



Photo courtesy: Dennis Brack

8

The Presidency

WHEN RONALD REAGAN DIED on June 5, 2004, many Americans, first in California and then in Washington, D.C., lined up for hours to pay their respects to the man who had been the fortieth president of the United States. Many people were able to see, for the first time in recent memory, the grandeur of a presidential state funeral. Reagan was the first president to lie in state in the Rotunda of the Capitol since Lyndon B. Johnson did in January 1973, and one of only nine American presidents to receive that honor.

The 200 plus years of presidential funerals underscore the esteem with which most Americans accord the office of the president, regardless of its occupant. Just before the first president, George Washington, died, he made it known that he wanted his burial to be a quiet one, “without parade or funeral oration.” He also asked that he not be buried for three days; at that time, it was not without precedent to make this kind of request out of fear of being buried alive. Despite these requests, Washington’s funeral was a state occasion as hundreds of soldiers, with their rifles held backward, marched to Mount Vernon, Virginia, where he was interred. Across the nation, imitation funerals were held, and the military wore black arm bands for six months.¹ It was during Washington’s memorial service that Henry Lee declared that the former president was “first in war, first in peace, and first in the hearts of his countrymen.”²

When Abraham Lincoln died in 1865 after being wounded by an assassin’s bullet, more than a dozen funerals were held for him. Hundreds of thousands of mourners lined the way as the train carrying his open casket traveled the 1,700 miles to Illinois, where he was buried next to the body of his young son, who had died three years earlier. Most president’s bodies were transported to their final resting place by train, allowing ordinary Americans the opportunity to pay their respects as the train traveled long distances. When Franklin D. Roosevelt died in Warm Springs, Georgia, his body was transported to Washington, D.C., and then to Hyde Park, New York, where he, like Washington, was buried on his family’s estate.

Today, one of the first things a president is asked to do upon taking office is to consider his funeral plans. The military alone has a book 138


CHAPTER OUTLINE

- The Roots of and Rules Governing the Office of President of the United States
- The Constitutional Powers of the President
- The Development and Expansion of Presidential Power
- The Presidential Establishment
- The President as Policy Maker
- Presidential Leadership and the Importance of Public Opinion

pages long devoted to the kind of ceremony and traditions that were so evident in the Reagan funeral: a horse-drawn caisson; a riderless horse with boots hung backward in the stirrups to indicate that the deceased will ride no more; a twenty-one-gun salute; a flyover by military aircraft. Each president's family, however, has personalized their private, yet also public opportunity to mourn. The Reagan family, for example, filed a 300-page plan for the funeral in 1989 and updated it regularly. Former presidents Gerald R.

Ford, Jimmy Carter, and George Bush all have filed formal plans; Bill Clinton and George W. Bush have yet to do so.

The Reagan funeral also created a national timeout from the news of war, and even presidential campaigns were halted in respect for the deceased president. One historian commented that the event gave Americans the opportunity to "rediscover . . . what holds us together instead of what pulls us apart."³ This is often the role of presidents . . . in life or in death.

 THE AUTHORITY GRANTED TO the president by the U.S. Constitution and through subsequent congressional legislation makes it a position with awesome responsibility. Not only did the Framers not envision such a powerful role for the president, but they could not have foreseen the skepticism with which many presidential actions are now greeted in the press, on talk radio, and on the Internet. Presidents have gone into policy arenas never dreamed of by the Framers. Imagine, for example, what the Framers might have thought about President Bush's 2004 State of the Union message, which advocated colonizing Mars and addressed steroid use.

The modern media, used by successful presidents to help advance their agendas, have brought us closer to our presidents and made them seem more human, a mixed blessing for those trying to lead. Only two photographs exist of Franklin D. Roosevelt in a wheelchair—his paralysis was a closely guarded secret. Five decades later, Bill Clinton was asked on national TV what kind of underwear he preferred (briefs). Later, revelations about his conduct with Monica Lewinsky made this exchange seem tame. This demystifying of the president and the increased mistrust of government make governing a difficult job.

