

effective Senate leader in history, when he asked to be allowed to continue presiding over meetings of the Senate Democratic conference at the start of his term as vice president in 1961. As Senator Clinton Anderson, who had been one of Johnson's closest political allies, protested, the office of vice president simply is not a legislative office.<sup>3</sup>

### Independence

The vice presidency is neither fully legislative nor executive. To be sure, a number of developments, notably the establishment by Franklin D. Roosevelt of the presidential nominee's right to designate a running mate, have moved the vice presidency more clearly into the executive orbit, in practice, if not in constitutional theory. The difference between theory and practice was decorously observed in the working relationship between President Dwight D. Eisenhower and Vice President Richard M. Nixon. Eisenhower firmly believed that the vice president "is not legally a member of the executive branch and is not subject to direction by the president." Thus the president would never tell his vice president to do anything. Instead, recalls Nixon, Eisenhower would "wonder aloud if I might like to take over this or that project." Nixon, of course, never refused these requests. Indeed, he estimated after seven years as vice president that about 90 percent of his time had been spent on executive branch activities, and only 10 percent on legislative matters. But, following constitutional form, Eisenhower said he regarded Nixon's efforts on the administration's behalf as "working voluntarily."<sup>4</sup>

In one very important sense, however, theory really does guide practice. The presidency, being an elective office with a fixed four-year term, is constitutionally independent. However closely the vice president may be associated with the administration, the president cannot command the vice president to do or not do anything; nor can the president fire the vice president.<sup>5</sup> In an extreme case, the president may even worry about alienating the vice president, for fear of making an enemy of a constitutional official who cannot be removed.

Aggravating the effects of vice presidential independence is the constitutional independence of the presidency. The first sentence of Article II--"The executive Power shall be vested in a President of the United States of America"--signifies that executive power is indivisible and lodges it in the presidency. The president can delegate such power to other officials in the executive branch, but only because they are not independent and thus can be held accountable. The president can remove executive officials and can "require the[ir] Opinion in writing."

The constitutional independence of the vice presidency, joined to the constitutional indivisibility of executive power, limits the range of responsibilities that the vice president can perform well in the executive branch. As Charles Kirbo, an adviser to President Jimmy Carter, observed, "you can't put the vice president in a position where the president will have to reverse him. If you put him in an executive function on a regular basis where you have got the risk of him doing something and then having the president go in there and turn it around, well, that is a bad relationship."<sup>6</sup> Indeed, virtually all attempts to give a vice president ongoing responsibility for an executive branch activity have failed

dismally. The range of failures, which includes assignments as diverse as agency head, staff director, commission chair, and, to some degree, member of the National Security Council, is so broad and diverse as to discourage presidents from making and vice presidents from accepting such assignments in the future.

Executive assignments. Henry A. Wallace, who served as vice president during Roosevelt's third term as president, was the first vice president to be made head of a government agency--and the last. In July 1941, Roosevelt named Wallace to chair the new Economic Defense Board, a three-thousand member agency that was created by executive order and whose charge included imports, exports, stockpiling, shipping, international investments, and numerous other activities related to preparation for war. The responsibilities of the agency, which was renamed the Board of Economic Warfare shortly after Pearl Harbor, overlapped with those of several existing cabinet departments, notably state and commerce. These overlaps generated severe and enervating interagency conflicts over jurisdiction and policy that weakened both the war effort and Wallace's authority. But because Roosevelt, for constitutional reasons, could not command or remove Wallace, at least not in the usual sense, he felt compelled to abolish the warfare board, which left the vice president embarrassed and devoid of function. What had seemed at the beginning to be a new birth of vice presidential power turned out to be a false start. No subsequent president ever has asked the vice president to head an executive agency.

