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Some language in chapter 2 previously appeared in Joel K. Goldstein, "Constitutional Change, Originalism, and the Vice Presidency," *Uni-*

University of Pennsylvania Journal of Constitutional Law 16, no. 2 (November 2013), 369–411; I have drawn some ideas for this book from that article and from some of my other writings on the vice presidency and related topics, which are identified at pages 401–402 of the selected bibliography.

I am fortunate in having friends and family members who, over meals, calls, and on vacations, generously indulged me with questions about vice presidents and vice-presidential wannabes when other topics might have had more appeal to them. My wife, Maxine, and our children, Rachel, Josh, and Jenna, were most patient, even visiting the Natick home of Henry Wilson (U. S. Grant’s second vice president) with me. They drew the line only once, to reject my suggestion that, since one of our rescue dogs came with the name “Levi,” we call the other “Morton” to honor Benjamin Harrison’s vice president. “Primo” was a better name for him, they rightfully insisted.

I came away from the experience convinced of the potential for good in the vice presidency that Jimmy Carter and Walter Mondale created, and that many of their successors refined, and impressed by the capacity of our constitutional system to adapt to changing circumstances, especially when guided by enlightened leaders. I also came away deeply touched by the generosity of many people who selflessly helped me so much on a project important to me. I am grateful to many, but I alone am responsible for the book’s judgments and shortcomings.



*The White House
Vice Presidency*



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Introduction

“I am nothing but I may be everything,” John Adams, the first vice president, wrote of his office.¹ For most of American history, the “nothing” part of Adams’s formulation captured the second office, at least so long as the president’s heartbeat maintained a normal rhythm. The Constitution prescribed only one ongoing duty for the vice president, presiding over the Senate, a role that conferred little power even when the Senate met, which it did infrequently. Most vice presidents found themselves unwelcome in both the legislative and executive branches. The vice president might become “everything” if called upon to discharge presidential duties upon the death or resignation of the chief executive, an event that occurred nine times from 1789 to 1974. Otherwise, he had status but not power.

The huge disparity between the vice president’s humble existence and contingent significance helped make the office a target of derision. The vice presidency was lampooned as unnecessary and ill-conceived. One senator referred to Adams as “his superfluous Excellency.”² Daniel Webster declined the second spot on the Whig ticket in 1848, explaining, “I do not propose to be buried until I am dead,”³ a decision he probably regretted when Millard Fillmore, not he, became president when Zachary Taylor died two years later. Thomas R. Marshall, Woodrow Wilson’s vice president, wrote that “the only business of the Vice President is to ring the White House bell every morning and ask what is the state of the health of the president.”⁴ Vice President Nelson A. Rockefeller frequently disparaged his last public office as simply “standby equipment.”⁵

Things have changed dramatically. The perception and reality of the vice presidency is quite different now. Seeing Vice President Dick Cheney as the power during the George W. Bush administration, some joked that Bush was a heartbeat from the presidency. One scholar wrote of “the Co-Presidency of Bush and Cheney.”⁶ This characterization exaggerated Cheney’s role, but he was much closer to “everything” than to “nothing.”

The phenomenon of “vice-presidential power” did not begin with Cheney’s inauguration nor end when he left office. Paul C. Light coined that phrase in 1984 to describe the tenure of Walter F. Mondale (1977–1981),⁷ and the concept, to varying degrees, also applies to Mondale’s five successors. Adams, Webster, Marshall, and Rockefeller, among many others, could not have imagined Cheney’s vice presidency, but they also would have found shocking the roles of Cheney’s predecessor, Al Gore, and his successor, Joe Biden, both consequential number twos. Vice-presidential power varies from administration to administration, yet the change is largely institutional, not simply personal. The vice presidency is no longer a sinecure. It matters now. A lot. An office that was “nothing” has become a robust political institution.

In part, this development happened over time. In the early twentieth century, the office began to attract more accomplished men and to take tentative steps toward the executive branch. Recognizing this trend, Irving G. Williams’s *The Rise of the Vice Presidency* appeared in 1956⁸ as Richard M. Nixon finished his first term as Dwight Eisenhower’s vice president. Williams’s title accurately described the trajectory of the office but made no claim regarding its level of significance.