A president relies on more than the formal powers of office to lead the nation: public opinion and public confidence are key components of his ability to get his programs adopted and his vision of the nation implemented. As political scientist Richard E. Neustadt has noted, the president's power often rests on his power to persuade.⁴ To persuade, he not only must be able to forge links with members of Congress, but he also must have the support of the American people and the respect of foreign leaders.

The abilities to persuade and to marshal the informal powers of the presidency have become more important over time. In fact, the presidency of George W. Bush and the circumstances that surround it are dramatically different from the presidency of his father George Bush (1989–1993). America is changing dramatically and so are the responsibilities of the president and people's expectations of the person who holds that office. Presidents in the last century battled the Great Depression, fascism, communism, and several wars involving American soldiers. With the Cold War over, until the war in Iraq, there were few chances for modern presidents to demonstrate their leadership in a time of crisis or threat.

The tension between public expectations about the presidency and the formal powers of the president permeate our discussion of how the office has evolved from its humble origins in Article II of the Constitution to its current stature. In this chapter,

- First, we will examine *the roots of and rules governing the office of president of the United States* and discuss how the Framers created a chief executive officer for the new nation.
- Second, we will discuss *the constitutional powers of the president*.
- Third, we will examine *the development and expansion of presidential power* and a more personalized presidency. How well a president is able to execute the laws often depends strongly on his personality, popularity, and leadership style.
- Fourth, we will discuss the development of what is called *the presidential establishment*. Myriad departments, special assistants, and a staff of advisers help the president but also make it easier for a president to lose touch with the common citizen.
- Fifth, we will focus on *the president as policy maker*.
- Finally, we will examine *presidential leadership and the importance of public opinion*, including the effect that public opinion has on the American presidency as well as the role the president plays in molding public opinion.

THE ROOTS OF AND RULES GOVERNING THE OFFICE OF PRESIDENT OF THE UNITED STATES

THE EARLIEST EXAMPLE OF EXECUTIVE POWER in the colonies was the position of royal governor. These appointees of the king of England governed each colony and normally were entrusted with the “powers of appointment, military command, expenditure, and—within limitations—pardon, as well as with large powers in connection with the powers of law making.”⁵ Royal governors often found themselves at odds with the colonists and especially with elected colonial legislatures. As representatives of the Crown, the governors were distrusted and disdained by the people, many of whom had fled from Great Britain to escape royal domination. Others, generations removed from England, no longer felt strong ties to the king and his power over them.

When the colonists declared their independence from England in 1776, their distrust of a strong chief executive remained. Most state constitutions reduced the office of governor to a symbolic post elected annually by the legislature. Some states did entrust wider powers to their chief executives. The governor of New York, for example, was elected directly by the people. Perhaps because he then was accountable to the people, he was given the power to pardon, the duty to execute the laws faithfully to the best of his ability, and the power to act as commander in chief of the state militia.

Under the Articles of Confederation, there had been no executive branch of government; the eighteen different men who served as the president of the Continental Congress of the United States of America were president in name only—they had no actual authority or power in the new nation. When the delegates to the Constitutional Convention met in Philadelphia to fashion a new government, there was little dissension about the need for an executive branch to implement the laws made by Congress. Although some delegates suggested there should be multiple executives, eventually the Framers agreed that executive authority should be vested in one person. This agreement was relatively seamless because the Framers were sure that George Washington—whom they had trusted with their lives during the Revolutionary War—would become the first president of the new nation.

The Framers also had no problem in agreeing on a title for the new office. Borrowing from the constitutions of several states, the Framers called the new chief executive the president. How the president was to be chosen and by whom was a major stumbling block. James Wilson of Philadelphia suggested a single, more powerful president, who would be elected by the people and “independent of the legislature.” Wilson also suggested giving the executive an absolute veto over the acts of Congress. “Without such a defense,” he wrote, “the legislature can at any moment sink it [the executive] into non-existence.”⁶

The manner of the president’s election haunted the Framers for some time, and their solution to the dilemma—the creation of the Electoral College—is described in detail in chapter 13. We leave the resolution of that issue aside for now and turn instead to details of the issues the Framers resolved quickly.