Rockefeller's experience as vice president offers a similar sad story. Rockefeller, who had long-standing expertise in domestic policy,

won from President Gerald R. Ford permission to head the White House Domestic Council. The governor of New York at the time of his selection, Rockefeller took it as axiomatic that influence derives from position; as political mentor to Henry Kissinger, he thought he could be to domestic policy what Kissinger, as national security advisor to presidents Nixon and Ford, had been to foreign policy. But in the vice presidency, constitutionally independent yet filling a staff position that otherwise would have been held by someone who served at the pleasure of the president, Rockefeller was perceived as a uniquely threatening figure by members of Ford's White House staff, especially chief of staff Donald Rumsfeld. Staff members slowed the flow of memoranda to and from Rockefeller, damned him with faint praise to the president and with harsh criticism in leaked stories to the press, disputed his domestic policy recommendations, and gave only grudging support to those recommendations that the president accepted. A few years later, the frustrated Rockefeller asked to be relieved of his Domestic Council responsibilities.

Even the relatively modest and familiar formal responsibilities that have been assigned to the vice presidency have foundered on the shoals of constitutional independence. Most modern vice presidents, beginning with Nixon, have been asked by the president to head various commissions, often on matters that the president, in response to interest group or other public pressure, has wanted to deal with symbolically rather than substantively, such as youth employment, Native American opportunity, tourism, productivity and work quality, and intergovernmental relations. Unobjectionable as they may seem, vice presidential commissions usually fail, for reasons not unlike those that make it hard for a vice

president's agency and staff assignments to succeed. Although commissions lack authority to make or implement policy, they often antagonize the parts of the executive branch that have regular jurisdiction over the areas being studied. As a result, vice presidents increasingly downplay commission work. Nixon does not even mention the commissions he chaired in his memoirs; Hubert H. Humphrey and Rockefeller headed numerous commissions, but found the results to be so inconsequential that they later advised Vice President Walter F. Mondale to eschew commission work altogether. Agnew, chair of a commission that was supposed to untangle federal red tape for state and local governments, generally was ignored when mayors and governors discovered that he had no power to impose solutions. Ford and Mondale deliberately avoided commission assignments. "It's mostly a matter of listening to troubles," said a Ford aide, "which takes a lot of time without settling much of anything."<sup>7</sup>

The vice president's most impressive statutory responsibility, as member of the National Security Council (NSC) offers the final case of a formal executive assignment being subverted by constitutional independence. (The only other task assigned to the vice president by law is membership on the Board of Regents of the Smithsonian Institution.) Since the National Security Act was amended in 1949, the vice president has been one of the six officials serving on the NSC. As the only member whom the president cannot command or remove, the vice president is entitled to attend all NSC meetings for the entire term. It is a prestigious post and, for Nixon, the one vice president whose president relied heavily on the formal advisory structures of the executive branch, NSC membership really did provide an important channel of influence.

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But few presidents want to feel obligated to involve the vice president in important foreign policy deliberations. As a result, they are likely either to call a limited number of NSC meetings or to use the meetings as forums to announce, rather than to make, policy. During the Cuban missile crisis, for example, President John F. Kennedy ignored the NSC, instead creating an ad hoc Executive Committee of the National Security Council to deal with the crisis. The "Excom" included all NSC members--except Vice President Johnson--and others, such as the attorney general and some White House aides. When he was president, Johnson did much the same: in his case, relying on an informal "Tuesday lunch" for Vietnam policymaking, including several NSC members but not Vice President Humphrey. When Humphrey raised doubts in the NSC about the administration's "Rolling Thunder" bombing campaign against North Vietnam in 1965, Johnson called no more meetings of the council for more than a year.

Institutionalizing executive assignments. Some vice presidents may feel compelled to accept an executive assignment in order to establish credibility within the administration. For example, during his first year in office, Bush was still too much the outsider in the Reagan White House to pass up any opportunity to demonstrate his loyalty. In one case, to head off a major struggle that was developing between Richard Allen, the national security advisor, William Casey, the director of the Central Intelligence Agency, and Secretary of State Alexander Haig over responsibility in times of international crisis, the vice president was asked to head a newly-formed Special Situations Group for crisis management. Bush agreed, which pleased the president and his aides, but

shrewdly downplayed the assignment, placating Haig, Casey, and Allen. (It was nine months before the Special Situations Group held its first meeting.)

