

**PARTNERSHIP OF POWER: THE RELATIONSHIP BETWEEN PRESIDENT
FRANKLIN ROOSEVELT AND VICE PRESIDENT JOHN GARNER**

THESIS

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by

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DEDICATION

In memory of two fantastic former students of mine who left this world too soon; they both enriched my experience at Texas State:

Kevin Shimek

and

Kyle Rountree

Thank you both for sharing a part of your life with me.

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ABSTRACT

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This thesis involves a look at the political history and dynamics of the relationship between President Franklin Roosevelt and his first vice president, John Nance Garner. The document explores the historic partnership's rise and fall.

CHAPTER 1

FOUNDATIONS

In 1932, a New York governor and a Texas congressman joined forces to present to the world one of the most powerful political partnerships in history. Governor Franklin Roosevelt was the Democratic Party's nominee for president of the United States and U.S. Representative John Garner of Texas was his running mate. These two men changed the power dynamics in Washington and nearly shifted the three legs of United States government (the three branches of government) onto one leg (the presidency). This paper looks at the foundations of the Roosevelt/Garner partnership, the political climate leading up to the Democratic Party reclaiming executive and legislative power, the peculiarities of this White House administration, and the potential impact on the separation of powers. In particular, this paper focuses on Roosevelt's push to grow government and Garner's efforts to curtail that change. Roosevelt was a dynamic, motivating influence in government. Garner's own remarkable ability to persuade members of Congress proved to be both blessing and a challenge to the Roosevelt Administration.

Original Intent

When the founders drafted the United States Constitution, they included a new concept...a vice president. Originally, the position was meant to serve as a back-up for the president in the event of the death or inability of the chief executive. The final draft of the constitution assigned the vice president minimal duties. These duties included presiding over sessions of the U.S. Senate and acting as president of the United States due to the death, incapacitation, or in the event of the president's removal from office.

Over the years, the vice presidency evolved. John Adams was the first vice president. Adams opined that as vice president he was nothing, but could be everything (Edwards & Jacobs, 2008). The vice president was noting that in the event of the death of the president he would finally have a job to do. Over the years, vice presidents were rarely used other than to fill the presidency upon the death of the president. However, in 1896, Garrett Hobart was elected as William McKinley's first vice president. Hobart's business interests connected him to many of the powerful men who helped elect many members of Congress (Leech, 1959). Subsequently, Hobart was able to influence both Congress and the president until his death in 1898.

In later years, vice presidents were used in a variety of ways. But it was the Garner vice presidency that introduced such a commanding knowledge of congressional functioning. Not since Garner has a vice president commanded so much influence in Congress. However, during the past half-century, the vice

presidency evolved and increased power and influence. Vice President Dick Cheney (2001-2009) yielded unprecedented power during the George W. Bush administration; however, that power rested largely on the president giving the vice president the power rather than Cheney bringing it into the office (Goldstein, 2008).

The Most Powerful Man in the World

Consider for a moment the idea that the President of the United States is the most powerful person in the world. This one individual controls the United States government, its vast military industrial complex, and there is little to prevent his will from being executed. How could this happen? Perhaps the president of the United States is a dynamic character, the vice president has connections throughout both houses of Congress, and the judiciary is in danger of being swallowed up in party politics. And perhaps, no one saw it happening.

This singular president has the power to command the U.S. military, to sign or veto the actions of the 535-member United States Congress, and to speak with one voice for a nation so diversely populated with conflicting public sentiments. Public opinion about the U.S. president is as varied as the temperament of the men who occupied the White House for the past 220 years. Each man defined the power of the executive based on his interpretation of the role of president and the limitations of the events of the time. However, no one of

them had an impact on the office of president for as long a period as Franklin Delano Roosevelt.

Did Roosevelt redefine how we look at the presidency? Americans today expect the president to be an economic savior regardless of the challenges of tomorrow and a moral leader and voice to a nation often at war with its own ideals (Graubard, 2004). There is a strong draw for American citizens to rally-around the chief executive whenever the nation is challenged such as in the years during the Great Depression. In 1932, Roosevelt was governor of New York and as the Democratic nominee for president; he was the face that represented change from what was to what could be.

FDR and the New Deal

Franklin Roosevelt had a reputation for coming to an understanding with people but then looking for a way to improve his position in the matter (Timmons, 1948). Timmons notes that this non-committal committal left many unsure of where Roosevelt truly stood. In addition, could he be counted on to carry out his side of a deal, his New Deal with the American people?