Presidential Qualifications and Terms of Office

The Constitution requires that the president (and the vice president, whose major function is to succeed the president in the event of his death or disability) be a natural-born citizen of the United States, at least thirty-five years old, and a resident of the United States for at least fourteen years. In the 1700s, it was not uncommon for those engaged in international diplomacy to be out of the country for substantial periods of time, and the Framers wanted to make sure that prospective presidents spent significant time on this country’s shores before running for its highest elective office. Most presidents have prior elective experience, too, as revealed in Table 8.1. While there is no constitutional bar to a woman or member of a minority group seeking the presidency, no one other than a white male has been elected to this office.

Although only two of the last five presidents were not reelected to a second term, at one time the length of a president’s term was controversial. Four-, seven-, and eleven-year terms with no eligibility for reelection were suggested by various delegates to the Constitutional Convention. The Framers ultimately reached agreement on a four-year term with eligibility for reelection.

The first president, George Washington (1789–1797), sought reelection only once, and a two-term limit for presidents became traditional. Although Ulysses S. Grant unsuccessfully sought a third term, the two terms established by Washington remained the standard for 150 years, avoiding the Framers’ much-feared “constitutional monarch,” a perpetually reelected tyrant. In the 1930s and 1940s, however, Franklin D. Roosevelt ran successfully in four elections as Americans fought first the Great Depression and then World War II. Despite Roosevelt’s popularity, negative reaction to his long tenure in office ultimately led to passage (and ratification in 1951) of the **Twenty-Second Amendment**. It limits presidents to two four-year terms. A vice president who succeeded a president due to death, resignation, or impeachment would be eligible for a total of ten years in office: two years of a president’s remaining term and two elected terms.

The Framers paid little attention to the office of vice president beyond the need to have an immediate official stand-in for the president. Initially, for example, the vice president’s one and only function was to assume the office of president in the case of the death of the president or some other emergency. After further debate, the delegates made the vice president the presiding officer of the Senate (except in cases of presidential impeachment). They feared that if the Senate’s presiding officer were chosen from the Senate itself, one

Twenty-Second Amendment

Adopted in 1951, prevents a president from serving more than two terms, or more than ten years if he came to office via the death or impeachment of his predecessor.

■ The election of Arnold Schwarzenegger as California governor brought forward again the debate about whether presidents must be natural-born citizens. Because the United States is a nation of immigrants, many people argue that all citizens should have the opportunity to become president.

Photo courtesy: Ken James/UPI/Landov



TABLE 8.1 Personal Characteristics of the U.S. Presidents

<i>President</i>	<i>Place of Birth</i>	<i>Higher Education</i>	<i>Occupation</i>	<i>Years in Congress</i>	<i>Years As Governor</i>	<i>Years As Vice President</i>	<i>Age at Becoming President</i>
George Washington	VA	William & Mary	Farmer/surveyor	2	0	0	57
John Adams	MA	Harvard	Farmer/lawyer	5	0	4	61
Thomas Jefferson	VA	William & Mary	Farmer/lawyer	5	3	4	58
James Madison	VA	Princeton	Farmer	15	0	0	58
James Monroe	VA	William & Mary	Farmer/lawyer	7	4	0	59
John Quincy Adams	MA	Harvard	Lawyer	0 ^a	0	0	58
Andrew Jackson	SC	None	Lawyer	4	0	0	62
Martin Van Buren	NY	None	Lawyer	8	0	4	55
William H. Harrison	VA	Hampden	Military	0	0	0	68
John Tyler	VA	William & Mary	Lawyer	12	2	0	51
James K. Polk	NC	North Carolina	Lawyer	14	3	0	50
Zachary Taylor	VA	None	Military	0	0	0	65
Millard Fillmore	NY	None	Lawyer	8	0	1	50
Franklin Pierce	NH	Bowdoin	Lawyer	9	0	0	48
James Buchanan	PA	Dickinson	Lawyer	20	0	0	65
Abraham Lincoln	KY	None	Lawyer	2	0	0	52
Andrew Johnson	NC	None	Tailor	14	4	0	57
Ulysses S. Grant	OH	West Point	Military	0	0	0	47
Rutherford B. Hayes	OH	Kenyon	Lawyer	3	6	0	55
James A. Garfield	OH	Williams	Educator/lawyer	18	0	0	50
Chester A. Arthur	VT	Union	Lawyer	0	0	1	51
Grover Cleveland	NJ	None	Lawyer	0	2	0	48
Benjamin Harrison	OH	Miami (Ohio)	Lawyer	6	0	0	56
Grover Cleveland	NJ	None	Lawyer	0	2	0	53
William McKinley	OH	Allegheny	Lawyer	14	4	0	54
Theodore Roosevelt	NY	Harvard	Lawyer/author	0	2	1	43
William H. Taft	OH	Yale	Lawyer	0	0	0	52
Woodrow Wilson	VA	Princeton	Educator	0	2	0	56
Warren G. Harding	OH	Ohio Central	Newspaper editor	6	0	0	56
Calvin Coolidge	VT	Amherst	Lawyer	0	2	3	51
Herbert Hoover	IA	Stanford	Engineer	0	0	0	55
Franklin D. Roosevelt	NY	Columbia	Lawyer	0	4	0	49
Harry S. Truman	MO	None	Clerk/store owner	10	0	0	61
Dwight D. Eisenhower	TX	West Point	Military	0	0	0	63
John F. Kennedy	MA	Harvard	Journalist	14	0	0	43
Lyndon B. Johnson	TX	Southwest Texas State Teachers' College	Educator	24	0	3	55
Richard M. Nixon	CA	Whittier/Duke	Lawyer	6	0	8	56
Gerald R. Ford	NE	Michigan/Yale	Lawyer	25	0	2	61
Jimmy Carter	GA	Naval Academy	Farmer/ business owner	0	4	0	52
Ronald Reagan	IL	Eureka	Actor	0	8	0	69
George Bush	MA	Yale	Business owner	4	0	8	64
Bill Clinton	AR	Georgetown/Yale	Lawyer	0	12	0	46
George W. Bush	CT	Yale/Harvard	Business owner	0	6	0	54