Political necessity is one thing; to go beyond that and propose that important executive assignments be made a regular feature of the vice presidency is another. Such proposals have been offered for many years. The argument usually runs: the president is overburdened, the vice president has little to do, so why not relieve the president of some responsibilities by giving them to the vice president? (Or: the vice presidency is the successor office, its lack of powers and duties discourages worthy political leaders from accepting it, so how can it be made more substantial and thus more appealing?) Clinton Rossiter suggested in 1948, for example, that the vice president "be designated in so many words as the president's chief assistant in the overall direction of the administrative branch," including responsibility for the development of the budget and the formulation of legislative proposals.<sup>8</sup> Rossiter later recanted, but the idea, or variations on it, lives on. In 1960, Nixon, then the Republican candidate for president, promised to use running mate Henry Cabot Lodge as a sort of first secretary of the government, coordinating the administration's foreign policy activities. At the 1980 Republican convention, aides to presidential nominee Reagan and former president Ford seriously discussed an arrangement in which Ford, as Reagan's vice president, would be the administration's equivalent of a corporate chief officer, with jurisdiction over the Office of Management and Budget and the National Security Council.



Proposals to assign formal authority to the vice president are inherently flawed for the simple reason that substantive executive powers cannot, in view of Article II, be delegated responsibly to any constitutionally independent official. Such proposals also suffer from the conflicts, suspicions, and resentments that the vice presidency's constitutional independence inevitably generates within the administration when executive assignments are made. As Mondale advised his successor, George Bush, "If such an assignment is important, it will then cut across the responsibilities of one or two cabinet officers or others and embroil you in a bureaucratic fight that would be disastrous. If it is meaningless or trivial, it will undermine your reputation and squander your time." Mondale further argued that, as vice president, "I don't have the staff to run a major line function. Nor should I. It takes a lot of time away from your advisory role."<sup>9</sup>

Finally, executive assignments may undermine the vice president's ability to fulfill the constitutional responsibility to succeed to the presidency in the event of a presidential vacancy. To prepare adequately to be president, the vice president needs broad and comprehensive experience in the administration. An executive assignment, particularly if it is important, will be time-consuming, limiting the vice president's attention to the range of tasks that the assignment entails. At a minimum, this will narrow the vice president's vision; at worst, it will lead to the familiar ill that plagues department and agency heads, namely, "capture" by a narrow slice of the executive bureaucracy. Also should the expectation that the vice president will perform an executive assignment become institutionalized, it may warp the criteria for vice presidential



selection. The qualifications of a good agency head or staff director may be different from the qualifications of a worthy successor president.

Constitutional status. Some have suggested that the vice president be made a constitutional member of the executive branch.<sup>10</sup> As discussed earlier, in this century presidents and vice presidents have described the vice presidency<sup>11</sup> as everything from a dual member of Congress and the executive to a member of neither, the occupant of a constitutional "no-man's land." Why not amend the Constitution to remove the confusion and embody modern practice, the argument goes, and at the same time make the vice president a less alien figure within the executive branch?

But to amend the Constitution in this way would be mere bookkeeping. The main reason that vice presidents are unable to manage ongoing executive assignments successfully is not that they also serve as president of the Senate: that role has atrophied into inconsequence. Rather, the reason is that vice presidents are constitutionally independent--legally elected on their own for a fixed term and thus not subject to presidential command or removal.<sup>12</sup> Simply to declare in a constitutional amendment that the vice president is a member of the executive branch would not alter this status. And to the extent that the proposal is paired--as it often is--with a suggestion that the vice president be assigned ongoing responsibility as head of an important department, it ceases to be innocuous and instead falls prey to all the dangers that presently make executive assignments hazardous.<sup>13</sup>

#### Successor

During most of its history, the vice presidency has been limited as an institution by its constitutional role as successor to the presidency.

To borrow a distinction from classical physics, although the successor role gave the vice presidency great potential power (if the president died, resigned, or was impeached), it dampened the office's kinetic power by fostering a certain tension in the relationship between the president and the vice president. Gouverneur Morris realized this at the Constitutional Convention. When Elbridge Gerry of Massachusetts (an opponent of the vice presidency who later became vice president) worried about the "close intimacy" that "must subsist between the president and vice president," Pennsylvania's Morris shrewdly replied, "The vice president will be the first heir apparent that ever loved his father."<sup>14</sup> More recently, Vice President Johnson expressed a similar sentiment when he fretted that he felt like a "raven hovering around the president's neck."<sup>15</sup>

No doubt presidents still are sometimes reminded of their own mortality by the sight of the vice president. But, on the whole, the successor role has become a source of institutional strength for the vice presidency in recent years. Since the twin traumas of Vice President Harry S. Truman's unprepared succession to the presidency and the explosion of the first atomic bomb, the public increasingly has insisted that presidents provide responsibly for the possibility of succession. Specifically, presidents are expected to recruit competent and loyal vice presidents and to prepare them to be president. Having recruited able people to be vice president, of course, presidents also have become more likely to draw on their talents and expertise, thus making the vice presidency a more consequential office.

