lost his election for county auditor.

1899: Elected to the Ohio State Senate. He served two terms in the position and became known as a peacemaker who stuck to Republican ideals. He was appointed the state senate’s majority leader and even wrote the state eulogy after the assassination of sitting president William McKinley.

1903: Elected Ohio’s lieutenant governor, serving one term before he retired from the position to return to his newspaper business.

1910: Lost race for Ohio governor to Grover Cleveland’s former attorney general, Judson Harmon, after a three-year break from politics.

1914: Elected to the U.S. Senate, winning by 100,000 votes. He remained in the Senate until 1920.

1916: Asked to speak at the Republican National Convention in 1916.

**BTW:**

Warren Harding was the first president to visit Alaska.

**Harding the Orator**

Warren Harding was all about presentation. His speaking was known for two distinguishing characteristics his frequent use of alliterations and his knack for creating words on the spot. What is alliteration? Well, look at this line from one of Harding’s speeches and count the Ps: “Progression is not proclamation nor palaver. It is not pretense nor play on personal pronouns, not perennial pronouncement. It is not the perturbation of a people, passion-wrought, nor a promise proposed.” One of the original words Warren created was bloviating, meaning speaking for a long time without really saying anything.
Government rests upon the body of citizenship; it cannot maintain itself on a level that keeps it out of touch and understanding with the community it serves. – Warren G. Harding

Fun Fact

In 1920, during his address at the Republican convention. Warren Harding coined the phrase “Founding Fathers.”

BTW:

George Harding was the first father to outlive his presidential son. The only other man to hold this wretched record remains Joseph Kennedy. John F. Kennedy’s father

Election Results

Election of 1920: At the Republican convention, an underhanded private meeting occurred in a nearby hotel room, later referred to as “the smoke-filled room.” In this meeting, the political donors and “bosses” – as they were called – met to discuss the pool of candidates. Evidently, Warren Harding was declared the best possible option, and he won the nomination.

Travel campaigning was still rather unpopular during this time, and Harding was placed under further restrictions by the Republican Party to hush certain beliefs. He delivered prewritten speeches from his home in Marion, Ohio, a setting that avoided on-the-spot questions for which Harding was not prepared to answer. Harding spoke about a “return to normalcy,” which appealed to the war-weary American people.

Presidential Personality

Warren Harding was a people person. Almost everyone loved Harding, and Harding loved almost everyone. Throughout his life, he sought humility, and he sought approval from his peers. Additionally, Harding valued character, as evident during his presidential campaign, when he refused to attack his opponent and instead focused on his own campaign’s positive attributes.

Fun Fact

Since the election of 1920 was the first in which women could vote, Florence Harding played a crucial role in garnering the women’s vote for her husband. Florence obviously appealed to the American woman, especially by talking about racial equality and religious tolerance as well as a possible increase in female executive appointments.
Presidency

Harding’s presidency ushered in the period known as the Roaring Twenties because of the boom in economic growth, relatively peaceful foreign relations, and the generally excited mood of the American people. As his first act as president, Harding reversed many of the antibusiness regulations Wilson had placed on various corporations, leading to a new vitality in American enterprise. This was a part of Harding’s “America First” plan, which included five main points: (1) tariffs on imports would be raised; (2) immigration would be restricted; (3) the Budget Accounting Act would create a strict federal budget that would end in surplus; (4) taxes on businesses would be lowered; and (5) federal expenditures would be cut to rates lower than prewar levels. In addition, Harding also freed the socialist and labor leaders who had been imprisoned either under the Sedition Act of 1918 or during the Red Scare of 1919.

Liberty Language

Red Scare of 1919: The Red Scare refers to the fear of communism threatening the stability of democratic governments worldwide. This first Red Scare occurred after the Bolsheviks (Communist Party) took over the Russian government in 1917.

International Affairs

In the international arena, Harding withdrew American participation in the Treaty of Versailles, leaving the European nations to resolve their disputes without American intervention. Second, Harding deployed his secretary of state, Charles Evans Hughes, to negotiate the Washington Naval Treaty, which reduced arms in nearly all major countries across the globe (the United States, France, England, Japan, and Italy) and thus ended the quasi arms race erupting as a result of World War I.

Death

To celebrate the halfway point in his term, Harding embarked on a nationwide-tour he pegged the “Voyage of Understanding.” The trip did not go as planned, for before long, Harding began complaining of fatigue and abdominal pain. The family’s personal physician was called and he refused to allow any other doctors to tend to Harding. After inspecting the president, the doctor diagnosed food poisoning as the culprit, but in fact the president had most likely suffered a heart attack. Because of lack of treatment, Warren Harding died in San Francisco at the Palace Hotel, leaving his vice president, Calvin Coolidge, in control of the country.

BTW:

Last Words: “That’s good. Go on. Read some more” in a response to his wife, who was reading a newspaper article favoring the president.
Thoughts on the Constitution

Ours is a constitutional freedom where the popular will is the law supreme and minorities are sacredly protected. – Warren G. Harding

Congressional Corner

Budget and Accounting Act of 1921: This act established the first modern-day federal budget. The act also created the Bureau of the Budget (now the Office of Management and Budget), which oversees and regulates the monetary transactions of the government and helps the president in forming a budget.

Federal Aid Highways Act of 1921: This act set aside funding for a large network of national highways. The plan for the highways was designed by the National Highway Commission.

Agricultural Appropriations Act of 1922: This act formed the Bureau of Agriculture Economics, which reported on foreign agricultural developments and trade.

Federal Narcotics Control Board of 1922: This board established the Federal Narcotics Control Board, which strictly regulated the import and export of opiates.

Washington Naval Treaty of 1922: This treaty was among the major powers of World War I, which established measures to prevent an arms race among those nations.

The Presidential Times

Women at the Polling Booth!

November 2, 1920 – as printed in the Pittsburgh Press – “A storming of the polling places by men and women in the early hours was the response to the appeals for early voting. The belief in political circles is that probably a larger percent of the registered women than of registered men will cast ballots today, due to the enthusiasm among women over their first opportunity to vote. […]

The crowd extended so far that it backed into Oliver Avenue for half a block, [with] hundreds being forced to crane their necks for a glimpse at the lighted bulletin board. […] Nearby at the Republican Women’s headquarters, “Every available inch of space was taken. [A] woman telegraph operator handled returns over a special wire […] From a platform in front of a building, the sang campaign songs; then they wheeled down Smithfield street, making the thoroughfare resound with the strains of ‘John Brown’s Body.’ […] When the Republican men swarmed about their headquarters, their red torchlights flaring and their band blaring its loudest marches, the women [again] hurried outside, [and] joined in the cheers for Harding and Coolidge.

Scandal!
December 4, 1923 – Scandals keep emerging from the late Warren Harding’s administration. Although Harding served as president for only two years, three scandals have now been released to the press. The situation reminds many of Grant’s term in office, when he struggled to keep his cabinet in line.

Today, in the third scandal to come to light, Attorney General Harry M. Daugherty awaits trial for illegal activities in bootlegging and accepting bribes. President Coolidge is forced to clean up the mess. The first scandal surrounded the director of the Veterans’ Bureau, Charles Forbes. He illegally sold government medical supplies to private businesses in return for money on the side. As a result, Forbes will spend more than a year in prison.

The second scandal came from the secretary of the interior Albert Fall and became known as the Teapot Dome Scandal. Fall leased federal oil deposits in California to businesses in Wyoming. Fall was convicted of conspiracy, bribery, and defrauding the government and served a year jail sentence and paid $100,000 in fines. Fall was the first cabinet member to serve time in jail for political actions.

**Harding’s “Frayed Nerves”**

July 24, 1920 – The *Times* recently investigated President Harding’s past medical records, and shocking new developments on Harding’s health have been revealed. Starling in the 1890s, it is documented that Harding began to complain about experiencing nervous breakdowns or suffering from “frayed nerves.” Harding actually checked himself into a sanitarium in Battle Creek, Ohio, after his first major nervous breakdown in 1890. Over the course of his lifetime, he returned to the sanitarium five times.

**State of the Union**

(1) States: 48

(2) U.S. Population: (1921) 109,314,579

(3) U.S. Debt (1921) $23,470,416,130

(1923) $21,800,260,177

(4) Value of the Dollar: $1 in 1921 would be worth $12.99 today. $1 in 1923 would be worth $13.70.

**Timeline**

- 1921 – William Howard Taft is appointed Supreme Court chief justice
- 1921 – The German economy begins to collapse because of war reparations
- 1921 – A bomb explodes on Wall Street
- 1922 – The Lincoln Memorial is dedicated
- 1922 – The White House police force is established
- 1922 – The USSR is formed in Russia by the First Congress of Soviets
- 1922 – Benito Mussolini occupies Rome, Italy
- 1923 – U.S. Secretary of State Charles Dawes forms a plan for restructuring Germany’s war debt
• 1923 – Adolf Hitler fails to overthrow the German government
• 1923 – An earthquake destroys a third of Tokyo, Japan
• 1923 – Warren Harding dies and Vice President Calvin Coolidge becomes president, August 2, 1923

Platform Speech

[I]n the mutual tolerance, understanding, charity, recognition of the interdependence of the races, and the maintenance of the rights of citizenship lies the road to righteous adjustment. – Warren G. Harding

Warren Harding spoke these words in a special session of Congress in 1921. He understood that the nation could not survive or thrive while still divided along racial lines. United, we would be stronger.

What Has He Done for Me Lately?

Because Warren Harding released many of the American citizens who had been imprisoned during the Wilson administration, he inadvertently proved the illegality of much of Wilson’s legislation. Consequently, the Constitution and American’s rights and freedoms were reinforced. Harding was also influential in the creation of the Budget Accounting Office, which is still in existence in our government today, charged with the task of balancing the budget of the United States government.

Juliette Turner is the National Youth Director of Constituting America, and the author of three books: Our Constitution Rocks, Our Presidents Rock and the novel, based on life at her ranch with her mom, actress Janine Turner, That’s Not Hay In My Hair (all published by HarpersCollins/Zondervan).


Eugene V. Debs was a founding member of the Industrial Workers of the World and a frequent Presidential candidate for the Socialist Party of America. Debs became a well-known socialist both through his political activity and as a result of the government’s criminal prosecution of his activities. Other essays in this series cover the numerous Presidential elections in which Debs ran, as well as the other candidates in the 1920 Presidential election. This essay focuses on the Sedition Act of 1918, Debs, and the “Red Scare.”

Eugene Debs- Union and Political Activity

Debs was born in Terre Haute, Indiana, on November 5, 1855 to immigrant parents from France. Debs dropped out of public high school at the age of 14 and went to work for the
Vandalia Railroad. In 1875, Debs joined the Brotherhood of Locomotive Firemen Union, where he became an active member and held various leadership positions, including Editor of the *Firemen’s Magazine*, Grand Secretary, and Treasurer. In 1905, Debs and others founded the Industrial Workers of the World, or Wobblies, at a convention in Chicago.

Debs was also active in politics, serving two terms as Terre Haute City Clerk from 1879 to 1883. In 1884 he was elected, as a Democrat, to the Indiana General Assembly where he served one term. Debs was one of the main organizers of the American Railway Union, one of the first industrial unions in the United States. Debs at first advised against the Pullman Strike of 1894, but reconsidered when the strike was extended to St. Louis. The strike became known as “Debs’ Rebellion.” After the United States government obtained an injunction against the strike for interfering with the delivery of mail, Debs violated the injunction and was convicted of contempt of court. Clarence Darrow represented Debs at the trial.

While in prison in Woodstock, Illinois, Debs received a variety of materials on socialism and was also visited by a socialist newspaper editor from Milwaukee. Debs left jail a socialist, and for the rest of his life he supported and promoted socialism.

In 1900, Debs ran for President of the United States on the newly-created Social Democracy of America ticket, but only received 0.6% of the popular vote and no electoral votes. In 1901, Debs split from the SDA and founded the Social Democratic Party and was elected its Chairman of the Board of the National Council. Debs ran for President as a member of the Social Democratic Party in 1904, 1908, 1912, and 1920, never receiving a single electoral vote nor more than 6% of the popular vote.

**The Sedition Act of 1918**

In 1917, when the United States entered World War I, Congress passed the Espionage Act of 1917 which made it a crime to convey information for the purpose of interfering with the United States military’s war efforts or aiding and abetting any enemy of the United States. The Sedition Act of 1918 extended the Espionage Act to false statements that interfered with the prosecution of the war and made illegal any “disloyal, profane, scurrilous, or abusive language” about the United States government, military, or flag. The Sedition Act was aimed at socialists and other vocal opponents of the government or the war efforts.

**Debs and the “Red Scare”**

In June 1918, a month after passage of the Sedition Act, Debs gave an anti-war speech in Canton, Ohio and was arrested and charged with ten counts of sedition under the Sedition Act. Debs was convicted and sentenced to ten years in prison and was permanently stripped of his right to vote. Debs’ conviction was upheld in 1919 by the United States Supreme Court in a unanimous decision. Justice Holmes cited to *Schenck v. United States*(1919), a case in which Charles Schenck, a Socialist, was convicted under the Espionage Act under nearly identical circumstances. The ruling in *Schenck* is famous for the “clear and present danger test” for limits on free speech outlined by Justice Holmes. In the Debs case, Holmes stated:
The main theme of the speech was Socialism, its growth, and a prophecy of its ultimate success. With that we have nothing to do, but if a part or the manifest intent of the more general utterances was to encourage those present to obstruct the recruiting service and if in passages such encouragement was directly given, the immunity of the general theme may not be enough to protect the speech.

The Supreme Court concluded Congress has the power to prevent such statements in times of war. Along with the Schenck and Debs decisions, that same year the Supreme Court upheld, in Abrams v. United States, a third conviction under the Sedition Act involving Socialists and speech concerning the war efforts. The initial “Red Scare” had commenced. Based on fears of a Bolshevik Revolution in the United States, and with the enforcement power of the Sedition Act and Espionage Act, the nation attempted to prevent the rise of socialism and communism.

The 1920 Election

Debs went to prison on April 13, 1919, following the Supreme Court’s affirmance of his conviction. While incarcerated in Atlanta, Georgia, Debs ran for President in 1920. Debs received more than 900,000 votes, the largest number of votes ever received by a Socialist Party Presidential candidate. Debs also earned the distinction of being the only Presidential candidate to have run for President while imprisoned and despite having lost his own right to vote for life.

Conclusion

Congress repealed the Sedition Act in 1921, although much of the Espionage Act remains in effect. Debs’ sentence was commuted on December 23, 1921, with President Harding issuing a statement that Debs likely received the sentence he did because of his prominence. The Supreme Court has throughout its history been more tolerant of restrictions of citizens’ rights during times of war. World War I was such a time with the Supreme Court upholding the Espionage Act and Sedition Act as valid restraints on free speech. Following passage of the Sedition Act in 1918, many states enacted syndicalism laws that both restricted free speech and made it a crime to use violence to effectuate social change.

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1924, Calvin Coolidge Defeats Robert M. LaFollette, Burton K. Wheeler (Progressive Party), And John W. Davis: The Direct Election Of Presidents – Guest Essayist: Professor Joe Postell

From today’s standpoint, the presidential election of 1924 might appear to be an oddity or an outlier. In 1924 the nominees of both parties ran on a conservative domestic agenda of limited
government and tax cuts. For this reason author Garland Tucker calls 1924 “The High Tide of American Conservatism.”

The Republican incumbent, Calvin Coolidge, had governed as a staunch limited government conservative. He was in the midst of a relentless campaign to reduce government spending, which decreased from $5.1 billion in 1921 to $2.9 billion in 1924 – a 43 percent reduction in federal spending! In combination with the spending reductions, Coolidge pressed for income tax reductions and elimination of the national debt, which was cut by nearly a third. Coolidge exhorted voters to “Keep Cool with Coolidge” and elect him to his first full term in office. (He assumed office upon the death of President Warren Harding, under whom he had served as Vice President.)

Coolidge’s opponent, John Davis, represented the Democratic Party’s own limited government wing – which was prominent but dying off by the early 20th Century. Sandwiched between the two-term presidency of Woodrow Wilson and the lengthy reign of Franklin Roosevelt, Davis’s nomination as a Democrat was actually a temporary return to the traditional principles of the Democratic Party as it was founded by Thomas Jefferson and Andrew Jackson.

Davis saw the Democratic Party as the vessel through which the principles of smaller government should be advocated – the party of Jefferson, he reasoned, should remain true to his ideals. Indeed, during the Franklin Roosevelt presidency Davis challenged many of FDR’s New Deal programs in front of the Supreme Court, and by the end of his career he had argued over 140 cases in front of the Court.

Because both the Republican and the Democratic candidates were limited government conservatives, the Progressive Party once again mounted a third-party challenge and nominated Robert La Follette of Wisconsin. La Follette’s candidacy revived the old theme of trust-busting – a critical issue during the 1912 election, which also featured a prominent Progressive Party candidate in Theodore Roosevelt. But unlike Teddy, La Follette wanted to break up the trusts rather than regulate them through bureaucracy. La Follette would go on to win nearly 17% of the popular vote and carry his home state of Wisconsin along with its 13 Electoral College votes, but he failed to mount a serious threat to Coolidge.

Coolidge won the general election handily, defeating John Davis by a margin of 54% to 29%, and winning the Electoral College by a 382-136 margin. The real legacy of the 1924 election is twofold. First, it helped to advance the conservative policies of Calvin Coolidge, who continued to press forward with spending reductions, tax cuts, and reductions to the national deficit. Coolidge remains to this day a hero to many conservatives because he was the most successful conservative president – who most successfully advanced a conservative agenda – of the last century. Ronald Reagan had a deep appreciation for Coolidge and hung his portrait in the Cabinet Room of the White House – an important gesture.

Second, the 1924 election had a dramatic effect on the Democratic Party. Prior to 1924 the Democratic Party was typically defined in old, historical terms: as the party of secession, states’ rights, and the only party in the South. Progressives in the North, Midwest, and Plains states could not migrate to such a party. The Democrats were deeply divided in 1924. The party
needed 103 ballots and 16 days to select Davis, in one of the most famous “brokered conventions” in American history. (At one point, H.L. Mencken famously wrote that “Everything is uncertain in this convention but one thing: John W. Davis will never be nominated.”) As a result of this disastrous convention, many progressive Democrats supported La Follette in the general election. But Davis’s failure to capture the presidency meant that the Democratic Party would not be defined by a limited-government, tax-cutting leader. Gradually, as the Republican Party became less friendly to progressives, the Democratic Party became more open to them, redefining its brand. The party has not nominated anyone for President like John Davis since.

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**Women’s Suffrage And The Impact On Presidential Elections – Guest Essayist: Rachel Sheffield**

In the 2012 presidential election, 53 percent of the voters were women. Imagine if women, who make up about 51 percent of the American population, couldn’t vote. It wasn’t that long ago when that was a reality.

On June 4, 1919, Congress passed the 19th Amendment to the U.S. Constitution, which secured women’s right to vote. States ratified the Amendment in August 1920.

Although women were not guaranteed this right until the passage of the 19th Amendment, some states recognized this right for women well before 1920. In fact, New Jersey extended the vote to women in 1797, which is the first time in recorded history women had been given this right. As noted in the Heritage Foundation’s *First Principles* series, “It is no accident that this happened in the United States, a country founded on the idea of equality.” (Ten years later, in 1807, the New Jersey Assembly voted to limit voting rights to free white men.)

However, the push for women’s suffrage (i.e. the right to vote) began several decades earlier. In 1848, women’s rights advocate Elizabeth Cady Stanton and a group of Quaker women held the *Seneca Falls Convention* in Seneca Falls, New York, the first convention on women’s rights. Leaders of the convention drafted the *Declaration of Sentiments and Resolutions*.

Similar in format to the Declaration of Independence, the *Declaration of Sentiments* outlined several women’s grievances, including that man had “not ever permitted her to exercise her inalienable right to the elective franchise.” This statement on voting rights was highly controversial. Frederick Douglass, who attended the convention, fought for this provision to be included as an amendment to the declaration, and it remained. Douglass called the declaration the “grand movement for attaining the civil, social, political, and religious rights of women.”

The Seneca Falls Convention was followed by several other such conventions, eventually leading to the *National Women’s Rights Convention in 1850*. By this time, women’s suffrage
had gained more prominence. In 1869 two suffrage organizations were formed. The first, the National Woman Suffrage Association, was led by Elizabeth Cady Stanton and Susan B. Anthony. The second, the American Woman Suffrage Association, was headed by Lucy Stone. In 1890, the two associations merged to become the National American Woman Suffrage Association.

“Suffragettes” attempted to push for women’s right to vote by utilizing the court system. Women attempted to vote and then filed suit when they were rejected. In 1875, the Supreme Court ruled against women’s suffrage in Minor v. Happersett, upholding the state of Missouri’s law restricting women from voting.

After the Supreme Court’s 1875 ruling, the suffrage movement rallied behind a constitutional Amendment. In 1878, Republican Senator Aaron A. Sargent introduced what would eventually become the 19th Amendment. More than 40 years would pass before it would be ratified, though. During these four decades, leaders of the suffrage movement attempted a state-by-state strategy to advocate for women’s right to vote.

Between 1878 and the ratification of the 19th Amendment in 1920, a handful of states (some were territories at the time) granted women’s suffrage, including Wyoming, Utah, Colorado, Idaho, Washington, California, Arizona, Alaska, Nevada, and Montana. Other states began allowing women to vote during this time, but limited the elections in which they could vote. In 1917, New York implemented women’s suffrage, a significant turning point. Another major turning point was in 1918 when President Woodrow Wilson declared his support for the women’s vote.

The amendment was brought before the House and Senate for a vote in 1918. It passed the House, but failed in the Senate. The following year, on May 21, 1919, the House of Representatives passed the amendment, with the Senate following on June 4. The amendment was then ratified in August 1920, with Tennessee providing the final necessary vote to ratify the amendment.

The United States is founded on the principle that all men are created equal. This principle includes both men and women, even though it took nearly a century and a half for women nationwide to be guaranteed participation in the democratic process.

As The Heritage Foundation’s David Azerrad points out, “Ultimately, the seeds of women’s suffrage were sown in the Declaration of Independence’s dedication to equality.” Americans—both male and female—have the opportunity and the responsibility to uphold these principles by participating in government, including Presidential elections. This is not only done on Election Day, but also by participating as an active citizen in numerous other ways.

Rachel Sheffield focuses on welfare, marriage and family, and education as policy analyst in the DeVos Center for Religion & Civil Society at The Heritage Foundation. @RachelSheffield2
Herbert Hoover: Thirty-First President Of The United States –
Guest Essayist: Juliette Turner

Thirty-First President of the United States

Nickname: The Great Humanitarian

Terms in Office: 1929-1933

Fast Stats

- Born August 10, 1874, in West Branch, Iowa
- Parents: Jesse Clark and Hulda Randall Minthorn Hoover
- Died October 20, 1964, in New York City, New York; age 90
- Age upon Start of Term: 54, Age upon Conclusion of Term: 58
- Religious Affiliation: Society of Friends (Quaker)
- Political Party: Republican
- Height: 6 Feet
- Vice President: Charles Curtis

The Bottom Line

Herbert Hoover served one term, during which he struggled to combat the Great Depression that began the first year he was in office.

What Was He Thinking?

Herbert Hoover believed in limited government – a belief that did not serve him well during the Great Depression. Rather than sending government workers and departments to solve situations, Hoover preferred encouraging private, volunteer relief organizations.

Why Should I Care?

Herbert Hoover served as president at the start of one of America’s darkest and bleakest periods. The Great Depression caused millions of Americans to love their jobs and resulted in a substantial loss of the fortunes amassed during the Roaring Twenties. Hoover’s policies were too weak for the crisis, and as a result the economy only worsened.

Breakin’ It Down

Early Life

Herbert was born to a devout Quaker family, where he learned the values of hard work, community, cooperation, spirituality, and nonviolence. His father died at age thirty-four when young “Herb” was only six years old. Three years later, his mother died, leaving Herbert and his two siblings orphaned and penniless. The Hoover children were sent to Oregon to live with their uncle, Henry Minthorn.

When Herbert reached college age, he enrolled at the newly established Stanford University, and became the youngest member of the first graduating class.
Hoover’s first postcollege job was pushing carts of ore at a gold mine. The work was
treacherous, but before long he landed an engineering job in San Francisco. This turned into the
chance of a lifetime for Hoover, for he soon transferred to London’s Bewick, Moreing, and
Company, who hired him to inspect various mine sites across the globe. In 1899, Hoover and his
wife moved to Beijing, China, where he continued to inspect coal mines. While there, Hoover
amassed a large fortune and earned substantial gains for the Bewick, Moreing, and Company. By
1908, Herbert Hoover was worth four million dollars, and later he was worth much more.

**First Couple**

Herbert Hoover married Lou Henry in 1899. They met at Stanford, where Lou became the first
woman in the United States to earn a degree in geology. Together the couple had two children.
Lou was a trailblazing and progressive woman. She believed women could have active careers
while caring for their children – and she did just that. Lou served as president of the Girl Scouts
of America and was a member of the League of Women Voters, the National Women’s Athletic
Association, the American Association of University Women, and the National Geographic
Society. She was also the only woman to serve as a board member for the National Amateur
Athletic Federation. And she delivered her own radio addresses, encouraging people to share
their resources when the Depression began.

**BTW:**

Herbert Hoover lived the American dream. He began his life as a penniless orphan but became a
self-made millionaire who used his money to help people all around the globe. On top of that, he
became president of the United States.

**Fun Fact!**

Whenever Herbert Hoover and Lou Hoover wanted to avoid being overheard by the White
House staff, they would speak in fluent Chinese.

**Previous Political Career**

**1917:** Appointed head of the newly formed U.S. Food Administration by President Woodrow
Wilson.

**1919:** Director of the American Relief Administration, which helped fight famine in the
European war zones.

**1921-1928:** Served as secretary of commerce under both presidents Harding and Coolidge. In
this position, Hoover instituted one of the first manufacturing codes for businesses and regulated
manufacturing standards for everyday items such as nuts and bolts, paper, tires, and milk bottles.
Election Results

Election of 1928: It was the first time Hoover had ever run for office – talk about starting big. Campaigning was still very different then than it is now. Hoover only made seven speeches during his whole campaign. His promotion of big business, capitalism, and limited government was opposed by the working and farming classes, but Hoover still managed to pull off a large Electoral College vote.

Presidential Personality

Herbert Hoover worked hard his entire life – a trait that stemmed from his turbulent and tragic childhood. He expected others to do the same but also cared for those around him. Often shy in crowds, he never liked public speaking but was a natural leader nonetheless.

BTW:


Presidency

While Herbert Hoover served as president, the U.S. suffered the worst economic collapse it has ever known. The Great Depression and the effects of the collapse were not Hoover’s fault, and had the man served during any other time, he might have been considered one of America’s greatest leaders. The catastrophic recession came mostly as a result of Americans being responsible with their money – whether borrowing money based on “future income” they would never have or investing large amounts of money on risky corporations.

Stock Market Crash

It all began on October 24, 1929, with the biggest stock market crash America has ever seen. Hoover attempted to soften the blow on the middle class by meeting with business moguls and begging them to keep workers’ wages the same even if that meant a decline in their profits. Although Hoover opposed sending government money into the situation, he urged local and state governments to begin public works projects to employ some of the growing number of unemployed men across the United States. Nevertheless, as February approached and the depression slowly worsened, Hoover called for Congress to pass a $150 million bill to supply money for public works projects and tax cuts.

Hoover worked endlessly to fix the situation. Rising at dawn each day, he slowly made his way through an endless string of meetings with leaders from across America. Hoover also transformed the White House from a place of fanfare and custom to a house that provided only the most basic utilitarian needs. He canceled all ceremonies, celebrations, and celebratory
presidential appearances. Despite Hoover’s actions, Americans began to blame him for the
decline in the economy.

By the summer of 1931, eight million Americans were unemployed. The homeless began
camping in city parks, and several riots flared around the country as a result of the scant food
supplies. Within a year, unemployment increased by 50 percent, and small cardboard structures
housing penniless American families popped up all over the country.

*I have no fears for the future of our country. It is bright with hope.* – Herbert Hoover

Sadly, Hoover would be regretting those words from his inauguration come October and the
Stock Market Crash of 1929, which cost $26 billion in private money.

*Foreign Affairs*

After the conclusion of World War I, France and Great Britain were deeply indebted to America.
During Hoover’s presidency the two countries struggled to make their payments, and the
payments eventually came at such sporadic rates that Hoover suspended them. The only other
notable foreign policy event during this time period was the signing of the Stimson Doctrine,
which proclaimed that any nation whose government was overthrown by a rebellion would still
be able to develop diplomatic relations with the U.S.

*BTW:*

The Hoovers paid their secretaries and all their staff members out of their own pocket during
their time in the White House.

*Reelection Attempt*

Hoover did attempt reelection, but it became apparent early on that a second term was
unachievable. At Hoover’s campaign stops, he often found himself at the mercy of angry and
disgruntled crowds throwing rotten eggs and tomatoes. Twice Hoover received just over 40
percent of the popular vote, a large margin for a man who was president during one of the
darkest times in U.S. history.

*BTW:*

Hoover responded to every letter he received (approximately twenty thousand a month) because
he believed anyone determined enough to write a letter deserved a response.

*Thoughts on the Constitution*

Our Constitution is not alone the working plan of a great Federation of States under
representative government. There is embedded in it also the vital principles of the American
system of liberty. That system is based upon certain inalienable freedoms and protections which not even the government may infringe and which we call the Bill of Rights. It does not require a lawyer to interpret these provisions.

**Fun Fact!**
The Hoover Dam on the Colorado River was named after Herbert Hoover!

**Congressional Corner**

Agricultural Marketing Act of 1929: This act established crop prices for farmers across America by allowing the government to buy surpluses from farmers. The act also provided loans to farmers who decided to pool their crops and resources in agricultural cooperatives.

Smoot-Hawley Tariff Act of 1930: This act greatly increased tariff rates on over twenty thousand imported goods.

Reconstruction Finance Corporation Act of 1932: This act created the Reconstruction Finance Corporation, which gave two million dollars in aid to state governments to help restart businesses and banks and refund mortgages and loans.

Norris LaGuardia Anti-Injunction Act of 1932: This act stopped federal bans against strikes. It also prohibited judges from issuing court orders to limit peaceful striking.

Revenue Act of 1932: This act raised taxes on corporations and large estates.

Federal Home Loan Bank Act of 1932: This act lowered the cost of home ownership and formed the Federal Home Loan Bank, which helped finance home mortgages.

Buy American Act of 1933: This act required the federal government to buy only American-made products (if they were available) to help failing American businesses.

**BTW:**

“The Star-Spangled Banner” became the official national anthem in 1931.

**Post-Presidency**

Hoover did not retreat into hiding after his not-so successful term in office. Rather, he remained as active as ever in the philanthropic field – worldwide and nationwide. At the outbreak of World War II, he headed the Polish Relief Commission. Later, President Truman commissioned Hoover to head the Food Supply for World Famine as well as the Commission on Organizations of the Executive Branch of the Government (more commonly known as the Hoover Commission). Hoover also established the Hoover Library on War Revolution, and Peace at Stanford.
University, and for eight years served as the chairman of the Boy’s Clubs of America. Hoover died at the age of ninety from internal intestinal bleeding.

BTW:

Last Words: “Levi Strauss was one of my best friends.” – Herbert Hoover

The Presidential Times

Black Tuesday: The Stock Market Collapses!

October 24, 1929 – Wall Street opened today to business as usual, but everything went downhill very quickly. Values of stocks in the New York Stock Exchange began to steadily and rapidly fall. A panic ensued as stock market brokers frantically traded their customers stocks to prevent a massive loss. This made matters worse. This stock market collapse is the worst in American history. Banks across the country are already warning of foreclosures, and individuals are unable to obtain their cash, which has vanished over the course of twelve hours. Economists are warning people about a huge spike in unemployment.

The Great Depression

February 27, 1930 – In just over four months since the stock market crash, five million Americans have lost their jobs and that number is rising. Banks are foreclosing on mortgages, forcing thousands of Americans out of their homes. Farmers are going bankrupt, starting a spike in food prices.

Banks are failing in every state. President Hoover attempted to curb the unemployment spike, but businesses are already laying off people to keep paychecks relatively stable. Additionally, people are no longer spending money on unnecessary goods and are cutting back on consumption, causing the economy to decline further. This is also making a quick recovery impossible. Many economists are predicting that twelve million Americans, one in four, will be out of work by the time Hoover leaves office.

The Bonus Army March

July 28, 1932, The Bonus Army’s month-long camp-out in front of the White House came to a violent end today. After consistently refusing to speak to the group, President Hoover issued an order for the U.S. Army and the capital police to gently disperse the group.

However, the cardboard huts that the fifteen to twenty thousand veterans had lived in were burned and chaos ensued. A civilian mob charged the group, and one individual was accidentally killed. An infant was also killed in the disarray, and many were harmed by the gas. After the conclusion of World War I, the veterans were promised a bonus, due in 1945. This latest trouble began with the veterans’ plea for their war bonuses to be released early so they could provide for their starving families. Congress did pass a bill allowing 50 percent of the whole amount due to be issued early. However, Hoover vetoed the bill last year. The Hoover administration is refusing
to talk about the unintended violence. Presidential candidate Franklin Roosevelt commented, stating, “Well…this elects me.”

**State of the Union**

(1) States: 48

(2) U.S. Population: (1929) 123,059,488

(3) U.S. Debt (1929) $16,558,199,158

(1933) $24,795,906,987

(4) Value of the Dollar: $1 in 1929 would be worth $13.70. $1 in 1933 would be worth $17.86.

**Timeline**

- 1929 – The U.S. Stock Market collapses on Black Tuesday
- 1929 – Edwin Hubble introduces the idea of an expanding universe
- 1930 – Construction begins on the Hoover Dam
- 1930 – Great Britain, the United States, Japan, Italy, and France sign a naval disarmament treaty
- 1931 – Hoover suspends France’s and Germany’s war debts to the U.S.
- 1931 – Al Capone is sentenced to eleven years in prison for tax evasion
- 1932 – The twentieth amendment to the Constitution is passed
- 1932 – Amelia Earhart becomes the first woman to fly solo across the Atlantic
- 1933 – The twenty-first amendment to the Constitution is passed February 20, 1933
- 1933 – Germany and Japan withdraw from the Leagues of Nations
- 1933 – Adolf Hitler is appointed the chancellor of Germany

**Platform Speech**

*The American System...is founded upon the conception that only through ordered liberty, freedom, and equal opportunity to the individual will his initiative and enterprise spur on the march of progress.* – Herbert Hoover

Hoover said this in his “Rugged Individualism” campaign speech of 1928.

**What Has He Done for Me Lately?**

Hoover’s achievements before and after his presidency left a much greater legacy than his presidency itself. A penniless orphan turned millionaire turned philanthropist, Hoover used his fortune and his leadership abilities to save millions of lives across the globe. From his actions to help stranded American travelers at the beginning of World War I, when he funded their safe travel back to America, to his efforts to supply food to starving countries across Europe during both world wars, Hoover spent nearly all of his time serving others. However, he failed to save America from the Great Depression during his presidency because of his belief the government should not control U.S. economic recovery efforts.

How Urbanism Forever Changed America

The 1928 Presidential Election remains the zenith of Republican political power. Republican Herbert Hoover crushed Democrat Al Smith, winning 58 percent of the popular vote and 83 percent of the electoral vote. [1] The landslide was fueled by years of prosperity, affection for outgoing President Calvin Coolidge, and deep seated concerns over Smith’s Catholicism. Republicans also amassed majorities in the House and Senate not seen again until 2014.

Ironically, the 1928 election also marked the formation of an American consensus supporting a permanent and expanding role for the federal government. Both candidates espoused the need for federal intervention in the economy. [2] Both party platforms articulated a vision of economic vitality guided by federal regulation. [3] Business leaders embraced “the advantages of an economy managed through government-business cooperation.” [4]

Contrast the national consensus of 1928 with 1876. In that turbulent year both Republican Rutherford B. Hayes and Democrat Samuel J. Tilden were universally opposed to government intervention. The Republican and Democratic Platforms displayed equal vehemence against the federal government. In fact, the Democratic Party was viewed as an “orderly, dependable, even conservative partner.” [5] Tilden spoke out against:

“...a spirit of gambling adventure, engendered by false systems of public finance; a grasping centralization absorbing all functions of local authorities, and assuming to control the industries of individuals by largesses to favored classes from the public treasury of money wrung from the body of the people by taxation.” [6]

What happened during the intervening 52 years to cause such a paradigm shift relating to the role of the federal government?

The years after America’s Civil War unleashed an explosion of invention, entrepreneurship, and economic growth unknown in world history. America would complete its conquest of North America, lead the world in innovation, and in 1898 emerge as a major world power. America became the foremost land of opportunity attracting record numbers of immigrants desiring farmland in the west or employment in the cities of the east.
This historic introduction of technology and population fundamentally challenged America’s existing civic culture. Reconciling America’s founding values with the modern age would change our nation forever.