In 1982, I wrote *The Modern American Vice Presidency: The Transformation of a Political Institution*,⁹ which argued that the modern vice presidency, the office from Nixon to Mondale, had grown due to dramatic changes in American politics and government since Franklin D. Roosevelt became president in 1933. With the depression and World War II, Americans increasingly looked to Washington to address national and international issues. The power of the presidency grew relative to the other branches of government, to political parties, and to local political bosses. Presidential nominees gained the right to choose their running mates, a decision that was previously the province of party

leaders. The president's new responsibility for the decision changed the dynamic between the two members of the ticket. The vice president became indebted to his benefactor (even if he was not embraced by the president once in office), more loyal, and more closely identified with the administration. The advent and increased feasibility of air travel and the ubiquity of radio, then television, created new possibilities and challenges for the chief executive. He was expected to respond, or appear to respond, to more problems and to be more places, demands that created a need for high-level help. The Cold War and nuclear age made the first successor more significant and his preparation more essential. The vice president became more visible and his qualifications more important.

These factors drew the vice presidency away from the Senate and toward the executive branch and provided incentive to fill the office with able figures and to give them work other than presiding over the Senate. Especially beginning with Nixon's time in the office, vice presidents increasingly performed executive-branch chores instead of the constitutional Senate role. They chaired commissions, traveled abroad, lobbied for and defended administration programs, and discharged partisan responsibilities. The office began to attract more accomplished people, which enhanced it as a source of presidential candidates. My 1982 book praised the Mondale vice-presidential model but suggested future vice-presidential influence would turn largely on the relations between the president and vice president, the needs of each administration, and the resources contributed by the vice president.

The Modern American Vice Presidency accordingly gave a systemic or contextual explanation for the institutional growth to that time. It saw the vice presidency as evolving in response to developments in other institutions and related its rise to opportunities and incentives presented by these changes. I continue to believe that that account largely explains the rise of the vice presidency during most of that time.

Yet a lot changed with Mondale's vice presidency. It did not simply tinker with the office Nixon and the next five vice presidents had held; it introduced a very different model. Mondale conceived of and, with President Jimmy Carter, implemented a new vision of the office as providing a close presidential adviser and senior troubleshooter. They brought the vice presidency into the White House and converted a developing, but

limited, office into one of great significance. Their vision enabled the institution to rise to an elevated plane far above the level where its prior forty-one occupants had operated. It made “vice-presidential power” plausible, not oxymoronic.

The innovations Carter and Mondale introduced outlasted their term. More than three decades later, the essential features of the Mondale model have largely redefined the office. Rather than belonging to an earlier period, Mondale’s vice presidency inaugurated a new era. It more closely resembled those of his five successors (George H. W. Bush, Dan Quayle, Gore, Cheney, and Biden) than those of its six immediate predecessors (Nixon, Lyndon B. Johnson, Hubert H. Humphrey, Spiro T. Agnew, Gerald R. Ford, and Rockefeller).

The institution that exists today, the “White House vice presidency,” reflects the Mondale design and its further development. The modern institution follows the Mondale model closely though not precisely. Put differently, the Mondale model was the original, the source of, and a version of the “White House vice presidency,” but the two terms are not synonymous. The “White House vice presidency” also does not signify that the vice president spends all of his time in the White House—far from it; much necessary work is performed elsewhere. Rather, it means that the vice president has become part of the president’s inner circle and works closely with him to achieve administration objectives. It signifies a set of roles, relationships, and resources now associated with the office that allow vice presidents to contribute importantly at the central and highest level of the executive branch.

The White House vice presidency represents a very positive development for the vice presidency, the presidency, and the American constitutional system more generally. It has increased the likelihood that the vice presidency will better serve its contingent constitutional function to provide an able, well-prepared successor. Yet the greatest benefits from the White House vice presidency come from the vice president’s enhanced role in the ongoing work of government. An involved vice president can advise the president regularly on the problems that reach the Oval Office from a unique and helpful perspective. Unburdened by attachment to any departmental perspective and as an elected official, the vice president is positioned to take a holistic approach, to see the

range of choices much as a president does, and as one who largely shares the president's interests, and to advise accordingly. And because the vice president's political future depends on the administration's accomplishments, a vice president has incentive to help the president succeed. The White House vice presidency also provides a high-level official to handle important duties. Of course, vice presidents still perform ceremonial work. So do presidents. Yet most vice-presidential work now is significant. Vice presidents regularly discharge important assignments that otherwise would require presidential attention or be neglected. The stature of the office, coupled with presidential access, allows the vice president to shoulder significant responsibilities that virtually no other presidential subordinate can handle. A vice president perceived as influential can extend government's capacity and ease the president's burdens.