Disability

Sections 3 and 4 of the Twenty-Fifth Amendment, as will be seen later, more than doubled the vice president's responsibilities during times of presidential disability. The original Constitution included a provision that the vice president would be acting president when the president was disabled, but rendered it meaningless by not creating a procedure to transfer power or to determine when a disability exists. The amendment not only created procedures, it made the vice president the central figure in identifying disabilities that the president was unable or unwilling to acknowledge.

For all their virtues, the disability provisions of the Twenty-Fifth Amendment have been an albatross around the neck of the vice presidency. The shooting of President Reagan in 1981 presented the first real situation to arise under the Twenty-Fifth Amendment. Constitutionally, after Reagan was anesthetized for surgery to remove the bullet, Vice President Bush's responsibility was to help decide whether a temporary transfer of power from the president to the vice president was warranted. Instead, fearing the wrath of the president or, more immediately, the White House staff, Bush stayed quietly on the sidelines.

Reagan's cancer operation in 1985 placed Bush in a different but equally precarious situation. This time, the president grudgingly invoked the Twenty-Fifth Amendment and signed his powers and duties over to the vice president before his operation. (He reclaimed them eight hours later.) Bush stayed out of sight, relaxing quietly at the vice presidential residence. Inoffensive as the vice president's behavior was, it caused some tension between him and chief of staff Donald Regan, who

would have preferred that Bush spend his time as acting president at his vacation home in Maine.

Using the Bush case as a precedent, at best the vice president's constitutional role under the Twenty-Fifth Amendment has been enervated: The main figure in determinations of presidential disability is likely to be the White House staff, which, should a disability exist, typically will be inclined to restrict the vice president's activities as acting president. Perversely, Bush strengthened his reputation in the Reagan White House by ceding control to the staff in the aftermath of the 1981 assassination attempt. The cancer operation in 1985 did the opposite. The very existence of the vice president's constitutional powers in disability situations may have revived the old image--and the distrust that goes along with it--of a vice presidential "raven hovering around" the president's neck.

#### POLITICAL CONSTRAINTS

The constitutional nature of the vice presidency imposes sure and rather definite restrictions on the activities vice presidents can perform well. Political constraints on the vice presidency have been more variable--less powerful in the modern era than in the past, more of a problem for some vice presidents than for others. They also are more malleable. A careful, patient, politically shrewd vice president can overcome or at least minimize the political constraints on the office.

Two main political constraints can bind a vice president. First, the president may doubt the vice president's loyalty or competence. Perhaps there is personal political tension between them: the vice president may

have strenuously opposed, or even run against, the president in the past. Campaigns for presidential nominations often are fought by political leaders who share a basically similiar political philosophy, like Kennedy and Johnson or Reagan and Bush. But this only means that the contenders must exaggerate their policy disagreements and emphasize differences in their personal and professional qualifications, a strategy that sometimes manifests itself in heated, embittering rhetoric. Even if their differences are smoothed over in office, the president may wonder whether the vice president's future presidential ambitions (almost all vice presidents have had them) will cause their interests to diverge.