America in 1876 was organized around small communities. This had always been a fundamental aspect of rural life, and it now manifested itself in urban neighborhoods. Within these small spheres everyone knew each other, allowing for direct local engagement of affected individuals in every matter relating to collective well-being. Such intimacy supported informal and private sector solutions that formed the basis of America’s founding principles. [7]

This local mindset formed the national consensus, which universally rejected federal government activism. The 1876 Democratic Party Platform ended with:

“Resolved, That this Convention, representing the Democratic party of the States, do cordially indorse the action of the present House of Representatives in reducing and curtailing the expenses of the Federal Government, in cutting down enormous salaries, extravagant appropriations, and in abolishing useless offices and places not required by the public necessities, and we shall trust to the firmness of the Democratic members of the House that no committee of conference and no misinterpretation of rules will be allowed to defeat these wholesome measures of economy demanded by the country.”[8]

The absence of federal regulations, combined with sustained peace and stability in the late Nineteenth Century, to unleash Americans’ genius for invention and innovation. Every new technology, every new machine, every new business and business leader, accelerated the American economy to previously unrealized levels. The typewriter (1867), the telephone (1876) the adding machine (1888), and cash register (1897) thoroughly reinvented business. [9]

These technologies linked America together in new ways on a broad scale. A new middle class arose composed of specialists and managers to run this new business age. Railroads allowed goods and services to move across the continent. Other forms of transportation, cable cars (1873), elevated trains (1878), and subways (1895) bridged neighborhoods and reached out to surrounding rural areas. Electricity (1880) made urban areas safer and extended the hours used available for work and play. [10] These technologies were open to all, making cities lands of opportunity as enticing as the vast western expanses of America.

Cities grew. In 1860 only 16 percent of Americans lived in areas with more than 8,000 inhabitants. By 1890 this had more than doubled. City population exploded. New York City was just over 800,000 in 1860. By the 1930 Census in was 6.9 million. Chicago went from 112,000 to 3.47 million. Detroit went from a small town to 1.5 million. [11]

The enthrallment for urbanization and the nationalization of America shattered the intimacy of rural communities and urban neighborhoods. The logistics of providing water, sewer, public sanitation (i.e. removal of animal waste), garbage collection, law enforcement, and maintaining roads and light rail overwhelmed informal and private sector solutions.
The breadth and pace of change had other consequences: “Yet to almost all of the people who created them, these themes meant only dislocation and bewilderment. America in the late Nineteenth Century was a society without core. It lacked those national centers of authority and information which might have given order to such swift changes.” [12]

Urban political machines served as interim mechanisms to translate neighborhood culture into metropolitan-wide operations. This came at the price of corruption and myopia. [13] The rapidly expanding demand for urban infrastructure and services eventually overwhelmed even the most pervasive city machines. [14] “As more people clustered into smaller spaces, it became harder to isolate the individual. As more of a previously distant world intruded upon community life, it grew more difficult to untangle what an individual did and what was done to him, even to distinguish the community itself from the society around it.” [15]

The complexity, scope, and pace of challenges were reaching a breaking point. It was at this juncture that leaders and innovators among the new urban middle class saw their opportunity to apply skills honed from managing complex and geographically dispersed enterprises in the private sector. [16]

Broadly defined as the Progressive Era, these were local efforts to bring order out of chaos, honest government out of corruption, and efficiency out of waste. The urban middle class offered ways to save cities from themselves. Their movement was not ideological, but at times idealistic. Both Republicans and Democrats saw the utility in adopting new methods to solve the new problems. [17]

Tangible successes from this array of ad hoc experiments had leaders using newspapers and magazines to share their experiences and explore increasingly expansive ways to apply their approaches. For them, and a new wave of political & economic thinkers, the lessons from business could be applied to public services and local governance. It was only a short matter of time, and an even shorter philosophical leap, for many of these thinkers and doers looking for ways to apply industrial design in factories to society as a whole, to “regulate society’s movements to produce maximum returns for a minimum outlay of time and effort.” [18]

Business leaders also saw the benefits of adequate, predictable, urban services and infrastructure. Concerns about a slippery slope to Socialism or Communism were not voiced as every step forward was framed in terms of management, professionalism, honesty, the rule of law, and industrial innovation. [19]

The ascendancy of Theodore “Teddy” Roosevelt provided a national forum and credibility to the myriad of local initiatives. This included systemizing government at all levels, professionalizing administration, and the collecting and assessment of objective data to guide decisions. By 1912, the Progressive era had established government at all levels including the federal, as a co-equal partner to business, “in order to achieve the adaptable order that both public officials and private interests sought, some sense of mutual purpose, some accommodation that still allowed each side ample room to maneuver, was considered indispensable.” [20]
President Woodrow Wilson filled his Administration with Progressive thinkers and doers. The federal funding of innovation and statistical research, and the collaboration between government, industry, and academia completed the civic shift begun in earnest after the financial panic (depression) of 1873.

“Nineteen sixteen marked “the completion of the federal scientific establishment”, covering industry, agriculture, and an assortment of public services, and much the same was true of the basic regulatory mechanisms in both Federal and state governments...what had emerged by the war years was an important segment of the population, a crucial one in terms of both public and private leadership, acting from common assumptions and speaking a common language. A bureaucratic orientation now defined a basic part of the nation’s discourse.” [21]

The Harding-Coolidge Administrations gave America the opportunity to assess the legacy of the Progressive Era. Andrew Mellon, Treasury Secretary under both Harding and Coolidge, led the way in rolling back taxes and spending while dismantling or privatizing federal functions. Unfortunately, other Harding Cabinet members saw personal opportunity and fell into various ethical pits, like the Tea Pot Dome scandal. [22]

Harding’s death allowed Coolidge to bring the full power of the Presidency to support Mellon’s crusade against federal government over reach. They were opposed by Cabinet Secretaries and Republicans in Congress who jealously guarded their fiefdoms and prerogatives. [23] Coolidge also used the new medium of radio to warn Americans about the folly of federal intervention and unbridled spending. [24] Coolidge ultimately prevailed, creating a budget surplus that reduced the national debt by nearly 37 percent. The results were full employment (less than 2% unemployment) and an economy booming with manufacturing growing by 33%, and iron and steel production doubling. [25]

Not everyone was thrilled with Coolidge’s counter revolution against the Progressive’s legacy. Commerce Department Secretary, Herbert Hoover, a Harding holdover, opposed the Coolidge-Mellon rollbacks of taxes and spending. Unlike Coolidge, Hoover was a product of the Progressive Era – a private sector technocrat who looked for ways to apply industrial design to the economy. [26] In his book, “American Individualism”, Hoover offered the quintessential mindset of Progressivism, “Our mass of regulation of public utilities and our legislation against restraint of trade is the monument to our intent to preserve an equality of opportunity.” [27]

Coolidge worried about his counter revolution in the hands of Hoover. The Republican platform of 1928 proved his worst fears:

*The mighty contribution to general well-being which can be made by a government controlled by men of character and courage, whose abilities are equal to their responsibilities, is self-evident, and should not blind us to the consequences which its loss would entail.*

*We believe that the Government should make every effort to aid the industry by protection, by removing any restrictions which may be hampering its development, and by increased technical and economic research investigations which are necessary for its welfare and normal development.*
We stand for the administration of the radio facilities of the United States under wise and expert government supervision.

The Government today is made up of thousands of conscientious, earnest, self-sacrificing men and women, whose single thought is service to the nation.

We pledge ourselves to maintain and, if possible, to improve the quality of this great company of Federal employees. [28]

It only took 52 years to shift from an America driven by small government in rural settings and urban neighborhoods to one that cheered expansion of federal and executive power via the New Deal, World War II, the Cold War, the Great Society, and the Carter Administration. In 1980, America once again decided to take stock of what had happened. It comes as no surprise that one of President Reagan’s first acts was to place the portrait of Calvin Coolidge in the Cabinet Room to inspire his own revolution.

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FOOTNOTES

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[15] Ibid., pp. 133.

[16] Ibid., pp. 113 & 132.

[17] Ibid., p. 143.

[18] Ibid., pp. 155-156.


[21] Ibid., pp. 294-295.


[23] Ibid., pp. 262-272 and 278.


[25] Ibid., p. 419.


[27] Ibid., p. 34.


1932, Franklin D. Roosevelt Defeats Herbert Hoover: How The Great Depression Threatened Constitutionalism – Guest Essayist: Daniel A. Cotter

The 1932 Presidential election took place during the height of the Great Depression. While a number of candidates ran on third party tickets, the main fight for the White House featured the incumbent Republican Herbert Hoover against Democrat Franklin Delano Roosevelt and none of the other candidates garnered more than 2% of the popular vote. Hoover had won the presidential election in 1928 on a pro-business platform promising continued prosperity. Nine months into Hoover’s term, on October 24, 1929, the stock market crashed, beginning the period that would become known as the Great Depression. The challenges created by the downward economic spiral consumed Hoover’s term and were a main focus of the 1932 presidential election.

The Candidates

Hoover was one of the inaugural students at Stanford University in 1891, where he graduated with a degree in geology. Hoover became a miner and engineer who worked in Australia and
China for large mining companies, eventually becoming a sole proprietor. Hoover would make a fortune in his career. He was a strong proponent of the “Efficiency Movement.” The Movement’s followers believed that the government and economy were both inefficient and could be improved by private experts. In April 1917, during World War I, President Woodrow Wilson appointed Hoover to be the head of the U.S. Food Administration.

In 1920, the Democratic Party approached Hoover to be the party’s nominee for President. Hoover rebuffed the overture, as he had registered as a Republican before World War I in spite of his support of Teddy Roosevelt and the “Bull Moose” Progressive Party in the 1912 election. Hoover ran in the 1920 California presidential primary as a Republican and lost to Hiram Johnson. Afterward, Hoover publicly supported Warren G. Harding in the 1920 presidential general election. When Harding won the election, Harding rewarded Hoover’s loyalty by offering Hoover the choice of two Cabinet positions. Hoover chose Secretary of Commerce. For the next seven years, Hoover served in that role, until he became the Republican nominee for President in 1928.

Going into the 1932 presidential election, Republicans believed Hoover’s fiscal policies and protectionism were the right formula to help the United States put the Great Depression behind it. At the Chicago nominating convention, Hoover won the nomination in overwhelming fashion, taking 98% of the delegate votes.

Roosevelt was the Governor of New York, the most populous state at the time. When the Democratic Party met in Chicago in June 1932 a few weeks after the Republican nominating convention, Roosevelt was considered the strong frontrunner for the presidential nomination. The Democrats’ nominating rules provided that a candidate had to receive the votes of two-thirds of the convention delegates to win the nomination, a high threshold that Roosevelt did not meet on the first three ballots. After Roosevelt’s team made a deal with House Speaker John Nance Garner to make him Roosevelt’s Vice President, Roosevelt obtained the necessary delegate votes on the next ballot. Roosevelt promised the convention delegates, “I pledge you, I pledge myself, to a new deal for the American people.” At the time of his pledge, Roosevelt had not given serious thought to what the “New Deal” would mean, but would flesh it out when he was elected President.

**The Election of 1932**

Roosevelt conveyed a sense of optimism and change to the nation during the 1932 election campaign. His campaign song, “Happy Days Are Here Again,” was part of that overall messaging. The 1932 election was primarily focused on the state of affairs in the country resulting from the Great Depression. Many blamed Hoover for the country’s economic woes, citing his restrictions on trade and his raising of taxes on the wealthy. At the same time, characterizations of Hoover’s reaction to the economic crisis as “laissez faire” have been assessed by historians as unfair. Hoover initiated a number of public works programs that were unprecedented and intended to end the Great Depression, and some historians have credited Hoover with implementing the first stages of what would become the New Deal.
The two main candidates campaigned hard for the presidency. Roosevelt won the popular vote and Electoral College by landslides, and captured what at the time was the largest percentage of the popular vote of any Democrat in presidential election history. Roosevelt won 57.4% of the popular vote and 472 out of 531 electoral votes. He was the first Democrat elected to the Presidency since 1916.

**The Great Depression and the Threat to Constitutionalism**

As noted, Hoover implemented a number of public works programs to address the Great Depression, but the unemployment rate rose to almost 25%, the stock market had collapsed, and the American people were not happy with the state of affairs. Roosevelt had great political capital coming into office based on his promises and the results of the election. Roosevelt unveiled a wide variety of programs to stimulate and fix the United States economy in his first hundred days as President as the “New Deal” that he had first proclaimed at the Democratic nominating convention in Chicago. Early initiatives included the creation of the National Recovery Administration and the Emergency Banking Act.

Critics of Roosevelt asserted that the New Deal was an encroachment on private property rights and greatly expanded the welfare state. Even strong initial supporters of Roosevelt, including Father Charles E. Coughlin, began to attack Roosevelt’s initiatives. Americans feared that many of the New Deal initiatives would be found to be unconstitutional by the Supreme Court.

The Supreme Court at the beginning of Roosevelt’s first term included a four person voting bloc nicknamed “The Four Horsemen”- Justices Pierce Butler, James McReynolds, George Sutherland and Willis Van Devanter-who believed that Roosevelt’s New Deal programs violated constitutional limitations. In the spring of 1935, Justice Owen Roberts began to vote with the Four Horsemen, making the fears that the Court would invalidate Roosevelt’s programs a reality. The strong initiatives implemented by the Roosevelt administration to address the impact of the Great Depression were in jeopardy, pitting the Executive Branch against the Judicial Branch. Over the next few years, until Roberts changed his positions (the “Switch in Time that Saved Nine”), the Supreme Court would strike down more major acts of Congress than at any other period in the Court’s history.

**Conclusion**

The Great Depression left the United States in a terrible position requiring resourcefulness and programs that would help jumpstart the economy. Hoover and Roosevelt responded to that need by implementing a variety of public works projects and government programs that would challenge constitutionalism and pit the President and Congress against the Supreme Court. Eventually the battle between the branches would be won by the President and Congress, but that outcome was not without uncertainty along the way.

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1932, The “New Deal” – Guest Essayist: Tony Williams

In 1932, the U.S. economy reached its nadir during the Great Depression. Unemployment had risen to more than 20 percent, or 11 million Americans, matched by a similar number of the underemployed as factories and businesses closed their doors. Banks were closing at an alarming rate as people instantly lost their life savings. Hundreds of thousands of farmers and urban dwellers alike were suffering foreclosures and lost their homes. Breadlines were long and strained the resources of private charities and local governments.

In May, Democratic candidate, Franklin D. Roosevelt promised “bold, persistent experimentation” by the national government in solving the economic crisis. The centerpieces of that experimentation would be “economic planning” and a “wiser, more equitable distribution of national income.” In his September Commonwealth Club Address, Roosevelt promised an “economic declaration of rights” with government-provided entitlements and “enlightened administration.” When accepting his party’s nomination, he pledged “a new deal for the American people.”

In his inaugural address, FDR laid out his vision for building a regulatory state that would manage the crisis of the depression without being bound by too many constitutional scruples. He would seek authority from a Democratic-controlled Congress for “broad executive power to wage a war against the emergency.” Congress complied with several programs in the First New Deal.

The Congress and President Roosevelt rapidly expanded federal intervention in the economy. Congress first passed the Emergency Banking Act that authorized the president to close the nation’s banks with a “bank holiday” based upon the dubious constitutional authority from a Trading with the Enemy Act. Because of the agricultural crisis, Congress passed the Agricultural Adjustment Act in which the federal government made decisions about the right allotments for agricultural production and paid farmers not to plant crops and slaughtered 6 million pigs in order to raise prices artificially. The Tennessee Valley Authority was an attempt at rural electrification and regional social and economic planning.

FDR and Congress also created relief programs so that the government would provide money and jobs for the unemployed. The Civilian Conservation Corps paid young men to plant trees and fight forest fires, the Federal Emergency Relief Administration sent money to the states to distribute to the poor, and the Public Works Administration spent $3.3 billion on relief. The Civil Works Administration created “make-work” jobs for four million people by the following January. When FDR expressed concern that the dole would make people dependent on the government, Congress created the Works Progress Administration which employed millions to build infrastructure or for cultural productions.
Building on government-business cooperation and regulation during World War I, the National Industrial Recovery Act allowed industries to write government-approved codes of self-regulation and gave exemptions from antitrust prosecution to reduce competition and increase prices. The act also provided a sop to organized labor by protecting the right to organize labor union and bargain collectively. However, big business quickly resented the regulations, small business felt excluded from the cartels that were created, unions complained they were not protected, and consumers opposed the higher prices.

The Supreme Court declared several key New Deal programs unconstitutional. The Court ruled that the NIRA and the AAA unconstitutionally regulated intrastate trade, and the NIRA constituted an unconstitutional delegation of authority from the Congress to the executive branch. After the NIRA ruling, Justice Louis Brandeis told a member of the administration to inform FDR that, “We’re not going to let this government centralize everything. It’s come to an end.”

The New Deal programs and reforms did not end however. Indeed, a Second New Deal took shape in 1935 and 1936. The Social Security Act created a system of old-age pensions as well as unemployment insurance and welfare to widows with dependent children. The program, however, increased taxes on employers and workers during a time of economic depression. The Wagner Act protected union organizing and collective bargaining, and established a National Labor Relations Board.

FDR and the Democrats proudly enunciated the New Deal governing philosophy in the 1936 election. They frequently attacked business owners and bankers as “economic royalists,” “plutocrats,” and “malefactors of great wealth.” The job of government was to reorganize the economy, regulate business, and redistribute the wealth to rectify inequality. FDR and the Democrats in Congress interpreted their huge landslide as a mandate for continued reform and regulation.

Although FDR won a huge electoral victory, the tide began to turn against New Deal reform. The first major public rejection of the New Deal resulted from FDR’s misguided “Court-Packing” plan to retire elderly judges on the Supreme Court and expand their number so that the Court would be more favorably disposed toward his programs. FDR then cut millions of workers and billions of dollars in federal spending which caused misery in a “Roosevelt recession” in 1937. A series of sit-down strikes and violence instigated by the Congress of Industrial Organizations wracked industry. Republicans and conservative Southern Democrats made gains in the 1938 congressional elections and opposed the expansion of the federal government. Finally, the nation’s attention began to shift to the coming world war.

The New Deal did little to stimulate economic recovery but resulted in a legacy of a modern welfare state. The New Deal was an unprecedented amount of federal spending and regulation of the economy that was expanded in the decades after World War II. The constitutional principles of separation of powers, checks and balances, federalism, and limited government were all altered by a Living Constitution philosophy that asserted that constitutional government should be adapted to current circumstances. Therefore, the New Deal had profound political and constitutional implications for the twentieth century.
Franklin Delano Roosevelt, running for re-election in 1936, received 60.8% of the popular vote, second-highest popular vote percentage since that method of selecting presidential electors became dominant in the 1830s. Only Lyndon Johnson’s 61.1% over Barry Goldwater in 1964, Richard Nixon’s 60.7% over George McGovern in 1972, and Warren Harding’s 60.3% over James Cox in 1920 are on a similar scale. The electoral vote was even more lopsided, as Roosevelt defeated Kansas Governor Alf Landon 523 votes to 8 (46 states to 2). Only Ronald Reagan in 1984 (525 votes to 13; 49 states to 1 plus D.C.) and Richard Nixon in 1972 (520 votes to 17; 49 states to 1 plus D.C.) enjoyed similarly impressive margins since the modern two-party system emerged.

The historic 1936 election was a “confirming” election in the parlance of students of politics. The election of 1932 had been a re-alignment election that shifted the coalitions within the parties and toppled the Republican Party dominance that had existed since the Civil War. That shift was successfully cemented by the administration’s “New Deal” that led to Roosevelt’s victory in 1936 and to Democratic Party dominance of American politics for the next generation.

The Republican defeat in 1936 was so crushing that it conferred not only a mandate for a set of particular policy proposals that the President had pursued in his first term and, based on his campaign and the party’s platform, expected to continue and expand in his second. That is a common result of elections. More profound, it was a validation of a constitutional revolution and of a fundamental alteration of the system of republican government. The election was the final victory of the Progressive vision of society over the Old Order and legitimized an important part of that vision, the creation and rapid expansion of a centralized bureaucratic welfare state.

A generation earlier, Progressive writers and intellectuals had enthusiastically promoted the emergence of what Herbert Croly in The Promise of American Life (1909) described as a “welfare state,” with its contours established by Congress, but its administration in the hands of intelligent and dedicated bureaucrats removed from the corroding influence of particular self-interests. Croly and other Progressives had an almost incredibly naïve faith in these bureaucrats as objective, technically skilled, and informed experts who would carry out general legislative directives in flexible, discretionary, and non-political ways. Without noting the contradiction, these writers also assumed that “objective” administrators would be steeped in proper progressive ideas in the definition and application of administrative rules. On the Republican side, Theodore Roosevelt championed this position as the only proper one for a progressive. More immediately influential was his Democratic counterpart, Woodrow Wilson, who, as a professor and writer, nourished similar views, and who, as President, made them concrete.
The constitutional flaws of the bureaucratic state arise out of the functional separation of powers and the protection of rights established in the Constitution. Under that charter, the people have delegated their law-making power to the Congress. At least theoretically, Congress may only legislate towards expressly delegated objectives, either directly or as is necessary and proper to accomplish them. If they fail to do so, they are subject to the voters’ judgments at the next election. The president has an independent power to execute the laws, and the judiciary has an independent power to interpret and apply the law in disputes brought before them. As well, when litigation arises between the government and an individual in a civil or a criminal proceeding, the Constitution requires certain procedures to promote a fair process to seek that justice be done and appear to be done.

Administrative agencies are not subject to the same traditional constitutional parameters. For one, Congress often delegates legislative functions to agencies. The Supreme Court as early as 1825, in *Wayman v. Southard*, declared that Congress cannot re-delegate to other institutions of government that which is strictly legislative and delegated to Congress itself. However, Chief Justice John Marshall also acknowledged that Congress might delegate to other governmental officials less important matters by providing a general provision in the form of an enabling law and letting the delegate provide the details. Marshall conceded the difficulty of drawing the line “which separates those important subjects…from those of less interest.”

Thus, delegation to the President, cabinet officers, or courts long has been an accepted constitutional device. What has changed is the frequency and scope of delegation. By the early 20th century, several Supreme Court decisions technically maintained Marshall’s distinction between constitutional delegation of mere administrative discretion and unconstitutional outright delegation of legislative power, but effectively moved the line toward vastly broader legislative delegations than earlier courts had. The Court’s acceptance of the Interstate Commerce Act and similar laws caused the political scientist Frank Goodnow to predict that administrators in effect would become a fourth branch of government.

In both peace and war, President Wilson strove greatly to expand the administrative state, consistent with his long-held view of presidential leadership in the forming of policy. The president proposes, Congress disposes. By far not the only example, the 1917 Lever Act was a particularly breathtaking instance of delegation to Wilson to control potentially the entire economy of the nation in whatever manner and to whatever extent Wilson deemed necessary for the war effort. Of similarly stunning breadth was the Overman Act of 1918, which triggered a satirical proposed amendment during the Senate debate that “if any power, constitutional or not, has been inadvertently omitted from this bill, it is hereby granted in full [to the president].” The reason Wilson relied less on his own constitutional powers to direct the war effort than Abraham Lincoln had done half a century earlier was that Congress delegated their legislative authority to him on such an unprecedented scale. Mainly through such delegations, the Wilson administration established scores of boards, commissions, bureaus, and government corporations to control the economy during the war.

In addition, Congress continued creating what came to be called “independent” administrative agencies. Those agencies, such as the FTC and the Federal Reserve Board, were even more
beyond the control of politically accountable branches because the president could not remove their controlling officers at will, a constitutional mutation that the Supreme Court upheld years later in *Humphrey’s Executor v. U.S.* (1935).

The return to normalcy in the 1920s ended the Lever Act, the Overman Act and other measures passed under Congress’s war powers. Businesses and assets that had been placed under government control were returned to private ownership. However, the broader trend towards bureaucratization and government regulation of economic life continued, albeit in subtler and more cooperative forms. Even President Calvin Coolidge’s vetoes based on his hostility to such interventionism did not entirely stop the tide. The advent of the progressive Herbert Hoover and the effect of the economic collapse of 1929 invigorated the impetus to government meddling in economic and social life. Faithful to the progressive ideology rooted in the Idea of progress and change, Hoover proposed the “New Individualism,” a theory of voluntary cooperative arrangements between government and business associations that would work for the benefit of those private groups as well as the community-at-large. In mute symbolism to Hoover’s approach, the new Commerce Department building was the largest in Washington.

It was under Franklin Roosevelt that the administrative welfare state blossomed and bureaucratization and government intervention in the economy and personal life began its metastasis into its current form. The growth of “alphabet soup agencies,” many under the National Industrial Recovery Act, typified the era. Under that act alone, Congress delegated to FDR over $3 billion to spend by executive order, an extraordinary sum, given that the entire federal budget the year Roosevelt took office was about $4.5 billion. Channeling his experience in the Wilson administration during World War 1, Roosevelt sought equally vast powers for himself. To make his point, in his first inaugural address, he declared, “If we are to go forward, we must move as a trained and loyal army willing to sacrifice for the good of a common discipline…. I shall ask the Congress for the one remaining instrument to meet the crisis — broad Executive power to wage a war against the emergency, as great as the power that would be given to me if we were in fact invaded by a foreign foe.” While Roosevelt soothingly assured his listeners that the Constitution was so simple, practical, and flexible that it could accommodate his proposals easily, he also warned that he was ready to act unilaterally should Congress not accommodate him by passing his program.

The first “Hundred Days” produced numerous initiatives. Two of the most significant were the National Industrial Recovery Act and the first Agricultural Adjustment Act. Essentially, they cartelized industry and agriculture, respectively. The NIRA resulted in vast, detailed, and—fortunately—generally unworkable “codes of fair competition” for virtually all economic enterprises. In progressive-speak, “fair” means the opposite of “free,” and the goal was industrial cooperation, not market competition. While the president or his designee retained power to approve or reject these codes, the act provided that the codes would be produced by relevant trade or industrial associations or groups. These groups were controlled by major players in their respective industries, and they used the virtually unrestricted delegation by Congress under the NIRA to harm smaller rivals. In *Schechter Poultry Co. v. U.S.* (1935), a unanimous Supreme Court struck down the NIRA as an unconstitutional cession of legislative power to the executive. The liberal Justice Benjamin Cardozo, concurring, branded the program “delegation run riot.” A year later, the Court also invalidated the first AAA in *Butler v. U.S.*
In short order, Congress enacted a revised AAA, having already replaced the invalidated labor organizing sections of the invalidated NIRA with the National Labor Relations Act in 1935. Thus continued the close interaction among Big Labor, Big Business, and Big Government that characterized corporatist political economy of the New Deal here and more extreme, fascist systems abroad.

Roosevelt ran the 1936 campaign as a referendum on his New Deal. Receiving what he saw as an overwhelming mandate, he used these and similar blows by the Court to launch his “court-packing” program in 1937. After 1936, judicial interference with the New Deal transfer of legislative power to the executive through unbounded delegation ceased, and no Supreme Court decision since then has invalidated a federal program on that ground. The difficult line drawing that Marshall acknowledged in 1825 had moved the line in the direction of broader legislative delegation—and would continue to do so in the future.

The New Deal produced a tremendous increase in governmental power, both for the federal government as a whole at the expense of the states and the private citizen, and to the executive branch and the administrative bureaucracy at the expense of legislative authority. It definitively supplanted the decentralized classic liberalism of the received constitutional order with the regulatory welfare state and its still-expanding administrative bureaucracy controlled by a self-regarding elite leading the masses. Policy decided after proper deliberation and debate by representatives selected at the ballot box today has been replaced by “We have to pass the bill so that you can find out what is in it” legislative impotence and “I’ve got a pen and I’ve got a phone” executive unilateralism.

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1936, Supreme Court Opposition To New Deal Laws – Guest Essayist: Horace Cooper

The United States Supreme Court and the New Deal

Many a law student is familiar with the line, “A switch in time, saved nine.” It refers to the actions of Chief Justice Charles Evans Hughes and Justice Owen J. Roberts – Supreme Court justices who switched their votes from holding the legislative program of President Franklin Delano Roosevelt unconstitutional to joining the “political deference” team of Harlan F. Stone, Louis D. Brandeis and Benjamin N. Cardozo to approve FDR’s proposals.

Why did it save nine? Because it ended FDR’s efforts to directly emasculate the federal judiciary. At the same time, the switch ultimately undid the existing Constitutional order.
After four years of the Supreme Court striking down the measures pursued by his administration to respond to the nation’s worst economic downturn – what would be later deemed the Great Depression by historians — President FDR pursued an attack on the Supreme Court that was as audacious as it was unprecedented. While critics called the plan “court-packing”, his proposal would allow him to remake the federal judiciary into a rubber stamp adjunct of his administration. The plan would allow him to appoint up to 6 new Supreme Court justices and 44 new judges in the federal circuits and lower courts.

Instead of acknowledging the legitimate precedents and role that distinguished members of the Supreme Court played in protecting the Constitution and thereby the rights of the American people, FDR insinuated that “A lower mental or physical vigor leads men to avoid an examination of complicated and changed conditions,” pretending that the problem was senility or rigidity.

How could this happen?

First a little history. Many Americans take for granted the near total dominance that the federal government plays in our lives. Even though ostensibly we have a Constitution that grants defined and limited powers to the Federal government, Americans today live in a political realm very different from the one our founders contemplated. Instead of a Constitutional order with only a few specific limitations such as provided for in the Bill of Rights and other provisions of the Constitution, our system use to presume that unless identified and specially authorized, the Constitution didn’t give broad power to the national government.

If Congress wanted to regulate, subsidize or ban activity, the Courts required Congress and the President to identify which granted power they were exercising and if they couldn’t the laws would likely be held unconstitutional. This proved particularly a challenge to President Roosevelt who used America’s severe economic downturn to unleash federal authority in ways unheard of by our Founders.

There were several cases that came before the Court including: Schechter Poultry Corp. v. United States, United States v. Butler, Morehead v. New York ex rel. Tipaldo in which the Supreme Court struck down actions of the Federal government.

The Schechter case involved regulations put forward by a federal agency authorized under the National Industrial Recovery Act. Here the Court held that the regulations not only violated the constitutional separation of powers as an impermissible delegation of legislative powers to the executive, the Court also held that the authorizing laws provisions exceeded the power granted to Congress with the Commerce Clause.

US v. Butler involved a federal agriculture subsidy statute that taxed some farmers in order to send payments to other farmers — all done ostensibly as a means of limiting crop production to artificially raise prices. Here the Court struck down the tax as impermissible because it violated local and state sovereignty and that the Constitution provided no specific power to generally regulate agriculture.
In addition, in Morehead the Supreme Court struck down a state minimum wage law because it violated the fundamental liberty right of employers and employees to enter into contracts for work free from governmental interference.

In cases like these and others the Supreme Court adhered to its traditional role as guardian of our liberty by insisting that the Federal and state government exercise only those powers specifically granted and presumed that the Constitutional framework of America protected liberty best by leaving broad space for private interaction.

FDR specifically rejected this model and was able to use the state of the economy as a pretext for change. The presidential election of 1936 gave him just the opportunity he needed. He ran against Kansan, Alf Landon and set a lop-sided record for the largest Electoral College victory carrying all but two states while sweeping in a supermajority of his party in Congress.

He announced his plan to remake the Supreme Court in his inaugural address and while it was considered very controversial, most political analysts at the time thought that its prospects for passage were good.

Ironically the Senate voted down the measure as a “usurp[ation of] the power of the legislative and judicial branches in the name of the necessity… to promote the general welfare of the masses.” However, by then the damage had been done. Seeing the handwriting on the wall, the Supreme Court intimidated by the Presidential election and the withering rhetorical assaults on its action switched courses and began approving federal laws regardless of whether they were explicitly authorized by the Constitution.

Today Americans live in a constitutional regime whereby government is presumptively authorized to act and regulate, and liberty is only haphazardly protected at the ballot box. Ironically, a consensus has developed that the very measures pursued by FDR extended and made more severe the economic downturn now known as the Great Depression. Elections have consequences and in this case, they have been quite substantial.

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1940, Franklin D. Roosevelt’s Unprecedented Run For A Third Term – Guest Essayist: Andrew Bibby

FDR’s Third Term and the Twenty-Second Amendment

On November 5, 1940, Franklin Delano Roosevelt became the first and only U.S. president to be elected for more than two terms. A newspaper headline depicted the historic moment with a joke that captured the public’s ambivalence toward Roosevelt’s unprecedented break from tradition: “Safe on third!”
On the one hand, no one could deny that Roosevelt’s re-election was truly a remarkable political achievement. Roosevelt had not only won a third term—he did it with a lower percentage of both the electoral and the popular vote than in the prior election, a feat shared only by two other presidents in U.S. history: James Madison in 1812 and Barack Obama in 2012.

On the other hand, Roosevelt’s victory left many Americans, including Roosevelt’s own pro-New Dealers, uneasy. A third term was of course not unconstitutional. But it did mark a radical and potentially dangerous departure from the two-term presidential tradition. As Wendell Willkie argued in his general election crusade against FDR: “if one man is indispensable, then none of us is free.”

Yet articulating precisely why Roosevelt’s break from tradition was harmful to the American experiment in democracy has never been straightforward or uncomplicated. After all, the Founders chose not to include term limits in the Constitution. The decision to reject term limits came about after excruciating debate at the convention in Philadelphia. The framers cited a number of reasons, including faith in the political system to check encroachments on power; a desire to balance stability with rotation; and a conviction that the possibility of re-election would lead to the “faithful discharge of [the rulers’] duties,” as Madison put it. They also had good reason to believe that the indispensable George Washington would be the first president.

Of course, no one knew that George Washington would step down after two terms, nor could anyone safely assume that Washington’s example would act as an effective check on future tyrants. Thomas Jefferson, from France, singled out term limits (or their absence) as one of the greatest weaknesses of the proposed Constitution: “The…feature I dislike, and greatly dislike, is the abandonment in every instance of the necessity of rotation in office, and most particularly in the case of the President.”

In hindsight, Jefferson and the anti-Federalist’s fear of a kind of elective monarchy arising in America seems not to have been warranted. Jefferson followed Washington’s example, as did James Madison and James Monroe, after him. Even Old Hickory stepped down when his two terms were up.

The numbers help tell the story. 22 presidents, that is, 50 percent of all U.S. presidents, have been elected only to a single term. 17 presidents, or just under 40 percent, have been elected to two terms. Only 14 presidents, or 32 percent, have actually served their full second term. Historically, then, the chances of a third-term presidency are relatively low. The notion of an “eight year rhythm” is also somewhat of a myth. Most presidents either fail to win a second term or simply do not serve their full two terms. Only three presidents prior to FDR seriously sought a third term: Ulysses S. Grant, who was checked by his own party at the Republican National Convention in 1880; Grover Cleveland, who lost to William Jennings Bryan in 1896; and Theodore Roosevelt, who had pledged not to seek a third term, but ran anyway, covering over the awkwardness by saying that his bid in 1912 didn’t count because it was non-consecutive.

Contemporary public opinion polls indicating support for a hypothetical third term, moreover, indicate that the odds of winning a third term were slim in every case. 68 percent of Americans opposed the notion of a hypothetical third term for Truman. 64 percent of Americans opposed a
hypothetical third term for Ronald Reagan. 56 percent opposed a hypothetical term for Bill Clinton. 69 percent opposed a hypothetical third term for George W. Bush. 65 percent opposed a hypothetical third term for President Obama.

In all of these cases the likelihood of a president seeking and winning a third term must be viewed as remote, even if it were not for the Constitutional prohibition supplied by the Twenty-Second Amendment. Which raises the question: why the persistent fear of a president winning a third term?

To answer this question, it is useful to briefly revisit some of the reasons for the adoption of the Twenty-Second Amendment.

The Twenty-Second Amendment to the Constitution was proposed by Congress in 1947 and finally ratified in 1951. Section 1 reads in part:

“No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.”

One could argue that the 1951 Amendment was something of a fait accompli. It certainly did not constitute new thinking on the subject. Historians note that there have been at least eighty attempts to amend the Constitution. Given the popularity of the idea, the real question is: why did it take so long to pass?

Perhaps the most significant objection to executive limits—one that has deep roots in the American political experience going back to the Revolution—is that term limits are anti-democratic. If the people had “good sense enough to receive a good Government” as James Wilson put it, should they not also be trusted to have the good sense to decide when to throw a leader out of office? Roger Sherman made a similar claim against what he called the “doctrine of rotation.” Why should the people be forced to throw out of office the men “best qualified to execute its duties”? Similar objections were resurrected and put in sharper terms in the late 1940s. Critics of the proposed amendment argued that term limits on the executive would undercut Americans’ faith in their own democracy—in the fate of the republican experiment itself. Historian Henry Steele Commager, commenting on the 1947 proposal, expressed it this way: “There is one principle that is inescapably involved in this question of limited tenure and that is the principle of democracy. Turn and twist as you will, the proposed amendment is a vote of no confidence in democracy.”

Secretary of the Interior Harold Ickes, went even further. The Twenty-Second Amendment, he argued, was not just a theoretical “no confidence” in democracy. According to Ickes, the proposed amendment was a “sinister plot” on the part of “anti-social agencies” to “frighten [the people] into [giving up] their own precious democracy to the advantage of those who have always exploited them and always will.”
Is the Twenty-Second Amendment anti-democratic? Compared to previous Progressive Era Amendments the answer has to be Yes. Whereas the Progressive Era Amendments tended either to expand public control over the electoral process or enhance the power of the central government, the Twenty-Second Amendment both narrows electoral choice and checks federal-executive power.