^a Adams served in the U.S. House for six years after leaving the presidency.

Sources: Adapted from *Presidential Elections Since 1789*, 4th ed. (Washington, DC: CQ Press, 1987), 4; Norman Thomas, Joseph Pika, and Richard Watson, *The Politics of the Presidency*, 3rd ed. (Washington, DC: CQ Press, 1993), 490; Harold W. Stanley and Richard G. Niemi, eds., *Vital Statistics on American Politics 2001–2002* (Washington, DC: CQ Press, 2001).

state would be short a representative. However, the vice president was given the authority to vote in that body in the event of a tie.

During the Constitutional Convention, Benjamin Franklin was a staunch supporter of including a provision allowing for **impeachment**, a process by which to begin to remove an official from office. He noted that “historically, the lack of power to impeach had necessitated recourse to assassination.”⁷ Not surprisingly, then, he urged the rest of the delegates to formulate a legal mechanism to remove the president and vice president.

impeachment

The power delegated to the House of Representatives in the Constitution to charge the president, vice president, or other “civil officers,” including federal judges, with “Treason, Bribery, or other high Crimes and Misdemeanors.” This is the first step in the constitutional process of removing such government officials from office.



Photo courtesy: © Alex Webb/Magnum Photos

■ President Richard M. Nixon gives one final salute as he leaves the White House after resigning from office.

executive privilege

An implied presidential power that allows the president to refuse to disclose information regarding confidential conversations or national security to Congress or the judiciary.

U.S. v. Nixon (1974)

Key Supreme Court ruling on power of the president, finding that there is no absolute constitutional executive privilege to allow a president to refuse to comply with a court order to produce information needed in a criminal trial.

Twenty-Fifth Amendment

Adopted in 1967 to establish procedures for filling vacancies in the office of president and vice president as well as providing for procedures to deal with the disability of a president.

The impeachment provision ultimately included in Article II was adopted as a check on the power of the president. As we discussed in detail in chapter 7, each house of Congress was given a role to play in the impeachment process to assure that the chief executive could be removed only for “Treason, Bribery, or other high Crimes and Misdemeanors.” The House is empowered to vote to impeach the president by a simple majority vote. The Senate then acts as a court of law and tries the president for the charged offenses. A two-thirds majority vote in the Senate on any count contained in the articles of impeachment is necessary to remove the president from office. Only two presidents, Andrew Johnson and Bill Clinton, were impeached by the House of Representatives. Neither man, however, was removed from office by the Senate. (For more on how the impeachment process works, see Table 7.7: The Eight Stages of the Impeachment Process.)