The New Deal was an ambitious undertaking. The program required new ways of doing business and new methods of regulating the safety and security of the American public. Roosevelt relied on members of Congress to help carry the water for his plan of hope for the American people. In particular, Roosevelt relied

on his first vice president, John Nance Garner, to help move Congress forward on the president's agenda.

Roosevelt's first Vice President: John Nance Garner

Prior to becoming president, Roosevelt believed that there were four important roles for the vice president: cabinet member, presidential advisor, liaison to Congress, and policy maker on policies that did not fit into a cabinet agency (Milkis & Nelson, 1999). Roosevelt first articulated these roles when he was running for vice president in 1920, and he found these roles worked well during his first term with Garner (Milkis & Nelson, 1999). The vice president was included in cabinet discussions and Roosevelt believed Garner's counsel was beneficial (Timmons, 1948).

Although the U.S. Constitution specifically enumerates the few responsibilities of the vice president, the role of the second-in-line to the presidency is typically defined by the president of the United States. During George Washington's administration, the vice president was not part of the president's close circle of advisors. In fact, Washington did not select Adams to be vice president. Originally, the vice president was little more than a back-up in case of emergency.

The constitution in its original form called on the person with the second highest number of electoral votes to be the vice president. Therefore, General Washington did not have a say in who was to serve as his vice president. This

was altered by the 12th Amendment in 1804. With the change in selection for the number two spot, political parties began impacting the choice.

John Nance Garner was the second man to go directly from being Speaker of the House of Representatives to serving as President of the Senate. The first was Schulyer Colfax. Colfax was President Ulysses S. Grant's first vice president. However, Garner was the first and only man to in the same day preside over the House and the Senate (Timmons, 1948). In 1932, Garner was re-elected to the House of Representatives from the 15th district in Texas and elected to serve as vice president of the United States. Representative Garner took the oath of office for the sixteenth time in the House. As speaker, he then swore in the other members of the House. Later the same morning, Garner resigned his seat in Congress. At noon he was sworn in as vice president and then proceeded to the United States Senate chamber to preside over the beginning of the new senate session (Timmons, 1948).

In *The Speaker of the House*, George Rothwell Brown suggests that Garner was a public servant first and a politician second (1932). Garner understood that the good people of Uvalde, Texas were counting on him to make a difference in their lives. And Garner was determined to do just that. As a business man, Garner made decisions that at times cost him money, but in the end benefited the people he called his neighbors (Brown, 1932). In the mid-1890's, Garner served as Uvalde County Judge. In 1898, he was elected to the Texas House of Representatives. As a member of the Texas House, Garner was instrumental in drawing the lines that created the 15th congressional district in

south Texas (Champagne, 1998). Subsequently, Garner himself ran for this new congressional district. In 1902, Garner was elected to Congress. Jim Wells was a political boss in Texas. Wells marketed Garner as the candidate of the farmer, rancher, landowner, and hard-working Democrats (Champagne, 1998). Although Garner was elected with the help of political party bosses, he was committed to serving only as long as he could make a difference in the lives of Texans (Timmons, 1948). Despite serving in Congress for 28 years, by 1930, Garner still was not very well known in Texas much less much throughout the United States (Taubkin, 1931).

Garner spent his time in Congress working for unity, especially among the Democrats (Timmons, 1948). The congressman was a dedicated patriot, Texan, and Democrat. Representative Finis Garrett of Tennessee was leader of the Democrats; and if they could manage a majority it was expected he would one day be Speaker of the House. When Garrett was reported to be considering a run for the U.S. Senate, Garner's friends in Congress encouraged him to announce to run for Democratic leader. Garner refused to do anything to distract from Garrett being the current leader; instead, he chose to wait for Garrett to officially leave the House (Timmons, 1948). Garrett didn't run for the Senate; he retired from Congress following the 1928 election. Garner then succeeded him as the minority leader in the House of Representatives in December 1929 (Brown, 1932). Brown notes that following the 1930's election, Garner was expected to be re-elected as the minority leader. However, the death of several congressional members and members-elect between the November 1930 election and the

December 1931 opening of Congress resulted in the Democrats gaining a one seat majority in the House. In addition, John Nance Garner was elected the new speaker (Timmons, 1948).

During his thirty years in the United States House of Representatives, Garner earned the respect of most members of Congress (Brown, 1932). He was viewed as a skilled negotiator and was known for setting aside party politics to speak in favor of legislation that was good for the American people (Timmons, 1948). Timmons also notes that on more than one occasion, the congressman did not care that the legislation was proposed by the Republicans. Garner was more concerned with whether or not it was good government.