60 years later, Americans appear to have few regrets. Quite the opposite. In 1956, five years after adoption, 61 percent of Americans opposed changing or repealing the Twenty-Second Amendment. Since then, this number has only gone up. In 1986, 80 percent of Americans opposed repeal. In 2013, that number remained constant at 81 percent. While there have been periodic attempts to get rid of executive limits, the truth is Americans aren’t interested in repeal.

This does not mean that there are not questions worth asking. For example, we might use this occasion to ask why Americans continue to overwhelmingly reject the prospect of repeal. Do Americans approve of the Twenty-Second Amendment because they approve of the principle of rotation? Or do they approve because their trust in government has plummeted—from 77 percent in 1958 to 19 percent in 2015?

Lately, the strongest challenges to the Twenty-Second Amendment tend to come not from philosophical objections, but from more prosaic concerns. Of these, the “lame duck” theory has gained the most traction.

In 1947, Senator Harley Kilgore condemned the proposed constitutional amendment, with the following “lame duck” explanation: “The executive’s effectiveness will be seriously impaired as no one will obey and respect [the President] if he knows that the executive cannot run again.”

In 2014, former Secretary of the Treasury Larry Summers wrote an article in the Washington Post attempting to re-open the debate on term limits. In the article, Summers focused especially on the dismal history of second terms. Ronald Reagan’s second term was marked by the Iran-Contra scandal and “a sense of a president who had become remote from much of the work of his administration.” Bill Clinton’s second term was marred by scandal and impeachment, while most of his major reforms took place in his first term. George W. Bush’s second term was defined by a “futile effort to reform Social Security and was then defined by the debacle of Hurricane Katrina and the nation’s plunge into financial crisis.”

Should we blame the “second term curse” on a failure of leadership, or on structural factors, like increased polarization of the electorate and the ever-growing role of money in politics?

According to Summers, we need to take a closer look at the role of the Twenty-Second Amendment in the “dismal experience” of second terms. This includes “national reflection” on repeal, but also, an open discussion about the possibility of limiting presidents to one term but for a period of six years.

Given the state of public opinion (overwhelmingly against repeal) these and other suggestions to reform executive term limits might seem quixotic. In my view, these provocations are worth thinking about seriously, if only to better equip ourselves for larger debates about the
Constitution and its significance in our lives. The Twenty-Second Amendment reminds us that power in a republic is understood as revocable, and therefore responsible to the people.

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Global War and Peace: The 1944 Election

In his 1944 State of the Union address, President Franklin D. Roosevelt offered a “Second Bill of Rights” that redefined the rights of the founding bill of rights. This radical pronouncement promised economic security and “positive rights” guaranteed by the federal government.

The new entitlements included a right to a job for all Americans, adequate food, clothing, and recreation, a decent living for every farmer, a decent home for all Americans, adequate medical care and good health, protection from all economic fears, and a good education. He warned that failing to do so in the postwar world would be to yield to the “spirit of fascism here at home.” Despite the fact that the war had effectively ended New Deal reform, FDR looked to revitalizing it after the war.

In early June, Allied armies launched the largest amphibious invasion in history on D-Day when their soldiers assaulted the beaches of Normandy. Rome had been taken the day before, and millions of Soviet troops were driving the Nazis back across Eastern Europe. Americans were closing in on Imperial Japan.

With the end of the war in sight, FDR was already thinking about the shape of the postwar world. At home, he sought to avoid a return to the suffering of the Great Depression with an expanded welfare and regulatory state. Abroad, FDR sought a vision of liberal internationalism in which the United States and the great powers cooperated to ensure lasting world peace and thereby fundamentally altered its role in the world.

FDR decided to run for an unprecedented fourth term because he believed himself indispensable to victory in World War II and to shape his vision for the postwar world in America and the world. He accepted the nomination of the Democratic National Convention by radio from San Diego as he was traveling to Pearl Harbor to meet with his Pacific commanders to decide on a strategy leading to the invasion of Japan. His fiercely partisan speech to the delegates attacked the Republicans as isolationists who opposed international cooperation and the party that led the country into the economic abyss of the Great Depression.

The most important question that FDR willfully ignored was his rapidly deteriorating health and the strong possibility that his vice-president would assume the presidency at some point in the likely event he died. Every person who encountered the president was shocked at his pallid,
tired, unhealthy countenance, and FDR had a series of heart issues that left him reeling in pain and great fatigue. FDR dumped the progressive and erratic Vice-President Henry Wallace for the more moderate Harry Truman, though the president did little to cultivate him for the presidency.

The Republicans countered with the young governor of New York, Thomas E. Dewey, for their presidential candidate. He was a relatively centrist Republican who ran with the more conservative Governor John Bricker of Ohio. The Republican strategy was somewhat garbled and mostly sought a change from FDR after three terms with mild criticisms of the New Deal social programs and the conduct of the war.

FDR kicked off his campaign in September with another highly partisan speech again blaming the Republicans for the Great Depression and attacking their isolationism. He also humorously defended himself against charges that a destroyer was sent to retrieve his dog, Fala: “I don’t resent attacks, and my family doesn’t resent attacks, but Fala does resent them!” FDR, however, had difficulty managing his postwar vision for the world.

The Dumbarton Oaks Conference drew up a plan for the United Nations which committed the United States to maintaining world security and peace. FDR argued that the United States had failed to fulfill this obligation after World War I by refusing to join the League of Nations, which significantly weakened the peace and led to another world war.

However, FDR tried unsuccessfully to deal with Stalin and an aggressive Soviet Union. The Red Army had allowed the Nazis to crush the Warsaw Uprising in Poland, and then imposed the brutal Communist regime throughout Eastern Europe despite agreements with the Allies and specifically Winston Churchill in Moscow that fall. The Soviets ignored all their promises regarding the freedom of Eastern Europe. FDR conceded Eastern Europe to the Soviets despite the principles of democracy and self-determination in the 1941 Atlantic Charter because he acknowledged Soviet military dominance on the Eastern Front, sympathized with Soviet security concerns after being attacked twice in the century, and was duped by Stalin.

Just before the election, the American armed forces more successfully defeated the Japanese Navy decisively at the Battle of Leyte Gulf and then invaded the Philippines. In early November, FDR won re-election with 432 electoral votes and a margin of three million popular votes. The Democrats retained control of both houses of Congress, and even gained several seats in the House. In his brief Inaugural Address, FDR again advocated an internationalist foreign policy: “We have learned that we cannot live alone at peace, that our own well-being is dependent on the well-being of other Nations far away. We have learned to be citizens of the world.”

In February, 1945, an ailing FDR attended Yalta and hammered out compromises including the joint occupation of Germany, a Soviet promise to join the invasion of Japan, and agreement on the shape of the United Nations. When he returned to the United States, FDR delivered a speech to Congress in which he asserted the old diplomacy of unilateral action, alliances, and balance of power relationships was being replaced by international cooperation. “This time, as we fight together to win the war finally, we work together to keep it from happening again.”
FDR died in mid-April, and his vision for international cooperation and peace did not come to fruition. Rather, the cracks in the wartime alliance with the Soviet Union became a full-blown arms race and Cold War with the Soviet Union and Communist world. The postwar world split into rival military, political, ideological, and economic blocs with the haunting specter of nuclear annihilation threatening global destruction.

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1948: The Dixiecrats

The primary elections of 2016 have invited comparisons to political factions in American politics that haven’t appeared in such clear focus for nearly seventy years. Although the Republican Party of 1948 had papered over its divisions between moderate-to-liberal business interests on the East Coast—represented by New York Governor Thomas Dewey—and Middle-Western conservatives—represented by Robert Taft and, behind him, Herbert Hoover—Democrats split bitterly into three groups. The mainstream of the party nominated President Harry Truman; the left wing (which included democratic socialists and some communists) ran Henry Wallace on the ticket of the Progressive Party; and the segregationist, southern Democrats ran South Carolina Governor Strom Thurmond on the ticket of the States’ Rights Democratic Party or “Dixiecrats.” In one of the most famous upsets in American political history, Truman overcame his party’s fracturing and defeated Dewey, although the Dixiecrats won the combined 38 electoral votes of Louisiana, Mississippi, Alabama, and South Carolina. The Progressives failed to win a single electoral vote.

Many disaffected southern Democrats eventually made their way into the Republican Party, beginning in the 1968 campaign of Richard Nixon, who fashioned his famous “Southern Strategy” for just that purpose. But such observers overlook the real Dixiecrat of 1968, Alabama Governor George Wallace, a man unrelated to Henry, either by blood or ideas. Like Thurmond, Wallace was a segregationist Democrat who wanted nothing to do with the Party of Lincoln. Wallace made the political last stand of the Lost Cause of the old Confederacy, which had persisted in a sort of radioactive half-life in the decades after Lee’s surrender at Appomattox.

From its beginning the Democratic Party had fought not just partisan battles but battles over the character of the American regime itself. Often these battles centered on the meaning of the United States Constitution. The party’s first presidential nominee, Thomas Jefferson, had accused the Federalist Party of monarchic sympathies, winning election in 1800 on a surge of democratic-republican sentiment. In the more recognizably modern election of 1828, Andrew Jackson defeated his fellow-Democrat, John Quincy Adams, on a platform excoriating ‘aristocratic’ financial interests. Meanwhile, John C. Calhoun was defending another and more insidious form of aristocracy, the way of life of southern plantation slaveholders, in explicit
opposition to the principles of the Declaration of Independence. As this set of essays has shown, the ever-worsening controversies leading up to the Civil War and Reconstruction centered on constitutional questions at the deepest level: not only the meaning of various clauses in the U. S. Constitution itself, not only the character of American federalism, but the basic question Americans had raised in the first place, namely, *are* all men really created equal with respect to their rights to life, liberty, and the pursuit of happiness?

The early Progressives of the Woodrow Wilson era had managed to avoid this issue and also to keep southern Democrats firmly within the Democratic Party. Wilson himself was a southern man, born in Virginia and raised in Augusta, Georgia. Like many Progressives, he took `race science’—the notion that human `races’ identifiable by skin color could be ranked hierarchically in terms of intellect and even moral sentiments—as cutting-edge science, that is, as a part of what it meant to be `progressive.’ But Progressives more fundamentally supposed that human nature itself was malleable, subject to evolutionary change, and this belief, coupled with their faith in democracy, in egalitarianism, reinforced by the research of anthropologists, began to turn the next generation of Progressives against racism. By the time of the New Deal, tensions between Progressives (now calling themselves `liberals’) and southern Democrats had begun to build.

Under the masterly political management of Franklin Roosevelt, the coalition of northern and southern Democrats nonetheless remained firm, at least for the purpose of winning national elections. Southern segregationists could tolerate the complaints of northern liberals so long as the New Deal meant the Tennessee Valley Authority and other Depression-era public-spending programs in the South. But when FDR died, the Depression ended, and Harry Truman backed legislation enforcing civil rights for all Americans, many southern Democrats began to reassess their place in the coalition, even as their ancestors had reassessed their place in the Union. In July 1948 thirty-five southern Democrats walked out of the party convention in Constitution-proud Philadelphia, then met in Birmingham, Alabama to form a new party.

For decades since the Civil War, southern Democrats had claimed that the war had been fought not over slavery but over the right of the constituent states of the Union to govern themselves without interference from the federal government. This claim conveniently overlooked the actual content of the southerners’ arguments (beginning with Calhoun), which had firmly linked states’ rights to the defense of the slaveholders’ way of life—their `domestic institutions,’ as the euphemism went. But a politically useful story may have stronger legs than an embarrassing truth, so the Dixiecrats had a ready-made tale to tell.

They told it in their platform, published at the convention of the States’ Rights Democratic Party held in in August in Oklahoma City. Celebrating the United States Constitution as “the greatest charter of human liberty ever conceived by the mind of man,” the platform condemned what it called “the totalitarian, centralized bureaucratic government” and “police nation” which “the platforms adopted by the Democratic and Republican Conventions” had “called for.” The delegates laid out the (red) meat of the document on its three central planks. First, “We stand for the segregation of the races and the racial integrity of each race” and against “the elimination of segregation, the repeal of miscegenation statutes, [and] the control of private employment by Federal bureaucrats called for by the misnamed civil rights program.” Second, “We oppose and
condemn the action of the Democratic Convention in sponsoring a civil rights program calling for the elimination of segregation, social equality by Federal fiat, regulations of private employment practices, voting, and local law enforcement.” Finally, Dixiecrats predicted, “the enforcement of such a program would be utterly destructive of the social, economic and political life of the Southern people, and of other localities in which there may be differences in race, creed or national origin in appreciable numbers.”

These claims proved to be overwrought. The eventual enactment and enforcement of laws outlawing legal segregation of races and of religious congregants in no way impeded the economic development of the American South, which was given a rather substantial boost by the proliferation of air conditioning in the same period. As for miscegenation, it was at least as prevalent under slavery itself, and it didn’t spell apocalypse once it was legalized, either.

It is hard to resist the observation that the Dixiecrats fought the right battle for the wrong reason. Centralized, bureaucratic government has indeed carried the day against the legitimate political rights of the states. But to use ‘states’ rights’ as a rather flimsy cover story for the defense of racial domination—especially when Southerners had raised few if any objections to federal bureaucrats when they came bearing gifts in the form of infrastructure projects and public-health programs—did no service to the new Lost Cause of federalism. It enabled advocates of bureaucratic centralization to claim that they were the true defenders of American principles, although they were no such thing.

As for the American regime the Dixiecrats sought to alter, it has veered not toward the racial politics of segregationists but toward the racial politics of ‘diversity’—a catchword of the Left, not the Right. This too contradicts the principles of the Declaration of Independence, but in 1948 it was unknown.

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1948, Harry Truman: The Atomic Bomb, Cold War, Marshall Plan & The Fair Deal and Civil Rights Reform – Guest Essayist: Juliette Turner

Harry S. Truman: Thirty-Third President of the United States

Nickname: The High-Tax Harry

Terms in Office: 1945-1949; 1949-1953

Fast Stats

- Born May 8, 1884, in Lamar, Missouri
- Parents: John Anderson and Martha Ellen Young Truman
- Died December 26, 1972, in Kansas City, Missouri; age 88
Bottom Line:

Harry Truman assumed the presidency in 1945 after the death of Franklin Roosevelt. As president, he oversaw the conclusion of both the European and the Pacific front in World War II. Truman won a surprise second term, during which time he worked to stabilize the American economy to prevent a second depression and organized the American invasion of Korea during the Korean War.

What Was He Thinking?

Harry Truman was an honest politician who believed favors should not exist in the world of politics. He followed his predecessor – Franklin Roosevelt – in regard to his progressive attitude, endeavoring to protect labor unions, improve working conditions, and stabilize the American economy through government regulation and higher income taxes. An avid opponent of communism, Truman believed communist beliefs were a huge danger to democracies worldwide.

Why Should I Care?

One of Truman’s most significant legacies is the Truman Doctrine. It was responsible for branding the United States as the nation charged with protecting new democracies across the globe from impending communist invasion. As a result, America took a lead role in the Cold War, the Korean War, the Vietnam War, and the Persian Gulf War. Since the adoption of the Truman Doctrine, trillions of dollars have been sent overseas to countries requesting American aid in their fight against communist regimes and dictatorships.

Breakin’ It Down

Early Life

Harry was the first of three children born to John and Martha Truman. A sickly child Harry had bad eyesight and battled long bouts of diphtheria. His illness often kept him from participating in activities with kids his age. It did not stop him, however, from going to school. He quickly became an avid reader, reading everything from biographies and histories to accounts of military battles.

Harry also loved playing the piano, practicing for two hours before school every morning. After grade school, Harry wanted to attend the United States Military Academy at West Point, but his nearsighted vision and thick glasses prohibited him from doing so. At this time, he took on a series of odd jobs to provide for himself and his family. He worked as a timekeeper at the local Santa Fe railway line and then as a mail clerk at the Kansas City Star newspaper. He also worked for a construction company and then as a clerk at a bank, where he earned one hundred dollars a month. On top of his paying jobs, Harry worked the family farm, rising at five in the morning.
every day to care for the livestock and do chores. By saving his hard-earned money, Harry was later able to invest thousands of dollars in a zinc mine and an oil company.

In 1905, Harry was determined to join the army. Although his eyesight had not improved, Harry memorized the eye chart to pass the vision test. He joined the National Guard, eventually becoming first lieutenant of the Missouri Second Field Artillery. During the First World War, Harry served in the 129th Field Artillery, reaching the rank of major. Near the end of the war, in March of 1918, Harry was promoted to captain for his bravery in battle.

After his service in the army, Harry returned home and became a co-owner of a local clothing store – but the store failed three years later. After his lack of success in the business realm, Harry decided to enter the world of politics.

BTW:

While fighting in World War I, Truman’s horse fell on top of him during one of the battles and nearly suffocated him to death.

*If we falter in our leadership, we may endanger the peace of the world, and we shall surely endanger the welfare of this nation.* – Harry Truman

**First Couple**

Harry Truman and Elizabeth “Bess” Wallace met for the first time in Sunday school at the local Presbyterian Church in 1890, when Harry was six and Bess was five. They would later attend fifth grade together. Although they were childhood friends, it took a seven-year courtship (and three proposals) for Bess to agree to marriage. Harry, however, had loved Bess from the moment he saw her in Sunday school, saying, “She had tanned skin, blond hair, golden as sunshine: and the most beautiful blue eyes I’ve ever seen, or will see.” They were married in 1919. Together they had one daughter. During the war, Harry carried a photo of Bess in his pocket, praying he would return to her. He did, and they eventually occupied the White House and to serve their country as president and first lady.

BTW:

Harry and Elizabeth Truman received the first two Medicare registration cards.

**Fun Facts**

Harry S. Truman was Harry’s full name – he actually had no middle name. His parents couldn’t decide between his paternal grandfather’s middle name, Shipp, and his maternal grandfather’s name, Solomon. So they decided on S.

Truman referred to his wife, Bess, as “The Boss” and his daughter, Margaret, as “The Boss’s Boss.”
The Sayings of Harry Truman

If you ever said, “The buck stops here,” then you have said the words of Harry Truman. Truman also created the idiom, “If you can’t take the heat, get out of the kitchen.”

Previous Political Career

Appointed a supervisor of roads and buildings for Missouri’s Jackson County. He worked to improve the local construction system and fired certain government officials to decrease corruption.

1922: Elected as a judge on the Jackson County Court. He lost reelection in 1924 but won again in 1926 and 1930.

1934: Elected to the U.S. Senate. He fervently supported Roosevelt’s New Deal programs and quickly became active in the Senate. He was reelected in 1940. He was appointed to the Appropriations Committee and the Interstate Commerce Committee, and he created the Civil Aeronautics Board to regulate the airplane industry. He formed the “Truman Committee,” which worked to eliminate government waste. Fraud and corruption had cost taxpayers $400,000 over just three years, and this committee saved the country $15 billion.

1945: Vice president under Franklin Delano Roosevelt.

Election Results!

Truman campaigned tirelessly, traveling by train thirty thousand miles across the country with his “whistle-stop” campaign tour. He gave approximately three hundred speeches to a cumulative twenty million people, but no one thought he would pull it off.

Election of 1948

1. Harry S. Truman: 303 Electoral Votes
2. Thomas E. Dewey: 189 Electoral Votes
3. J. Strom Thurmond: 39 Electoral Votes

Political Parties

The Dixiecrats: The Dixiecrats were former members of the Democrat Party who branched off after Truman desegregated the military. These southern Democrats favored the strong segregation rules in the south.

BTW:

During Truman’s second term in office, baseball was desegregated for the first time. Additionally, in the early 1950s, the Supreme Court ruled that segregation in public schools was unconstitutional.
Presidential Personality

Harry Truman was known to his family, friends, and even enemies to be humble and courteous, but at the same time outspoken and blunt. Truman was confident in his judgments, and once he made a decision, he stuck to it. His temper often overtook his composure, oftentimes showing through in his impassionate speeches. Although he loved the world of politics, he remained honest and incorruptible.

Presidency

Truman served as vice president for a brief eighty-two days, meeting with the president only twice before FDR’s death. With the president’s death on April 12, Truman was sworn into office as the nation’s seventh “accidental president.”

FDR had told Truman little about what was happening in the administration; in fact, it wasn’t until his first meeting with Secretary of War Henry Stimson that Truman learned about America’s atomic nuclear capabilities. To ease the transition, Truman requested Roosevelt’s cabinet stay intact for the time being.

Atomic Bomb

On May 8, 1945, Truman experienced the day Roosevelt would have given anything to have experienced: the Allies’ victory on the European front, known as V-E Day (Victory in Europe Day). However, the war with Japan still continued. Because of this, the possibility of America using the atomic bomb on Japan became greater and greater. America decided to drop the atomic bombs. After two bombings of Japan on August 7 and 10, Japan surrendered on September 2.

Use of the Atomic Bomb

The atomic bomb had the strength of two thousand British “Grand Slam” bombs – the largest bomb ever to be used up to that time – and could kill tens of thousands. In comparison to how many individuals would have died as a result of land invasion – up to five hundred thousand – the magnitude of the atomic bombings can be put in perspective. Land battles between the U.S. and Japanese were especially brutal because of the Japanese’s dedication to their historic Bushido code, a code that required them to die before ever surrendering.

For instance, at the battle of Iwo Jima in Japan, approximately 27,000 American and Japanese soldiers were killed and nearly 20,000 more were wounded. At the battle of Okinawa, over 115,000 Japanese and American soldiers died and approximately 40,000 were wounded. The atomic bombing of Hiroshima resulted in 130,000 Japanese casualties (deaths or injuries) and the bombing of Nagasaki resulted in 70,000 casualties.

BTW:

On April 12th, Eleanor Roosevelt called Harry Truman personally, asking for him to come and see her immediately – a call which reportedly drained the color from Truman’s face. The
moment Truman arrived in Eleanor’s office, she said, “Harry, the president is dead.” After a brief moment of silence, Truman asked if there was anything he could do for her. She replied, “Is there anything we can do for you? For you are the one in trouble now.”

Boys, if you ever pray, pray for me now. I don’t know if any of you fellows ever had a load of hay fall on you, but when they told me what had happened, I felt like the moon, the stars, and all the planets had fallen on me.—Harry Truman

Beginnings of the Cold War

As soon as the war on the Pacific front ended, the Cold War began. Problems arose with Soviet Russia as soon as Japan surrendered. After the Yalta Conference, it was agreed that Germany would be divided between the Allied powers: the United States, Great Britain, France, and the Soviet Union. However, the Soviet Union refused to hold democratic and uncorrupted elections and slowly began cutting East Germany off from the rest of the world by stationing soldiers along the border to refuse access or exit. The Soviet Union also began supporting communist rebels in Turkey and Greece. These actions resulted in the “Truman Doctrine,” which sent U.S. dollars ($150 million to Turkey and $250 million to Greece) to help suppress the communist rebels.

The Marshall Plan

Truman’s secretary of state, George Marshall, formed the Marshall Plan, which sent $12.5 billion to foreign nations over the next four years. This money was used to strengthen anti-communist countries, to prevent communist takeovers, and to fund projects to battle the postwar famines quickly spreading through most of Europe. It was based on the “domino theory,” which theorized that if communism were allowed to spread to one country and take over the government there, then other countries would quickly fall to the same fate. The Marshall Plan could only go so far, however, and Eastern Europe – the countries between East Germany and the Soviet Union – fell under Soviet communist rule. Soon, contact with East Germany was shut off completely and roads leading into Berlin were blocked, preventing any resources from reaching the East Berliners and Germans. When conditions began to deteriorate, Truman issued the “Berlin Airlift,” otherwise known as Operation Vittles, which delivered supplies to East Germany by air for almost a year.

Fair Deal and Civil Rights Reform

Although the war and the resulting industrial boom lifted America from the Great Depression, Truman was careful to prevent history from repeating itself, so he proposed his “Fair Deal” legislation: a series of price and wage controls, an expansion of public housing, extension of old-age benefits, and the formation of national health insurance. After the Republicans secured both housed of Congress in 1946, all of Truman’s proposals were stalled.

Truman issued Executive Order 9981 on July 26, 1948, ordering the desegregation of the military – meaning the military could no longer separate and discriminate against soldiers based on race. This executive order created havoc inside the Democrat Party, leading to the split of the Democrat Party and the southern Democrats during the presidential election of 1948.
Reelection

Because of the partisan divide and the constant debate in Washington, D.C., Truman’s popularity sank to an all-time low. Labor unions were angry over the recently passed Taft-Hartley act, which allowed the government to regulate and interfere in worker strikes. Business managers resented the continuation of the strict wartime government regulations, and Truman lost support over his anti-segregation policies. Everyone considered it impossible for Truman to be reelected, but in 1948 he won 49.5 percent of the popular vote, with two million more votes than his opponent, and won 57 percent of the electoral vote.

Success in the Midterm Election

Things turned around after the election of 1948 when the Democrats won the majority in both chambers of Congress. With Congress on his side, Truman was able to pass his “Fair Deal” legislation. However, Truman and the rest of the U.S. government struggled to combat communism inside America. The Red Scare (the anticommunist movement in the 1950s) led to a dramatic increase in suspicion among the United States citizens: who might be secretly communist or leading a double life as a Soviet spy? At the height of the Red Scare, U.S. Senator Joseph McCarthy held his historic McCarthy Hearings—a practice called McCarthyism.

Hundreds of people were brought before the Senate and the “House Committee on Un-American Activities” on the basis of suspicion of showing communist beliefs. As a result, hundreds of people lost their jobs and their reputations, and many were stripped of their constitutional rights with national security as the excuse.

Beginning of the Korean War

Although communist expansion in America was curbed, the communism scare at home was heightened when the international stage once again erupted with turmoil and warfare. This time, instead of Europe, the focus landed on the small country of Korea, which was now divided into the communist north and anticommmunist south. An alliance was formed with the United Nations, fifteen other nations allied with the United States to support South Korea. North Korea received support from the People’s Republic of China and the USSR. Within a matter of months, South Korea and her allies regained the “38th Parallel” — the previous border between the two countries. General Douglas MacArthur proposed a plan to push past the 38th parallel and into mainland China, but Truman rejected the plan, believing that the Marshall Plan only called for keeping existing countries safe. Nevertheless, MacArthur pushed his soldiers northward into North Korea in an attempt to destroy the communist forces there. In retaliation, the People’s Republic of China deployed thousands of their own troops. As a result, the war continued months longer than it should have and many more lives were lost. The three-year-long Korean War between the United States and North Korea extended past Truman’s leave from office, leaving 128,000 Americans dead, missing, or wounded.

Congressional Corner

Taft-Hartley Act of 1947: This act outlawed union-only workplaces and prohibited union activities. It also prevented unions from contributing to campaigns and allowed courts to stop
strikes that could harm the public good. Truman vetoed the legislation, but Congress overrode the veto. This act was repealed with the changes of political majority in the Congress.

**Truman’s Fair Deal Legislation:** This piece of legislation increased federal funding for housing, increased the minimum wage, improved civil rights for African-Americans, and increased Social Security benefits.

**Presidential Succession Act:** Passed in 1947, this act established the process of presidential succession if the president and the vice president were to both die while serving. The succession would be Speaker of the House, president pro tempore of the Senate, secretary of state, secretary of the treasury, secretary of defense, and then attorney general.

**National Security Act:** This act, passed in 1947, established the Central Intelligence Agency (the CIA), the National Security Council, the Department of Defense, and the Department of the Air Force.

**Internal Security Act:** Also known as McCarran Act of 1950, this act required all communist organizations to register with the government. It also legalized the arrest of all communist officials during a “national emergency,” and it prohibited communists from working in national defense positions. The act also prohibited any individual who was a part of a totalitarian organization from immigrating to the United States.

**Thoughts on the Constitution**

*The Federal Government has a clear duty to see the Constitutional guarantees of individual liberties and of equal protection under the laws are not denied or abridged anywhere in the Union.* – Harry Truman

**Post-Presidency**

After leaving the presidency, Truman retired to his home state of Missouri, living in the city of Independence for the rest of his life. During his retirement, Truman wrote three books: *Year of Decisions* (1955), *Years of Trial and Hope* (1956), and *Mr. Citizen* (1960). Truman also oversaw the construction of his presidential library in Missouri. On the day after Christmas in 1972, Truman passed away in his own home.

**Presidential Times**

**The Potsdam Conference**

July 24, 1945 – Victory has been declared in Europe, but the war in the Pacific continues. Japan is proving to be a difficult enemy to defeat as battles continue and result in massive casualties. To defeat Japan, President Truman believes the U.S. Army will need the help of the U.S.S. R. Last week on July 17, Truman traveled to Potsdam, Germany, to attend the Potsdam Conference with Winston Churchill and Joseph Stalin. The conference resulted in a pact with Joseph Stalin...
that guaranteed his assistance on the Japanese front. Also at this conference, an international council was proposed to conduct war-crime trials, named the Nuremberg Trials, against high-ranking Nazi officials.

“Fat Man” and Little Boy”: The Atomic Bombs Dropped on Japan

August 7, 1945 – Yesterday, Truman authorized the use of the atomic bomb on Hiroshima, Japan. The bomb was dropped at 9:15 a.m. Tokyo time. The bombing came after America gave Japan an opportunity to surrender earlier this week. However, Japan gave no sign of surrender. It is estimated that the bombing resulted in 130,000 casualties and 175,000 Japanese losing their homes. The Soviets are also now invading Manchuria and Korea.

August 10, 1945 – After Sunday’s bombings, Japan has still refused to surrender. Yesterday, President Truman authorized the second atomic bomb to be dropped on Nagasaki, Japan. The devastation at Nagasaki was just as horrendous: it appears that one-third of the entire city was destroyed and 70,000 Japanese were killed or injured.

September 2, 1945 – Today, aboard the USS Missouri, Japan signed the terms of surrender, officially ending the Second World War. This comes after their verbal surrender on August 15, after several days of behind-the-scenes negotiations and a failed coup d’etat by Emperor Hirohito and the Japanese.

Assassination Attempt

November 1, 1950 – Two men attempted to force their way past guards to enter Blair House with the intention of assassinating President Truman. Shots were fired when the two men drew their guns, resulting in the death of one of the gunmen and the death of a secret service agent. The remaining gunman is now imprisoned. Truman has been staying in Blair House during the White House renovations, and security has been relatively relaxed. The extent of security comprises three secret service men guarding the main entrance to the house and a small guard shack on the road front. Security is likely to now be increased.

State of the Union

(1) States: 48
(2) U.S. Population: (1945) 143,501,630
(3) U.S. Debt (1945) $264,052,143,292
   (1953) $268,665,330,374

Timeline

- 1945 – Adolf Hitler commits suicide
- 1945 – The charter for the United Nations is signed
• 1945 – The first electronic computer is built
• 1945 – Percy Spencer patents the microwave oven
• 1946 – The first U.N. meeting is held in London
• 1946 – The League of Nations dissolves
• 1947 – The Dead Sea Scrolls are discovered
• 1947 – *The Diary of a Young Girl*, from the diary of Anne Frank, is published
• 1947 – The twenty-second amendment to the Constitution is passed
• 1948 – Mahatma Gandhi is assassinated in New Delhi
• 1948 – The nation of Israel is established
• 1948 – The Berlin Blockade and Berlin Airlift take place
• 1949 – The North Atlantic Treaty Organization (NATO) is formed
• 1949 – The first successful Soviet atomic test takes place
• 1949 – Communists take over China
• 1950 – McCarthyism begins
• 1950 – The Korean War begins
• 1951 – Color television is introduced
• 1952 – An airplane lands on the North Pole for the first time
• 1953 – Joseph Stalin dies
• 1953 – Elizabeth II is crowned Queen of England

**Platform Speech**

*No government is perfect. One of the chief virtues of a democracy, however, is that its defects are always visible and under democratic process can be pointed out and corrected.* – Harry Truman

Truman said this in his 1947 speech to the joint session of Congress. He explained that America’s democratic government, although it is not perfect, is amendable and correctable.

**What Has He Done for Me Lately?**

The decision to drop the atomic bomb on Hiroshima and Nagasaki was one of the most significant decisions ever made by a U.S. president. However, had the bombs not been dropped, the fighting would have continued for many more months and the death toll would have risen considerably during that time – especially if a land-invasion tactic had been used instead. Either way, the options were bleak, for war will always result in tragic death.

*Juliette Turner is the National Youth Director of Constituting America, and the author of three books: Our Constitution Rocks, Our Presidents Rock and the novel, based on life at her ranch with her mom, actress Janine Turner, That’s Not Hay In My Hair (all published by HarpersCollins/Zondervan).*

1952, Dwight D. Eisenhower Defeats Adlai Stevenson: Communism And Civil Liberties – Guest Essayist: Horace Cooper

Communism and Civil Liberties: The Election of 1952

The election of 1952 brought about the first GOP presidential victory in more than 20 years. It came about at a time while many in America were weary from World War II, and they were very apprehensive about the potential for subversion by the Soviet Union and its radical Marxist ideology.

Eisenhower, a war hero, had been Supreme Commander of Allied Forces during World War II, president of Columbia University, and the head of NATO before becoming the Republican nominee. His general election opponent was Illinois Governor Adlai Stevenson.

While both political parties nominally opposed the threat presented by international communism, many in the public were concerned that the Truman administration wasn’t fully committed to this conflict. This concern was exacerbated by the revelation that Alger Hiss, a Roosevelt senior appointee was in fact a Soviet Spy. Creating even graver public apprehension was the indictment and conviction of Ethel and Julius Rosenberg for treason related to their efforts to transfer operational knowledge of America’s nuclear weapons program. Their actions obviated many of the benefits of using America’s nuclear shield as a tool to protect the US and her allies risking instead a potential worldwide holocaust if tensions escalated between America and the Soviet Union.

The House of Representatives had convened a special committee after the mid-term elections of 1946 called the House Committee on Un-American Activities. It held hearings that revealed multiple instances of Soviet breeches of the US government and American society.

Indeed even the Truman Administration had put in place a loyalty pledge for all federal employees, Executive Order 9835. Under the terms of the order, the FBI working in tandem with agency created loyalty boards was empowered to investigate whether any of the nearly 2 million federal employees had questionable associations and beliefs or had supported sabotage, treason or the unauthorized disclosure of sensitive/confidential information. In practice, loyalty boards focused more on creating high profile news stories and ruining reputations than they did any serious effort to ferret out subversives.

The Supreme Court weighed in on civil liberties and the Cold War in Dennis v. United States, a case that involved the arrest of several members of the Communist Party USA (CPUSA) charged with advocating the violent overthrow of the US government and for the violating the Smith Act, an anti-sedition federal statute which made it a crime to “teach, advocate, or encourage the overthrow or destruction of … government by force or violence.”

The party members charged argued that they had been petitioning for socialist reforms and claimed that the act violated their First Amendment rights. The Supreme Court did not agree.
Handed down as a 6-2 decision by the Court on June 4, 1951, the Supreme Court upheld the charges. “Certainly an attempt to overthrow the Government by force, even though doomed from the outset because of inadequate numbers or power of the revolutionists, is a sufficient evil for Congress to prevent,” wrote Chief Justice Frederick Vinson.

It was clear to most Americans heading into the election of 1952 that there was indeed a real and grave threat posed by the Soviet Union and her Marxist supporters here and abroad.

It was this backdrop that influenced the 1952 presidential campaign. Eisenhower successfully used a three-pronged campaign, attacking “Korea, Communism, and Corruption”—as failures of the outgoing Truman administration. Eisenhower’s victory was fairly impressive. Losing only 9 states, he racked up an impressive Electoral College victory and in the process won the popular vote by more than 11 points nationwide.

The Supreme Court, the newly elected president and (importantly by selecting Eisenhower), the American people all converged on a view that an aggressive effort to thwart Marxist-Leninism at home and abroad was a fundamental responsibility of the American federal government.

One of President Eisenhower’s first acts was to repeal Truman’s loyalty program and to replace it with EO 10450. This presidential order eliminated regional and statewide loyalty boards and instead put the heads of federal agencies and the OPM in charge of investigating federal employees to determine whether they posed security risks. Instead of high profile hearings in Congress or by federal agency created loyalty boards, the order served to depoliticize and professionalize the federal employment background investigation process.

In Eisenhower’s inaugural address he described a fight that involved “freedom being pitted against slavery” and “lightness against dark.” In keeping with that mission, Eisenhower signed into law the Communist Control Act. The act passed the House and the Senate nearly unanimously with only two nay votes in the House of Representatives. Drafted to circumscribe Marxism and ban the ability of the CPUSA to operate openly to take over federal, state or local governments, it was described as distinct from a mere political party and instead an operative of a network of hostile governments including the USSR.

In addition, as president, Eisenhower named John Foster Dulles as his Secretary of State. Dulles laid out an aggressive plan to “roll-back” international communism as opposed to the existing plan of containing it where it existed. Years later Ronald Reagan’s election would see the fulfillment of this effort with the collapse of the Soviet Union.