A president's doubts about a vice president's competence also may constrain a vice president's activities and influence. Some presidential running mates still are chosen according to a purely electoral criterion--to unite the party by appeasing a faction--that is unrelated to competence. Or the vice president may be talented and experienced, but not in ways that the president regards as useful to the administration. The managerial skills and knowledge of state politics that an able governor possesses, for example, are not readily transferable to a national office that is constitutionally unsuited for executive assignments. Thus, "outsider" vice presidents face greater obstacles than experienced Washington politicians, especially if the president is an "insider." And even vice presidents whose skills and expertise are of great value to an administration will lose influence if, as the term wears on, their views become so predictable that the president grows less interested in hearing them. "The president can bestow assignments and authority and can remove that authority and power at will," wrote former

vice president Humphrey. "I used to call this Humphrey's law--'He who giveth can taketh away and often does.'"<sup>16</sup>

The other main political constraint on the vice presidency is the White House staff. The staff is a dangerous adversary, as vice presidents Johnson, Humphrey, and Rockefeller learned to their regret. It can undermine, with a concerned word here and a snicker there, the president's regard for the vice president's loyalty and competence and publicly embarrass the vice president with critical leaks to the press. It also can, through delays and subterfuge, reduce the vice president's access to the White House "paper flow," making timely and informed vice presidential involvement in important administration decisions more difficult. As Paul Light has shown, each of the staff's two primary goals--to protect the president and to protect its own status as the main source of presidential advice--generates jealousy and suspicion toward even the president's appointees. When it comes to the vice president, matters sometimes can reach a point at which, as as aide to Vice President Rockefeller complained, "The president's men are always ready if the president wants to cut the vice president out, but are deaf if the president wants him involved."<sup>17</sup>

Still, neither of the main political constraints on the vice presidency is as likely to be felt, at least in severe form, in the modern era as in the past. Presidential nominees, eager to be elected and to serve effectively in office, are more inclined than ever not only to apply the governance criteria of competence and loyalty to the selection of their running mates, but also to consider the talents and experience that the vice president can bring to the administration. Outsider candidates,

such as Carter and Reagan, are especially likely to choose insider vice presidents, a sensible form of ticketbalancing and a way of acquiring a resource that can be of genuine help in navigating unfamiliar Washington waters after the election. For their part, vice presidents have learned that their own political ambitions are inseparable from the president's success. There is no political credit to be gained by undermining or distancing oneself from the administration.

Outright hostility from the White House staff also is less probable than in the past, although some degree of rivalry and suspicion seems to be inevitable. Mondale and Bush worked hard to accommodate both of the staff's primary goals, laboring tirelessly in the president's service and with great deference to the staff; both did their best to seal the staff's good will by fostering working relationships between their own aides and the president's. Their examples offer future presidential advisers a way of looking at the vice president as an asset to themselves and the president rather than as a threat.

In sum, political constraints are not as likely to hamper a vice president as in the past because presidents and their staffs are less likely to impose them. Traditional sources of tension have been muted. But there is another reason why the imposition of political constraints has become less draconian. In recent years, the vice presidency has evolved into a more formidable institution in its own right, one not easily relegated to obscurity. Its resources, notably staff, are considerable and would be hard to reduce to any great degree. Equally important, the extent and importance of the vice president's regular, and thus publicly expected, activities has expanded in ways that could not be easily reversed.



## THE INSTITUTIONAL VICE PRESIDENCY

In his classic work, The American Presidency, Clinton Rossiter accurately described the modern presidency as less a succession of individual leaders than an institution, defined both by ongoing rules and expectations that shape its activities and by resources that enable it to function. In Rossiter's view, the most important institutional characteristic of the modern presidency is the congeries of roles it is expected to perform, which he called chief of state, chief of government, chief legislator, manager of prosperity, and voice of the people, among others. Rossiter was alert to the interrelatedness of the presidency's various roles, comparing the institution to a "stew whose unique flavor cannot be accounted for simply by making a list of ingredients." He also noted the importance of the institutional resources that allow a president even to attempt to meet the office's full range of responsibilities: "Thousands at his bidding speed/ And post o'er land and ocean without rest."<sup>18</sup>

The vice presidency is not fully comparable to the presidency. Some of the president's most important roles, for example, are grounded in the Constitution, a document that limits more than it empowers the vice president. Certain presidential roles are formal and ongoing; as we have seen, the vice presidency is ill-suited to executive assignments. Nonetheless, much can be learned from a Rossiter-style analysis of the vice presidency as an institution. First, as discussed earlier, the vice presidency has developed enduring roles, including some mix of ceremonial activities; policy advice; public advocacy of the president's leadership, programs, and political party; legislative liaison; diplomatic travel;

televised debates during the presidential campaign; and others. Second, the vice president's roles, like the president's are interrelated: performance in one affects performance in others. Finally, the resources of the institutional vice presidency influence, and are influenced by, the roles it is called upon to fulfill. These resources now are considerable, among them: offices in the Executive Office Building and the west wing of the White House, an executive budget, regular private meetings with the president, access to the White House paper flow, an official residence, and, most important, a staff that is large, specialized, and independently hired.