Although described by some as “a cranky old man,” Garner was committed to good governance (Timmons, 1948). He believed that it didn’t matter whether or not he was in the numerical majority; there was work to be done (The New York Times, 1931). Both as a congressman and as vice president, Garner believed the work of the American people always trumped the work of the parties (Timmons, 1948).

Much of Garner’s success can be attributed to his wife Mariette Rheiner Garner (or Ettie). John met Ettie in 1896 when she ran against him to serve as Uvalde County Judge. The former Miss Rheiner lost the election, but gained a life partner (Brown, 1932). Mrs. Garner was committed to sharing in every aspect of her husband’s life. She was an encyclopedia of political knowledge for the Texas congressman. Mrs. Garner could recite background facts on anyone in Washington whether friend or foe (Brown, 1932). This skill was invaluable to

Garner's rise to the speakership and to the vice presidency. For all of Garner's time in Washington, Ettie served as his sole staffer.

The Partnership

As president, Roosevelt found Garner an important ally in relations with Congress (Milkis & Nelson, 1999). Garner's experience in the House and his new role as president of the Senate allowed him to be Roosevelt's best liaison with Congress (Timmons, 1948). The president was able to remain distinctly separate from the legislative part of government.

Roosevelt and Garner were cautiously optimistic about each other (Donahoe, 1965). Roosevelt appreciated that Garner would be a better ally than foe. Timmons (1948) notes that Garner was committed to the ideal that elections matter. Throughout the first few years of the Roosevelt Administration, New Deal policies were pushed by the president. The vice president did not support many of these programs as they appeared to be anti-business; however, he did support the president (Timmons, 1948). When House and Senate Democrats balked at the president's plans, Vice President Garner would step in to smooth their concerns or to find a way to appease the members of Congress and the president. In *Masters of the House*, Champagne notes that Garner did whatever was required to pass the legislation he believed was necessary even if it required him to take a beating (1998). No previous vice president had ever commanded as much influence in both houses of Congress.

Behind the scenes, many were unaware of the arm twisting being conducted by the vice president. After a quarter-century in Congress, Garner's friends and allies had moved up in seniority and became the chairs of powerful congressional committees (Champagne, 1998). These friendships gave Garner unprecedented power within the halls of Congress. His successor as speaker was Majority Leader Henry Rainey (D-Illinois), who gave Roosevelt and Garner cart-blanche to do whatever the administration believed was necessary (Champagne, 1998). The vice president expected the House to defer to Roosevelt as president just as had with Hoover, Coolidge, and Harding, and to give the president a chance to lead by supporting his programs.

The emergence of the Roosevelt-Garner administration led to increased legislation being proposed to address the economic challenges of the Great Depression. Roosevelt was determined to lead the country and Garner was committed to lead the Congress. Together, they pushed through many initiatives that helped to reshape the American dream (Timmons, 1948).

During the first term, Garner served as the presidential go-between in order to adopt administration policies. Garner was willing to share his personal feeling about New Deal programs with the president. But in public and in the halls of the U.S. Capitol, Garner was one-hundred percent with the president. The president and the vice president walked in-step together and Roosevelt was seen as the facilitator of leaders in the Congress and federal bureaucrats (Donahoe, 1965).

The Split

In early 1937, a Roosevelt-Garner split appeared to form beginning with the president's plan to increase the number of justices on the Supreme Court. Former President Herbert Hoover called it a "court packing" plan (Timmons, 1948). Some Democrats in Congress and the vice president were not okay with increasing the size of the federal judiciary (Donahoe, 1965). To Garner, this seemed like a policy developed to settle a score rather than a policy of good governance (Timmons, 1948). Garner believed good government involved many voices, even voices of opposition (Brown, 1932).

The final straw in the rift between the president and vice president was the question of whether or not Franklin Roosevelt would break with tradition and run for a third term as president (Timmons, 1948). Garner opposed the idea of any man serving a third term as president. This had nothing to do with Franklin Delano Roosevelt. The concern was that one man in power for too long could become corrupted by that power. According to Timmons, Garner fully intended to return home in 1941 as a new administration took the reins of power and the vice president expected the president to do the same.

Roosevelt considered most Democratic candidates for president in 1940 to be too conservative to protect the programs he spent his presidency establishing (Donahoe, 1965). Most New Deal Democrats were concerned that the late 1930s reemergence of conservatism in the Democratic Party would lead to not only Roosevelt leaving in 1941, but the loss of their grip on the seats of

power in Washington (Donahoe, 1965). The primary concern was to keep the foundation of the New Deal intact. Without Roosevelt as the nominee, the New Deal appeared dead.