This action of Congress and Eisenhower to target and isolate subversive communism — at home and abroad — was seen by the public, the elected political spectrum (left, right and middle) and the Courts as key to the ability of America’s ongoing ability to exist and thrive. As broad and comprehensive as the Communist Containment law is on its own terms, the US Supreme Court of the United States has never ruled on its constitutionality and it remains law today along with America’s commitment to a strong military internationally as examples that stymying existential threats to our nation supersedes almost all other interests.
Horace Cooper is a legal commentator and a fellow at the National Center for Public Policy Research.

A Memorial Day Message  
by Constituting America Founder & Co-Chair Janine Turner

Constituting America first published this message from Founder & Co-Chair Janine Turner over Memorial Day Weekend, 2010, the inaugural year of our organization. We are pleased to share it with you again, as we celebrate our 6th birthday!

On this Memorial Day weekend, I think it is appropriate to truly contemplate and think about the soldiers and families who have sacrificed their lives and loved ones, and given their time and dedication to our country.

Sometimes it is beyond reach to put ourselves in someone else’s shoes and feel, to the most heightened sense, what it would be like to say goodbye to our loved ones for perhaps the last time. Do we take the time to feel empathy for the soldier who has to walk away from his family – mother, father, wife, husband, daughter, son – to be potentially killed out in the field – to die away from family – in perhaps some distant land, in enemy territory, on foreign soil? How frightening this would be.

It is difficult in our daily lives that are hectic with work, pressures, commitments and family responsibilities to really pause to think about the sacrifice our men and women in uniform have made and are making to protect us. Our men and women in uniform were and are the brave, the special, the few and the truly great patriots. Without these soldiers, we, America and Americans, would not be here – plain and simple. The air we breathe, the land we walk, the sky we sketch, the country we call home, is because of the sacrifices of our men and women in uniform.

No matter which war they called their own, they all fought the enemy, whether near or far, whether boots were on the ground, in the air or on the sea, whether the enemy was present or premeditating. As Alexander Hamilton expressed in Federalist Paper No. 24, “cases are likely to occur under our governments, as well as under those of other nations, which sometimes render a military force in the time of peace, essential to the security of the society.” Thus, an actual battle or a state of ready alert has served the same purpose – the enemy was to know and knew that he would not prevail against men and women who had the Divine right of liberty in their soul, passion in their hearts and the supreme strength of military readiness.

Memorial Day is the day to set aside time and sit down with our children and teach them about our wars and war heroes. It is a time to teach them about the Revolutionary War and the reasons why we fought it. They should know about the soldiers who walked barefoot in the snow, leaving the stain of their blood on the ice and about those soldiers who died miserable deaths as POWs in the stifling bowels of the British ships at sea. They should know about heroes such as Paul Revere, Israel Putnam and Nathan Hale who said, “I only regret that I have but one life to lose for my country.”
We should take a moment during our Memorial Day weekend, and everyday, to pray for our men and women in uniform. We should teach our children about those who served in the War of 1812 when the British returned, how they burned down the White House and how President James Madison’s wife, Dolly Madison, ran to save the portrait of President George Washington.

They should know about the Civil War, why we fought it and how thousands of our soldiers died from a new type of bullet that shattered their bones. They should know about the horrors of slavery, how it had permeated the world throughout history and yet how, according to William J. Bennett, “the westerners led the world to end the practice.” They should know about how Americans fought Americans claiming hundreds of thousands of soldier’s lives.

They should know about World War I and how the soldiers lined up in rows, one after the other, to be shot or stabbed by swords. They should know about World War II and the almost inconceivable bravery of the soldiers who ran onto the beach to endure the battle of Normandy, which claimed thousands of American lives. They should understand what history has to teach us about the mistakes in politics that bred the tyrants who led millions to slaughter. As Publius teaches us, we should not rule with reason but upon the strong foundation of the lessons of history.

They should know about the Korean War, the Vietnam War and the Communist Regimes that ripped the souls from its people. They should know that our soldiers did not fight or die in vain in Korea or Vietnam because even though the enemy was physically in their field, the enemy’s propaganda permeated and thus threatened our field.

They should know about the soldiers who stood on alert during the Cold War and their willingness to die. (My father was a West Point Military graduate and served in the Air Force. He was one of the first to fly twice the speed of sound, Mach II, in the 1960’s. He flew the B-58 Hustler and was ready to die on his mission to Russia when his country called him to do so.) The cold war was won by the ready willingness of our brave soldiers in uniform and a country who was militarily prepared.

A prepared state is a winning state. Alexander Hamilton wrote in Federalist Paper No. 24, “Can any man think it would be wise, to leave such posts in a situation to be at any instant seized by one or the other of two neighboring and formidable powers? To act this part, would be to desert all the usual maxims of prudence and policy.”

Today, we fight in Iraq and Afghanistan (as of original publication date, May, 2010). We fight the insurgencies at our borders most especially in Arizona, Texas and California and we fight an elusive enemy that is creeping into our fields. They are creeping both from abroad with violence and from within with the slow usurpation of our founding principles. Alexander Hamilton warns in Federalist Paper No. 25, “For it is a truth which the experience of all ages has attested, that the people are commonly most in danger, when the means of injuring the rights are in the possession of those of whom they entertained the least suspicion.”

A strong and honest government based on the Constitution and ruled by the people through the Constitutional Republic will prevail but only if we, as citizens, know about it and only if our
children are raised on the fruits of this knowledge. As Alexander Hamilton states in Federalist Paper No. 25, “It also teaches us, in its application to the United States, how little rights of a feeble government are likely to be respected, even by its own constituents.”

Wars are fought physically and wars are fought mentally. As civil servants we must be alert to the enemy that is amongst us. Alexander Hamilton states in Federalist Paper No. 25, “…every breach of the fundamental laws, though dedicated by necessity, impairs that sacred reverence, which ought to be maintained in the breast of rulers towards the constitution of a country…”

On this Memorial Day weekend, we begin our mission with an education of the thesis and basis of our country – what we fight for – the United States Constitution and the wisdom, freedoms, righteousness and structure that it upholds.

May God bless all of our service men and women past, present and future, who have fought valiantly for these principles.

God Bless,
Janine Turner
Memorial Day, 2010

God Bless,
Janine Turner
Memorial Day, 2016

1956, Dwight D. Eisenhower Defeats Aldai Stevenson –
Guest Essayist: James Legee

The election of 1956 saw Adlai Stevenson again tasked with the unenviable duty of an electoral contest against Dwight D. Eisenhower, which, it will come as no surprise, did not end in Stevenson’s favor. Eisenhower is well known to students of history and government, Stevenson, a one-term governor of Illinois, barely garners a mention in most books on the Cold War. Despite his loss, Stevenson was an important bridge between the New Deal policies of the Roosevelt administration and the Great Society of Lyndon B. Johnson. He articulated a progressive platform that would guide the Democratic Party for the coming decades in regards to domestic policy. Electoral defeat is quite common for ideologues and intellectuals on both ends of the ideological spectrum, but part and parcel with his intellectual bend came a truly unique rhetoric for the role of government in society.

The years leading up to the 1956 election saw the Eisenhower administration embroiled in a world vastly different from the one in which the Roosevelt and Truman administrations were forced to defend the United States. A battered Europe gave way to a world in which there emerged a bipolar system, with the United States and NATO on one side, and the Soviet Union and China on the other. As battle lines were drawn, both sides developed terrifying new weapons, and space programs from which to deliver them.
Domestically, the American people saw a president who sought to keep America out of unnecessary wars, and only use force when necessary. An aloof leader, who would rather spend time golfing, presided over a growing economy, and an era of relative peace. As documented in Fred Greenstein’s major work, “The Hidden-Hand Presidency,” Eisenhower was anything but aloof, and a cursory look at histories of the CIA and State Department shows that the world was anything but peaceful. 1953 saw the death of Soviet dictator Joseph Stalin and peace negotiations to end the bitter and unpopular conflict in Korea. The Cold War was anything but for Eisenhower, as he wrestled with how to support the French and their quagmire in Indochina, with their greatest defeat coming in 1954 at Dien Bien Phu. 1953 and ’54 saw CIA-sponsored coups in Iran and Guatemala, actions which displayed an active American hand in foreign affairs. Shortly before the election in 1956, Great Britain and France seized the Suez Canal, and an attempted uprising against Communist rule in Hungary was mercilessly crushed by the Soviets.

In this maelstrom, Stevenson attempted to challenge Eisenhower for the Presidency. As historian Walter LaFeber points out, Stevenson’s initial attempts to challenge Eisenhower on foreign policy were done in a “curiously paradoxical manner…” at times favoring disarmament, questioning the draft, and later arguing the Eisenhower administration was too weak on Russia and looked weak after the French defeat at Dien Bien Phu and the establishment of a communist North Vietnam. However, as the campaign proceeded, Stevenson focused on domestic policy. It was too late, however, as Eisenhower received 57% of the vote with a large majority of Americans supporting Eisenhower’s foreign policy (a smaller majority approved of Stevenson’s domestic agenda). According to Gallup, Eisenhower’s approval rating only a month after the election was an incredible 79%.

Despite being handily defeated, Stevenson would go on to serve as ambassador to the United Nations and a voice for a progressive domestic agenda in the United States. That voice is perhaps best heard, and vision best articulated, in his August 17, 1956 nomination acceptance speech, referred to as his “New America” speech. The speech is striking not just in its similarities to modern progressive rhetoric, or in the observation of a cold war consensus on foreign policy and New Deal programs, but for its rhetoric of virtue and higher purpose for an America.

One of the first features of Stevenson’s New America is his call for racial equality. Almost immediately he notes “the current problems in the relations between the races who comprise America, problems which have so often tormented our national life…” He acknowledges, though, that “there is disagreement in the Democratic Party… If all of us are not wholly satisfied with what we have said on this explosive subject it is because we have only spoken the only way a truly national party can — by understanding accommodation of conflicting views.” Here, Stevenson seems to acknowledge that a divide between Northern and Southern Democrats remained in order to prioritize “national unity,” but to acknowledge segregation in an address is an important step towards desegregation. He further states his administration would act “toward the fuller freedom for all.”

Perhaps more familiar to modern ears, Stevenson was committed to greater income inequality throughout the country. America’s economy rebounded from the Great Depression with GDP in
1940 at 1.27 trillion dollars, 1950 at 2.27 trillion, and 1955 at 2.78 trillion. This growth, however, was not enjoyed in all corners of the nation. He contended that it was the role of the federal government to ensure some level of economic parity, regardless of individual profession. Stevenson believed that “everyone is not prosperous. The truth is that the farmer, especially the family farmer who matters most, has not had his fair share of the national income...” He continued that too many families lived on too little money, “that thirty million Americans live today in families trying to make ends meet on less than $2,000 a year.” All of this manifested in a government dominated by what we would today refer to as special interests, and that the party of Eisenhower was deepest in their pockets, “The truth is that in this government of the big men — big financially — no one speaks for the little man.”

A final aspect of Stevenson’s New America address is his frequent use of virtuous language. He believed that America was gripped with a “spiritual hunger.” From where will this hunger be sated? For Stevenson, the answer comes in the form of the White House. He asks rhetorically “Has the Eisenhower administration used this opportunity to elevate us? To inspire us? … Did it, in short, give men and women a glimpse of the nobility and vision without which peoples and nations perish? … What we need is a rebirth of leadership — leadership which will give us a glimpse of the nobility and vision without which peoples and nations perish.” The office of the Presidency, no less, is responsible for somehow solving this crisis not merely of leadership, but to give inspiration to the American people.

This is a far cry from the vision of the office held by Madison, or Jefferson, and anathema to any proponents of a limited government, or, arguably, a government of laws, not of men. Jefferson in his July 12, 1801 Letter to the New Haven Merchants, contends that one of the greatest and most difficult tasks of the executive is not Stevenson’s imagined duty to impel the American people to nobility, rather, it is the appointment of capable public servants. Jefferson wrote, “Of the various Executive duties, no one excites more anxious concern than that of placing the interests of our fellow citizens in the hands of honest men, with understandings sufficient for their station.” The great duty of the executive was to be just that, the chief executive of the bureaucracy, to ensure the best possible candidates were hired to serve the public. He continued, after a long discussion on the difficulty of finding and installing qualified persons in a partisan environment, “This is a painful office; but it is made my duty, and I meet it as such. I proceed in the operation with deliberation & inquiry, that it may injure the best men least, and effect the purposes of justice & public utility with the least private distress.”

Whether you’re a strict constitutionalist, conservative, liberal or progressive, it is important to understand the philosophical background and political history of our major political ideologies. Stevenson gives us a glimpse, in one speech, into a progressive agenda that is coming to dominate current Democratic campaigns. Stevenson also gives us a glimpse into an era where there was still some art in speech making. An era where sincere belief, rather than cynicism and demagoguery, dominated what has become a 24-hour news cycle. Perhaps most importantly, Stevenson’s language of virtue and hope for an America, when he said “Once we were proud to confess that an American is a man who wants peace and believes in a better future and loves his fellow man,” illustrates a time when political opponents believed their rivals acted in good faith.
1960, The Election Of The First Catholic President As A Vindication Of The First Amendment’s Clauses On Religious Freedom And Religion Establishment – Guest Essayist: Tony Williams

JFK, Catholicism, and the 1960 Election

The American Founding ushered in a “new order for the ages” that included the unprecedented and remarkable natural right of liberty of conscience. The First Amendment protected this universal right of all humans and banned Congress from establishing an official religion. The Constitution also banned all religious tests for national office.

But the constitutional protections of religious liberty could not prevent popular prejudice from rearing its ugly head during the 1960 election. Senator John F. Kennedy of Massachusetts was a dashing young contender for the Democratic nomination who faced an American electorate which feared that a Roman Catholic president would follow the dictates of the pope in Rome. Anti-Catholicism had tarnished the American experiment in liberty throughout the country’s history and would do so again in 1960.

Plenty of evidence pointed to this widespread anti-Catholicism that Kennedy would have to overcome to have a chance of winning his party’s nomination not to mention the presidency. In a national poll, a quarter of the American people bluntly stated that they would not vote for a Catholic regardless of how qualified he was. Moreover, anti-Catholicism was not merely a popular prejudice among the electorate. Even Eleanor Roosevelt, one of the most prominent liberals of the time, declared that she did not think that Kennedy could separate his religion from the office.

Although Kennedy would have to combat anti-Catholicism in 1960, it was hardly the only issue that raised questions about his ability to serve as president. Many commentators were concerned about his youth and executive inexperience, and considered him an intellectual lightweight. There was a universal suspicion that his wealthy father had engineered all of his political and other successes. As Harry Truman quipped, “It’s not the Pope I’m afraid of, it’s the pop.”

Finally, he faced the greatest opposition from progressive liberals in his own party because of his lukewarm support of social programs, civil rights, and silence on McCarthyism.

Kennedy announced his run on January 2, 1960, in the Senate Caucus Room to a huge throng of supporters. He promised a “more vital life for our people” after the supposed purposeless drift of affluenza during the 1950s in which he thought the country had lost its moral purpose and way. Reporters immediately raised the issue of his faith. Kennedy responded that the only substantive questions about any candidate’s faith should be: “Does a candidate believe in the Constitution, does he believe in the First Amendment, does he believe in separation of church and state.”
The religious issue hounded Kennedy throughout the primaries that spring especially in heavily Protestant Wisconsin. The biased press in that state and others constantly reminded voters of Kennedy’s Catholicism. He became so frustrated that he exploded when CBS newsman, Walter Cronkite, asked him about his religion and the Wisconsin primary. Although West Virginia had only a very small percentage of Roman Catholics, Kennedy decided to face the issue head on in that primary.

Kennedy defended his patriotism and religion while campaigning in West Virginia. He told crowds that his Catholicism had not prevented his service in the Pacific during World War II, nor had it precluded him from public service in Congress. The strategy worked as Kennedy won in a landslide and took several other primaries. In mid-July, he was nominated at the Democratic National Convention in Los Angeles.

The Republicans nominated Vice-President Richard Nixon as their candidate. Nixon had served in both the House and Senate, and had been a member of House Un-American Activities Committee investigating Communists in the United States, most notably spy Alger Hiss. Even though President Dwight Eisenhower did not think much of Nixon and did not lend him much public support, the vice-president had gained a great amount of foreign policy experience. In the campaign, Nixon attacked his opponent as too young and inexperienced especially on foreign policy.

Kennedy not only ran against Nixon but against bedeviling questions about his faith. In early September, a group of 150 Protestant ministers questioned Kennedy’s ability to separate his religious beliefs from temporal politics on the pages of the *New York Times*—though, of course, they were engaging in politics. Kennedy had had enough and delivered a speech to another group of ministers in Houston a week later.

Kennedy’s speech was meant to confront as well as mollify. He posited that America was a country “where the separation of church and state is absolute.” He also promised that he would be a president “whose views on religion are his own private affair.” Finally, he asserted that he was not the “Catholic candidate for president. I am the Democratic Party’s candidate for president, who happens also to be Catholic. I do not speak for my church on public matters—and my church does not speak for me.” He ended the speech with an emotional appeal that, “If this election is decided on the basis that 40,000,000 Americans lost their chance of being president on the day they were baptized, then it is the whole nation that will be the loser.”

Kennedy and Nixon debated each other in a series of televised debates in which the new medium helped shape the election. Kennedy was a handsome, articulate candidate, while Nixon appeared haggard and aggressive on television. They debated the sluggish economy, a perceived nuclear “missile gap” with the Soviet Union, and foreign policy generally during the Cold War. The significance of the debates on the minds of voters has sometimes been exaggerated, but the importance of the media in presidential elections would only grow in the coming decades.

The election of 1960 was extremely close as Kennedy won the popular vote by a narrow margin of some 120,000 votes out of 69 million cast. Kennedy also won the Electoral College vote by a slender margin of 303 to 219. Kennedy’s religion was a decisive factor in the 1960
election. John F. Kennedy proved that a Roman Catholic could challenge a popular prejudice and be elected president.

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Part of this essay is taken from Brion McClanahan’s _9 Presidents Who Screwed Up America and Four Who Tried to Save Her_ (Regnery History, 2016).

The 1964 election between Barry Goldwater and Lyndon Johnson was a watershed election. Goldwater “flipped” the South and by the early 1970s, the South was voting solidly Republican for the first time since Reconstruction. These weren’t the same Republicans, however, as conservative Southerners begrudgingly gave up allegiance to the Democrat Party for a candidate they believed better reflected their political worldview.

Johnson was a Southerner, but his advocacy of “guns and butter” and a more expansive general government clashed with conservatives who bristled after nearly three decades of uncontrolled federal power grabs at the expense of the States. Part of Johnson’s platform became known as the “Great Society,” a labyrinth of unconstitutional federal legislation designed to implement Franklin Roosevelt’s “Second Bill of Rights.” Roosevelt insisted that Americans deserved housing, a job, medical care, food, clothing, and education, all on the back of the American taxpayer. This list of free goodies became the genesis for the progressive talking points of the modern era. Johnson listened hard and followed Roosevelt’s lead.

Johnson cut his teeth as a member of Congress during Roosevelt’s unprecedented three plus terms in office. He supported Harry Truman’s “Fair Deal” and believed that the general government could and should “end poverty.” No obstacle—including that pesky Constitution—was too great to overcome. Like its predecessor the New Deal, the Great Society doubled down on unconstitutional legislation and created the modern welfare state as we know it. Johnson used John F. Kennedy’s assassination and Goldwater’s apparently itchy nuclear trigger finger to divert attention away from his real dream of expanding federal power beyond what Roosevelt ever hoped to accomplish.

Johnson legislated from the Oval Office like a member of the British Parliament. He bullied even seasoned congressmen into submission and from 1965-1969 muscled through several blatantly unconstitutional bills. By the time Johnson left office, the federal budget had more than doubled and because of that, within four years the United States had to be removed from any type of precious metals standard. If nothing else, the Great Society made the greenback, at one time called as good as gold, as good as paper. The inflationary crisis of the 1970s owed its origins in Johnson’s Great Society.
The most sweeping changes to the American economy as a result of Johnson’s presidency were effected by the Social Security Act of 1965. Nineteen-sixty-five was the year the American public was introduced to Medicare and Medicaid. Medicare was sold as an extension of the Social Security program established during the New Deal. The bill piggybacked on an already unconstitutional Social Security system and provided government health insurance through a payroll tax system. All Americans would be financing the few who collected Medicare. Like Social Security, Medicare is a Ponzi scheme doomed to fail. There is absolutely no authority for such a system in the Constitution, and by signing the bill Johnson abrogated his oath to defend our government’s founding document.

Like Social Security, Medicare was defended under the Taxing and Spending and General Welfare Clause. If the general government could levy taxes to provide old-age insurance, certainly it could levy more taxes to provide old-age medical insurance. Opponents pointed out that both taxes bastardized the meaning of the clauses and unconstitutionally expanded federal power. The Supreme Court disagreed—narrowly. It had upheld Social Security by slim majorities in the 1930s. Justice Benjamin Cardozo, a Herbert Hoover appointee and ardent advocate of a “living Constitution,” suggested that if the Court interpreted the Constitution the way it was understood in the 1780s, the United States would be stuck in the 1780s. Surely America had progressed. Besides, Alexander Hamilton’s Constitution of loosely implied powers had defeated James Madison’s Constitution of expressly delegated powers. The war needed not be fought again. This position, of course, was in sharp contrast to the position the proponents of the Constitution took when the Constitution was being debated in state ratifying conventions. If they had argued for Hamilton’s loosely implied powers or Cardozo’s living Constitution, the document would never have been ratified in the first place.

Medicaid, the other insurance program created by the Social Security Act of 1965, exacerbated the problem. Medicaid was designed to provide health insurance for the poorest Americans regardless of age. The main beneficiaries were children and mothers without coverage. The federal government split the costs with the states but required each state to provide some type of Medicaid program. States would become addicted to the cash and unable to keep their budgets in balance without federal dollars. The federal government was now requiring states to do its bidding—the inverse of how things were in the Constitution as ratified and interpreted for much of American history. The Tenth Amendment had slipped into oblivion.

The sad truth is that had Lyndon Johnson not been interested in legislating from the executive branch and had faithfully defended his oath to uphold the Constitution by vetoing unconstitutional legislation, the American public would not be standing closer to the edge of a fiscal cliff by the day.

Besides medical care, Johnson also believed that every American had a right to a good education. Almost immediately after taking office Johnson insisted that Congress tackle the education issue. But education had long been the exclusive realm of the state governments. This was (and is) the constitutionally correct position.

But World War II, the Cold War, and the Civil Rights Movement changed the way many Americans thought about education. It was believed that winning an international struggle
against communism required a “national” effort, and defeating communism at home could only be done by eliminating poverty and discrimination—because poor and disfranchised people make good pinkos. There was a lot of truth in this, but the methods used were unconstitutional. The Great Society usurped authority from state and local governments and destroyed federalism, the heart of the American political system. Practically, the Johnson agenda also led to exponentially increasing education costs for students and parents.

The Elementary and Secondary Education Act of 1965 (ESEA) radically changed the role of the federal government. ESEA increased state education budgets and eventually allowed the federal government to mandate specific outcomes for student success. If states and localities wanted the money, not only did school districts have to meet income guidelines—that is, have a high rate of poverty—but also students had to perform well; thus they were subjected to federal standards in all aspects of academic and social life. Students had truly become lab rats in government-funded laboratories. Johnson’s push for a federal role in education did not begin that way, but once the federal government was so heavily involved in local schools, the writing was on the wall. His proper role as president would have been to veto such a blatantly unconstitutional bill. But Johnson was too ideologically driven to do so.

The role the Great Society played in federal environmental regulation is often overlooked. By the late 1960s, “environmentalism” had transitioned into a cult-like religion for the worshipers of “Mother Earth.” Johnson and his ambitious Secretary of the Interior Stewart Udall had much to do with this development.

Udall was appointed secretary of the interior by John F. Kennedy in 1961. He had been an active proponent of “conservation” and now began pushing for more aggressive federal involvement in the environment. Johnson kept Udall in his cabinet and adopted his heavy handed approach to government regulation. Virtually every current environmental regulation in the United States can be traced to Udall and Johnson. Between 1963 and 1965 Udall helped draft and Johnson signed eight comprehensive pieces of federal environmental legislation. Each created mountains of federal regulations targeted at curtailing pollution and protecting wildlife and natural resources. All of this environmental legislation was and is unconstitutional, at least according to the Constitution as ratified. Neither the Congress nor the president is authorized by the Constitution to regulate either emissions or the requirements for opening a business. The states could, but Congress was purposely left powerless on these issues. Clean air and water are certainly laudable goals, but federal authority over these issues would require a constitutional amendment. This constitutional end-around was not unusual for progressives. They had been doing it since the first Roosevelt administration. By the Great Society and the 1960s, however, they were no longer even trying to cloak their moves in constitutional language. The federal government simply acted because it could, and Johnson, drunk with his own power and the realization that he finally achieved his dream of being president, encouraged such bad behavior.

To ensure that the American people supported the Great Society, Johnson and other progressives in the Congress knew that they had to win the propaganda and cultural war in America. If the public could be persuaded that Johnson’s unconstitutional agenda was beneficial (and legal), his stamp on public policy would become permanent. As a result, Johnson signed three pieces of
legislation in 1964 and 1967 that changed media and art in America. The goal—apparently—was to immerse the American people in progressive ideology one child and student at a time.

The National Endowment for the Humanities, the National Endowment for the Arts, and the Public Broadcasting Corporation all came into existence as part of the Great Society. Sold as public-private partnerships that relied on private support for their continued existence, these three bastions of liberal ideology allowed the federal government to have a direct role in the type of art, literature, and television Americans consume. Programs like Sesame Street have a clearly leftist agenda, while the NEA has continually used taxpayer dollars to sponsor artwork that many Americans deem objectionable. It has even requested artwork that favors one candidate or political party over another.

Johnson had the wind at his back and an agreeable Congress, and he sailed bill after bill through Congress without much opposition. And all these Great Society Programs, from Medicaid and Medicare to National Public Radio, have—to borrow the words of a more recent presidential candidate—fundamentally transformed America. Modern America is the Great Society. That is no badge of honor, particularly in regard to the Constitution.

If only Barry Goldwater would have won….

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A House Divided: The Presidential Election of 1968

The presidential election of 1968 was held amidst a deluge of violence and civil unrest. That the United States managed to survive this annus horribilis was a testament to the resilience of its people and of its constitutional framework. The simple fact that the election proceeded apace, as did a peaceful transition of power from one party to another, were welcomed signs of health in a body politic that some considered to be terminally ill.

The sense of pride and optimism that Americans felt toward their country in the early 1960s would be severely tested in 1968. The year began with North Korea attacking an American spy ship, the USS Pueblo, killing one crew member and seizing the vessel and its crew. The surviving crew members were tortured for over eleven months by the North Koreans who repeatedly rebuffed the Johnson administration’s appeals for the sailors’ release. Shortly after the Pueblo incident, the North Vietnamese and their Viet Cong allies launched the “Tet Offensive” in South Vietnam. The offensive was seen as a propaganda victory for the communists, despite
the fact that the Viet Cong were effectively destroyed as a fighting force. Nevertheless, the
images of “VC” guerillas inside the U.S. embassy compound in Saigon led many Americans to
dissmiss the rosy scenarios offered by President Lyndon Johnson and Secretary of Defense Robert
McNamara. The “credibility gap” became the catchphrase of the day.

By the end of March, Johnson, the incumbent president who had won one of the largest
landslides in American history less than four years earlier, announced that he would not seek re-
election. LBJ had been seriously damaged by the strong performance of the “peace candidate,”
Senator Eugene McCarthy of Minnesota, in the New Hampshire Democratic primary.
Additionally, Johnson withdrew after his nemesis, Senator Robert F. Kennedy of New York,
announced his presidential candidacy on March 16th. Johnson could not stand the thought of
losing to Bobby Kennedy, whom he loathed, and the feeling was mutual.

Less than a week after Johnson’s withdrawal, Dr. Martin Luther King was assassinated in
Memphis, Tennessee, an act which led to riots in almost all of the nation’s major cities.
American military units were activated to protect the White House and the Capitol from possible
destruction, as smoke wafted throughout the District of Columbia. Two months after Dr. King’s
death, Robert Kennedy was assassinated. The United States, the “last best hope of earth,”
appeared to be devolving into a banana-republic. This impression was confirmed in the minds of
many Americans at the Democratic Convention in August, 1968, when Chicago turned into a
war zone with students and assorted radicals battling a police department averse to long-hair,
libertine lifestyles, and Viet Cong flags. This was a culture war in its most ferocious form.

Unfortunately for Vice President Hubert Humphrey, the Democratic Party’s nominee, his earlier
pledge to pursue “the politics of happiness . . . the politics of joy” seemed hopelessly detached
from reality as tear gas drifted through the streets of Chicago. Additionally, just days prior to the
opening of the Democratic Convention, the Soviet Union had suppressed the so-called “Prague
Spring.” The Soviet military ruthlessly deposed the Czechoslovakian government which had
distanced itself from Moscow and repealed many oppressive measures. The Johnson
administration’s tepid response to the Soviet invasion heightened the sense among many
Americans that the United States was in decline.

On the Republican side of the race, the main candidates for the GOP nomination were former
Vice President Richard Nixon, New York Governor Nelson Rockefeller, Michigan Governor
George Romney, and California Governor Ronald Reagan. The Republican Party was desperate
to win the White House after having been shellacked in 1964, and the party’s leaders sensed that
a divisive war in the midst of domestic unrest at home would lead to a Republican victory.
Governor Reagan was the heir to the Barry Goldwater wing of the party, but he had only been
Governor for less than two years and jumped into the race far too late to stop Nixon. Nixon
ultimately secured the GOP nomination, after having refashioned himself as a “new Nixon,” a
kinder, tanned, and funnier Nixon, who adopted the stance of a senior statesman dedicated to
healing the nation. This “transformed” Nixon was nothing more than a marketing ruse; one that
saw the normally awkward Nixon appearing on television via Rowan and Martin’s Laugh-
In urging Americans to “sock it to me.” Unfortunately, the “new Nixon” was the same old Nixon
who harbored serious character flaws, all of which would come to the fore during his troubled
presidency.
As Election Day approached the race began to narrow dramatically. Humphrey had belatedly distanced himself from Johnson’s increasingly unpopular conduct of the Vietnam War; had he done so earlier many believe the Vice President would have won the election. Nixon’s stance on the war was couched in generalities; he frequently suggested, somewhat vaguely, that he hoped to secure an “honorable end” to the war. Nixon’s opaque stance on this issue contributed to his decision to refuse to debate Humphrey (as did the bad memories from his debates with John F. Kennedy in 1960) and to engage with a mainstream media that he believed, rightly so, was hostile to him. While Nixon never claimed to have a “secret plan” to end the war, it was difficult to determine if he was opposed to the war itself or to the way it was conducted.

Humphrey might have won the race had the segregationist Governor George Wallace of Alabama not run as a third-party candidate. Wallace was a Democrat, and thus he may have siphoned-off votes that would have gone to Humphrey, although it is equally plausible that he took votes from Nixon. In the end, Wallace, and his running mate, retired Air Force General Curtis LeMay, managed to carry five southern states, a somewhat impressive performance for a third-party candidacy.

The final results of the election revealed the divided state of the United States. Nixon captured 43.4 percent of the popular vote, Humphrey 42.7 percent, Wallace 13.5 percent. However, Nixon’s margin in the Electoral College was quite comfortable: he became the nation’s 37th president with 301 electoral votes to Humphrey’s 191 and Wallace’s 45. But Nixon was the first president since Zachary Taylor in 1848 to win the White House without winning a majority in either house of Congress.

Nixon’s tenure in office would be marked by fierce partisan combat with the Democratic controlled Congress, and with an overtly hostile press. As Nixon attempted to secure “peace with honor,” opposition to the Vietnam War took on a more violent character than it had under President Johnson. Groups like the “Weathermen,” a mutant outgrowth of the Students for a Democratic Society, engaged in a terrorist bombing campaign throughout the United States. Nixon responded by urging the Federal Bureau of Investigation to intensify its operations against the antiwar movement, and he later created his own private White House security outfit dubbed “the Plumbers” to carry out covert operations against various administration enemies, ultimately including the Democratic Party. And thus began the road to Watergate, and to the first presidential resignation in American history. But all of that was yet to come; as 1968 drew to a close most Americans were simply thankful that the “last best hope of earth” had survived.

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Anyone who believes that today’s political discourse has reached a new low should consider the political career and rhetoric of George C. Wallace, a 1968 Presidential candidate for the
American Independent Party, a party formed by Wallace after the Democratic Party rejected his segregationist agenda. Wallace was at the forefront of resistance to the Supreme Court’s civil rights decisions, including the landmark *Brown v. Board of Education* ruling.

**Wallace – Early Life and Alabama Governorship**

Wallace was born in Clio, Alabama on August 25, 1919. Wallace followed politics from an early age and in 1935, won a contest to serve as an Alabama Senate page. Wallace stated at that time he would one day serve as Alabama’s Governor. Wallace attended the University of Alabama School of Law at Tuscaloosa directly from high school. He joined the United States Army Air Corps during World War II, serving from 1942 until 1945 flying bombers over Japan. Upon his medical discharge, Wallace became an Assistant Attorney General for the State of Alabama, and in 1946, was elected to the Alabama House of Representatives as a Democrat.

Wallace served as a Delegate to the 1948 Democratic National Convention. While he disagreed with President Harry Truman’s platform on civil rights (he believed civil rights issues were the sole dominion of the states), Wallace did not join the Dixiecrats when they walked out of the convention in protest when the Democrats adopted a plank calling for civil rights.

Wallace was appointed a Circuit Judge in 1953, and he had a reputation of being fair to all regardless of race, addressing African-Americans who appeared before him as Mister rather than by their first names, as was customary at the time in Alabama. However, Wallace also issued rulings that were unsympathetic to the civil rights movement, including decisions preventing the removal of segregation signs in railroad terminals. Wallace served as a Circuit Judge until 1958, when he made his first run for Governor. Wallace lost that race. Thereafter, Wallace adopted a stronger segregationist view and as a result had greater political success in Alabama.

In 1962, he ran again for governor, this time with the backing of the Ku Klux Klan, and won. At the end of his inaugural address, Wallace made his now infamous statement: “Segregation now, segregation tomorrow, segregation forever.” Wallace served only one term because, at the time, Alabama law only permitted a person to serve one consecutive term as Governor. When Wallace stepped down, his wife, Lurleen Burns Wallace, ran for governor in 1966 and won, although she died after serving only sixteen months. While his wife campaigned, Wallace signed into law a bill that nullified federal desegregation guidelines, resulting in Alabama losing Federal funds.

Wallace ran for Governor again in 1970. Former President Carter at the time referred to the Alabama gubernatorial campaign as “one of the most racist campaigns in modern southern political history.” Wallace appealed to white fear and used extensive racial rhetoric to win the runoff race. Due to changes in Alabama’s term limit law, Wallace was able to serve a second consecutive term as governor. Wallace also served a fourth term as governor from 1983 to 1987.

**Presidential Runs**

Wallace ran for President in four consecutive Presidential elections – 1964, 1968, 1972 and 1976. In all but the 1968 election, Wallace ran as a Democrat. In 1968, he ran on the American Independent Party ticket with his former military colleague, Curtis LeMay, as the Party’s Vice
Presidential candidate. Wallace’s platform in 1964 included opposition to integration and aggressive prosecution of crime. Wallace gave fiery speeches to the crowds who attended his rallies, including inciting them at a rally in Cincinnati to leave the stadium and encounter protesters. Wallace lost the 1964 primary to President Lyndon Johnson.

In 1968, Wallace again campaigned on a platform of ending Federal desegregation efforts. His platform also called for an isolationist foreign policy and demands that US allies pay more for military defense. Wallace received substantial support from extremist groups in his 1968 campaign and collected almost ten million votes in the popular election and 46 electoral votes. However, Wallace came in third behind Nixon, the winner, and Humphrey. Wallace made unsuccessful runs in the Democratic primaries in 1972 and 1976. While on the campaign trail in 1972, Wallace was shot and paralyzed in an assassination attempt.

**Civil Rights, Supreme Court Decisions and Wallace**

In June 1963, shortly after his inauguration as governor where he made his declaration regarding segregation, Wallace led the famous “Stand in the Schoolhouse Door” at the University of Alabama. Wallace symbolically stood at the door the University’s Auditorium to prevent two African-American students from entering and registering for classes. Wallace’s protest was in response to the integration efforts resulting from the Supreme Court’s decision in *Brown v. Board of Education*. Despite the ruling in *Brown*, the University of Alabama continued to reject African-American applicants. In 1963, a Federal judge ordered three applicants be admitted to the University of Alabama, and when two of them attempted to enter the University Auditorium to register, Wallace took his “Stand.” US Deputy Attorney General Nicholas Katzenbach, who later would lead the efforts to enact the Civil Rights Act of 1964 and Voting Rights Act of 1965, confronted Wallace. In the end, the two students successfully registered.

In September 1963, Wallace again attempted to thwart integration by preventing four African-American children from entering four separate Huntsville, Alabama grade schools. A federal court intervened and the children attended the schools.