This recognition, that the White House vice presidency has greatly enhanced American government, far from ending the inquiry, suggests further questions. How did this change happen? Why did the office become much more robust on Mondale's watch than ever before? Why have the essential features of the Mondale model survived more than thirty-five years beyond his term even without constitutional or statutory enactments? And what does the development of the vice presidency teach about institutional change in the American constitutional system?

This book addresses those questions. It describes the changes in the vice presidency beginning with, and brought on by, the Mondale term and argues that they are fundamental and enduring. The book discusses the development of the office since 1976, not to provide a history of those years but to portray the contemporary vice presidency as a governmental institution and to explain why it changed when it did and how that institutional revision has been sustained. The account also provides a study of political leadership. As such, this book uses the vice presidency to explore political behavior of presidents and vice presidents since 1976. Finally, it studies the dynamics of institutional reform, showing how fundamental constitutional change can occur through informal means. The following paragraphs elaborate on these themes.

Mondale's vice presidency built on foundations constructed during the prior quarter century. These included (1) the increased association of

vice presidents with the executive branch, (2) the ability of the office to attract more able occupants, and (3) the increased value of the office as a springboard to the presidency. Yet far from continuing a familiar pattern, Mondale's vice presidency represented a bold departure in institutional design in which the old, and some new, threads were woven into a sturdier fabric. Mondale assumed a far more prominent and influential role in the executive branch. Whereas prior vice presidents had operated at the administration's periphery with episodic access and influence, Mondale became one of Carter's closest advisers. Whereas conflict with the president, his inner circle, or both diminished most prior vice presidents, Mondale developed a harmonious relationship with Carter and his closest associates that largely continued throughout their term. Far from being "standby equipment," Mondale was an integral figure in the presidency's ongoing important work. Mondale's success also depended on resources he obtained to support his advising and troubleshooting roles.

The Carter-Mondale period also witnessed significant changes in the process by which vice presidents were chosen and in their campaign and transition roles. Carter and Mondale were not solely responsible for these changes but contributed importantly. For instance, Carter's vice-presidential selection process differed from prior models. It was more deliberative and protracted than its predecessors. Carter did not ignore conventional criteria, but he understood that political and governmental considerations had converged so that choosing a well-qualified running mate had strategic value. The 1976 campaign included the first vice-presidential debate, an innovation that gave running mates greater visibility and impacted subsequent vice-presidential selection and campaign roles.

Some of Mondale's successors were more influential than he; others had less clout. But each retained the resources Mondale obtained, each saw the president regularly, and each found significant ways to contribute. Vice presidents, beginning with Mondale, had far greater opportunities to participate in high-level executive decision-making and assumed more significant assignments as troubleshooters. Although different vice presidents have emphasized distinct activities, they have undertaken more substantive roles on a more consistent basis than did

their pre-Mondale predecessors. Their foreign travel and other diplomatic work have been more consequential, their legislative interventions more significant, their domestic troubleshooting more regular and central. Whereas Mondale avoided responsibility for ongoing governmental programs, many of his successors accepted, and at times embraced, such roles. Mondale's successors, and the presidents they served, each contributed to the evolution of the office and anchored a more robust version in firmer foundations.

The selection process for vice-presidential candidates also changed as subsequent nominees developed Carter's innovations. It began and ended sooner. The earlier start can be traced to changes in presidential nominating practices that advanced the resolution of that decision. The earlier conclusion occurred as presidential candidates took advantage of the opportunity to remove the selection from the convention. Vice-presidential selection now includes a formalized vetting process over an extended period during which public discussion of possible nominees occurs. The longer review focuses greater attention on the vice presidency and allows more intensive scrutiny of political running mates. The protracted consideration raises the stakes for the presidential candidate as the perceived quality of the process and of the running mate chosen ultimately reflect on the selector. The preconvention vice-presidential rollout developed as a new standard campaign event.

The vice-presidential debate also became a standard feature of presidential campaigns as, beginning in 1976, the major party vice-presidential candidates engaged in a televised debate in nine of the ten elections (all but 1980). These events gave the vice-presidential candidates national visibility. Although most people choose between the competing presidential candidates, some vice-presidential selections have impacted significant numbers of votes.

The vice president-elect traditionally played only a small role in forming the new administration. Beginning in 1976, they participated in choosing high-level personnel and shaping administration policy, a trend that culminated in 2000, when Cheney actually ran Bush's transition.

Although no vice president has recently succeeded to the White House on the death, resignation, or removal of the chief executive, several succession crises occurred. Presidents transferred power to their

vice presidents under the Twenty-Fifth Amendment on the first three occasions in our history. The period raised other issues regarding government continuity that implicated the vice presidency.