#### Enduring Roles

Most of the roles vice presidents now perform, like several of the presidential roles that Rossiter describes, were born of some combination of public expectations and presidential responses (and, sometimes, initiatives) that created precedents for the vice presidency as an institution. As we have seen, in the post-World War II era of cold war and atomic weaponry, the public came to expect presidents to select competent and loyal vice presidents and to prepare them for the possibility of succession. Presidents responded to these expectations by assigning new tasks to their vice presidents, which, when accepted by later presidents as precedents, became new institutional roles for the vice presidency. These new roles--some symbolic, some substantive, but almost all of them highly visible--have made the office more attractive to talented political leaders. And presidents, of their own volition and in their own interest, have been more willing to assign still more

responsibilities to such leaders, ultimately creating additional roles for the vice presidency.

The Mondale vice presidency often is cited as the period in which all  
of these developments can be seen in action. President Carter,  
recognizing both the widespread public concern about the vice presidency  
and the valuable uses to which a vice president could be put in an  
administration, selected Mondale with great care. Mondale, although a  
highly influential senator, jumped at the chance to run for vice  
president, aware of the new challenges of the office and the political and  
professional benefits of having served in it. When the term began, Carter  
not only allowed Mondale his choice of existing vice presidential roles,  
but took advantage of Mondale's Washington experience and personal  
competence by making him an intimate, wide-ranging,, general adviser.

The Mondale experience is atypical only in the degree of its  
success. Nine of the twelve vice presidents since 1932 have served in  
Congress, for example, which made them likely legislative liaison,  
especially for the four of nine presidents who had not. Rockefeller's  
long-standing knowledge of domestic policy made him an influential adviser  
to President Ford in that area, despite the other barriers to  
effectiveness he faced or, in some cases, created. Bush brought  
impressive foreign policy credentials to the Reagan administration. His  
experience as director of the Central Intelligence Agency, U.S.  
representative to the United Nations, and chief American diplomat in China  
made him a logical choice to undertake a variety of serious diplomatic  
assignments to China, the Soviet Union, and Western Europe during his  
first term as vice president.

Interrelated Roles

The various roles of the vice presidency are interrelated in a number of ways. Performance in one role affects the vice president's capacity to perform some, or perhaps all, of the office's other roles. In most cases, success breeds success and failure breeds failure. Rockefeller, for example, cared much more deeply about his role as policy adviser than he did about publicly promoting and defending President Ford and the Republican party. By slighting the latter role, however, he engendered resentments in the White House staff that undercut the effectiveness of his advice on matters of public policy. Bush, on the other hand, labored long and hard during the early part of his first term to perform the thankless tasks of the vice presidency, attending funerals and foreign inaugurations, chairing task forces and commissions, acting as liaison to black, Hispanic, and union leaders who were hostile to the policies of the Reagan administration, and campaigning tirelessly for Republican candidates around the country. After winning his spurs in the administration, Bush soon was entrusted with more substantial diplomatic and advisory responsibilities.

Occasionally, however, success in one role undermines the vice president's ability to fulfill others. Vice President Nixon was a highly effective party leader, regularly rousing Republican activists with slashing attacks on the Democratic party. Eisenhower, appreciating Nixon's enthusiasm but not his zeal, often was reluctant to entrust the vice president with diplomatic or advisory functions that required discretion or evenhandedness. More generally, as we will see, too effective a job as public advocate may reduce the vice president's capacity to be an effective successor to the presidency.