In a July 4, 1964 speech, Wallace decried the Civil Rights Act of 1964 as “a fraud, a sham, and a hoax” and the US Government as a tyranny “under sanction of the omnipotent black-robed despots who sit on the bench of the United States Supreme Court,” implying that the Civil Rights Act was the direct result of *Brown* and other Supreme Court civil rights decisions. Wallace stated:

> The chief, if not the only beneficiaries of the present Court's rulings, have been duly and lawfully convicted criminals, Communists, atheists, and clients of vociferous left-wing minority groups.

In March 1965, Wallace refused requests from President Johnson to mobilize the Alabama National Guard to protect civil rights marchers, insisting it would be too financially burdensome to do so. “Bloody Sunday” followed, during which hundreds of marchers were brutally attacked by police and deputized white citizens and Wallace again became a symbol of Southern segregation efforts. On October 29, 1969, the Supreme Court decided *Alexander v. Holmes County Board of Education*, ordering immediate desegregation of public schools in the
South. Wallace blasted the Justices as being “limousine hypocrites” and the new Chief Justice, Warren Burger, and his court as being “no better than the Warren Court.”

Conclusion

George C. Wallace vociferously opposed the integration of schools in Alabama over the course of his career and took strong segregationist positions. Wallace did not spare his comments about the Supreme Court and unsuccessfully attempted to nullify the Court’s civil rights decisions. While he later tried to back down from his segregationist statements and views, his actions and words remain. Wallace’s “Stand” has been forever memorialized in popular culture such as Forrest Gump and in Bob Dylan’s “The Times They Are A-Changin’.” In his battles with the Supreme Court, the Court remained the victor.

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1972, Richard Nixon: Thirty-Seventh President of the United States –
Guest Essayist: Juliette Turner

Richard M. Nixon: Thirty-Seventh President of the United States

Nickname: Red Hunter


Fast Stats

- Born January 9, 1913, in Yorba Linda, California
- Parents: Francis Antony and Hannah Milhous Nixon
- Died April 22, 1994, in New York, New York; age 81
- Age upon Start of First Term: 56; Age upon Conclusion of First Term: 60
- Age upon Start of Second Term: 60; Age upon Conclusion of Second Term: 61
- Religious Affiliation: Quaker
- Political Party: Republican
- Height: 5 feet 11.5 inches

Bottom Line:

Most of Nixon’s successes came from international policy: his treaty with the Soviet Union, his negotiation to open trade with the People’s Republic of China, and his attempts to conclude the Vietnam War. In 174, a year into his second term, Nixon resigned to avoid the humiliation of impeachment after the infamous Watergate Scandal.
**What Was He Thinking?**

Richard Nixon was anticommunist his entire life, but as president he learned to negotiate with communist countries to benefit the U.S. In the realm of economics, Nixon signed the Tax Reform Act during his time as president, which helped reduce tax loopholes and deductions. Nixon was also opposed to labor unions and frequent labor strikes, as evident through his support and contribution to the Taft-Hartley Act during his time in Congress.

**Why Should I Care?**

During his five years in office, Nixon either ended or eased two wars. Although the Vietnam War escalated after he was first elected, Nixon eventually oversaw its end by negotiating and signing the Paris Peace Accords in 1973. Nixon also eased tension in the Cold War by signing the Nuclear Weapons Non-Proliferation Treaty, which decreased the number of nuclear weapons produced by both the United States and Russia.

*A nation cannot remain great if it lets down its friends.* – Richard Nixon

**Liberty Language**

**Tax loophole:** At tax loophole is a technicality in the tax code that allows an individual or a business to avoid paying certain taxes without breaking the law.

**Tax deductions:** A legitimate claim for an individual to reduce the amount of taxes they owe.

**Breakin’ It Down**

**Early Life**

Richard Milhous Nixon was the second of five sons born to Francis and Hannah Nixon. He enjoyed a religious and intellectual upbringing. His father ran a gas station and a general store, where Richard worked in his free time. In high school, he excelled in debate.

Richard earned a scholarship to Harvard University, but his family did not have the funds to send him across the country, so he attended Whittier College instead, graduating in 1934 with a BA in history. After Whittier, Richard won another scholarship, this time to Duke University Law School. He graduated in 1937 with a law degree. In 1941, he took a job at the Office of Price Administration and the Office of Emergency Management, but a year later, at the age of twenty-nine, Nixon joined the navy to fight in World War II. Upon his return from the war, Nixon decided to run for political office.

**First Couple**

In June, 1940, Richard Nixon married Thelma “Pat” Ryan. Together the couple had two daughters. During World War II, while Nixon worked at the Office of Emergency Management, Pat worked as a clerk for the Red Cross. Before Nixon entered politics, Pat had not affiliated with any political party, even voting for Democratic and Independent candidates. However,
when Nixon entered politics as a Republican, Pat immediately registered as a Republican as well. Pat wasn’t afraid to express her own views on issues, and openly disclosed her pro-choice views on abortion, her support of the Equal Rights Amendment, and her strong support of women’s equality – even pushing for her husband to nominate a woman to the Supreme Court.

Richard Nixon graduated first in his high school class, second in his college class of eighty-five students, and third in his class at Duke University Law School.

*Previous Political Career*

1946: Elected to U.S. House of Representatives. He was a member of the special committee that formed the Marshall Plan under President Harry Truman, a member of the Un-American Activities Committee, and a member of the House Education and Labor Committee.


1953: Elected as vice president under Dwight Eisenhower.

1960: Ran for president against John F. Kennedy and lost.

1962: Ran for California governor and lost.

BTW:

Throughout Nixon’s political career, Nixon focused his campaigns on the one issue he knew was close to the people’s hearts: anti-communism. Nixon somehow always found some way to peg his opponent as a communist sympathizer.

*Election Results!*

Nixon easily won the Republican nomination in 1968, campaigning for Americans who supported the war in Vietnam (the “forgotten Americans”) to stand up despite the antiwar protests. Nixon took the lead by just over five hundred thousand votes.

Despite the shaky economy and the lack of change in Vietnam, Nixon won reelection by a landslide, taking over 60 percent of the popular vote and all but seventeen electoral votes.

BTW:

Nixon ran on a presidential ticket five times in his life: twice successfully as vice president, once unsuccessfully for president against Kennedy, and twice successfully for president in 1968 and 1972.

*Election of 1968*
1. Richard M. Nixon: 301 Electoral Votes
2. Hubert H. Humphrey: 191 Electoral Votes
3. George C. Wallace: 46 Electoral Votes

Election of 1972

1. Richard M. Nixon: 520 Electoral Votes
2. George S. McGovern: 17 Electoral Votes

Presidency

When Nixon assumed the presidency in 1969, he had his work cut out for him. Domestic unrest regarding the Vietnam War was escalating, and all civil rights legislation was stalled due to violent race riots across the country. In addition, inflation from war spending was weakening the U.S. economy. To help remedy the economic crisis, Nixon established wage and price controls as a means to control spiraling costs for American households. Nixon lowered the number of goods imported to the United States to decrease spending and promote American businesses, and he increased the number of exported American products. By 1972, inflation began to slow down, but it reversed again in 1973 and continued to climb throughout the remainder of his term.

Fun Fact!

Shortly after Nixon assumed the presidency in 1969, he had a single-lane bowling alley built below the driveway leading to the White House North Portico. Nixon was crazy about bowling.

Presidential Personality

Richard Nixon was a confusing personality. The private Nixon was considered hypersensitive, soft, suspicious, and lonely. However, in public, Nixon was charismatic, outgoing, and confident.

Vietnam and Foreign Policy

Events in Vietnam escalated as the U.S. Air Force dropped literally “tons” of bombs on Cambodia, Laos, and Vietnam. While Nixon was in office, the civilian death toll in Southeast Asia reached nearly one million and the U.S. death toll reached 20,533. However, Nixon did obtain foreign policy achievements in other areas. In February 1972, he became the first president to travel to and negotiate with a communist country (ironic because of his communism-bashing history). For the first time in twenty years, the People’s Republic of China opened its doors to the U.S. and signed its first trade agreement since becoming a communist country. In May 1972, Nixon also visited the Soviet Union and negotiated a treaty that eased tension between the two countries by increasing diplomatic, commercial, and cultural contact. Additionally, the two countries signed SALT, the Strategic Arms Limitation Treaty, which reduced each country’s missile development program.
Watergate

Despite his great international victories in 1972, the year proved fateful. On June 17, five men were caught breaking into the headquarters of the Democratic National Committee, located in a complex of buildings called Watergate. The apparently inconsequential event turned into a nightmare for Nixon when reporters from the Washington Post discovered ties between the burglars and his administration. After nearly a month of questionings and arguments, impeachment seemed inevitable. Instead of facing a humiliating trial, Nixon resigned, becoming the first and only president to do so.

Congressional Corner

The Clean Air Act: This act was signed in 1970 and developed state and federal regulations for industrial businesses to follow.

National Environmental Policy Act: This act was passed in 1970 and established the Environmental Protection Agency, which was designed to implement the Clean Air Act.

Federal Election Campaign Act of 1971: This act helped increase disclosure of federal campaign contributions and created the Federal Election Commission.

Equal Employment Opportunity Act: Signed in 1972, the act worked to prevent workplace discrimination based on race or gender.

War Powers Act of 1973: The act allowed the president to send U.S. armed forces into foreign countries only after a declaration of war by Congress. The president can, however, send troops without congressional approval in the case of an attack on the U.S.

Congressional Budget and Impoundment Control Act: This act, passed in 1974, worked to limit the president’s control over federal spending.

Fun Fact!

Elvis Presley visited President Nixon at the White House in 1970 to ask to become an undercover agent. Nixon awarded him a Bureau of Narcotics and Dangerous Drugs badge and the position of “Special Assistant.”

Thoughts on the Constitution

The Constitution supposes what the history of all governments demonstrates, that the executive is the branch of power most interested in war and most prone to it. It has accordingly with studied care, vested the question of war in the legislature. [If a president is successful in bypassing the Congress] it is evident that the people are cheated out of the best ingredients in the government, the safeguards of peace, which is the greatest of their blessings.
Post-Presidency


Presidential Times

Investigation into Kent State University Shootings Continues

May 4, 1970 – Three days ago, a group of student antiwar protesters at Ohio’s Kent State University gathered to protest the war in Vietnam. After some of the students began throwing beer bottles at policemen, the local mayor declared a state of emergency. The next day, the Ohio National Guard arrived on the campus, using tear gas to control the protesters who had recently set fire to the abandoned ROTC building on campus. A member of the National Guard fixed on the crowd of antiwar protesters and further gunfire ensued, leaving four students dead and nine others wounded. The reason for the shooting is still being investigated.

Nixon Visits the People’s Republic of China

February 21, 1972 – Richard Nixon landed today in the People’s Republic of China, where he hopes to negotiate the first high-level engagement treaty between the two countries in twenty years.

Plans for the trip were long kept secret from the public, for fear of backlash from anticommunist Americans and international attention. Nixon kept his quest for negotiations top secret, even hiding the developments from his State Department. He only confided in his secretary of state, Henry Kissinger.

The meeting was negotiated through a mediator, Pakistani dictator Yahya Khan, who acted as the go-between for Chinese Premier Chou En-Lai and Henry Kissinger. When the negotiations seemed positive, Kissinger traveled to Pakistan, where he “fell ill” and secretly traveled to China. In China, Kissinger met with officials and secured the formal invitation for Nixon to travel to the communist country. Only with the invitation in hand did Nixon release the news.

Vietnam War Ends!

March 29, 1973 – The U.S. officially ended its involvement in the Vietnam region today, and the Nixon administration has proposed a plan that will have all American army personnel out of the region by next year. This comes as a great relief to the American public, which is weary of a war that seemed to have no end.

Since 1970, the war in Vietnam has been escalating, despite Nixon’s promises to end it. Nixon ordered more ground troops into the region in 1970 and bombings of Laos in 1971. In addition to having American troops in North and South Vietnam, Nixon ordered the U.S. invasion of

The number of bombs dropped on the region during the war is double the number dropped during World War II. However, a peace treaty has now been signed between the warring nations following peace talks that occurred between the two nations earlier this month.

**Vice President Spiro Agnew Resigns**

October 10, 1973 – Agnew has been charged with having accepted bribes totaling more than $100,000 while holding office as Baltimore County Executive, Governor of Maryland, and Vice President of the United States.

Over the past few months, he has been charged with extortion, tax fraud, bribery, and conspiracy. He was allowed to plead no contest to a single charge that he had failed to report $29,500 of income received in 1967 on the condition that he resign from the vice presidency.

**New Vice President Sworn In**

December 6, 1973 – House Minority Leader Gerald Ford has taken the oath of office as Vice President of the United States, replacing Spiro Agnew, who resigned in October.

Ford was nominated to take Agnew’s position on October 12. The U.S. Senate voted 92 to 3 to confirm him on November 27, and earlier today the House confirmed Ford by a vote of 387 to 35.

**Nixon Resigns!**

August 9, 1974 – Richard Nixon is the first U.S. president to resign, and will hand over the presidency to Vice President Gerald Ford today at noon.

In yesterday’s speech, Nixon acknowledged his faltering political support in Congress and his sadness over the decisions that were made concerning Watergate.

“I have never been a quitter,” Nixon said. “To leave office before my term is completed is abhorrent to every instinct in my body. But as president, I must put the interest of America first…. Therefore, I shall resign the Presidency…. Vice President Ford will be sworn in as president at that hour in this office.”

His resignation comes after a scandal that shook the White House. It was found earlier this year that Nixon was potentially connected to a group of politicians who set up secret surveillance of the Democrat Party and Nixon’s future political rivals.

At first, Nixon denied he had any involvement in the Watergate break-in, but it was revealed that audio recorders installed in the Oval Office and other rooms in the White House by Nixon held conversations of Watergate and the intent behind it.

Nixon initially refused to release the audiotapes, saying it would endanger American national security, but the Supreme Court ruled that they must be released.
After listening to the tapes, the Judiciary Committee issued articles of impeachment. But hoping to save face, Nixon is choosing to resign.

**State of the Union**

(1) States: 50
(2) U.S. Population: (1969) 203,675,000
(3) U.S. Debt (1969) $362,319,480,396
(1974) $504,124,407,866

**Timeline**

- **1969** – The Nuclear Weapons Non-Proliferation Treaty is signed between the United States and the Soviet Union
- **1970** – The Kent State University shootings occur
- **1971** – Columbus Day becomes a federal holiday
- **1972** – The twenty-one year U.S. trade embargo with China ends
- **1972** – Five men are caught breaking into the Democratic National Committee headquarters leading to the Watergate Scandal
- **1973** – Richard Nixon resigns from the presidency

**Platform Speech**

*We have faced other crises in our history and have become stronger by rejecting the easy way out and taking the right way in meeting our challenges. Our greatness as a nation has been our capacity to do what had to be done when we knew our course was right.* – Richard Nixon

In his “Silent Majority” speech, Nixon was asking Americans for support of the Vietnam War and an end to the antiwar protests. He urged Americans to remember that America was great because she had chosen to do the right thing and meet her challenges, not shrink from them.

**What Has He Done for Me Lately?**

Nixon was responsible for ending the twenty-one year stalemate between the United States and the People’s Republic of China. Because of his gutsy attempt to reach out to the communist country, Nixon succeeded in opening trade between the two countries, which slowly opened
China to the rest of the world. Nixon also supported the 26th amendment which lowered the voting age from 21 to 18.

*Juliette Turner is the National Youth Director of Constituting America, and the author of three books: Our Constitution Rocks, Our Presidents Rock and the novel, based on life at her ranch with her mom, actress Janine Turner, That’s Not Hay In My Hair (all published by HarpersCollins/Zondervan).*


**A Different Take On Watergate – Guest Essayist: John Marini**


Video link: https://www.youtube.com/watch?v=JlmgYPUe8zg&feature=youtu.be

**PRESIDENT NIXON VS. THE ADMINISTRATIVE STATE. An Interview with John Marini**

John: You have to begin to see what Nixon’s plan was after the election, and there you get a better sense of his view that this is the last time that we’re going to be able to take on the centralized bureaucratic apparatus and be able to hold it back.

Charles: John, if Richard Nixon were a character in a western, who would he be? Simon Legree?

John: Yeah, it’s hard to say. I don’t know. In a John Ford Western?

Charles: Yes.

John: Maybe a Mose Harper.

Charles: Hard to cast.

John: Yeah. He would be hard to cast. He’s a complicated figure in many ways.

Charles: Well, what should conservatives think about Richard Nixon? He was certainly not beloved by the American Right Wing at the time when he was president or even before he was the president. There was a lot of disappointment, obviously, at how his presidency ended. You’re a man who has studied that period. What do we make of him in retrospect?

John: Well I think Nixon was at the center of the two greatest controversies in the Post-World War II period.
Nixon comes out of the War, runs as a Republican from California in 1946, in a time when politics is dominated by Roosevelt and the New Deal.

It’s a time when socialism, communism—Many of the intellectuals in America were very willing and very hospitable to socialism. And it was hard to draw a line between socialism and communism. It was harder still to draw a line between the communism that was backed by the Soviet Union and its influence in America.

I think Nixon brought the problem of domestic communism to the fore in American politics in a way no one had done, and that earned him a great deal of enmity, in that his case, in the way in which he brought that to the attention of the American people. Because when you look at the 1930s, you look at American intellectuals, many of them were very willing to extend the powers of American government far beyond anything that had ever been done.

Nixon was still in many ways, even though he thought that government should be powerful, I think he was an opponent of—however he understood it—administrative centralization because he knew it would be difficult to hold political officers accountable once the powers moved from the political to the administrative realm.

So the other thing he brought to the fore is—I think he’s the first real systematic opponent of the New Deal in American politics. Not in a really coherent way, but in a way—let’s put it this way: If you look at Eisenhower’s presidency, Eisenhower did not want to politicize the New Deal. He did not want to politicize what it was that Roosevelt had done or what the Democratic Party had done, even expanded

Charles: I mean, what Eisenhower called “Modern Republicanism” was really republicanism that had made its peace with the New Deal.

John: And, in fact, he expanded in a way that even the New Deal didn’t when he created the Department of Health, Education, and Welfare; because you remember the New Deal was preoccupied still with national defense, and many of the resources, or most of the resources of the Federal government were still used primarily in terms of defense.

Once you start the possibility of creating federal monies for health, education, and welfare, then, of course, you’re moving in a direction towards changing the priorities of those who hold offices in America, because you have the possibility of subsidizing constituencies.

In other words, what I’m suggesting is, Nixon understood, in fact, he said the election of 1960, in his mind, the election was about whether or not we want a free society or a bureaucratic society. He said John Kennedy will usher in a bureaucratic society. He wanted to retain a free society.

Now that becomes obscured by the time he becomes president in 1968.

Charles: Well, isn’t it obscured in part by Nixon himself? I mean, he is responsible for a lot of Federal bureaucracy in his terms as president.
John: Yeah, I think that the problem with Nixon and the difficulty of understanding this is
Nixon’s two terms are like two different presidencies, in my view.

When Nixon won in 1968, the fundamental preoccupation of the country in his mind, and the
White House, was winning the war in Vietnam. There was no way in which he could negotiate
with large majorities in Congress without accommodating many of the things that they wanted to
do and could have done probably, even over veto. Much of what he did in his first term was to
try to fund the war in Vietnam.

Now, the key was the 1972 election. Now even *The New York Times* in ‘72 said after Nixon’s
election, what Nixon did was extraordinary in American politics. It’s as if another party took
power because, do you remember what he did?

1972. When he took office he told every member of his administration, including Henry
Kissinger, every cabinet officer, you have to turn in your resignation. He said, I’m tired
of appointing people to offices and then getting them co-opted by the bureaucracy. I
want people that are going to do what we have to do.

And so you have to begin to see what Nixon’s plan was after the election. And there you get a
better sense of his view that this is the last time that we’re going to be able to take on the
centralized bureaucratic apparatus and be able to hold it back.

Charles: Well, let’s talk about that a little bit because it’s true that the Left feared that side of
Nixon, that plan of his. They thought this was the beginning of the administrative presidency or
the sort of imperial presidency working its way from foreign policy into control of domestic
policy as well.

But what’s the evidence that he was thinking strategically? He did have this, what you just
pointed to, a plan to form super-departments, combining some of the existing cabinet
departments. And the theory, I guess, was that he would be able to control them. The president
would be able to control them or –

No, what he wanted to do in creating the distinction between departments is isolate what you
would call the Pork Departments, those departments that were more concerned with satisfying
constituencies, and those departments that were more concerned with the national interests. In
other words, he wanted to isolate those people that he was certain would be co-opted by those
bureaucracies that provided services—

Charles: Health, education, and welfare.

John: Right. Any of those kinds of departments.

And he also wanted to reorganize the bureaucracy in such a way as to cut the congressional
oversight committees and their links to Congress, assuming, of course, that Congress would do
it. Which, of course, nobody in Congress would do what he wanted to do when he sent the
Reorganization Act over.
What he thought he could do was—could he do it administratively? And that’s when, of course, he got into trouble.

But here’s what Theodore White says about that problem at the time: Nixon knew that the only way to decentralize power in Washington was to centralize authority in the White House. But then he opened himself up to the charge of the imperial presidency.

Nixon’s ultimate intention, though, was centralize with the view to decentralize and getting it out of Washington. That he failed at. That’s what Watergate partly was about.

Charles: But isn’t instituting wage and price controls a strange way to decentralize authority in Washington?

John: No, no. But you have to remember. Those are in the heat of the election. Those are temporary measures, I think. Look, you have to win elections too.

Charles: I know, but isn’t that a strange way to win an election? I mean this is not the usual way to win an American election.

He did win though. They thought that worked in the short run. It certainly did in ’72.

Charles: Well, there’s a certain argument, if you’re going to have wage and price controls, you should have Republicans running them. conservative economists who hate what they’re doing administrating the thing.

John: I think Nixon made a lot of errors of judgment. I try to understand him in this context of what was going on in Washington, and how was he perceived? How was he understood?

I think the man who understood Nixon best in terms of what he was doing was Reagan. Reagan already understood it in ’59. They started correspondence with each other in 1959.

In Nixon’s presidency, when he was president—you can listen to the tapes—all of the important things he did—whether in Vietnam—he would always call Reagan. (He was governor.) And he would tell him, “This is what we’re doing in Vietnam.” And he would say, “I’ll let Henry tell you the details of it.”

You notice Nixon was destroyed politically and almost anybody who touched him after he resigned. But who met him at the airport when he came to California?

Charles: Ronald Reagan.

John: Ronald Reagan. So Reagan was the only guy, I think, who knew what Watergate was about really. But you can’t make a public defense of Nixon anymore.

Charles: Do we know what Watergate was about?
John: Well, I don’t think he did. I don’t think Nixon did. In fact, when I wrote a paper in 1984 on the roll of the bureaucracy in Watergate, somehow it got into Nixon’s hands, and within a couple of weeks he wrote me a letter and said, “You know, I never thought about that element of the—“

Charles: Is that right?

John: And he said, “You’re far away. You weren’t even here, and you pointed so something really about what was happening.”

And it wasn’t really a defense of Nixon. It was just—there are institutional players. There are people who have certain things that they want to do. And I was trying to take into account the broader, the forces in American politics.

Charles: Well say more about that.

John: Not the personalities.

Charles: What was your argument?

John: The argument was, of course, that the permanent government, the bureaucracy was well aware that Nixon was a fundamental opponent. All of the bureaucracy thought of Nixon as a threat, including the intelligence agencies. All of them thought of Nixon as a threat.

And so whenever the bureaucracy is threatened, it defends its interests by going to the media, by leaking to political opponents. All of Watergate’s so-called revelations that were supposedly done by Woodward and Bernstein through investigative—That wasn’t investigative reporting. That was just using what somebody gave them.

Charles: Soaking up the leaks.

John: Right. Right. And so, what you can see subsequently in looking at the bureaucracy in relationship to the parties, Republican presidents can never do with the bureaucracy what democratic presidents can. Democratic presidents are shielded by the bureaucracy. Republican presidents are undermined by the bureaucracy if they perceive them as a threat.

Charles: So in the Nixon period, what the bureaucrats feared was not politicization of the bureaucracy; they feared “conservatization” or a particular kind of political authority over the bureaucracy.

John: They feared, I think, the view that you would revitalize various of the problems that had been brought to Washington to be decided by centralized bureaucracies—that you decentralize them, and much of the power and decision making, real politics in other words, goes back to the states.
Because once you centralize the administration in Washington, everything revolved around the center; and the congressmen had to make their reputations—not by a defense of their constituencies within the state. Senators didn’t look out for the interest of the state within the state. Everybody thought you delivered the goods from the Senate.

Charles: So the bureaucracy was acting from organizational maintenance.

John: Yes, of course.

Charles: They feared loss of power.

John: Right. And all of those forces in Washington that benefitted from centralization, which includes, by the way, the national media, national economic interests, all of them would prefer to have to deal one place.

Charles: You would say that’s true of the national security bureaucracy as well? Or primarily of the domestic ones?

John: Well the national security bureaucracy hated Nixon for other reasons that were related to the Vietnam War. Remember, he was actually going to put one of his admirals on trial for treason.

Charles: Is that right?

John: Yeah!

Charles: I don’t remember that.

John: And they talked him out of it.

I don’t know that we have full knowledge of what was going on in that period, but a lot of things were going on. But they hated him for other reasons as well, the national security and the CIA bureaucracy.

But what you had by the Nixon Administration is, first of all, the official bureaucracy was often co-opted by the committees in Congress that had had control over those things for a long time period of time.

Just one example: When Nixon made the opening to China, normally you would think you would do that through the State Department. That’s what it’s set up for. Nixon did it absolutely without anybody in the State Department, including the secretary of state, William Rogers, who was not informed about the opening to China until about two hours before Nixon went on television.

Charles: Kissinger did it all out of his back pocket.
John: It was all done through the National Security Council out of the White House though.

So what you see is, these presidents had to create their own bureaucracies that were loyal to them, to go against the permanent bureaucracies that were in the hands of those people in Congress who had tenure for long periods of time.

Charles: And thus were disloyal to them as president.

John: Right. And responded really to the interest of those people that they know they’d have to deal with for 30 years, not four years or eight years.

So the relationship between the branches, the Congress and the presidency, once the administration was centralized and Congress ceased to be able to understand itself in terms of lawmaking, in terms of the national interests, it became really a force for delegating great power to the administrative apparatus and becomes an oversight body.

And so it’s very difficult for it to think in terms of a national interest.

I mean, one of the Lincoln Fellows yesterday said you can’t get some congressmen to talk about a national security problem because, “Oh, I’m concerned with energy.” Now this is a congressman! So each picks his own policy arena to be able to be a major player.

And the problem with the presidency, of course, is there’s a lot of major players in minor areas. But you need to have major players in the representative branch and the deliberative branch of the government. You need to have coherent policy that’s made by the body. And that doesn’t happen.

Charles: Congress as a body.

John: As a body. And you get to the point, the kind of absurdity you see right now. The American Congress is held—it’s public approval rating is 11 percent. But look at every person—90 percent of incumbents still get reelected.

That means that the fate of the body is different than the fate of the individual member. The people don’t judge the body. They judge the member.

Charles: That’s right. You like your congressman. You hate Congress.

John: Right. Right. But that’s not a good way to keep the government of the United States accountable. And that’s what Nixon, I think, saw. Nixon thought, and he says this, if it’s going to be impossible for the people to be able to consent to government when they don’t have access to the people who have real power. And that is a big problem: How to deal with that problem is, of course, the problem of the administrative state.

Charles: Right. The popular government turns into unelected power in agencies and commissions, bureaus, and so forth.
John: Right because as Congress has to delegate more power to specialized bodies, they don’t have the kind of expert knowledge, the technical knowledge, and they give more—and more and more of the decisions are crafted by the people that are in those technical fields. And so Congress doesn’t even attempt to do the actual making of the rules or regulations that establish what you can do or what you can’t do. It just enables the bureaucracy to do those kinds of things.

And so it shields the bureaucracy in a way, and it makes it impossible for the people to hold the representatives accountable as a body; and you have the situation that we have that the American people are almost impotent when it comes to getting to the sources of what constitute real power.

Charles: And, thus, controlling their own government.

John: Right, the powers, really, the rules and regulations, the things that pass for laws are not really general laws anymore. These are particular laws, and people can get particular favors or privileges through these administrative bodies, but you don’t get good general legislation. You don’t get the rule of law. Because a law should be a general law and it should apply equally.

But these are all ways of enabling unequal treatment.

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During the 1972 election, incumbent Republican President Richard Nixon won an astoundingly large margin, garnering 520 electoral votes. Despite his huge advantages during the election, President Nixon and his campaign operatives engaged in unethical and illegal activities during the campaign. The ultimate victim of Nixon’s crimes turned out to be Nixon himself, as he was forced to resign in 1974 after his misdeeds were uncovered. The unraveling of Nixon’s criminal conspiracies led to reforms for good government.

On the Democratic side, the contest for the nomination turned out not to matter, since Nixon could not have been beaten that year. But the intense struggle revealed divisions in the party, some of which have persisted ever since.

In the Republican race for the nomination, Nixon faced two opponents. From the right, there was Ohio’s U.S. Rep. John Ashbrook. Like many conservatives, Ashbrook was concerned about Nixon’s unilateral imposition of wage and price controls, disregard for principles of constitutional government, diplomatic outreach to Chinese genocidaire Mao Tse-Tung, and policy of “détente” with the Soviet Union’s tyrants.
From the left, Nixon was challenged by California U.S. Rep. Pete McCloskey. McCloskey’s top concern was the continuing U.S. role in the Vietnam War. When Nixon had taken office in January 1969, there were over half a million U.S. troops in Vietnam, and Nixon had cut the number to 156,000 by the end of 1971, with further reductions in progress. For McCloskey and other opponents of the war, this was too little too late.

Even McCloskey and Ashbrook together could not stop Nixon from winning large majorities in the primaries and caucuses. They held Nixon to 68% in New Hampshire, but thereafter, Nixon always won at least 81% of the vote in every Republican primary. At the well-organized and tightly-controlled Republican National Convention in Miami, only a lone delegate (a New Mexican for McCloskey) voted against Nixon’s renomination.

Among the Democrats, three contenders started with widespread name recognition, and millions of supporters. The frontrunner, Senator Edmund Muskie of Maine, had been the Democratic Vice-Presidential nominee in 1968. Some polls in 1971 showed that Muskie was running neck-and-neck with Nixon.

Next was Minnesota Senator Hubert Humphrey. He had served as Lyndon Johnson’s Vice-President from 1965-69, and had been the Democratic presidential nominee in 1968, losing a very close race to Nixon. Humphrey had been on the national stage since 1948, with a long career as a civil rights champion. But he was tainted by his association with Johnson, who had deceived the American public in order to massively escalate U.S. involvement in Vietnam. In the latter years of the Johnson administration, it was said that the President had a “credibility gap.”

Alabama Governor George Wallace had been making a national name for himself since 1962, as the nation’s most famous segregationist. In 1968, he had run for President on the ticket of the American Independent Party, and won five southern states. For the 1972 race, he abandoned overtly racist appeals, and concentrated his fiery speeches on economic populism.

There were 13 other Democratic candidates, few of whom had any credible chance to win a significant number of delegates, let alone the nomination. Among the vanity candidates were Brooklyn congresswoman Shirley Chisholm, former U.S. Senator Eugene McCarthy (who had been a serious candidate in 1968), North Carolina Governor Terry Sanford, N.Y. City Mayor John Lindsay, Los Angeles Mayor Sam Yorty, and Hawaii Representative Patsy Mink.

But everyone was outfoxed by South Dakota Senator George McGovern. McGovern was in some ways a Democratic version of Republican Ronald Reagan, the Governor of California. McGovern and Reagan each appealed to the strongest ideologues of their parties. At the 1968 nominating conventions, McGovern and Reagan had thrown their hats in the respective rings at the last minute. Although neither McGovern nor Reagan had a realistic chance at the 1968 nomination, they won hundreds of delegates, and laid down markers for future presidential runs.

Hubert Humphrey had garnered the 1968 Democratic nomination without entering a single primary. The Democratic Party wanted a more open system, and appointed a commission to reform the nominating rules. The commission was co-chaired by McGovern and Donald Fraser, a liberal U.S. Representative from Minnesota. The recommendations of the McGovern-Fraser
Commission (formally, the “Commission on Party Structure and Delegate Selection”) required much more transparency and openness is the selection of presidential delegates. The reforms drastically reduced the ability of the party hierarchy to choose delegates.

To comply with the McGovern-Fraser rules, some states adopted binding presidential primaries. Although the majority of states still used caucuses, the caucuses were now wide open to control by ordinary voters, who could choose delegates notwithstanding the wishes of the party bosses. The reforms enormously benefited McGovern, who was popular with Democratic voters, but not with the party leadership.

In Senate voting records, there was not much difference between McGovern, Muskie, Humphrey, and the other Senators who were running (such as Washington’s Henry “Scoop” Jackson). All of them were do-good advocates of an ever-expanding federal government, with nearly limitless faith in the ability of big government to fix every human problem.

But Muskie, Humphrey, and Jackson were from the Harry Truman and John F. Kennedy mainstream of the Democratic Party, and thus strongly anti-communist. McGovern’s heart lay with Franklin Roosevelt’s Vice-President Henry Wallace (1941-45), who had bolted the Democrats in 1948 and run as an independent, in opposition to President Truman’s strong anti-communism.

McGovern based his primary campaign on the Vietnam War, saying he had been “right from the start” in fighting American involvement. This was not quite correct, since McGovern, like all but two Senators, had voted in 1964 for the Tonkin Gulf Resolution, which authorized President Johnson to escalate the Vietnam War. However, McGovern had become a staunch critic of the war much earlier than many elected Democrats, who had only decided that the war was a terrible mistake after the war was no longer being managed by a Democratic President.

Yet it was not the war issue per se that made McGovern anathema to so much of the Democratic Party. The problem was McGovern’s supporters, the “McGovernites.” Many of McGovern’s supporters were rank-and-file Democrats of very liberal persuasion. This was no different from Reagan, who attracted many traditional Republicans who were very conservative. Yet both candidates also attracted large numbers of fringe supporters from beyond the party’s previous boundaries.

Reagan had garnered plenty of volunteers and votes from members of the John Birch Society, an organization devoted to conspiracy theories. (For example, that President Eisenhower’s brother Milton was a Soviet agent.) Reagan in his 1966 gubernatorial campaign had defused the issue, explaining that if Birchers were supporting him, that meant that they were agreeing with his ideas, not that he was agreeing with theirs.

McGovern, though, could not shake off his association with his own fringe—in part because he needed them to win the nomination. To American moderates, many McGovernites appeared to be a repellant collection of America-hating quasi-Marxists, men-hating radical feminists, white-hating racial agitators, draft dodgers, and lazy hippies demanding more welfare in order to buy more drugs.
McGovern himself was eminently sober, decent, and patriotic, having served on a bomber crew during World War II. But a significant number of voters decided that they wanted nothing to do with a candidate who had supporters like McGovern’s.

Nevertheless, McGovern managed to pull off one of the greatest upsets in the history of presidential politics. He initiated what would become the modern practice of starting a campaign very early, announcing his candidacy in January 1971. Although his budget was tight, McGovern built strong organizations around the country. His team of miracle workers was headed by campaign director Frank Mankiewicz (a former aide to Robert Kennedy) and campaign manager Gary Hart (who would later be elected Senator from Colorado).

McGovern’s team harnessed tremendous energy from volunteers who wanted America to get out of the Vietnam War immediately, and with no conditions except for the return of American prisoners of war. The McGovern presidential campaign was the first to raise large amounts of money from direct mail, a technique that at the time was in its infancy.

The McGovern campaign concentrated attention in the caucus states, where a relatively small number of dedicated activists could produce a rich harvest of delegates. In primary states, McGovern actually won slightly fewer votes than did Hubert Humphrey. But McGovern earned far more caucus delegates than Humphrey.

During the next presidential cycle, for 1976, Georgia Governor Jimmy Carter carefully studied Hart’s 1973 campaign book, Right from the Start, as a manual for how an outsider could win the nomination. In 2008, Barack Obama would also win the nomination by out-organizing his opponents in the caucuses; even though Hillary Clinton won more primary votes in 2008 than did Obama, Obama won more delegates, thanks to his far superior caucus machine.

In the primaries, McGovern did well enough to keep his campaign viable, while the rest of the field was winnowed. For example, he won 37% from New Hampshire, while Muskie won 46%—which was a disappointing result for the Senator from the state next door.

In Florida, Wallace won all but one county, and 42% of the total vote, demonstrating that his campaign had staying power. On May 15, Wallace was shot by a would-be assassin, leaving him permanently paralyzed from the waist down. The next day, Wallace won the primaries in Michigan and Maryland.

As the campaign ground on, Muskie faded, and Humphrey emerged as the best hope for the stop-McGovern forces. The race came down to California’s winner-take-all primary on June 6. McGovern won by 44% to 39%, taking all 271 delegates. This was just enough to secure him a majority at the convention. Although McGovern had won majorities in only four primary states (Massachusetts, Vermont, South Dakota, and Oregon), he had won pluralities in many others, thanks to divided opposition.