Garner had not seriously considered running for president in 1940. However, the vice president also did not want to see Roosevelt serve a third term (Donahoe, 1965). Donahoe suggests that Garner hoped he would not have to run for president himself; he prayed for another candidate to seriously challenge Roosevelt for the nomination.

Upon entering into the first term, Roosevelt and Garner were confident in their abilities, hopeful about the other's skill, and cautious about what they could and could not do (Leuchtenburg, 1963). True presidential power comes from partnerships of ideals (Pfiffner, 2009). The danger comes when the powers of office are not checked by separate branches and when collaboration with the representatives of the governed is replaced with dictate rather than debate.

The following chapters consider the relationship between Roosevelt and Garner, the potential impacts of dynamic individuals holding significant influence over the executive and legislative branches of government, and how quickly political friends can become political foes.

CHAPTER 2

METHODOLOGY OF RESEARCH

The research for this paper focused on the founder's original intent for the presidency and vice presidency, the Roosevelt presidency and the Garner vice presidency, views of the vice president as told by others, and the actions of Franklin Roosevelt and John Garner.

What did the founding fathers intend when they crafted the offices of president and vice president? Originally under the Articles of Confederation, the president was a member of the legislature who merely presided over sessions of a unicameral Congress. Under the Articles, there was no vice president. However, under the United States Constitution, the role of the president was expanded.

The path to achieving the presidency is quite different than the founders planned. This reality is thanks in part to the adoption of the 12th Amendment in 1804 allowing for the separate election of the president and vice president. The change occurred after the 1800 presidential campaign where an electoral tie occurred between Thomas Jefferson and Aaron Burr. This change allowed for the president to be elected in a separate Electoral College vote from the president.

Critical to understanding the relationship between Roosevelt and Garner was to understand the offices of president and vice president. For this research, the Federalist Papers were invaluable. In addition, scholarly journal articles and books on the framing of our government and constitutional interpretations helped to provide background on why Roosevelt and Garner nearly consolidated government in support of the Roosevelt administration goals.

I researched personal accounts from those who knew Roosevelt and Garner. Many of these stories are backed up by the recollections of others. Contemporary accounts for both Roosevelt and Garner were readily available by those who interviewed each man (Brown, Timmons, Schlesinger, etc.) and were augmented by personal biographies and anecdotes of leaders like Speaker of the House Sam Rayburn and Roosevelt himself.

In addition, news reporting of the time gave some insights into the two men. However, these media stories had to be tempered with autobiographical accounts due to the inherent bias of news agencies of the 1930s-1940s. For example William Randolph Hearst was a media mogul who had a definite opinion about politicians and politics. Hearst was not the only public figure with a bias.

Stories about the Roosevelt/Garner relationship varied based on the level of like or dislike of either or both men. There is much written about Roosevelt and very little written about Garner. John Nance Garner was a central force in the consolidation of power under Franklin Delano Roosevelt. The lynchpin of this melding of the branches was dependent on the congressional influence of Garner. So it is critical to understand the psyche of the man. However, one of the

major challenges to researching the intent and motivations of John Nance Garner is the strong commitment the vice president had to his privacy. When he left public life, Garner burned all of his personal documents (John Nance Garner Museum, personal communication, April 2009).

After collecting primary and secondary research about the intent of the founders, the presidency, vice presidency, Roosevelt, Garner, and their influence on the other two branches of government, this information was sifted to narrow in on the dynamics of the Roosevelt/Garner partnership of power and ultimate dissolution. The primary focus is on aspects of this administration that for a little more than four years lead to a consolidation of American federal government power behind a singular individual, the President of the United States.

CHAPTER 3

THE WINDS OF CHANGE

Crisis and Conflict: The Republicans

The political landscape in the United States encountered significant changes in 1920. The 19th Amendment was ratified and women were enfranchised. Gov. James Cox of Ohio was the Democratic Party nominee for president; the vice presidential nominee was the Assistant Secretary of the Navy Franklin D. Roosevelt who had never before held elected office. When, Republican Senator Warren G. Harding (like Cox, also of Ohio) was elected president. The Democrats lost control of Congress and the White House. The Republicans were in position to reshape the political landscape.

However, the decade proved challenging for the Republicans and for the nation. The Harding administration was marred by scandal, and in October 1929, the stock market crash during the first few months of the Herbert Hoover administration left the nation devastated. The American electorate placed blame for tough economic times at the door of the newly elected Republican president and the Republican Congress.