### Roles and Resources

The roles and the institutional resources of the vice presidency are linked in a synergistic way. Resources always have shaped roles. The vice president's office in the Capitol made participation in legislative liaison sensible; the president's own liaison staff could use the office as a headquarters while involving the vice president in the ongoing process of congressional relations. The availability of free time left vice presidents free to tour the country as public advocates for the president and the party. As one observer put it, "If you were [president and] fighting a war and had this weapon laying there, wouldn't you use it? That's what happened to vice presidents. As long as they were available, why not use them?"<sup>19</sup> New resources also have helped to make new roles possible. The vice president's ability to offer useful and intelligent advice to the president is greater than it used to be partly because the creation in 1969 of a vice presidential line item in the executive budget allowed vice presidents to hire talented staff people and the granting of a west wing office put the vice president literally in the middle of the informal policy flow that surrounds the oval office.

New roles, in turn, are a source of new institutional resources. In late 1976, during the transition period, Mondale convinced President-elect Carter that the vice president should work mainly as a general adviser and troubleshooter for the president. He then argued that to perform these roles adequately, he would need a broad array of resources, including full access to all the information the president received, the right to require other executive officials to meet his requests for information, a large, capable, and independently hired staff, a working relationship with the

president's staff, permission to see the president whenever necessary, and freedom from ongoing executive assignments. Carter, persuaded that the roles he wanted Mondale to perform required such resources, approved the vice president's requests in full and added a west wing office.<sup>20</sup>

#### CONCLUSION

Taken together, the main elements of the institutional vice presidency--the development of new and significant roles, the interrelatedness of these roles, and the mutual effects of roles and resources--have made the office both more attractive to political leaders and more active and influential in the councils of the American presidency. The curious constitutional nature of the vice presidency ordains that its more substantial roles will never derive from law or Constitution. But, as Rossiter showed in discussing the presidency, roles can be as solidly grounded in public expectations and presidential precedents as in formal decrees. In the case of the vice presidency, the ideal role, both for the president and the vice president, is that of general adviser. As Mondale argued in his preinaugural memo to Carter, it is the role that, as a nationally elected politician (presidents have few such politicians around them in the White House) who is unburdened by ongoing responsibilities (presidents also have few unburdened aides to draw on), the vice president is best equipped to perform. It also is the role that, by allowing the vice president to range widely, offers the best preparation for succession.

Just as laws and the Constitution are not a source of vice presidential influence, the problems that beset the institutional vice

presidency are unlikely to be solved by new laws or constitutional amendments. These problems have mainly to do with the vice president's activities as public advocate. Advocacy is what earns some vice presidents the trust within the White House they need to exercise the office's more substantial roles--policy aide, diplomat, and especially, general adviser. Advocacy, which will be explored in the next chapter, can also enhance the vice president's standing in the party and thus set the stage for a successful presidential nomination campaign. But overly enthusiastic advocacy of the president's leadership, programs, and party is likely to have three bad side effects on the vice president. It can make the vice president a divisive figure in national politics; it can place vice presidents on record as endorsing administration positions they personally do not hold; and it can make vice presidents appear parrot-like and thus weak. In different ways, each of these side effects of the public advocacy role undermines the vice president's ability to serve as a strong and unifying successor if the presidency should become vacant.

This dilemma--namely, that vice presidents may pay too high a price for the influence within the administration that they seek<sup>21</sup>--has led the political scientist Joseph Pika to suggest that a vice president may do better to stay "out of the loop and above the fray"--that is, to sacrifice some of the benefits of being an administration insider for the sake of a certain measure of independence.<sup>22</sup> In certain cases this is an appealing stance--Bush certainly was glad not to have been "in the loop" of the Reagan administration's arms-for-hostages policymaking process. But as a general course, Pika's recommendation is extreme, and not one that most vice presidents are likely to follow anyway, for fear of

what?



alienating the president, the White House staff, and the president's supporters, whose animus could be fatal if the vice president ever sought the party's nomination for president. The real challenge is to maintain a delicate balance between loyal advocacy and abject servility. Mondale may have offered fellow vice presidents the best advice (all the better because he followed it himself) in a memo to his successor:

As a spokesman for the Administration, stay on the facts. A president does not want and the public does not respect a vice-president who does nothing but deliver fulsome praise of a president. . . .<sup>23</sup>

## Chapter 5

### SUCCESSION AND DISABILITY

More than anything else, what makes discussions of vice presidential selection and of vice presidential activities important is the possibility that the vice president one day will wield the authority of the president. Constitutionally, the vice president succeeds to the presidency upon the death, resignation, or impeachment and removal of the president. In the event of a presidential disability, the vice president serves as acting president.<sup>1</sup> And, of course, a vice president may become president by being elected to office.