The rest of the party would not relent, and attempted to retroactively change the rules, to deny McGovern some of his California delegates. The argument of the Stop McGovern movement was that giving all of the California delegates to a candidate who had not won the majority of
California votes was contrary to the spirit of the McGovern-Fraser reforms, which favored proportional representation. At the Democratic National Convention, held in July in Miami, the maneuver failed, narrowly.

The chaotic, contested convention did little to broaden McGovern’s appeal to the general electorate. His acceptance speech, on the theme of “Come Home, America,” was McGovern’s sincere, thoughtful, and well-delivered call for America to abandon foreign militaristic adventurism, and to focus on building a fairer and more prosperous society at home. But the speech was delivered at 3 a.m. Eastern Time, when hardly anyone was watching.

McGovern had been so busy winning the Democratic nomination that the Vice-Presidency was barely considered until the convention was underway. He ended up choosing Missouri Senator Thomas Eagleton, a Catholic liberal with solid ties to organized labor; Catholics and labor were two elements of the traditional Democratic base where McGovern was weak.

Unfortunately, Eagleton concealed his history of having voluntarily committed himself to institutions for mental health treatment, and having received electroshock therapy. As a result, Eagleton later withdrew from the ticket. In a world where the Soviet Union and the United States each had enough nuclear weapons to devastate the world, the American public insisted on absolute mental stability for anyone who might have his finger on the nuclear button.

So the Democratic Convention had to re-convene and pick a new Vice-Presidential nominee. By this point, the McGovern general election campaign appeared doomed. Half a dozen Democrats turned down McGovern’s offer of the Vice-Presidential nomination. Among those who did not want to be McGovern’s vice-president was a man who was desperately wanted by nearly all Democrats (except for Wallace voters): Massachusetts Senator Edward Kennedy. To the party, Kennedy’s 1971 drunk-driving accident, in which he had abandoned a paramour to drown in a river, was no obstacle. But Kennedy was not interested, and said so repeatedly. So McGovern settled for a Kennedy in-law, Sargent Shriver, who had been an official in the Lyndon Johnson administration.

During the general election campaign, McGovern had to work so hard to try to reclaim traditional Democratic voters that he had little time to attempt to appeal to independents or to Republicans who were dissatisfied with Nixon. McGovern pitched his plan for a federal program to guarantee a job to every able-bodied citizen; any citizen who was offered such a job, and refused to take it, would be cut off from federal welfare benefits. But McGovern continued to make unforced errors—most infamously when he promised to “beg” the North Vietnamese Communist dictatorship to release American prisoners of war.

Even if McGovern had run a perfect campaign (or even if Muskie had been the nominee, and had run a perfect campaign), Nixon had become unbeatable. Although he had no personal charisma, his conduct during his first term had appeared temperate and careful. His détente with the communist dictatorships in the Soviet Union and China was popular with most Americans. He was winding down U.S. involvement in Vietnam. To benefit the President, Arthur Burns, the Chairman of the Federal Reserve, was pumping up the American economy; in the long run, the Nixon-Burns policy was a direct cause of stagflation (high unemployment, plus high inflation).
later in the 1970s; but as of 1972, the Nixon-Burns jolt of pseudo-stimulus made the economy seem good.

Nixon, however, decided to cheat. His administration used regulatory threats to blackmail large corporations into making secret, illegal campaign contributions. Like several of his predecessors and successors (including Franklin Roosevelt and Lyndon Johnson), Nixon used the FBI and other intelligence agencies to spy on political opponents. He attempted to use the Internal Revenue Service to harass domestic critics. (The IRS refused Nixon, but would engage in harassment on behalf of a different administration in 2010-12.)

Most famously, Nixon’s “Committee to Re-Elect the President” (CREEP) attempted to illegally plant audio listening devices at the Democratic National Party Headquarters, in the office suites of the Watergate hotel and business complex in D.C. The burglars were caught in the act early in the morning of June 17, 1972. Shortly thereafter, two of their off-site bosses were apprehended.

Almost immediately, President Nixon began directing a criminal cover-up. He told his staff to dissuade the FBI from investigating the burglary. The FBI would be told that the burglary was actually a national security operation involving the CIA, which the FBI should leave alone.

Bizarrely, Nixon had set up a secret tape recording system in the oval office, and thus his crimes were recorded. In late July 1974, a unanimous Supreme Court ruled that Nixon must release the most incriminating tapes to federal prosecutors. Sixteen days later, Nixon resigned the Presidency, avoiding certain impeachment and conviction by a nearly unanimous U.S. House and Senate.

But the Watergate affair had little impact on the 1972 election. Nixon carried 49 states, while McGovern won only Massachusetts and the District of Columbia. Nixon garnered 61% of the popular vote, compared to 38% for McGovern. In only four of the Nixon states did McGovern even come within 10%.

Nixon’s landslide produced no Republican coattails. When incumbent Democratic Lyndon Johnson was on his way to a landslide in 1964, Johnson had worked hard to help members of his party win close races. Nixon did not, devoting all of his political capital to himself.

The pervasive criminality of the Nixon administration began to be revealed in the Spring of 1973, thanks to investigative reporting by the Washington Post, and to a special Senate Committee, in which the three Republican members all put the national interest in good government ahead of any partisan interest in protecting a Republican President. Eventually, Nixon was forced to appoint a special prosecutor. When that prosecutor (Archibald Cox) began getting too close to the truth, Nixon fired him in October 1973; the political firestorm forced Nixon to appoint a replacement (Leon Jaworski) almost immediately. The Watergate investigations spurred further investigations of wrong-doing by the Republican Nixon administration, and by its predecessors, including Democrat Lyndon Johnson.

The Watergate scandal resulted in many reforms. The National Emergencies Act in 1976 repealed a state of emergency that had technically been in effect since 1950, and had been used by many Presidents for nefarious purposes unrelated to national security. A 1974 series of
campaign finance reforms limited individual contributions, imposed strict disclosure requirements for all federal campaigns, and provided public funding for presidential campaigns. A 1978 law set up a formal system for special prosecutors to investigate alleged crimes, especially when there was concern that a President might not allow his Department of Justice to prosecute wrong-doing in his own administration. A Senate committee led by Frank Church (D-Idaho) had started out investigating misuse of the CIA by President Nixon, and had discovered that such abuse stretched back to previous administrations. A variety of reforms were enacted to limit domestic surveillance and other CIA operations.

The 1972 nomination of McGovern was one reason why the Democratic Party in 1982 revised its delegate selection rules, so that a large share of convention delegates would be party officials or politicians who were automatically chosen because of their status, rather than because of their support for a particular presidential candidate. This was a partial repudiation of the McGovern-Fraser reforms, and reflected the party’s collective decision that insurgents who could not reach an accommodation with the party establishment should not be nominated.

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Our Constitution Works: President Ford’s Date With Destiny:
Guest Essayist – Gerald R. Ford Presidential Foundation

The Gerald R. Ford Presidential Foundation, the Grand Rapids Economic Club and the National Constitutional Center hosted “Our Constitution Works: President Ford’s Date with Destiny” on October 20, 2014 in Grand Rapids, Michigan. The following is a partial transcript of the videotaped panel discussion. Used with permission.

Video link: https://vimeo.com/110009520

Doug DeVos, Gerald R. Ford Presidential Foundation Trustee, National Constitution Center Trustee and former Chair of the Grand Rapids Economic Club hosted the event. Steve Ford, son of Gerald & Betty Ford, illustrated his father’s belief in the pardon decision by retelling the story in which he personally asked his father about the pardon.

The panelists included former Supreme Court Justice John Paul Stevens, who was appointed by President Gerald R. Ford in 1975; former Secretary of the U.S. Treasury Paul O’Neill, who served as Deputy Director of the Office of Management & Budget for President Ford; and Ken Gormley who replaced Professor Benton Becker, President Ford’s lone representative chosen to travel to California and meet with Richard Nixon regarding Ford’s offering to pardon the former President. Gromley is the Dean of the Duquesne University School of Law and is an expert on Watergate.
Justice John Paul Stevens reflected on President Ford’s legacy, what he believed were Ford’s reasons for selecting him to serve on the Supreme Court, his opinions on various court decisions and his thoughts on the current state of the U.S. Constitution.

Secretary O’Neill described his first-hand account of who President Ford was, having spent 15-20 hours a week in the White House with Ford. O’Neill mentioned that President Ford was probably the last President that could answer any and all questions on his budget proposal, and how that was just one example of how deeply focused President Ford was to the details at hand. He marveled at Ford’s focus on doing his very best in improving the lives of all Americans throughout difficult economic struggles. O’Neill concluded his remarks with “Gerald R. Ford was the President we always wanted and we didn’t appreciate him when we had him”.

Gormley, who spoke on behalf of Becker, provided the audience with some of the insights into the pardon and how it came to be. Gormley touched on Ford’s absolute belief that a Nixon trial would drag down the country and the White House for possibly years. Ford believed that with a Nixon trial, the country could not move on from Watergate and his White House could not focus on fixing the issues at hand. Gormley highlighted the Nixon tape issue and President Ford’s crucial decision to halt those tapes from being removed from the White House. Becker participated in researching the legality of a Nixon Pardon but also that the legal precedent of a Presidential pardon acceptance, in and of itself, was an admission of guilt, even without a conviction.

Panel Discussion on Richard Nixon Pardon

Doug DeVos: As we get together here this is a very special event. And it is a great collaboration. I’ll start in Philadelphia with the National Constitution Center, and we’ve had an opportunity to collaborate with the Ford Foundation in the past and the Economic Club in the past so this is a continuation of a relationship that has been very successful. And the National Constitution Center, as you can imagine, spends all of its time talking about the Constitution, our founding documents, our heritage of our country and how it applies in our country and in the world today. It’s a fabulous organization. We’re thrilled to have them a part of this event.

Also we had some panel sessions this morning at the President Ford Museum and again fascinating discussions and dialogues and in depth about how President Ford navigated some unbelievably challenging waters. And found his way through and used his knowledge and skills as a politician, as a leader, but most importantly as a man of integrity.

And so we are just thrilled with the opportunity to expand on that and talk a little bit more about the linkage between President Ford and the Constitution.

Steve Ford: Thank you, Doug, for that nice introduction. Both of us, Doug, were blessed with great parents. Every time I look out across the Grand River and see that museum over there with Dad and Mom, we feel very grateful that you guys are taking care of them back here, so that means a lot to the family.
I get to introduce the panelists. We have three very distinguished panelists and a moderator, but before I do that, I wanted to just take a moment to reflect on the Nixon pardon and what happened 40 years ago.

I was just an 18 year old kid. Dad just became president of the United States. I was telling Justice Stevens, overnight I got 10 Secret Service guys, you know, and your 18. That’s really not the group you’re hoping to hang out with, and, those were my concerns. You guys were worried about bigger things than that.

But I remember talking to Dad after the pardon years later and asking him and one of the best explanations I ever heard:

He said to me, “You know, sometimes a President has to be like a father of a family.

And he says, “You know, sometimes someone in that family, a child, will do something and get in trouble.”

I’m sure he was referring to me… “…you know, break the rules, whatever, and there will be consequences and penalties and discipline that comes from that.

But what a father has is a choice. He has a choice to grant grace and mercy to that child if he thinks that by carrying out the full punishment, or that penalty, or that consequence will rip the family apart.”

When he gave me that analogy, it made complete sense. This country was being ripped apart at the time when Dad took over the reins of this country. We had a recession, a war in Vietnam, a cold war with the Russians, and the country’s focus needed to be on the economy and things like that.

And there was so much grace and mercy in Dad’s choice, I think, and he applied that principle with a pardon. We needed to look forward, and the country to grow, and so I totally understood what he was talking about.

The last little thought. And I had it this morning as I walked over to the museum we had those great panels over there today.

I walked by Dad’s statue and it’s just like the one that’s in the Rotunda of the Capitol in Washington, DC and there’s that great quote on the left side of it as your walking in, and it’s by Democratic Speaker of the House, Tip O’Neill. And I stopped and I looked at it and it reminded me of who my father was. And the quote goes,

“God has been very good to America. During the Civil War, He sent Abraham Lincoln, and during Watergate, He sent Gerald R. Ford – the right man at the right time to heal the nation.”

And I think that sums it up for me.
Jeff Rosen: Ladies and Gentlemen, welcome, and it is such an honor to be here. And we are so thrilled to be here in Grand Rapids to collaborate with the Ford Presidential Library for a symposium on the constitutional legacy of President Ford.

Justice John Paul Stevens: There are...thoughts that occurred to me that separate what I understand as his view of the law and the Constitution from that of many other people.

And one of them is illustrated by the pardon itself which is the subject of your program this morning, I understand. And of course it was a very unpopular decision at the time and on that may very well have cost him reelection of the presidency. And which he surely knew at the time it might have that kind of consequence, but he nevertheless made the decision. But the choice that he faced at that time was a choice between the future and the past, in a way.

Should he concentrate on providing a just remedy for sins that had been committed by the predecessor in office and the like, or should he give primary importance to what is good for the future? And it seems to me the decision was clearly the better decision for the future of the country both because it enabled him to spend the bulk of his time on future problems rather than going over and over again the details that were involved in the past. So I think of that decision as exemplifying a distinction between the past and the future...

Jeff Rosen: Well, let me ask you, where did you get your commitment to nonpartisanship and what led you to conclude that it’s a central constitutional value?

Justice John Paul Stevens: ...Part of it has to be my work on the case that I mentioned because when I first looked at the briefs in that case...I thought there was absolutely no merit to this claim. Patronages have been part of the law and the customs of the country for so long, it has to be ok. I sort of approached it in the vain that Justice Scalia described in the quote that I gave. But that case I think did make a really lasting imprint on my thinking about the duty of government officials to represent the public rather than particular interests whether they be political or personal or social instead of neutrally – What is the duty of an impartial official of government?

Jeff Rosen: Secretary O’Neill, I want to begin with you. You were in the White House. You were at OMB and had a firsthand view of what it was like as this remarkable event was happening. Tell us what the atmosphere was like and what you gleaned about President Ford’s thinking while you were there.

Secretary Paul O’Neill: I must say, listening to the conversation today, one of the things that’s really striking to me is that people find some surprise in the Ford decision about the pardon. I find no surprise at all because someone observed this morning, was asked, and they volunteered. They thought that the distinguishing character of President Ford was his humility. And I guess I would say, ok, but that’s not quite good enough. What I found the distinguishing characteristic of President Ford was the self-confidence he had because of the value system that he lived by.

You know, it sounds corny to say it today. He was a real Boy Scout. You know, he lived his life to the principles of doing the right thing all the time. And so I think as much as people agonize, “Why did he do this? It cost him the election.”
I think there was never a doubt in his mind.

People keep talking about nonpartisan. So I have to tell you, in all the time I spent with President Ford, and I would say, in the time that he was president, fifteen to twenty hours a week, every week, during his entire presidency, I never heard him ask a question that was based in partisanship.

He was driven by a mindset when he was president: We need to figure out what the facts are, and we need to do what’s best for the country.

That was the driving force for President Ford that animated his every activity.

You know, so we had this turmoil and everything about our society. President Ford had his own personal things going on in his life and in spite of that, he was always true to his principles.

And just one other point about President Ford. I think most people don’t understand. Young people need to understand this. Part of the reason President Ford was such a great leader is because he insisted on commanding the facts.

You know, so I said I spent fifteen or twenty hours a week with him for every week of his presidency. It was because he wanted to make the decisions himself based on facts – not on what some partisan politician called him up and said, “Get this for my state,” or “my city,” or whatever. So he would drill me with things like,

“What are the economic consequences of building a clover leaf around Grand Rapids?” Really. He was at that level of detail in his interest and knowledge about how federal involvement in our society changed things and influenced things, and so, I convinced him in January of 1976 because I knew because I was a student of this. Harry Truman was the last president who could defend his own budget without assistance and hold a press conference.

President Ford went to the State Department. There was a crowd as big as this of lawyers and television cameras and President Ford answered all the questions about his budget. He didn’t need any. We were all strung out on the stage, you know. It was his way of giving us a little time in the sunlight. He. Honest to God. He didn’t need any of us. He knew it all. And He thought about it all…

Final line to you from me. This is the president we always wanted and didn’t appreciate it when we had him.

**Jeff Rosen:** That is beautifully said. Those were memorable stories. And I was so struck to hear you, like Justice Stevens, talk about President Ford’s attention to detail, the fact that he mastered the budget himself just like the fact he read all of Justice Stevens’ opinions on his own does not coincide with the popular image of him at the time, but is really a tribute to his intelligence and commitment as well as obviously his great character.
Dean Gormley, you led a riveting panel this morning on the pardon of President Ford. I want the entire audience to watch it on CSPAN because it’s just, you’re at the edge of your seat.

And Benton Becker, of course, was supposed to be here and we are so sorry he’s not able to join us, but you talked with Benton Becker and I think you wanted to tell us at least two things about what Benton Becker would have shared on this panel.

First, what was going through Ford’s mind when he chose to make the pardon?

And second, what was the conversations that Benton Becker had with President Nixon, in particular about a Supreme Court case called Burdick that was so important to President Ford?

Ken Gormley: Thanks, Jeff. I think there were a couple of factors that led President Ford to conclude that he needed to grant the pardon. Justice Stevens mentioned one. I think he was convinced that he had to put Watergate behind the country or we would be dragged through the muck for two more years.

There’s also the piece that’s overlooked that Leon Jaworski, the new special prosecutor, had expressed concerns that Nixon, there may be trouble giving him a fair trial because of the congressional hearings. This could drag on forever. That weighed on him.

Secondly, this is forgotten by most people, and that’s why it is so important for Benton Becker’s story to be known. Benton Becker being the person President Ford sent to negotiate the pardon.

A big piece of it was President Nixon’s records and tapes…

President Ford made a courageous decision to keep those records and tapes because they were convinced if they went to California, they’d go up in a big bon fire and I think that was an accurate assessment.

Benton Becker was required to explain that if you accept the pardon it’s an admission of guilt.

Benton Becker laid all this out. Nixon agreed that he understood it.

And Benton Becker told the story this morning. Those of you who weren’t there. It is riveting. He left, and Nixon’s aid called him back in and said, “The President would like to see you.”

And he’s sitting there in this empty room. And he said, “There have been a lot of bullies in the past years. You haven’t been a bully and I want to give you something.”

And he had this little white box…and he handed him this little box. But in the box was presidential cuff links with his seal on it.

He said, “The last ones.”
What’s so important about this piece of history and it’s so wonderful to have programs like this and I wish Benton Becker could have been here.

But you know, I interviewed President Ford in 1995 in a hotel in New York City in working on the biography of Archibald Cox.

And, as I was interviewing him, Justice Stevens, he pulls out his wallet, and pulled out a scrap of paper with a citation of a Supreme Court case. You don’t see that often, very often, as a law professor, and it was Burdick versus United States.

And he was so frustrated that the public and the media had never understood this piece of it: that he had carefully worked through this, and he thought that he got what the country needed most which was some sort of legal admission by President Nixon that he had done wrong.

And in the end, I think that he did get it right. I think that President Ford did get it right because as he said to me in our interview, “I think it was the right thing for the country.”

And thank God we have people like that leading our country.

**Jeff Rosen:** Beautifully told and as I say I hope everyone will watch the entire panel on CSPAN.

I’m going to give Justice Stevens the last word.

You heard this really fascinating discussion of the Ford pardon. You’ve heard about his attachment to the Burdick case.

On balance, on reflection, how should history judge President Ford’s pardon, it’s constitutional dimensions, and was it the right thing to do?

**Justice John Paul Stevens:** Well, it was a decision that he thought was correct. He made it for the right reasons, for public reasons, not for personal reasons.

And as I find what I’ve heard this afternoon very, very moving myself. It was characteristic of a man with an unusual character.

*The Gerald R. Ford Presidential Foundation fosters increased awareness of the life, career, values and legacy of America’s 38th President. It does so through activities designed to promote the high ideals of integrity, honesty, and candor that defined President Ford’s extraordinary career of public service. The Foundation promotes the ideals, values, commitment to public service and historical legacy of President Gerald R. Ford and further promotes greater civic engagement and recognition of integrity wherever it exists in the public arena. It supports permanent and changing exhibits designed to promote historical literacy; conferences; educational outreach and other programs, both scholarly and popular, including at the Gerald R. Ford Library and Museum.*
1976, Jimmy Carter: Thirty-Ninth President Of The United States –
Guest Essayist: Juliette Turner

Jimmy Carter: Thirty-Ninth President of the United States

Nickname: The Peanut Farmer


Fast Stats

- Born October 1, 1924, in Plains, Georgia
- Parents: James Earl and Lillian Gordy Carter
- Jimmy Carter is still living
- Age upon Start of Term: 52; Age upon Conclusion of Term: 56
- Religious Affiliation: Southern Baptist
- Political Party: Democrat
- Height: 5 feet 9.5 inches
- Vice President: Walter Mondale

Bottom Line:

Jimmy Carter tried to fix a struggling U.S. economy while simultaneously working to promote international peace and stability, winning a Nobel Prize in 2002.

What Was He Thinking?

Jimmy Carter believed the government should be used to help reform the lives of individuals for the better. He also believed taxes should be reduced for the lower and middle-income earners and that the American tax system should be reformed. Although he believed in eliminating excess government regulation, during his term in Congress he created the Department of Energy and the Department of Education. Carter was an avid supporter of clean and renewable energy and education reform. He moved to increase federal funding for public schools while leaving private schools to act as they see fit. Carter also supported the promotion of equal rights for African-Americans, appointing several African-American men and women to his cabinet.

Why Should I Care?

The greatest levels of success during Jimmy Carter’s time in office occurred in the international field. In addition to formally opening diplomatic relations with China, Carter also worked to promote peace in the Middle East through his Camp David Accords. Although the peace treaty was short-lived (Egyptian leader Anwar al-Sadat was assassinated two years after he signed the Accords), the peace negotiations helped stabilize relations between Egypt and Israel, which had previously been hostile and deadly.

Breakin’ It Down

Early Life
James Earl Carter Jr. was the eldest of four children born to the Carter family. As a young kid, James would help “mop” the cotton and peanut crops on the farm by picking the cotton and peanuts from the small bushes. James earned a dollar for every day he worked.

Growing up in the Deep South before segregation was declared unconstitutional, Jimmy attended segregated public schools. Starting in elementary school, he aspired to attend the Annapolis Naval Academy, writing to the school as a young boy for information. Although he graduated from his high school as class valedictorian, he feared he wasn’t ready to apply to the naval school. He attended Southwestern Junior College for a year and Georgia Tech University for math and physics to further prepare.

In 1943, he entered the Naval Academy, graduating in 1946 in the top 10 percent of his class. After graduation, he was assigned to the USS Wyoming, and then to the USS Mississippi before being transferred to the navy’s submarine branch. In 1948, Carter was assigned to the USS Pomfret, based in Pearl Harbor, Hawaii. During his time there, he almost lost his life when a storm surge caused him to fall overboard.

He also served in the Korean War, starting in 1951 on the USS K-1. Carter was chosen by Admiral Hyman Rickover to help develop the first nuclear submarine. Before doing so, Carter returned to New York and attended Union College to gain a graduate degree in nuclear physics. Although he showed exceptional promise in the navy, Carter retired after the news of his father’s death to return home and help his mother with the family business.

BTW:

After his first political defeat in 1966, Carter returned to church to deepen his faith, becoming a self-declared “born-again Christian.”

Jimmy Carter remains the only president born in Georgia.

Sibling Problem

Jimmy Carter was born thirteen years before his youngest brother, Billy. Billy was a character, to say the least. During Jimmy’s political campaign, Jimmy’s opponents often used Billy as a controversial figure in the Carter family. Billy was often found drinking to excess during his youth and would later serve as a political lobbyist in Washington, D.C., for the Libyan government.

First Couple

In 1946, Jimmy Carter married Eleanor Rosalynn Smith when she was just eighteen years old. Rosalynn, as she is called, actually rejected Carter’s first marriage proposal because they had just begun dating and she considered it too soon. Two months later, however, Rosalynn accepted. Together, Jimmy and Rosalynn had four children, all of whom are still living today. During the presidency, Jimmy constantly consulted Rosalynn on the issues he faced as president— from international affairs to appointment dates and writing speeches. Unlike any first lady before her,
Rosalynn attended cabinet meetings with her husband and took detailed notes in a notebook she carried around with her. Today Rosalynn works alongside her husband to promote human rights and many social issues facing the world.

**Previous Political Career**

**1962:** Elected to the Georgia state senate after proving his opponent was guilty of voter fraud, and served two terms.

**1966:** Ran for Georgia governor, but lost.

**1970:** Elected Georgia governor, and became a leader of the New South movement, which called for an end to racial segregation in the south.

**Election Results**

Carter’s brief career in politics and his detachment from Capitol Hill worked in his favor in the election of 1976. He campaigned as a soft-spoken peanut farmer from the Deep South, who provided a break from the Washington-as-usual scandals, lies, cover-ups, and party politics. Almost no one in America outside of Georgia knew a man by the name of “Jimmy Carter,” but Carter overcame this. When he met people for the first time, he would shake their hand, saying, “Hello, I’m Jimmy Carter, and I’m going to be your next president.” It also helped that he had very little “baggage” for his opponents to bring forth. By emphasizing the need for a people-oriented and virtuous government, Carter became the first man to win the presidency from the Deep South since Zachary Taylor in 1848.

**Election of 1976**

1. Jimmy Carter: 297 Electoral Votes
2. Gerald R. Ford: 240 Electoral Votes

**Presidential Personality**

It was Jimmy Carter’s personality that helped him succeed in the world of politics. An unassuming, humble, and “down-to-earth” southern farmer, he has worked his entire life to be considered a normal American who had the happy fortune of holding leadership positions. Although he works to improve the lives of millions worldwide, Carter also constantly strives to reverse his own errors and seeks self-improvement. He is known among his closest colleagues as a rather confusing character, who can be both shy and confident, both compassionate and stern, and both gentle and prone to anger.

**Presidency**

*Domestic Issues*
Almost immediately upon becoming president, Carter was faced with a slew of domestic problems. Inflation was still increasing and unemployment numbers were rising. The real estate market was also floundering due to the high interest rates resulting from inflation. America also encountered an energy problem: oil imports from the Middle East were priced at all-time highs and were entering America more and more sporadically. Television channels displayed long lines of cars waiting for gasoline. Carter first appealed to the American people, asking them to cut back on consumption of oil in addition to tolerating the higher taxes and prices.

Energy Problems

Carter then proposed an alternative energy plan, outlining the benefits of new energy sources, such as solar panels and nuclear energy, promoting it to the American people as the future of energy creation and consumption. The appeal for alternative energy sources failed, largely due to the unreceptive American public; they were more concerned with when they would once again be able to afford a tank of gas. Additionally, Carter’s proposal was dampened by coal miner strikes (which also increased the cost of energy) and the nuclear power plant accident – a nuclear meltdown that occurred on Three Mile Island in Pennsylvania in 1979, resulting in radioactive gases being released into the environment. To make matters worse, the increasing dependence on foreign oil lessened the value of the U.S. dollar, worsening inflation. Carter’s approval ratings plummeted within months.

International Affairs

Carter experienced more successes in regard to international affairs than he experienced on the domestic side. His first success was with the People’s Republic of China, when he formally recognized the Chinese government as legal and legitimate. That action allowed for the opening of normal diplomatic relations between the two countries. Carter also negotiated a treaty with Panama, which turned the Panama Canal over to their government. Carter was close to negotiating SALT-II with the Soviet Union, but relations turned icy once again when the Soviets invaded Afghanistan in December 1979 – an action the United States viewed as a dangerous expansion of communism. This led to Carter’s issuance of the Carter Doctrine, which stated that the U.S. would not tolerate any attempt by the Soviet Union to control the Persian Gulf region. Because of the increase in tension between the two nations, America did not attend the 1980 Summer Olympics in Moscow. Russia likewise refused to attend the 1984 Summer Olympics in Los Angeles.

Putting the Soviet Union aside, Carter also cut all federal aid to foreign countries whose governments he viewed as human rights violators, including Argentina and Uruguay. Carter’s biggest foreign policy president Anwar al-Sadat, Israeli Prime Minister Menachem Begin, and Carter, resulted in a “Framework for Peace” between Israel and Egypt after years of hostile relations.

Despite accomplishments on the world stage, Carter’s presidency was indelibly impacted by the Iranian hostage crisis in which 52 American diplomats were held captive in the U.S. Embassy in Iran for 444 days.
Pop Quiz!

Do you remember what SALT stands for? It stands for Strategic Arms Limitation Treaty. The first SALT negotiations took place under President Nixon.

Reelection Failure

Perceived as weak and incapable of addressing the challenges facing the country economically and globally, Carter was not in the best position politically. Carter did seek reelection, but lost to Republican candidate Ronald Reagan.

Fun Fact!

President Carter was the first president to have two African-American women in his cabinet.

Post-Presidency


Most of Jimmy Carter’s legacy occurred after his leave from office. In one of the most active post-presidential careers of any president, Carter has worked to promote civil rights in dozens of countries worldwide. He has served as a human rights spokesman under several presidents, and worked as the mediator between foreign countries during international disputes, supervised foreign elections to lower corruption and fraud, and formed various organizations dedicated to solving social problems. Carter is also an active member and spokesman for Habitat for Humanity and the founder of the Carter Center in Atlanta, Georgia. The Carter Center promotes freedom, democracy, health, and agriculture. For his unending service to America, Carter won the Hoover Medal in 1998 and the Nobel Peace Prize in 2002.

Congressional Corner

**International Emergency Economic Powers Act:** This act was passed in 1977 and gave the president the authority to regulate the U.S. economy and commerce after declaring a national emergency in response to a foreign attack or threat.

**Foreign Intelligence Surveillance Act:** This act, passed in 1978, established the guidelines for the physical or electronic surveillance of foreign nations and the collection of foreign intelligence information.
Presidential Records Act: This act, passed in 1978, declared all presidential papers as public property available for public viewing.

Panama Canal Act of 1979: This act implemented the Panama Canal Treaty, which gave the Panamanian government control of the Panama Canal.

Thoughts on the Constitution

The confidence that we have always had as a people is not simply some romantic dream or a proverb in a dusty book that we read just on the Fourth of July. It is the idea which founded our Nation and has guided our development as a people. Confidence in the future has supported everything else – public, institutions and private enterprise, our own families, and the very Constitution of the United States.

Presidential Times

The Camp David Accords

March 26, 1979 – The Camp David Accords were officially signed today by Anwar al-Sadat of Egypt and Menachem Begin of Israel. The document was unofficially agreed upon by the two leaders under the supervision of President Carter on September 17, 1978. In a thirteen-day-long meeting at Camp David, Jimmy Carter organized negotiations between the leaders of the two opposing, belligerent Middle Eastern countries. Carter refused to let either of the leaders leave the Presidential Ranch before negotiations for peace were outlined. President Carter is hoping that this peace treaty will help restore stability in a region that has seen war for decades.

Mohammad Reza Pahlavi Seeks Refuge In The U.S.

November 4, 1979 – President Jimmy Carter allowed exiled Iranian dictator Mohammad Reza Pahlavi to seek refuge in the United States today. Upon entering the country, he was admitted to a New York hospital, where he will receive treatment for cancer. The action has enraged Iranians in the Middle East, who recently ousted Pahlavi during their revolution. The Iranian Revolution is resulting in a drastic radicalization of the country as the Iranian people move to break away from foreign occupation or influence and return to their religious and cultural heritage.

The Iranian Hostage Crisis

April 25, 1980 – An attempt by the Carter Administration to rescue the American hostages in Iran has failed miserably. The operation, dubbed Operation Eagle Claw, began yesterday, but half of the helicopters sent into Iran to rescue hostages experienced technical difficulty and another helicopter crashed into a transport plane, killing eight Americans. The hostage crisis began last year after Mohammad Reza Pahlavi was allowed to seek refuge in the United States. In November of last year, a group of Iranian radicals stormed the U.S. embassy, capturing fifty-two Americans. The hostages were held in the embassy for twenty days under the supervision of the Iranians before being transferred to makeshift holding cells. He prisoners were transported bound, blindfolded, and covered in blankets to conceal their identity from onlookers. While
imprisoned, the Americans were forced to stand, blindfolded, as mock firing squads fired blank rounds at their heads. The prisoners were repeatedly beaten and humiliated by their jailers. President Carter has announced he will now be enforcing economic sanctions on Iran by limiting trade in an effort to coerce the Iranians to free the hostages.

**State of the Union**

(1) States: 50

(2) U.S. Population: (1977) 221,303000

(3) U.S. Debt (1977) $717, 016, 000,000

(1981) $1,033,899, 750. 000


**Timeline**

- 1977 – Jimmy Carter pardons all Vietnam War draft evaders
- 1977 – Bing Crosby dies
- 1977 – The Nuclear Non-Proliferation Treaty is signed by over a dozen countries, including the U.S.S.R. and U.S.
- 1977 – Elvis Presley dies
- 1978 – The Camp David Accords meeting takes place
- 1978 – Pope John Paul II becomes pope
- 1979 – President Carter and Leonid Brezhnev sign SALT-II
- 1979 – Diplomatic relations with the People’s Republic of China are officially established
- 1979 – Saddam Hussain becomes president of Iran
- 1980 – The U.S. boycotts the Moscow Summer Olympics
- 1980 – Eight Americans die in the failed Operation Eagle Claw mission in Iran
- 1980 – The U.S. breaks diplomatic ties with Iran

**What Has He Done for Me Lately?**

Constantly working to increase human rights awareness worldwide Carter has often entered dangerous countries to help secure safety and liberty for the oppressed. One example is Carter’s work in North Korea. Under President Bill Clinton, Carter negotiated with North Korea to try to limit their nuclear testing facilities and their nuclear weapons creation. In 2010, Carter traveled to North Korea a second time on his own accord and successfully negotiated the release of American Christian missionary Aijalon Mahli Gomes.
Platform Speech

In ancestry, color, place of origin, and cultural background, we Americans are as diverse a nation as the world has ever seen. No common mystique of blood or soil unites us. What draws us together, perhaps more than anything else, is a belief in human freedom. – Jimmy Carter

In a commencement speech given by Carter at Notre Dame University in 1977, he noted that America is not unite by race or ancestry. Though America is often called the “melting pot of the world,” citizens are united in our belief in the value of freedom and equality for all people.

Juliette Turner is the National Youth Director of Constituting America, and the author of three books: Our Constitution Rocks, Our Presidents Rock and the novel, based on life at her ranch with her mom, actress Janine Turner, That’s Not Hay In My Hair (all published by HarperCollins/Zondervan).


In many ways, the circumstances surrounding the 1980 presidential election mirror those surrounding the 2016 elections: America’s economy in the doldrums and an electorate hungry for change. But the 2016 elections allow us the hindsight of nearly four full decades of history, and teach us that if we aren’t willing to learn those lessons, we are doomed to repeat them.

The 1980 election brought us three candidates—incumbent president Jimmy Carter, former California Governor Ronald Reagan, and former Congressman John Anderson. Anderson had failed to gain traction as a liberal Republican in the primaries, though his running as an independent had brief moments where it seemed he might actually make an impact in the campaign. Ultimately, Anderson ran a distant third in the three-way election.

But it’s the backdrop of this election which sets the context for this essay on the administrative, or regulatory, state. The three primary issues of the election were US-Soviet relations (which had taken an alarming turn with the Soviet invasion of Afghanistan a year earlier), the Iranian Hostage Crisis (which President Carter seemed incapable of solving), and the US Economy.

Though primarily focused on how things like tax policy, inflation, and the energy crisis were impacting the sluggish economy (and, by extension, jobs and competitiveness), then-candidate Reagan also knew that America was facing a growing problem from the administrative state.

In concept, the American government consists of three separate, but co-equal branches. Technically, for instance, the legislative branch is supposed to create laws, while the executive branch is in charge of administering those laws. When Congress passes a law, it then goes to the executive branch to set up the regulations underpinning those laws (where the “rubber meets the road” as it were). These laws don’t really take shape until the agencies responsible for enforcing them set up the specifics under which they are to be enforced.
For example, the Clean Water Act, one of three primary environmental laws created in the early 1970s (the other two being the Clean Air Act and the Endangered Species Act), says that “navigable waterways” of the United States are not to be polluted. But Congress didn’t define what a “navigable waterway” was, nor, specifically, what “pollution” meant. They left it to the newly-created Environmental Protection Agency to define, via an evolving administrative process.

The more-vague Congress is, the more power the administrative state has—and it allows for two kinds of mischief: those with extreme political agendas who join government are cloaked with immense power to see those agendas enacted; and those who have power, money and influence can manipulate those rules for their personal benefit (the very definition of cronyism).

So it should come as no surprise when, after 20 years, extreme environmentalists who joined the federal government had managed to redefine “navigable waterways” to include, not only streams and wetlands that were clearly “non-navigable;” but to also include dry patches of sand in places like the high desert of Nevada!

This is allowed to happen because, by and large, Americans are unaware of the power that the unelected bureaucracy has—and it is a power that reinforces itself over time. As bureaucrats expand the administrative state unchallenged, they are able to build upon prior advances into individual life.