In 1974, President Richard M. Nixon resigned from office rather than face the certainty of impeachment, trial, and removal from office for his role in covering up details about a break-in at the Democratic Party’s national headquarters in the Watergate office complex. What came to be known simply as Watergate also produced a major decision from the Supreme Court on the scope of what is termed **executive privilege**. In *U.S. v. Nixon* (1974), the Supreme Court ruled unanimously that there was no overriding executive privilege that sanctioned the president’s refusal to comply with a court order to produce information for use in the trial of the Watergate defendants.

Rules of Succession

Through 2005, eight presidents have died in office from illness or assassination. William H. Harrison was the first president to die in office—he caught a cold at his inauguration in 1841 and died one month later. (John Tyler thus became the first vice president to succeed to the presidency.) In 1865, Abraham Lincoln became the first president to be assassinated.

The Framers were aware that a system of orderly transfer of power was necessary; this was the primary reason they created the office of the vice president. To further clarify the order of presidential succession, in 1947, Congress passed the Presidential Succession Act, which lists—in order—those in line (after the vice president) to succeed the president:

1. Speaker of the House of Representatives
2. President pro tempore of the Senate
3. Secretaries of state, treasury, and defense, and other Cabinet heads in order of the creation of their department.

The Succession Act has never been used because there has always been a vice president to take over when a president died in office. The **Twenty-Fifth Amendment**, in fact, was added to the Constitution in 1967 to assure that this will continue to be the case. Should a vacancy occur in the office of the vice president, the Twenty-Fifth Amendment directs the president to appoint a new vice president, subject to the approval (by a simple majority) of both houses of Congress.

The Living Constitution

Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

—Twenty-Fifth Amendment, Section 2

This clause of the Twenty-Fifth Amendment allows a president to fill a vacancy in the office of vice president by a simple majority of both Houses of Congress. The purpose of this amendment, which also deals with vacancies in the office of the president, was to remedy some structural flaws in Article II. At the time of this amendment's addition to the Constitution in 1965, seven vice presidents had died in office and one had resigned. For over 20 percent of the nation's history there had been no vice president to assume the office of the president in case of his death or infirmity. When John F. Kennedy was assassinated, Vice President Lyndon B. Johnson became president and the office of vice president was vacant. Since Johnson had suffered a heart attack as vice president, members of Congress were anxious to remedy the problems that might occur should there be no vice president.

Richard M. Nixon followed Johnson as president, and ironically, during Nixon's presidency, the office of the vice president became empty twice! First, Nixon's vice president, Spiro T. Agnew, was forced to resign amid allegations of illegal activity as a county executive in Maryland; he was replaced by popular House Minority Leader Gerald R. Ford (R-MI), who had no trouble getting a majority vote in both houses of Congress to confirm his nomination. When Nixon resigned rather than face sure impeachment, Ford became president and selected the former governor of New York, Nelson A. Rockefeller, to be his vice president.

As pointed out in *The Living Constitution*, the Twenty-Fifth Amendment has been used twice in its relatively short history. In 1973, President Richard M. Nixon selected House Minority Leader Gerald R. Ford (R-MI) to replace Vice President Spiro T. Agnew after Agnew resigned in the wake of charges of bribe taking, corruption, and income tax evasion while an elected official in Maryland. Less than a year later, when Vice President Ford became the thirty-eighth president after Nixon's resignation, he nominated, and the House and Senate approved, former New York Governor Nelson A. Rockefeller to be his vice president. This chain of events set up for the first time in U.S. history a situation in which neither the president nor the vice president had been elected to those positions.

The Twenty-Fifth Amendment also contains a section that allows the vice president and a majority of the Cabinet (or some other body determined by Congress) to deem a president unable to fulfill his duties. It sets up a procedure to allow the vice president to become acting president if the president is incapacitated. The president also voluntarily can relinquish his power. In 1985, following the spirit of the amendment, President Ronald Reagan sent Vice President George Bush a letter that made Bush the acting president during Reagan's eight-hour surgery for colon cancer.