### SUCCESSION

Vice presidential succession is the subject of a substantial chapter in the history of the American presidency. Nine successor presidents have served twenty-six years as president. Counting the time they spent in the office after winning terms in their own right, successor vice presidents have been president for forty-two years, twenty-nine of them in this century. During one recent period from 1945 to 1977, vice presidents who became president by succession occupied the office almost half the time. Illnesses, impeachment proceedings, and assassination attempts have made succession an active possibility during twenty of the nation's forty presidencies.<sup>2</sup> Every postwar vice president except Walter F. Mondale has become the subject

of unusual public concern because of some event that raised the possibility that he would succeed to the presidency.

The United States is unique among the major nations of the world in having an official whose main function is to be, if and when necessary, successor to the leader of the government and who, upon succession, serves out the unexpired balance of the leader's term. Both of these characteristics of the vice president's successor role evolved through history, neither was intended by the framers of the Constitution. Although presidential succession became a matter of concern in the Constitutional Convention, the delegates primary purpose in creating the vice presidency was to make the electoral college work. What is more, they almost certainly intended that succession to the presidency would be temporary, pending a special presidential election.<sup>3</sup>

The framers' intentions regarding succession and special election were obscured because of what can only be called clerical error. The Committee of Style, created at the end of the convention to put the delegates' myriad decisions into a final draft of the Constitution, was given two succession resolutions to incorporate, one from a report by the Committee of Eleven that was submitted to the convention on September 4, the other from a motion that was made on the floor by Edmund Randolph and approved on September 7. The first resolution stated: "In case of his [the president's] removal as aforesaid, death, absence, resignation, or inability to discharge the powers or duties of his office the Vice President shall exercise those powers and duties until another President be chosen, or until the inability of the

True?

President be removed." The second resolution, which was intended to supplement the first by providing a method for presidential succession if there were no vice president, read: "The Legislature may declare by law what officer of the United States shall act as President in the case of death, resignation, or disability of the President and Vice President; and such Officer shall act accordingly, until such disability be removed, or a President shall be elected." The last nine words of the latter resolution were James Madison's amendment to Randolph's motion, and were inserted expressly to permit "a supply of vacancy by an intermediate election of the President."<sup>4</sup>

What appeared in the Committee of Style draft, mildly modified by the convention, was the product of the committee's effort to compress the two resolutions into one, now paragraph 6 of Article II, Section 2:

In case of the Removal of the President from the Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such officer shall act accordingly, until the Disability be removed, or a President shall be elected.

Clearly, the framers' intentions regarding succession were obscured, no doubt unwittingly, by the committee. Grammatically, it is impossible to tell--and in their rush to adjournment the delegates did not notice the ambiguity--whether "the Same" in the provision refers to "the said Office" (the presidency) or, as the convention intended, to

its "Powers and Duties;" nor can one ascertain if "until . . . a President shall be elected" means until the end of the original four-year term or, again, as intended, until a special election is held. Because the official and unofficial records of the convention were kept secret for many years, no one could consult the debates to clear up the confusion. And because the new republic went fifty-two years without experiencing a vacancy in the presidency--more than double the length of any later period of uninterrupted presidential service--there were no surviving delegates from the convention to clear matters up when President William Henry Harrison died shortly after his inauguration in 1841.

Initially, Harrison's cabinet and some others seemed to think that the president's death made Vice President John Tyler only the acting president. Tyler believed differently--he quickly took the oath of office as president, delivered a sort of inaugural address, declared his intention to serve out the remainder of Harrison's term, and moved into the White House. Tyler's decisiveness prevailed in a constitutionally and politically uncertain situation. An effort in Congress to address him in correspondence as "Vice President, on whom, by the death of the late President, the powers and duties of the offices of President have devolved" failed miserably.<sup>5</sup>

Tyler's full, if constitutionally dubious, succession established a lasting precedent. Not only did future vice presidents succeed to the presidency without a second thought about the propriety of the action, their right to the office was accepted without controversy. For all the nonsense of the so-called Tecumseh's curse, familiar to



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