The Administrative Procedures Act is supposed to act as a check on this power—it is a series of rules governing how legislation is turned into regulation, and how those regulations change over time. If (and only if) utilized by the regulated public, it is a powerful tool to keep government from advancing and growing over time. But because the administrative state has grown so large in the last sixty years (and we’ll talk about those impacts in a moment), it is harder and harder for people to have a meaningful impact on the regulatory process.

But that impact can be had. Two years ago, the Internal Revenue Service, in response to a very public embarrassment over improper targeting of conservative groups, attempted to codify the criteria they had used to harass oppositional speech. An unprecedented number of people sent “comments” to the agency—more than twice the number of comments submitted on any IRS rulemaking in the prior seven years, combined—and the IRS was forced to withdraw their rulemaking.

As a society, only now is the assessment of regulatory impacts on society becoming a mainstream inquiry. It was controversial when then-candidate, and later President, Reagan suggested that America had a problem with the impact of regulations, and he dared suggest the implementation of one regulatory assessment tool, cost-benefit analysis (in which the fiscal benefits of a regulation are measured against its costs).

But the entire purpose of regulations is to eliminate the incentive to do something someone in society deems as wrong or harmful by raising the cost of doing that activity—generally though some kind of prescriptive mandate. And America was struggling with serious environmental
issues, necessitating some kind of regulatory action. We had cities choking with smog, rivers catching on fire, and our national symbol, the Bald Eagle, was dying off.

The enactment of those first three major environmental laws was going to change the way American industries did business… and by definition that change was not going to come without cost. Given everything that was happening in the world at the time, it was no surprise that when times were turning tight for the American economy, America’s massively rising regulatory costs were going to have an impact.

President Reagan tried to take steps to curb this, and right America’s economic ship. When it came to regulation, he was less successful than he was in other areas, and while America’s economy improved, heavy industry in America continued to suffer to the point of a very real collapse.

In numbers, direct federal regulatory costs are now north of $2 trillion annually[1]. Since we know that regulations hit smaller firms harder than they do larger firms (regulations cost 50% more for firms with fewer than 20 employees), this explains why hiring for America’s small businesses (the traditional engines of the American economy) has stalled. It also explains why tax reform and stimulus packages have produced little economic benefit.

These regulations also have a cumulative impact. According to a recently-released study by the Mercatus Center, if the US regulatory state had remained steady since 1980 (ie, had President Reagan been successful in implementing meaningful regulatory reform), US GDP would be 25% larger than it is now, a net gain of $4 trillion![2]

The Mercatus study confirms earlier work by Appalachian State and North Carolina State University economics professors John W. Dawson and John J. Seater on the impact of regulation on aggregate economic growth (and lost opportunity costs). Their study confirmed the role that the administrative state played in the economic slowdown of the 1970s and beyond, and suggested had the US not adopted any new regulations past 1949, our economy would be $54 trillion in size![3]

We recognize that some regulation needs to exist to protect individual rights, to protect people from harm etc. But we also have to recognize that these rules have an impact. Both the Mercatus numbers and the NCSU/Appalachian State numbers would indicate that even a modest reform of regulations could produce tremendous benefit in terms of jobs—that had we gone the route envisioned by President Reagan, for instance, and added $4 trillion to the economy, we could have created more than enough jobs to wipe out both the generally-accepted unemployment number of roughly 5%, as well as jobs for the roughly 60 million jobs-age Americans who are “out of the workforce.”

But what is clear is this: the greater the administrative state, the greater the impact on the American economy, and on society as a whole, and that looking back on the election of 1980 it is clear: Reagan was right.
Andrew Langer is President of the Institute for Liberty, and host host of the LangerCast, which can be found at RELMNetwork.com (http://www.relmnetwork.com/#!langerpopp/cdo6)

[1] This number is extrapolated from the Small Business Administration’s Office of Advocacy semi-decennial assessment of the impact of regulations on the US economy. From 2000-2005, regulatory costs grew by 10%, from $975 million to $1.1 trillion. From 2005-2010, costs grew 35%, to $1.75 trillion. SBA did no regulatory assessment in 2015, but regulations continued to grow on the 2005-2010 pace. At a minimum, Institute for Liberty estimates that regulatory costs are approximately $2.2 trillion annually.


1984, Ronald Reagan Defeats Walter Mondale: Geraldine Ferraro Nomination As Vice President And The Constitutional Implications Of The Feminist Movement – Guest Essayist: Tony Williams

Morning in America: Ronald Reagan & the 1984 Election

In his 1984 State of the Union Address, President Ronald Reagan laid out his principles and vision that had guided his first term and provided the foundation for his re-election campaign. He reminded voters that the economy was growing rapidly and was back on track after the horrific stagflation of the Carter administration. The “crisis of confidence” of the 1970s was conquered by a renewed American spirit. Reagan was proud to report that, “There is renewed energy and optimism throughout the land.” Indeed, he touted, “America is back, standing tall.”

Reagan was correct that the American spirit was renewed and could claim a great deal of credit for it. His policies resulted in brisk economic recovery (rising 7.3 percent that year with minimal inflation for the first time in a decade) and a stronger national defense. Whereas 84 percent of Americans said they were dissatisfied under Carter in 1979, only 26 percent felt that way under Reagan.

Liberals loved to portray Reagan as a warmonger who might trigger a nuclear war, but he offered a startling proposal in his speech. He spoke directly to the people of the Soviet Union and asserted that the only sane policy in the nuclear age was to avoid war and destroy all nuclear weapons. “My dream is to see the day when nuclear weapons will be banished from the face of the earth.” But, this dream was backed by peace through strength with the recent launching of the Strategic Defense Initiative, the deployment of Pershing II missiles in Europe to counter Soviet nukes, and the successful invasion of Grenada.

Contrarily, the Democratic candidate, Walter Mondale, had great difficulty articulating a clear message about his core message. The best his campaign could come up with was the less-than-inspiring “I am ready.” The former vice-president was linked to the failures of the Carter
administration, and rather than defining a fresh message, seemed satisfied to appeal to the fracturing New Deal coalition and large government programs even though the message appeared to be tired and irrelevant to Reagan Democrats who had turned against the welfare state. Mondale was also too reserved and aloof, and he flatly refused to work on his public image for television—virtual political suicide when running against a former actor who loved performing for the camera.

The clearest message Mondale could sell to the American people was expressing concern about rising budget deficits, but he had no real plan to deal with them. In his acceptance speech at the Democratic National Convention, the inept Mondale demonstrated how politically obtuse he was when he promised to raise taxes. “Let’s tell the truth….Mr. Reagan will raise taxes, and so will I. He won’t tell you. I just did.”

Even Mondale’s bold move of asking Geraldine Ferraro to be his running mate—the first female vice-presidential candidate for a major party—fell flat. Observers at the time noted that it seemed Mondale was pandering to women for votes and making a deal to win an endorsement from the feminist National Organization for Women. Mondale also supported the defunct Equal Rights Amendment. Although the historic selection may have won over some female voters, Ferraro failed to make much of an impact because she appealed to the same liberal constituency as Mondale and because of some shady tax returns.

While Mondale was promising to raise taxes, Reagan appeared statesmanlike during trips to China, where he spoke to students about individual freedom and dignity, and in England and Normandy, where he poignantly honored the memory of the fallen on the fortieth anniversary of the D-Day invasion. Reagan said, “It was faith and belief; it was loyalty and love. The men of Normandy had faith that what they were doing was right, faith that they fought for all humanity, faith that a just God would grant them mercy on this beachhead or on the next….Strengthened by their courage, heartened by their valor, and borne by their memory, let us continue to stand for the ideals for which they lived and died.”

Reagan and his advisers were masterful at utilizing modern media. Although Reagan had not performed well at the first debate because he tried to match Mondale as a policy wonk, he delivered a sound bite that was played over again and again on the news while simultaneously deflating concerns about his age. “And I want you to know that I will not make age an issue of this campaign. I am not going to exploit, for political purposes, my opponent’s youth and inexperience,” Reagan quipped. Even Mondale went into hysterics after the joke.

The Reagan campaign ran some highly successful ads that tapped into the American psyche. Most notable was the “Morning in America” ad which highlighted better economic conditions, a strong sense of optimism, and a renewed patriotism among ordinary Americans in their daily lives. What myopic commentators then and now who attack the ad as simplistic flag-waving ignore is that it resonated with Americans because it was true. Americans were greatly relieved to be free of the economic malaise and weakness abroad during the Carter years. If it painted an ideal vision of middle-class life in America, it was a dream they sought to fulfill in their lives.
On Election Day, American voters showed that they heartily approved of Reagan’s vision and success in achieving it. The president won forty-nine states in the Electoral College and 59 percent of the popular vote to trounce his opponent. Reagan’s victory seemed at the time to point to the triumph of the conservative message of less government, fewer taxes, economic growth, and a sturdy national defense in the Cold War. The New Deal coalition and the Great Society welfare state was gasping for survival in a country that had recovered from the devastating reversals of the 1970s.

Tony Williams is the author of five books on the American founding, including, with co-author Stephen Knott, Washington & Hamilton: The Alliance that Forged America. He recently appeared on Bill O’Reilly’s “Legends & Lies: The Patriots.”


A Thousand Points of Light: George H.W. Bush and the 1988 Election

George H.W. Bush had three significant obstacles to overcome if he wanted to be elected president in 1988. The first was that Bush’s election seemed to be a referendum on eight years of the Reagan presidency. Americans were split over that legacy with conservatives wanting to build on his economic and foreign policy achievements in the Cold War, while liberals wanted to stop a third consecutive term by a conservative Republican. The recent Iran-Contra hearings had damaged the Reagan presidency and fed the partisanship.

A second obstacle was that some in the media charged that Bush had not done very much of note as vice-president and was thereby not experienced or qualified enough to be president. As a former fighter pilot, congressman, ambassador to the UN, envoy to China, head of the Republican National Committee, and director of the CIA before becoming vice-president, the charge was almost ludicrous.

The third was the charge—made first by journalist Evan Thomas on the cover of Newsweek—that Bush was “fighting the wimp factor.” This was a less tangible charge and therefore more difficult to deflect. He was seen to be too soft to handle the challenges of the presidency including standing up to the Russians. When CBS anchor Dan Rather ambushed Bush with questions about his role in Iran-Contra in what was supposed to be a softball piece, he flexed his muscles and fought back with a combative reminder of an embarrassing incident when Rather stormed off a television set. Many Americans thought Bush looked tough and plain-talking as he hoped. He consciously sought to craft this image throughout the campaign.

In May, Reagan finally endorsed Bush for president but did so in a message that some journalist observers thought—or maybe wanted to believe—was lukewarm and not heartfelt. Reagan quickly responded to the questions about his endorsement by issuing a more forceful statement of his unqualified support for Bush.
After beating back a primary challenge from Senator Bob Dole, Bush started to campaign in earnest against Michael Dukakis, Democratic governor of Massachusetts. Bush confided to his diary that, “I believe we’re going to have fun running against Dukakis, and it looks to me like the classic conservative [versus] liberal approach.” Bush’s campaign managers adopted the standard Republican attack on Democrats in the 1980s by portraying Dukakis as a tax-and-spend big government liberal, weak on national defense and confronting the Soviets, a card-carrying member of the ACLU, and weak on law and order issues.

The most controversial issue that remains contentious to this day was related to law and order. Governor Dukakis was not only opposed to the death penalty but supported prison furloughs to violent felons. He had even vetoed a bill preventing first-degree murderers from enjoying the furloughs. A Political Action Committee created a television ad linking Governor Dukakis to an infamous example of a convicted first-degree murderer, Willie Horton, who escaped while on furlough and committed additional horrific crimes against a couple. The “Willie Horton” ad somewhat provocatively displayed his mugshot but never mentioned the race of his victims in the original or furloughed crimes. Because he was an African American, campaign chairman, Jim Baker, correctly assumed that some observers would argue that it was a racist ad. Therefore, he wanted the PAC to stop running the ad.

The ad set off a firestorm that continues today with many writers continuing to assume that the ad was racist. However, the ad never mentioned the race of Horton’s victims in the original or furloughed crimes. Moreover, no one disputes the facts presented in the ad nor that they happened under Dukakis’ watch. Moreover, it was liberal Al Gore who originally attacked Dukakis on the furlough issue in a Democratic primary debate. Moreover, a Massachusetts newspaper had even won a Pulitzer for its coverage of the Horton case. Nevertheless, it is taken for granted that the Bush campaign aired a racist ad in 1988 when it did not.

At the Republican National Convention, Bush delivered an acceptance speech written by Peggy Noonan. After touting the accomplishments of the Reagan years and his commitment to continuing those policies, Bush spoke somewhat ambiguously of “a thousand points of light” and hopes for a “kinder, gentler nation,” perhaps appealing to centrist Americans or countering the media image of Reagan administrations that were too conservative or Republicans who only cared about the rich. More memorable and straightforward was the pledge, “Read my lips—no new taxes.”

The convention erased an early large lead for Dukakis and gave Bush a small lead in the polls. The race was relatively bland except for a few gaffes. For example, Dukakis looked small and ridiculous riding in a tank trying to prove his chops on national defense. Dukakis then admitted that he would continue to oppose the death penalty even if his wife were raped and murdered. More humorously, Democratic vice-presidential candidate, Lloyd Bentsen retorted to his Republican counterpart: “I served with Jack Kennedy. I knew Jack Kennedy….Senator, you’re no Jack Kennedy.” But, the vice-president picks had little overall effect on the outcome of the election.

George Bush won the 1988 election by a comfortable margin by winning 426 electoral votes and 53 percent of the vote. He would preside over the fall of the Berlin Wall and the collapse of the
Soviet Union while assembling a broad allied coalition of nations to expel Iraq from Kuwait which it had invaded and occupied militarily. However, the strong economic boom of the 1980s finally ended in a recession that doomed Bush to one term.

Tony Williams is the author of five books on the American founding including, with Steve Knott, Washington and Hamilton: The Alliance that Forged America. He recently appeared on Bill O’Reilly’s “Legends & Lies: The Patriots”

1992, Bill Clinton Defeats George H.W. Bush –
Guest Essayist: Juliette Turner

Bill Clinton: Forty-Second President of the United States

Nickname: The Comeback Kid


Fast Stats:

- Born August 19, 1946, in Hope Arkansas
- Parents: William Jefferson Blythe III and Virginia Dell Cassidy; Stepfather: Roger Clinton
- Bill Clinton is still living
- Age upon Start of First Term: 46; Age upon Conclusion of First Term: 50
- Age upon Start of Second Term: 50; Age upon Conclusion of Second Term: 54
- Religious Affiliation: Baptist
- Political Party: Democrat
- Height: 6 feet 2.5 inches
- Vice President: Al Gore

Bottom Line:

Bill Clinton dealt with two government shutdowns during his presidency: one from November 14 to November 19, 1995, and another from December 16, 1995, to January 6, 1996. He still managed to stabilize the American economy and balance the national budget. Clinton also experienced several international successes and continued national prosperity, but he was forced to fight to overcome three scandals.

What Was He Thinking?

Bill Clinton believed the government should provide programs to protect and enhance the well-being of United States citizens. At the same time, however, Clinton realized that government could get out of hand with too many regulations and too much spending, and agreed with Republicans that reforms were necessary. Clinton’s political stances evolved to fit the needs and desires of his constituents.

Why Should I Care?
One of Clinton’s greatest achievements while in office was his success in recovering the American economy. Clinton paid off $360 billion of the national debt and converted the largest budget deficit in American history to the largest surplus, $237 billion. Additionally, Clinton decreased government spending to the lowest level in three decades while simultaneously decreasing federal income tax levels to the lowest in thirty-five years. During Clinton’s presidency, America experienced her longest period of economic expansion: 115 months of economic growth – 4 percent economic growth per year after he assumed office.

**Liberty Language**

**Nationalized health care:** When a government strictly regulates private health care providers to ensure coverage for all citizens and is paid for with government subsidies (coming from taxpayer money).

**Fun Fact!**

While attending Georgetown University, Clinton won a Rhodes Scholarship – a program that funds a two-to three-year enrollment at Oxford University. Clinton remains the only president to have attended Oxford.

**Breakin’ It Down**

**Early Life**

Three months before Bill Clinton was born, his biological father died in a car accident. His mother, Virginia, named her son William Jefferson Blythe IV after his late father.

When Bill was four years old, his mother married Roger Clinton. Although he has no biological siblings, Bill has one half brother. He was officially adopted by his stepfather in 1962, and his name was changed to William Jefferson Clinton. In school, Bill enjoyed government classes, but he found the most enjoyment in music and playing his saxophone. He even considered a career in music at one point in his childhood!

In 1964, Clinton began college at Georgetown University. During his years at the college, he worked as an intern for a U.S. senator from Arkansas, wanting to become more engaged in politics. He also signed a letter of intent to join the Reserve Army Training Corps in Arkansas, but he never followed through.

Clinton then pursued a law career by entering Yale University Law School. He graduated in 1973 and took a job at the University of Arkansas Law School. Less than a year later, he ran for his first government position.
BTW:

Bill Clinton was the first president born during the Baby Boom, the post-World War II time period when the U.S. population increased dramatically.

First Couple

Bill Clinton married Hillary Rodham in 1975. They are considered the powerhouse couple of politics, because they both can withstand the rough-and-tumble world of politics. The lifelong politicians have one daughter.

Hillary Clinton became the first first lady to run for her own political position when she ran for the U.S. Senate in 2000. Hillary won the election and so became the first female senator from New York. Additionally, in 2008, Hillary ran for president, but lost the Democrat Party nomination to Barack Obama. She later became secretary of state under President Barack Obama.

Previous Political Career

1974: Ran for a position in the U.S. House of Representatives, but lost.
1978: Elected governor of Arkansas.
1980: Ran for reelection as governor, but lost.
1982: Elected governor of Arkansas once again. He served four two-year terms.

Election Results

Together, Bill Clinton (age 46) and Al Gore (age 44) made the youngest presidential ballot in American history. Clinton campaigned on plans to improve the floundering economy by decreasing the federal deficit, creating new jobs for the thousands out of work, and establishing national health care insurance. He used slogans such as “It’s the economy, stupid” and targeted the “forgotten middle class.” In doing this, Clinton received 43 percent of the popular vote. Clinton’s success in the election, however, was partly because of the presence of third-party candidate Ross Perot, who took nearly 19 percent of the popular vote from George H.W. Bush.

When the Republican Party gained the majority in Congress with the election of 1994, many speculated that Clinton would lose reelection. However, since many Americans blamed Republicans for the government shutdown of 1995, Clinton’s popularity in the polls skyrocketed. Ross Perot once again ran as a third-party candidate, taking much-needed support from Clinton’s opponent, Robert Dole.
Liberty Language

**Government shutdown:** A government shutdown occurs when Congress fails to pass a spending bill and the government discontinues providing services that are not considered “essential.” Typically, essential services include police, firefighting, armed forces, utilities, and correctional facilities.

**Election of 1992**

1. Bill Clinton: 370 Electoral Votes
2. George H.W. Bush: 168 Electoral Votes
3. Ross Perot: 0 Electoral Votes

**Election of 1996**

1. Bill Clinton: 379 Electoral Votes
2. Robert Dole: 159 Electoral Votes
3. Ross Perot: 0 Electoral Votes

**BTW:**

In 1991, Clinton was voted the country’s most effective governor and he announced his candidacy for president.

During Clinton’s presidency, economic growth was only one of the improvements Americans enjoyed. More than twenty-two million jobs were created, unemployment was the lowest in thirty years, education standards were increased, 95 percent of schools were connected to the Internet (a novelty in Clinton’s time), and one hundred thousand new police officers and new gun laws led to the lowest U.S. crime rates in twenty-six years.

Liberty Language

**Subpoena:** An official order requiring an individual to come before a court or a congressional committee.

**Presidential Personality**

Bill Clinton is known as an outgoing and amiable man who sincerely enjoys the life of politics. Extremely persuasive and talented at maneuvering his opponents to stand on his side of issues, Clinton is able to personally appeal to almost anyone, regardless of political affiliation. One nickname, Slick Willie, came not only from his tendency to reshape his political views to best suit his constituents but also his ability to bend his opponents’ views and strategically avoid political attack.
Presidency

Upon assuming the presidency, Clinton appointed a record number of women and minorities to executive positions. He began his term by fulfilling his campaign promise, passing a new medical care reform. In 1993 he signed the Family and Medical Leave Act. However, Clinton’s more radical health care reform bill was voted down by Congress. Clinton then ignored party lines and signed a welfare reform package that reduced government involvement in and funding for major social programs.

Government Shutdown

In the midterm election of 1994, the Republicans took the majority in both the House and Senate. With this drastic change, Washington, D.C., became a place of stalemate, especially concerning Clinton’s budget. In May 1995, Clinton proposed a plan that would balance the federal budget in ten years. The Republicans also had a plan to balance the budget, which would take seven years. The Republicans passed their bill through Congress but Clinton vetoed it. Due to the lack of compromise and failure to agree on any budget, the government shut down. When it finally reopened, the polls showed that America blamed the Republicans for the shutdown, and as a result, Clinton garnered more support for his Social Security and Medicare reforms.

Reelection

With the government up and running again, the economy was booming, which helped Clinton win reelection in 1996. Whereas Clinton’s first term focused mainly on domestic affairs, his second term focused largely on international affairs. In 2000, he sent his secretary of state, Madeline Albright, to North Korea to negotiate with the communist leaders to shut down factories the U.S. suspected were used for production of nuclear weapons. Also in 2000, Clinton signed a trade bill with China that established permanent, normal trade status to the communist country. Clinton believed that the open trade would encourage a more democratic government in China.

Scandal!

Clinton’s second term began with international success and domestic prosperity. Three scandals, however, halted all progress in the Clinton administration. The first scandal as the Whitewater Controversy. Although the scandal was unearthed during his first presidential bid, it was not highlighted until Clinton had secured his second term in office. The controversy was linked to Clinton’s Arkansas governorship in 1978. He was accused of illegal real estate purchases paid for by siphoning off money given to the state of Arkansas for state projects. In January 1996, Hillary Clinton became the first first lady to receive a subpoena from a judge when she was asked to testify on behalf of her husband regarding the scandal. The denied any claims of misdemeanor.

The second scandal was named Trooper-Gate, and was also linked to Clinton’s time as Arkansas governor. The scandal alleged that Clinton ordered two Arkansas state troopers to arrange a secret meeting for him with two women for inappropriate activities.

This scandal was soon overshadowed by the Monica Lewinsky scandal, which nearly cost Clinton his presidency. This third scandal began when a former Arkansas state employee sued
Clinton for harassment. The court subpoenaed Clinton, and the Supreme Court ruled that, even though he was the president, he must answer the subpoena.

During the scandal, former White House intern Monica Lewinsky was asked to testify whether or not she had engaged in any improper relations with the president or had ever been harassed by him. Both Lewinsky and Clinton denied any accusations. It was found later through a taped conversation between Lewinsky and her friend that Lewinsky and Clinton had indeed engaged in improper relations during the winter of 1995 and 1996. The House of Representatives composed four articles of impeachment against Clinton (reasons why he should be impeached), including obstruction of justice and perjury. On two of the four articles, Clinton was impeached by the House, sending to the Senate for trial, where Chief Supreme Court Justice William Rehnquist presided as judge. However, 62 percent of Americans opposed Clinton’s impeachment. The Senate voted two times. The first vote ended in a 50-50 tie and the second ended in a 45-55 result, both times without the two-thirds majority necessary for the Senate impeachment.

I like the job of the president… The bad days are part of it. I didn’t run to have a pleasant time. I ran to have a chance to change the country and if the bad days come with it, that’s part of life, and it’s humbling and educational. It keeps you in your place. – Bill Clinton

Post-Presidency

Clinton remains active in the political field, supporting many Democratic candidates in various political races across the country. He has authored several books, including My Life, in 2004; Giving: How Each of Us Can Change the World, in 2007; and Back to Work: Why We Need Smart Government for a Strong Economy, in 2011. In 2009, Clinton became a U.S. Special Envoy to Haiti. He has also partnered with former political opponent and former president George H.W. Bush to raise awareness about various humanitarian crises around the world.

Congressional Corner

Family and Medical Leave Act: This act initiated a required three-month, job-protected leave of absence for employees with a serious family medical need.

National Voter Registration Act: This act was passed in 1993 and required states to allow citizens to receive or update their voter registration cards when they renew their driver’s licenses or apply for Social Security benefits.

Brady Handgun Violence Prevention Act: This bill, passed in 1993, created a five-day waiting period and background checks for handgun purchases.

North American Free Trade Agreement Implantation: This treaty was approved by the Senate in 1993 and called for a gradual elimination of all tariffs and taxes placed on goods and produce shipped between the U.S., Mexico, and Canada.
**Line Item Veto Bill:** This bill, signed in 1996, allowed the president to only execute certain aspects of congressionally approved bills. This bill was deemed unconstitutional by the Supreme Court in 1998 in a 6-3 vote.

**Balanced Budget Act of 1997:** This act would reduce spending by $160 billion over four years. The increase in spending for welfare and children’s health care, however, resulted in only $127 billion being saved.

**Children’s Health Act:** This act was passed in 2000 and formed federal child health funding programs initiated for pediatric health research.

**Thoughts on the Constitution**

When we got organized as a country and we wrote a fairly radical Constitution with a radical Bill of Rights, giving a radical amount of individual freedom to Americans, it was assumed that the American who had that freedom would use it responsibly.

**Pop Quiz!**

Do you remember the definition of a midterm election? A midterm election is the congressional election that takes place two years into the president’s term of office – the halfway point.

**Presidential Times**

**Congress Approves NAFTA**

November 14, 1993 – Congress approved the North American Free Trade Agreement (NAFTA) yesterday. Clinton signed NAFTA with Canada and Mexico earlier in his term. This agreement created the largest free-trade zone in the world by eliminating any tariffs or import/export taxes on goods between the U.S., Mexico, and Canada. Clinton’s presidential opponent Ross Perot is claiming this agreement will cause American businesses to move their production facilities to either Mexico or Canada, where they will be able to hire cheaper labor and face less business taxation. As a result, Perot argues, America’s industrial economy will sag and many American jobs will be lost.

**Clinton’s Quest For Health Care Reform Fails**

November 8, 1994 – The Republicans took the majority in Congress today, officially ending President Clinton’s hopes for health care reform. During his first two years as president, Clinton has avidly supported health care reform. In 1993, thirty-seven million Americans had no health care coverage. To help reform the system, Clinton asked over five hundred experts, White House officials, cabinet members, and even his wife, Hillary Rodham Clinton, to begin composing a bill. The bill quickly became known as Hillary Clinton’s bill. The bill garnered many opponents, including politicians who opposed nationalized health care, drug companies, and insurance companies, all of whom accused the bill of camouflaging a government takeover of health care. Opposition became so intense that White House officials feared for Hillary Clinton’s life and
ordered her to wear a bulletproof vest to rallies. Various problems have surrounded the health care bill, including the lack of public support and the delayed formation of grassroots support systems.

**Government Shutdown Ends**

January 6, 1996 – The government reopened today as Republicans finally agreed to Clinton’s budget, which will reopen the government and is expected to create twenty million new jobs and transform the national deficit of $29 billion to a national surplus of $106 billion.

The government shutdown on December 16, 1995 was a result of a lack of compromise between the Republican Congress members (deemed the Gingrich Revolutionaries after Speaker of the House Newt Gingrich) and President Clinton. The Gingrich Revolutionaries wanted to balance the budget in seven years by cutting $270 billion from Medicare in addition to providing a $240 billion tax cut. Clinton disagreed with the tax cuts and vetoed the bill. On November 14, 1995, 800,000 government employees (40 percent of the nation’s workforce) were furloughed – temporarily laid off. This temporary and partial November shutdown ended after six days. In December, the government shut down again due to a continuing lack of compromise.

**State of the Union**

(1) States: 50

(2) U.S. Population: (1993) 261,674,000

(3) U.S. Debt (1993) $4,535,687,054,406

(2001) $5,943,438,563,436

(4) Value of the Dollar: $1 in 1993 would be worth $1.62 today. $1 in 2001 would be worth $1.32.

**Timeline**

- 1993 – Janet Reno becomes the first female U.S. attorney general
- 1993 – Steven Spielberg releases his film Schindler’s List
- 1993 – Flooding in the midwest creates $10 billion in damages
- 1993 – A car bomb explodes in the garage of the North Tower of the World Trade Center
- 1994 – The Rwandan genocide begins
- 1994 – South Africa holds its first interracial national election, Nelson Mandela is elected president
- 1995 – The U.S. government temporarily shuts down
- 1995 – Pope John Paul I visits the U.S.
- 1995 – The Murrah Federal Building in Oklahoma City is bombed
- 1996 – Prince Charles and Princess Diana of Great Britain divorce
- 1996 – Madeleine Albright becomes the first female secretary of state
- 1996 – The first successful cloning of a sheep takes place
• 1997 – Princess Diana dies in a Paris car crash
• 1997 – Mother Teresa dies
• 1997 – The Mars Pathfinder lands on Mars
• 1998 – Frank Sinatra dies
• 1998 – The House of Representatives moves to impeach Clinton
• 1999 – Vladimir Putin becomes president of Russia
• 2000 – Mad cow disease breaks out in Europe
• 2000 – The USS Cole is attacked in Aden
• 2000 – Israel military forces withdraw from Lebanon

What Has He Done for Me Lately?

Today, welfare programs still exist and many disadvantaged Americans rely on the system. Before Clinton, many Americans were “riding the system,” never looking for work or ways to improve their situation. In a risky political move, Clinton sided with many Republicans in signing the Personal Responsibility and Work Opportunity Reconciliation Act. This act, opposed by many Democrats, ended the “open-ended” guarantee to federal aid, and imposed a five-year limit to benefits and required able individuals to look for work after two years of receiving federal aid. It also supplied states with incentives, such as extra funds, to provide jobs for dependent individuals. Thanks to Clinton’s welfare reform, the percentage of Americans on welfare shrank to its lowest number in thirty-two years.

Platform Speech

*Our democracy must be not only the envy of the world but the engine of our own renewal. There is nothing wrong with America that cannot be cured by what is right with America.* – Bill Clinton

Clinton said this in his 1993 inaugural address. He believed that every problem facing America at the time could be overcome because of America’s previous successes and her democratic form of government.

*Juliette Turner is the National Youth Director of Constituting America, and the author of three books: Our Constitution Rocks, Our Presidents Rock and the novel, based on life at her ranch with her mom, actress Janine Turner, That’s Not Hay In My Hair (all published by HarpersCollins/Zondervan).*


1996, Bill Clinton, Presidential Elections, And Constitutional Rule Of Law – Guest Essayist: Brian Chilton

At the Constitutional Convention of 1787 a Mrs. Powel of Philadelphia asked Benjamin Franklin, “Well, Doctor, what have we got, a republic or a monarchy?” to which Franklin responded, “A republic, if you can keep it.” The 1996 presidential election cycle and the twenty years hence have demonstrated the fragility of Franklin’s “If.”
1996 pitted popular incumbent Bill Clinton (D) against the well-respected but less charismatic Bob Dole (R). Clinton won easily, which, given his charisma and political skills, was unremarkable. What stands out about that election cycle and its aftermath was the public’s (non)reaction to President Clinton’s and his supporters’ attempts to place him above the law, like a king, in the impeachment process regarding his inappropriate actions while serving as president of the United States.

But remarkably the public’s love of President Clinton grew throughout his legal difficulties. Clinton’s first term Gallup average approval rating was 50%, second term 61%, and stood at 66% approval the day he left office. Compare that to the public’s reaction during the period of 1972-1974 when Richard Nixon – re-elected in 1972 with 60.67% of the popular vote — similarly attempted to place himself above the law. The public ushered Nixon out of office with gusto, emphasizing that in America not even a popularly re-elected President stood above the law. The public remained so offended by the concept of an Imperial Presidency that President Ford’s pardon of Nixon from criminal charges became one of the principal reasons Ford lost his own bid for election in 1976. That the public’s love of Clinton grew emphasized how much our culture has changed from then to now.

The populace’s embrace of President Clinton did not go unnoticed by the other courtiers within the Grand Duchy of Washington, DC. After President Clinton’s impeachment in the House of Representatives, when the Senate sat to decide whether to remove him from office, even several Republican Senators decided that although he was guilty of an impeachable offense it would be too harmful to the country to remove him from office. Those Senators dutifully followed polls showing that a majority of Americans agreed President Clinton had done as charged but that the Senate should not remove the ruler they had chosen. The Senate — the bicameral part of the legislative branch intended by the Founders to be insulated from public opinion — now deferred to what seemed a “king’s” popularity over evidence and the rule of law.

One of the most recent examples of a branch of government buckling to President Clinton’s popularity over constitutional rule of law occurred in 2015 when the Supreme Court considered the constitutionality of the Affordable Care Act, otherwise known as Obamacare. At issue was whether the Constitution’s commerce clause gave Congress the power to order every American to purchase insurance. While ruling that the commerce clause did not give Congress that power, Chief Justice John Roberts (reputed to be a conservative Justice) nevertheless upheld the law under Congress’ taxation power – even though when it passed Obamacare, Congress expressly denied it was relying on its taxing power and President Obama had denied that the “insurance mandate” was a tax. Chief Justice Roberts’ ruling is widely viewed as having resulted from his concern that the Court’s legitimacy with the public would be at risk if a popular President’s marquee law was struck down. In this way, it appeared that a United States president’s popularity trumped the rule of law in the Supreme Court, too.

Popularity and unpopularity affecting the applicability of the rule of law, whether to men, women or ideas, has now bled through all of our governmental institutions, enthralled our media and academic institutions, and now threatens to permeate everywhere in our culture, even private institutions, where people are no longer free to hold or express an unpopular view without placing their livelihood at risk. The Founders meant the rule and protections of law to apply
equally to all persons and ideas no matter their popularity or unpopularity. Franklin’s test – can we keep it – hangs on a thread that will not stretch forever.

Brian Chilton is a graduate of the University Of Virginia School Of Law where he served as Associate Editor and Executive Editor of the Virginia Law Review. Additionally, he served as Senior Counsel in the Office of the Independent Counsel. Chilton represented the mother and daughter in the 2004 Supreme Court case, Elk Grove Unified School District v. Newdow, resulting in the words “under God” being retained in the Pledge of Allegiance. He is the author of the novel, Issachar’s Heirs (White Feather Press).


Congress Sets Times for Electors

Article II, Section 1. Clause 4:

The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

Title 3, Chapter 1 of the U.S. Code describes the timeframe for the choosing of and voting by members of the Electoral College.

Sec. 1: The electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President.18

Sec. 7: The electors of President and Vice President of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct.19 [emphasis added]

Choosing Electors: A Case Study

The presidential election of 2000 provided an excellent insight into the practical application of the Constitution’s provision for choosing electors for that office. After the polls closed on November 7, 2000, attention soon turned to the state of Florida and a growing controversy over punch-card ballots used in a few of its counties. The combined count of the electors from all of the states presumed to be assigned to the Democrat candidate Albert Gore, Jr. Republican candidate George W. Bush indicated that the race was going to be close that the results of the popular vote for president in Florida would determine the outcome of the race. This was due to the fact that the assignment of electors would be determined by that popular vote.

Concerned that the Florida vote count was going to be marred by the ballot controversy, attorneys for candidate Gore challenged the results of the statewide popular vote count in a
Florida court of law. After the state’s statutory deadlines for certifying election results passed, the Secretary of State for Florida certified that George W. Bush was the winner of that state’s popular vote. Acting upon that certification, Florida’s governor notified federal authorities that Florida’s presidential electoral votes would be cast for Bush.

On December 12, 2000, in their opinion *Bush v. Gore*, the United States Supreme Court overturned a Florida Supreme Court opinion which reversed the lower state court’s rejection of Vice President Gore’s contest mentioned earlier. The federal High Court determined that a statewide manual recount of certain votes ordered by the Florida State Supreme Court was invalid due to “the use of standardless [sic] manual recounts” thereby creating “a violation of the Equal Protection Clause” of the United States Constitution’s Fourteenth Amendment. This opinion was delivered by the Florida State Supreme Court four days after the Bush campaign petitioned the High Court to hear arguments against the Florida Supreme Court’s decision. The turnaround time from petition to opinion was highly unusual for the highest court in the land – unusual but not surprising given the time constraint that the judiciary in the United States was facing.

Returning to the federal statutory deadline for electors to meet and cast their votes for president, in the year 2000 the “first Monday after the second Wednesday in December” was December 18. Following the election on November 7, the Republican Secretary of state of Florida certified the Republican candidate for president winner of the state’s popular vote. According to state law, the certification by the Florida Secretary of State effectively assigned electors who had been nominated by the Governor and had taken an oath to cast their ballots for the “ticket” which had been certified the winner of the popular vote. These electors were scheduled then to meet and cast their votes on December 18 according to federal law. Given that the Florida State Supreme Court ordered a statewide manual recount of certain ballots then days before the state’s election were statutorily bound to meet and cast their votes for president, it was highly unlikely that Florida would have waited until they manual recount concluded that thereby potentially failed to appoint their electors in a timely manner. Because as the Constitution says, not only does Congress set the time for the meeting of the electors to cast their votes, Congress also is obligated to set the timeframe for the actual appointment of the electors.