The vice presidency also served as a valuable springboard. Bush became the first sitting vice president elected president since 1836. Gore won the popular vote but narrowly lost the election. Mondale won his party's nomination. Vice presidents were largely successful in retaining office. Four of the six (Bush, Gore, Cheney, and Biden) were elected to two full terms with the same president, a feat achieved only six times during the first 188 years.¹⁰ All six were renominated for a second term.

Finally, the period introduced a new type of modern vice president: the eminent vice president without presidential ambitions, with Cheney as the first example. The office has become sufficiently significant that talented people with attractive career options view being vice president as an end in itself, not primarily as a route to the presidency.

It is often useful to categorize discrete vice-presidential activities such as adviser, troubleshooter, and portfolio handler and the distinct facets of the institution such as selection, campaign roles, transition, and duties. Yet such classification can distort as well as edify. Ultimately, the components and activities of the White House vice presidency are interrelated and mutually dependent. The new pattern and criteria of the vice-presidential selection process and vice-presidential campaign performance impact vice-presidential duties, and the expansion of the vice-presidential role imposes new expectations and constraints on selection. Similarly, synergies connect various vice-presidential activities. The vice president's advising role enhances his troubleshooting and vice versa. Far from being separate, the various institutions and activities of the modern vice presidency are linked.

Although the vice presidency has changed and grown in ways that reveal new continuities, the performance of the office varies depending on its occupant, the president, and the context in which they serve. Vice presidents from Bush to Biden have added gloss to the Mondale model. Those variations reflected factors peculiar to each vice president, such as their background, skill, political relationships, strengths, preferences, and circumstances. Each vice president encountered different conditions, from the political context, preferences, and style of the president

they served and from the needs of each administration. The Biden vice presidency differs from that of Cheney just as Cheney's differed from Gore's, and so on. The White House vice presidency presents recurring patterns but allows novelty. Similarly, the selection process fluctuates as different individuals act in unique political environments.

The impact of individuals on the White House vice presidency suggests a second theme of this book. The White House vice presidency provides a lens to explore political leadership. The development of that institution was neither fortuitous nor routine. Carter and Mondale made something substantial of an office that, for most of its history, was superfluous or worse, an extraordinary achievement that their predecessors had either not attempted or not accomplished. That required effective political leadership. Carter and Mondale succeeded because of their mutual commitment to the task, their astute analysis of the problems and possibilities of the office, the institutional arrangements they designed, and their personal qualities and skill in implementing their new vision.

The actions of Carter's and Mondale's successors provide additional lessons in political behavior. Each pair faced unique challenges. The responses reflected strategic choices and executions. Some vice presidents strengthened the institution and enhanced its ability to contribute. Others made significant mistakes. Their conduct provides instructive models of political behavior.

Finally, the development of the White House vice presidency provides a case study of the dynamics of institutional growth. Without formal change in the Constitution or statutory law during the period studied, the vice presidency has become highly significant. It has changed from an office without consequential ongoing duties to one that contributes meaningfully and regularly to the executive branch. This development has rested on the repetition of informal practices and patterns of conduct, most of which Carter and Mondale initiated, that subsequent administrations have adopted and sometimes improved or extended. These informal practices include the intense vetting of prospective running mates; the preconvention vice-presidential selection; a vice-presidential debate; the vice president-elect's role in the transition from one administration to the next; the emergence of the vice president

as an engaged senior adviser with a West Wing office, a weekly private meeting with the president, and the right to attend presidential meetings and receive presidential information; and the use of the vice president as a primary presidential troubleshooter. None of these practices are legally mandated, yet all are now entrenched features of the White House vice presidency. They could be abandoned, but that seems highly unlikely. These perpetuated practices, and others, help account for the development of the vice presidency into its robust form.

The development of the White House vice presidency illustrates the capacity of informal practice to reshape political institutions. That achievement is even more impressive given two contextual features. It converted a long-marginalized office into a significant political institution, and this change occurred when other governmental institutions were experiencing a quite different trajectory and becoming increasingly dysfunctional.

The dynamic that remade the vice presidency since 1976 accordingly has larger significance. If understanding that phenomenon would allow its replication elsewhere, the story of vice-presidential change is not simply a great success story regarding one institution but instructive about institutional advance and regeneration.

Appreciating the development Carter and Mondale initiated requires understanding the institution they inherited. Accordingly, the next chapter sketches the history of the vice presidency from its creation until 1976.