So it is that in the same Title 3 of the U.S. Code that established both the time for the meeting of the electors to cast their votes and the time for the appointment of the electors by the states, it also effectively established the deadline for the appointment of electors whose state has experienced a “controversy or contest concerning the appointment of all or any of the electors of such State.” That statutory deadline for appointment of electors whose appointment was subject to such a controversy or contest is “at least six days before the time fixed for the meeting of the electors” and has been so since 1948. [emphasis added] The question is: In the year 2000 which included a significant controversy concerning Florida’s appointment of presidential electors, what date was “six days before the time fixed for the meeting of the electors?” Asked in a different way, in the year 2000, what date was six days prior to December 18? The answer is: December 12, 2000 – the same day the United States Supreme Court issued their uncharacteristically speedy opinion in the case *Bush v. Gore*. 
In the final analysis, the opinion of the United States Supreme Court in *Bush v. Gore* was apparently a moot one. By the time the highest court in the land issued their opinion on December 12, 2000, the Republican Florida Secretary of State had already certified the Republican candidate for president the winner of the state’s popular vote; the Republican Governor of Florida had already filed the necessary paperwork designating Florida’s electors pledged to the Republican candidate for president pursuant to federal law; and the Republican majority Florida House of Representatives had already vote to pledge all of Florida’s electors to the Republican candidate for president. Additionally, the opinion was apparently moot only because if the Supreme Court had taken one additional day to formulate that opinion it would have failed to decided prior to the statutory requirement that the state appoint its electors “at least six days before the time fixed for the meeting of the electors” rendering the opinion technically moot.

While the judicial proceedings on the state and federal level mad for good theater, the Republican-controlled Florida state government was not going to make history by missing the deadlines for including the votes of their state’s electors in the combined count conducted by the president of the Senate of the United States. The United States Supreme Court knew this, hence the timeliness of their opinion. They knew two additional things as well. First, the United States Constitution gives no authority to either the federal or state judiciaries in the determination of the president and the vice president. Second, Article II, Section 1 of the United States Constitution gives explicit authority in the regulation of the choice of and voting by electors exclusively to the Congress and the states “any thing in the constitution or laws of any state to the contrary notwithstanding” according to the Supremacy Clause of Article VI of the US Constitution.

**Choosing Electors: A Final Word**

Today it’s the practice of every state of the Union to provide “ballot access” to every party which meets certain requirements pursuant to the laws of the respective states. This concept of ballot access simply means that as long as a candidate from a particular party has previously acquired the requisite level of public support in a prior election or petition process in the state or United States, that party is eligible for inclusion on a ballot without having to rely on the voters to “write in” the name of a candidate of the party in question. This access is available for candidates for president and vice president of the United States as well as candidates for the federal House of Representatives and Senate, the state House of Representatives and Senate, state governors, city mayors, county sheriffs, etc.

So it is that eligible voters in every one of the United States may directly cast a vote for candidates seeking the office of the president and vice president of the United States. When the polls close on Election Day, the votes for president and vice president are counted and in all but a few states, the candidate for president of the United States who receives the most votes in a state is effectively promised the support – for himself and his vice presidential running mate – of all of the electors eligible to be appointed by that state. This *promise* is according to the law of the state and is realized by the appointment of the *promised* electors by the state legislature.

As an aside, the two current exceptions to this all or nothing assignment of electors are the states of Maine and Nebraska. In the case of these two states, the statewide winners receive 2
electoral votes – equivalent to the number Constitutionally assigned to each state for the number of electors from the state – and the winners of each of the congressional districts receive 1 electoral vote per district won according to the number Constitutionally assigned to each state for the number of representatives from the state. Although the numerical assignment of electors in the state of Maine and Nebraska are different than that of the other states, that assignment of electors is still done for their respective state legislatures.

The actual votes of the electors chosen by all states is preliminarily based not so much on a guarantee as it is a good faith promise by the individuals chosen by the states’ legislatures to serve as members of the Electoral College. The reality that a presumed pledge made by any person considered by a state’s legislature to support one particular candidate for president is no more than a good faith promise is based on the fact that the Constitution to this day places no requirements on the electors appointed by the states. Therefore, electors are free to cast their ballots for whomever they wish regardless of any good faith promise that a state’s legislature may have presumed to have been made. This reality is borne out in the history of the Electoral College in that there have been instances of so-called “faithless electors.” The ignominious title of “faithless elector” has been applied to those few past members of the Electoral College who ultimately gave their votes to a candidate for president other than the person to whom the state legislature that appointed the elector believed that elector had pledged support. However, this supposed act of faithlessness has no penalty assigned to it because, once again, the Constitution has assigned no presupposed requirements on the appointed electors except adherence to the few qualifications for the office of president (i.e. citizenship, age, and residence). The electors for president are just as much free agents today as they were when they chose George Washington to be the first president of the United States.

The one significant departure from the exclusively appropriate wording used by the Constitution’s framers is that the state legislatures today appoint the electors in a similar way that the state legislatures originally chose federal senators. But while the Constitution originally stated that “the Senate…shall be composed of two senators from each state, chosen by the legislature thereof,” the Constitutional requirement for selection of presidential electors requires that “each state shall appoint, in such manner as the legislature may direct, a number of electors” who shall then vote for president and vice president. The state legislatures are not to choose presidential electors. The state legislatures are to direct the manner in which their respective states (i.e. the people) are to appoint presidential electors. Forty-five years after Constitutional Convention delegate Alexander Hamilton wrote that “the people of each State shall choose a number of persons as electors…who shall assemble within the State, and vote for some fit person as President,” Joseph Story observed that the “appointment of the president…is delegated to persons chosen by the immediate act of the people, for that sole and temporary purpose…The president…would be far more independent, than if chosen by a legislative body [e.g. state legislature].”

While it may be argued that the appointment of presidential electors by the state legislatures is not equal to the legislatures choosing the president directly, it’s not at all the same as the electors being “chosen by the immediate act of the people for that sole and temporary purpose.” By effectively democratizing a process which was originally established to protect against what Hamilton referred to as the “tumult and disorder” that would accompany a direct popular election
of the president, the state legislatures have guaranteed that the candidates for that office would exhibit what he called the “talents for …the little arts of popularity” which sacrifice the long term prosperity of the Republic for short term deference to the desires of the masses.

The Honorable John N. Hostettler is a former Congressman from Indiana, and currently serves as Director of the D. James Kennedy Center for Christian Statesmanship. He is the author of *Ordained and Established: A Statesman-Citizen’s Guide to the United States Constitution*.


19 Ibid., 673.


22 Act of June 25, 1948, 673.


“One of (PATRIOT Act II’s) provisions would apparently enable federal employees to strip
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To read those words in June of 2016, one might otherwise think that they were written by a
Conservative Republican, a darling of the National Rifle Association. But no, they were written
by then-candidate John Kerry in the run-up to the 2004 presidential election. Kerry was trying to
contrast himself with the measures taken by President George W. Bush, who would be his rival
the following year, and the discussions being undertaken as the successor to the original
PATRIOT Act was being considered.

There is no small amount of irony to be seen in those words, especially this week, which saw
Democrats take to the floor of the US House of Representatives to stage a “sit-in” demanding
that congressional Republicans hold a vote on, among other things, whether the kinds of rights-
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Let’s underscore that point: former civil rights leaders staged a protest on the floor of the US
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Both the initial PATRIOT Act, and its successor, PATRIOT II, were written while America was
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Congress to consider both pieces of legislation is what is driving Democrats in the wake of the
recent Orlando night club shooting.

But that is, as always, very dangerous thinking, especially from a constitutional perspective. In
1992, Supreme Court Justice Sandra Day O’Connor wrote the majority opinion in New York v.
United States, and said, both eloquently and rightly that,

“The Constitution protects us from our own best intentions: It divides power among sovereigns
and among branches of government precisely so that we may resist the temptation to concentrate
power in one location as an expedient solution to the crisis of the day.” [Emphasis added][1]

Justice O’Connor’s admonition, in that particular case, pertained to laws mandating the
transportation of nuclear wastes within a state’s borders—but clearly it has broad application to a
host of federal public policies (including, for example, the mandate via the “Brady Handgun
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The admonition in New York v. United States also has broad application across partisan and philosophical lines—the lesson is clear, one is ill-advised to use a crisis to drive public policy decisionmaking, whether that decisionmaking is being pressed by Democrats or Republicans.

Obviously, Republicans own some measure of culpability for driving crisis-borne policy in the post 9/11 world. They held the presidency and both houses of Congress. Moreover, Justice O’Connor recognized that such policies would invariably happen, which is why she issued her warning.

So by the time the 2004 election rolled around, it was high time that policymakers would step in and consider the impact of post-9/11 homeland security policy on individual rights and the Constitution—and given that the Democrats were the opposition party trying to win the White House (and win back both houses of Congress) in 2004, it is only natural that they would take the position that some questions had to be asked regarding due process rights and the expanding national security state.

But in a world that is fifteen years past 9/11, and twelve years past the 2004 elections, enough time has passed that both sides ought to have learned their lessons regarding the balance between national security and civil liberties—recognizing that freedom, the broadest protection of individual rights—is what we ought to strive for.

Andrew Langer is President of the Institute for Liberty, and host host of the LangerCast, which can be found at RELMNetwork.com (http://www.relmnetwork.com/#!/langerpopp/cdo6)


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2008, Barack Obama: Forty-Fourth President of the United States – Guest Essayist: Juliette Turner

Barack Obama: Forty-Fourth President of the United States

Nickname: The First African-American President

Terms in Office: 2009-2013; 2013-present

Fast Stats

- Born August 4, 1961, in Honolulu, Hawaii
- Parents: Barack Obama Sr. and Stanley Ann Dunham Obama Soetoro
- Barack Obama is still living and in office
- Age upon Start of First Term: 47; Age upon Conclusion of First Term: 51
- Age upon Start of Second Term: 51
- Religious Affiliation: Congregationalist (Protestant)
- Political Party: Democrat
- Height: 6 feet 1 inch
- Vice President: Joseph Biden

Bottom Line

President Obama is the current president of the United States and is serving his second term in office. Obama passed his landmark legislation, the Affordable Care Act; oversaw the capture and death of terrorist mastermind Osama bin Laden; and enforced a multibillion dollar stimulus in an attempt to help the economy. He has struggled with a scandal regarding the surveillance of the American people by the federal government and an ever-growing debt and deficit.

What Was He Thinking?

Barack Obama champions a large government that can care equally for all Americans. Not afraid to raise taxes for the wealthiest citizens or spend federal dollars, Obama has worked to increase
various welfare and health care benefits, and he has successfully passed the first legislation that mandates nationalized health care for all Americans.

**Why Should I Care?**

Barack Obama is the first African-American to become president of the United States. He is also the first president who was raised by a single mother and his grandparents. During his presidency, Obama has worked to promote equality in America, most notably between genders, by passing legislation to promote women’s equality in the workplace and appointing two women to the Supreme Court, more than any other president.

**Breakin’ It Down**

**Early Life**

Barack Hussein Obama II is the only child of Barack, an African man from Kenya, and Stanley Ann, a white woman from Kansas. Barack and Stanley Ann’s marriage in 1960 was extremely controversial; interracial marriage was still illegal in half of the U.S. at the time. The marriage, however, was short-lived: the couple divorced after just three years of marriage. It was revealed that Barack Sr. had another wife in Kenya to whom he returned after divorcing Stanley Ann. The following year, Barack’s mother remarried, this time to Lolo Soetoro, an Indonesian native. Young Barack then moved with his mother to Jakarta, Indonesia. Within a few years, Stanley Ann sent Barack back to Hawaii to live with his maternal grandparents and to grow up in what she considered a safer environment. In Hawaii, Barack attended high school at the Punahou Academy, graduating in 1979 with academic honors.

After high school, Obama first enrolled at Occidental College in Los Angeles, California, but he transferred to New York’s Columbia College in 1981, where he earned a bachelor’s degree in political science. Obama then took a job at the Business International Corporation as a financial service officer. Within a year, he transferred to New York’s Public Research Group and traveled to college campuses to encourage students to become active in politics and social justice. In 1984, Obama worked as a community organizer for the City University of New York at their Harlem campus. In 1988, he decided to return to school, and three years later he received his JD from Harvard Law School. During his time at Harvard Law School, Obama was involved in various student protests, often leading the protests and speaking to his fellow students. Obama also became the first African-American president of the Harvard Law Review. In 1992, after graduating, he returned to Chicago to teach constitutional law at the University of Chicago. He continued teaching seminars at the college until 2004.

**BTW:**


Although Obama has no biological siblings, he has nine stepsiblings.

*Change will not come if we wait for some other person or some other time. We are the ones we’ve been waiting for. We are the change that we seek.* – Barack Obama
First Couple

Barack Obama and Michelle Robinson first met in 1989 at the Sidley & Austin law firm, where Michelle worked as an attorney. They married in 1992 and have two daughters, Malia and Sasha. During her husband’s political campaigns, Michelle remained very active, traveling across the country on his behalf to gather support for his presidential campaigns. As first lady, Michelle is a strong advocate for health and dietary concerns.

BTW:

Michelle Obama is 5 feet 11 inches tall – the same height as previous first lady Eleanor Roosevelt, making them the tallest first ladies in U.S. history.

Previous Political Career

1996: Elected state senator in Illinois. He served on the Joint Committee on Administrative Rules and as the head of the Health and Human Services Committee.


2000: Ran for a position in U.S. House of Representatives but lost.

2002: Elected again to the Illinois state senate.

2004: Elected to the U.S. Senate, becoming only the third African-American U.S. Senator since the Reconstruction Era.

Presidency

Shortly before Obama entered the office of the president, the U.S. suffered its worst economic collapse since the Great Depression. To counter the severe recession and prevent the economy from further decline, Obama and the U.S. Congress implemented a $787 billion stimulus package that pumped federal funds into private businesses and the economic market in an attempt to help restart failing banks and businesses.

International Policy

Within his first one hundred days, Obama concentrated on international policy, improving relations with China and Russia and opening diplomatic dialogue with Iran, Venezuela, and Cuba. Although Obama had said as he campaigned that he would end the war in Afghanistan and Iraq, he sent 21,000 more troops to Afghanistan. He vowed to withdraw troops in Iraq by 2010, although it was not completed until the end of 2011. Obama also used military force to confront the Somalian pirates who had been terrorizing tourists and U.S. ships for years in the Gulf of Aden and Arabian Sea. In 2009, America suffered from her first successful terrorist attack since the 9/11 terrorist attack with the Fort Hood Massacre on the Fort Hood military base in Texas. America then suffered a similar attack in 2012 but on foreign land – at the U.S. Consulate in
Benghazi, Libya – where terrorists killed four Americans, including U.S. Ambassador Chris Stevens.

Successes

In 2010, Obama achieved one of his greatest successes, the passage of the Affordable Care Act, helping to make health insurance coverage more accessible to every American. Although the U.S. economy still struggled to regain ground after the 2008 collapse, the Obama administration gained fresh momentum with the killing of Al-Qaeda leader and 9/11 mastermind Osama bin Laden.

Reelection

In 2012, the Supreme Court upheld the constitutionality of the Affordable Care Act, a major win for Obama’s landmark achievement in the election year. After a record setting amount of money was spent in the campaign by both candidates, Obama won a second term in office. However, his victory celebration was short-lived; in April 2013, less than four months after his second inauguration, two terrorists bombed the annual marathon in Boston, Massachusetts, killing three civilians and injuring many more.

NSA Scandal!

In 2013, former government employee Edward Snowden revealed that the National Security Agency had been monitoring American citizens through their web, cell phone, computer, and email communications. The Obama administration claimed that the security agency was doing this legally and that it was in the interest of national security. Soon it was also revealed that the surveillance extended outside American borders and affected other countries worldwide.

Problems in Syria

In late 2013, the international field erupted in debate over the Syrian civil war and Syria’s possible use of chemical weapons. President Obama previously claimed that the use of chemical weapons would cross a “red line,” which would require U.S. intervention. Although U.S. involvement seemed inevitable and the danger of chemical weapons being spread to terrorist organizations sparked a high security alert in the Middle East, the U.S. decided not to invade Syria, and a war was averted.

Another Government Shutdown

October 2013 brought the third government shutdown in two decades. After over two weeks of inaction, Congress and the president finally negotiated legislation to reopen the government and prevent the U.S. from defaulting on her loan payments. The close of 2013 saw Obama’s approval ratings plummet as a result of the NSA scandals, problems with enrollment for the Affordable Care Act, and gridlock in Washington, D.C., over America’s economy.

Election Results

Obama not only made history as the first African-American Democratic presidential candidate, but he was also the first first-term U.S. Senator to go so far in a presidential election. On November 4, voter turnout was at its highest in four decades. The election was also historic
because Obama’s Republican presidential candidate to choose a female running mate, Sarah Palin, governor of Alaska.

Barack Obama’s opponent in the 2012 election was former governor of Massachusetts Mitt Romney, whose vice presidential candidate was Paul Ryan, a congressman from Wisconsin. Campaign issues spanned from Obama’s Affordable Care Act to the growing debt and federal deficit. The recent scandals, including the suspected government cover-up regarding the terrorist attack in Benghazi, Libya, also made headlines during the election. It appeared Mitt Romney held the lead after the first televised presidential debate, but after the next two debates, Obama gained the lead and won the election.

**Election of 2008**

1. Barack Obama: 365 Electoral Votes
2. John McCain: 173 Electoral Votes

**Election of 2012**

1. Barack Obama: 332 Electoral Votes
2. Mitt Romney: 206 Electoral Votes

**Presidential Personality**

Barack Obama’s charisma and appeal has drawn millions of voters to him during his political career. Often categorized as a family man, the current president of the United States is a leader with a strong personality but a soft and respectful nature. He is known for his ability to deliver rousing speeches, a skill that has greatly helped him in the political arena.

*There is not a liberal America and a conservative America – there is the United States of America. There is not a black America and a white America and Latino America and Asian America – there’s the Unites States of America.* – Barack Obama

**Fun Fact!**

The name Barack means “one who is blessed” in Swahili.

**BTW:**

Obama was the fourth president to win the Nobel Peace Prize. He was awarded the medal for his extraordinary efforts to strengthen international diplomacy and cooperation between peoples.
Congressional Corner

**Lily Ledbetter Act:** This act, passed in 2009, helped establish equal pay for women in the workplace.

**American Recovery and Reinvestment Act:** Passed in 2009, this act approved $787 billion to be sent to various U.S. businesses and banks to help restart the economy. The bill also enforced a $288 billion tax cut for the middle class, and allotted money to improve education and health care, extend unemployment benefits, and create jobs.

**Patient Protection Affordable Care Act:** In March 2010, this act nationalized U.S. health care to help make health care more affordable and accessible. It also made it mandatory for every American to own health insurance and demanded that businesses provide health insurance for their employees. Enrollment for the Affordable Care Act began in October 2013. No Republicans voted for the bill.

**Budget Control Act:** This act, passed in 2011, helped to avoid a second economic collapse by preventing America from defaulting on her financial obligations.

**Hate Crimes Prevention Act:** This act, passed in 2009, expanded existing federal laws against hate crime.

**American Taxpayer Relief Act:** This act was passed in 2012 and extended many of the so-called Bush Tax Cuts.

**Violence Against Women Reauthorization Act:** This act, passed in 2013, extended the act passed under Bill Clinton that set aside $1.6 billion for investigations of violent crimes against women.

Thoughts on the Constitution

I have studied the Constitution as a student; I have taught it as a teacher; I have been bound by it as a lawyer and legislator. I took an oath to preserve, protect and defend the Constitution as Commander-in-Chief, and as a citizen. I know that we must never-ever-turn our back on its enduring principles for expedience sake…. We uphold our most cherished values not only because doing so is right, but because it strengthens our country and keeps us safe.

Presidential Times

**Osama Bin Laden Dead!**

May 2, 2011 – Terrorist mastermind Osama bin Laden has been killed in Pakistan in his secret compound. Obama gave the green light yesterday for U.S. Navy SEALs to invade the compound, where CIA and FBI operatives claimed bin Laden was living. The leads proved to be correct, and the Navy SEALs found and killed bin Laden.
Attacks On The Benghazi Consulate

September 12, 2012 – On the eleventh anniversary of 9/11, the U.S. consulate in Benghazi, Libya, was attacked by a group of terrorists, killing the U.S. ambassador to Libya, Chris Stevens; Foreign Service Information officer Sean Smith; and two Navy SEALs, Tyrone Woods and Glen Doherty. The Obama administration originally claimed the attack occurred after the release of an anti-Muslim YouTube video created by an American. However, it was later revealed that the attack was orchestrated by terrorists in the region over an unrevealed cause.

Questions continue as to why no aid was sent to the consulate at the time of the attack. Though several military bases within a 60-mile radius were on alert, no aid was delivered, and four Americans died.

White House…Closed?

March 9, 2013 – If you are trying to book a White House tour, you may be running into some difficulties. Today, the Obama administration has decided to close the White House in attempt to cut costs in light of the recent budget cuts passed by Congress – although the cost of White House tours is almost negligible. The White House is predicted to be closed for months.

Boston Marathon Bombing Suspect Killed

April 19, 2013 – One of the Boston Marathon bomb suspects, Tamerlan Tsarnev, was killed in a police shootout yesterday. His brother, Dzhokhar Tsarnev, is still at large. Earlier this week, at 2:49 EST on April 15, two amateur bombs exploded during the annual Boston Marathon, killing three people and insuring more than 260 runners and bystanders. The Tsarnev brothers, from Chechnya, have been living in a Boson suburb.

Government Shutdown Of 2013 To End

October 16, 2013 – The president and Congress have agreed on a plan to reopen the government after a sixteen-day shutdown, which began October 1. The shutdown resulted in 800,000 federal workers being laid off. Similar to the government shutdowns during President Clinton’s administration, it resulted from a lack of negotiation for addressing America’s growing debt. During the Shutdown, Republicans and Democrats in Congress composed and disregarded several bills proposing economic plans, but it was not until tonight that a plan was agreed upon.

IRS Scandal

May 20, 2013 – Earlier this month, the American public became aware of a scandal involving the country’s Internal Revenue Service and its interference in political parties. It was released that several IRS officials had unjustly targeted Tea Party Activist groups, sparking concern of the partisan nature of the nation’s economic bureau. This comes shortly after the release of the NSA scandal, causing many to fear the rapid overexpansion of the government.

State of the Union

(1) States: 50

(2) U.S. Population: (2009) 308,633, 000
(3) U.S. Debt (2009) $12,311,349,677,512
(2012) $16,332,597,222,179

(4) Value of the Dollar: $1 in 2009 would be worth $1.09 today. $1 in 2012 would be worth $1.00.

Timeline

- 2009 – Bombings in Baghdad, Iraq, kill 155 people
- 2009 – Sonya Sotomayor is the first Latino to be appointed to the Supreme Court
- 2010 – The BP oil spill occurs in the Gulf of Mexico off the coast of Louisiana
- 2010 – A catastrophic earthquake hits Haiti
- 2011 – Osama bin Laden is killed
- 2011 – Prince William marries Catherine Middleton
- 2012 – Twenty-six lose their lives at the hand of a gunman inside Sandy Hook Elementary School in Connecticut
- 2012 – The Summer Olympics begin in London, England
- 2012 – The Supreme Court upholds the Affordable Care Act’s individual mandate
- 2013 – The Boston Marathon bombings take place
- 2013 – Edward Snowden begins leaking NSA secrets
- 2013 – Prince William and Kate’s first child, George, is born
- 2013 – The government shuts down, between October 1 and October 16
- 2013 – Nelson Mandela, former president of South Africa, dies

What Has He Done for Me Lately?

Though the Affordable Care Act has yet to be fully funded, and is still in its trial stage, it was passed to ensure that every American possesses some form of health insurance. To comply with the new laws and regulations, insurance companies were required to alter their existing policies and amend what kind of patients they covered. Because of this, regardless of what insurance company your parents have, you are allowed to stay on their health plan until you are twenty-six. Also, all individuals must be covered by insurance, regardless of preexisting medical conditions that previously prevented some individuals from finding medical coverage.

Fun Fact!

In 2006, Obama was honored with a Grammy award for the Best Spoken Word Recording of his audio book of Dreams from my Father.

BTW:

Obama is left-handed.
Platform Speech

What the American people hope—what they deserve—is for all of us, Democrats and Republicans, to work through our differences; to overcome the numbing weight of our politics. For while the people who sent us here have different backgrounds, different stories, different beliefs, the anxieties they face are the same. The aspirations they hold are shared: a job that pays the bills; a chance to get ahead; most of all, the ability to give their children a better life. – Barack Obama

In his 2010 State of the Union address, President Obama attempted to bring Washington, D.C., together despite their political differences to provide Americans and their children a better life.

Juliette Turner is the National Youth Director of Constituting America, and the author of three books: Our Constitution Rocks, Our Presidents Rock and the novel, based on life at her ranch with her mom, actress Janine Turner, That’s Not Hay In My Hair (all published by HarperCollins/Zondervan).


2012, Barack Obama Defeats Mitt Romney – Guest Essayist: Michael Barone

Only once before the twenty-first century has America had three consecutive eight-year presidencies: the years 1801-25 in which three members of “the House of Virginia,” Thomas Jefferson, James Madison and James Monroe each won two general elections and served for eight years. Historians have called the end of this period “the Era of Good Feelings,” in part because Monroe won his second term without opposition with a single electoral vote cast for his secretary of state, John Quincy Adams.

In 2012, after an interval of nearly 200 years, Americans for the second time re-elected a third president to a second term, as Democrat Barack Obama defeated Republican Mitt Romney by a margin of 332 to 206 in the Electoral College and 51% to 47% in the popular vote, during a period which no historian is likely to describe as an era of good feelings.

That is because American voters in the twenty-first century have been very closely divided between the parties, with persistent loyalties manifest in every presidential and congressional elections and a degree of straight-ticket voting not seen for decades. The demographics of party allegiance tended to produce different results in close contests for the presidency and control of Congress. Heavily Democratic groups—blacks, Hispanics in many states, gentry liberals—tended to be clustered in central cities, sympathetic suburbs and university towns. These clusters insured that Democratic presidential nominees would win at least 170 electoral votes without serious competition, while Republicans had similar dominance in states with only about 100 electoral votes. This is one reason why Democrats won four of six presidential contests between 1992 and 2012.

But clustering worked against Democrats in congressional and state legislative elections conducted in equal-population districts, since Democratic voters were clustered in relatively few
districts and Republican voters were spread around more evenly in the rest of the country. Thus Republicans won majorities in the U.S. House in nine of the 11 House elections from 1994 to 2014. In 2012 Barack Obama, with 51% of the popular vote, carried only 209 congressional districts, while Mitt Romney with 47% carried 226. In contrast, in 2004 George W. Bush with 51% of the popular vote carried 255 congressional districts, many more than John Kerry’s 180.

As in 1996 and 2004, the incumbent president was renominated by his party without opposition, while the other party had a seriously contested, but relatively speedily concluded, race for its nomination. The clear frontrunner for the Republican nomination was one-term Massachusetts Governor Mitt Romney, who had also run in 2008. During 2015 he faced fleeting competition from more conservative candidates who jumped to leads in the polls—Michele Bachmann, Rick Perry, Herman Cain—only to fall behind. Romney led in initial returns in the Iowa caucuses (though former Senator Rick Santorum emerged ahead when the votes were finally counted) and won the New Hampshire primary. Romney lost the South Carolina primary to former Speaker Newt Gingrich, but he won again only in his home state, Georgia. Romney, with strong support from affluent and suburban voters, clinched the nomination by beating Santorum in primaries in Michigan, Ohio, Illinois and Wisconsin.

The Obama campaign enjoyed unified party support, was well financed and used an updated version of the sophisticated voter identification and turnout techniques it had pioneered with great success in 2008. Starting in the spring it ran tough attack ads targeting Romney’s business experience. But the president’s job approval during most of the campaign hovered below 50%, a point it finally reached by election day, and polling showed the race close, especially after Obama’s faltering performance in the first presidential debate October 3. The campaign was conducted chiefly in a dozen target states, identical to the 2008 list except for Indiana and Missouri, which Obama carried and lost very narrowly then and were no longer seriously contested.

The two parties chose to hold their national conventions in target states, at some risk. Republicans met in Tampa, along the Gulf of Mexico during hurricane season; one day of the convention had to be cancelled. Democrats met in Charlotte and scheduled the president’s acceptance speech for an outdoor stadium, in a season when the chance of rain was 50%; the speech had to be delivered indoors.

The results closely resembled those of 2008. Of his 2008 states, Obama lost Indiana, which he didn’t contest, and lost North Carolina only narrowly. Every other target state he won, as in 2008, although in the case of the largest, Florida, by only 1% of the vote. However, in contrast to 2004 and 2008, when turnout rose robustly, total turnout was down, though not in most target states. Obama won 3.5 million fewer votes than he had won before, while Romney won only 1 million more than John McCain had four years before. Negative feeling about the direction of the nation had not been enough to defeat the third consecutive president elected to a second term, but it had trimmed his margin and was a sign that this was anything but an era of good feelings.

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Constitutional Issues In The 2016 Election –
Guest Essayist: Professor William Morrisey

Faithful readers of Constituting America’s 90-Day Study have followed the story of our constitution through each of our presidential elections. We have seen that the moral foundations of both of our constitutions—the Articles of Confederation and the United States Constitution that replaced it—find their most cogent expression in the Declaration of Independence. There, the Founders held the self-evident truth that all men are created equal, endowed by their Creator with unalienable rights including life, liberty, and the pursuit of happiness. Governments must therefore be framed to secure those unalienable rights. Our God-endowed, or natural, rights—regulated by the laws of Nature and of Nature’s God—find security in our legal or civil rights, defended by a system of government so structured as to channel the ambitions of political men and women toward the guardianship of those rights. This requires a regime designed to empower the government so our rights can be defended effectively against those who threaten them, at home or abroad. At the same time, the powers of that government will check and balance one another, so that no single individual or group of individuals will likely usurp all those powers, setting us on the road to tyranny. America’s early Constitutional conflicts centered on the question of how much power should be placed in the hands of the national government vis-à-vis the states’ governments. But whether Federalists or Anti-Federalists, Hamiltonians or Jeffersonians, all of the principal founders aimed at securing the natural rights of Americans by the means of well-designed constitutional forms.

We’ve also seen that the most important challenges to the United States Constitution have sought to undermine its moral foundations as enunciated in the Declaration of Independence. The first of these came from the slave-owning planter class, and were best articulated by Senator John C. Calhoun. Calhoun wrote a point-by-point critique of the natural-rights theory of the Declaration and advanced a correspondingly new approach to American constitutionalism—namely, the ‘concurrent majority’ theory, which would have given the slaveholders the legal and political means to defend their oligarchic form of rule. The Calhounian critique of American constitutionalism reached its legal culmination in the Dred Scott decision, in which Chief Justice Taney infamously contended that black Americans have no rights white Americans are bound to respect.

The second important challenge to both the Constitution and the principles of the Declaration came from Senator Stephen Douglas, the most eloquent proponent of unlimited popular sovereignty. Popular sovereignty unquestionably ranks as a Constitutional principle; the Constitution begins with the words, “We the People.” But Douglas went further. At one point in his 1858 debates with Lincoln, he turned to his opponent and demanded to know why in the world he would endanger the prospect of American expansion, the growing American empire, for the sake of “a few miserable Negroes.” In Douglas’s mind, only a fool would defend minority rights against majority interests, when those interests were so magnificent as an America that ranged from sea to shining sea. Mr. Lincoln thought otherwise, and although he lost the U. S. Senate race in Illinois he won enough adherents in the country to become our next president and to preserve the Union founded upon the moral principles that both the Calhounites and the Douglasites denied.
A new challenge to the natural rights doctrine and to the Constitution took a subtler and, thus far, much more effective approach. The Progressives first won positions in the universities, where they educated the new generation of American lawyers, scientists, clergymen, and writers in moral and political doctrines that rejected natural rights in favor of historical rights. In this historicist view, all of nature, including human nature, continually evolves; nature is part of ever-changing history. Human beings think of new rights for themselves, and invent new governmental powers to secure them. Because there are no permanent standards by which anyone can judge these claims, the project has no real limits. As the scholars in this series of articles have shown, men like Woodrow Wilson and Franklin Roosevelt intended a vast expansion of governmental powers in order to enforce an ever-expanding menu of rights suggested by never-ending social and political progress. Under the `progressive’ dispensation, presidents become not statesmen, heading the executive branch of the federal government, but leaders of public opinion, pointing us to a brighter tomorrow. To supplement this opinion leadership, Progressivism posits a need for an administrative state—a set of bureaucracies staffed by tenured professional experts who will gather executive, legislative, and judicial powers in their hands in order to implement policies enacted by the elected opinion leaders. In effect, this means that the United States has instituted a new form of aristocracy—based not on the martial and civic virtues admired and sometimes embodied by the old aristocracies of Europe, but on purportedly scientific knowledge of how to effect change in human societies.

To make this project seem constitutional, Progressives needed a new theory of constitutional interpretation. Their own evolutionary or developmental theory of human rights suggested one: the “elastic” Constitution (as President Woodrow Wilson called it) or, more famously, the “living” Constitution—a phrase deployed by scholars and judges for at least the past half-century. Under this dispensation, Supreme Court judges are entitled to go beyond the letter of constitutional law, beyond the intentions of the Framers, and make up new civil rights or bless new governmental powers when those rights and powers comport with what the judges deem to be in accord with historical progress.

No civil war resulted from this challenge because the Progressives didn’t need one. They only needed opportune circumstances in which their well-defined doctrines would seem attractive, and they found them, first in the Great Depression, then in the Second World War, and finally in an ever-expanding list of civil rights—rights conceived as the results of historical change rather than defenses of permanent natural rights. Constitutional law responded to whatever social changes seemed to be “in the air.”

For more than a century, our presidential elections have often seen disputes deriving from the tension between the old Constitution—which after all has not been entirely jettisoned—and the new, living, evolving constitution, a constitution written not so much in formal amendments as in an ever more complex array of Supreme Court decisions, administrative regulations, executive orders, and treaties. Both political parties have had their hand in this, although the Democrats have proven the most full-throated Progressives, especially (to take the post-World War II presidencies) in the Lyndon Johnson and Barack Obama administrations.

In this year’s election, once again the Constitution is at issue, although in some ways less clearly than in 1912, 1932, or 1964. The candidate required this year, as in every past election, for our
constitutional republic is one who bases his or her platform squarely on the hope of restoring the original understanding of American constitutionalism. The candidate needs to understand American constitutionalism.

The next president will likely nominate several Supreme Court justices. Should America accept a president who identifies with Progressivism and therefore the notion of an “elastic” or “living” Constitution—only to include a list of legislative proposals that never says, but merely assumes, that such proposals are constitutional?

Should we, as Americans, simply accept that just anything is constitutional, that we have moved from Chief Justice John Marshall’s interpretive principle, that judges “say what the law is” to the new principle, that judges (and professional administrators, and presidents in their executive orders) tell us what the law is?

For example, concerning natural rights and the Second Amendment: If we already have a right to defend ourselves, prior to our Constitution-writing—and indeed we were defending ourselves when we declared our independence from the British Empire—then where does the right come from? A presidential candidate should not contradict the fundamental principle of the Founders, that rights exist by nature. It is, therefore, appropriate in this election year to evaluate the presidential candidates on their commitment to the Constitution. Will they closely inspect the Constitution first before pursuing any policy course? Will they faithfully protect the Bill of Rights and each of the cherished rights contained in the first 10 amendments? Will they respect the Constitution’s separation of powers and system of divided government between the federal government and the states?

Further, if we are to ask our candidates if they see the Constitution as a living, breathing document, or as something set in stone long ago, how do we want our candidates to respond? A college professor might object that the dichotomy is false and prejudicially stated. The Constitution isn’t “set in stone”; it has been amended 27 times. And the phrase such as “long ago” implies that it is somehow irrelevant to this day, outmoded. In the course of asking such questions of our presidential candidates, we are able to discern, and elect a president who understands how our U.S. Constitution works.

On this 240th anniversary of our Declaration of Independence, a year away from the 230th anniversary of the Constitution, we see a presidential election contest between candidates who give constitutionally-minded Americans cause for worry. Many express concerns about the longstanding Progressive effort to replace American historic moral and political principles, in part, by making the Constitution malleable. While others are concerned that those elected might veer off the historic constitutional foundation in ways that do not build confidence in what might be called a constitutional temper.

In this, Americans have reaped what academia has sown. Whether we consider the original Progressivism of President Woodrow Wilson’s generation—with its elastic or living constitution—or the state-building, centralizing New-Deal Progressivism of FDR and LBJ, or the denigration of civility seen in the current politics that has ensconced itself in academia and in the realms of entertainment and the news media in the past half-century, American educators have
poorly served their fellow citizens. The need for the Constituting America project would not exist if the schools, and especially the universities, had continued to follow the path laid down by the Founders in the Northwest Ordinance, in Mr. Thomas Jefferson’s plans for the University of Virginia and Mr. Benjamin Franklin’s plans for the University of Pennsylvania, or the original intentions of the service academies at West Point and Annapolis.

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