Shifting Power in 1930: One Seat at a Time

In the 1930 mid-term elections, many people were eager to blame the Republican Party for the stock market crash and the subsequent great depression that gripped the country. Herbert Hoover had been in office only a few months. The GOP suffered a loss of seats in both houses of Congress. The seat difference in the House of Representatives was now only two in favor of the Republicans. However, the House was destined to be led by the Democrats in 1931.

Today, Congress meets nearly all year long. However, in the 1930s, Congress typically did not convene until December of the year following the election. By the time Congress convened, some members and members-elect of Congress died and subsequent special elections shifted the balance of power. By December 1931, new elections created a one seat House majority for Democrats, 218-217.

With the Democrats winning a numerical majority in the United States House of Representatives leadership moved from the Republicans to the congressional leader of the Democrats, the gentleman from Uvalde, Texas (Timmons, 1948). John Nance Garner expected to be the minority leader in December 1931; instead he became the next Speaker of the House of Representatives (Brown, 1932). The Texan was respected on both sides of the aisle and at the other end of Pennsylvania Avenue as a patriot and skilled negotiator (Timmons, 1948). Garner believed attaining the Democratic majority

changed only the leadership of the Congress, not the job to be done by Congress. This primary focus suggested a philosophy of how to move forward with solutions rather than how to look back at the financial crash and place blame (Brown, 1932).

In the Empire State of New York, the crash was a challenge for the first term Democratic governor, Franklin Roosevelt. Political power elites in New York such as former Gov. Al Smith supported Roosevelt's ascension to the governor's mansion. Smith had significant political capital since he had been a powerhouse in New York politics and the Democratic Party's nominee for president in 1928. Although the political bosses of New York helped Roosevelt win the race, he pushed against the New York City Tammany Hall machine (Leuchtenburg, 1963). The governor could not rely on the so-called New York "bosses" to help him manage the crisis. Roosevelt had secured support from New York Democrats and he was intent on continuing his reform platform for the state. Many of the programs instituted by Roosevelt were viewed as anti-business which did not sit well with New York City political power brokers (Leuchtenburg, 1963). Nevertheless, in 1930, the governor rode the national Democratic wave to win a second term. In effect, New York voters were setting the stage for the next president of the United States.

1932: The Democrats Return to Power

By 1932, Leuchtenburg notes the conventional wisdom was that the Democrats stood a better than average chance of re-capturing the White House for the first time since 1916. President Herbert Hoover was criticized because he was seen as doing much for business hurt by the depression, but not enough for the people who were struggling to make ends meet. Nevertheless, the Democratic Party was challenged by the election of 1932 (Leuchtenburg, 1963). Internal bickering over who would be the party's presidential nominee threatened to split the party and snatch defeat from the jaws of victory.

In *Private Plans and Public Dangers*, Bernard Donahoe (1965) notes that Al Smith wanted to be president. However, there was another New York governor who also wanted to move into the White House. Roosevelt had the early support of Democrats. However, Smith did have a following willing to stick with the former-governor until the end of the nomination process.

Franklin Roosevelt built early support for his run for the presidency. However, many had concerns that with the governor's only Washington experience being his years as the assistant secretary of the Navy, Roosevelt was not ready to be president (Graubard, 2004). Nevertheless, Roosevelt entered the 1932 Democratic Convention with a majority of support from the delegates.

Democrats were poised to see gains in Washington, but only if their internal battle for a presidential nominee did not create a split too wide to close. There were multiple candidates who sought the chance to unseat Hoover. Smith

was a return to 1928 while Roosevelt was thought a very likeable man who was not qualified to be president of (Leuchtenburg, 1963). But there were others who were being pushed as the best candidate to win.

Among the presidential hopefuls was John Nance Garner. The Texas congressman had only been speaker for a few months. Timmons notes that although he had never before considered running for president, Garner considered himself a patriot and would have felt duty bound to serve if elected (1948). The congressman was more than content to represent the people of Texas and to leave the presidency to other men. However, there was a contingent of people both in and out of Texas who thought Garner's ability to sway both sides of the aisle was what the Democrats needed in order to secure a win in 1932 (Timmons, 1948).

Garner found support for his candidacy in unlikely places. He was endorsed by celebrities and public figures like Will Rogers (The New York Times, 1932a). While Garner remained in Washington and committed himself to being the best house speaker he could be, a group of Texans formed Garner for President rallies and began the process of compelling the congressman into running for president (The New York Times, 1932b). Draft Garner campaigns started all over the country. As the race narrowed to a close it was a widely known secret that Garner would not be able to earn the nomination (Taubkin, 1932). Some in the Texas delegation pushed for supporting Roosevelt. However, most of the delegation was committed to Garner and only agreed to support

Roosevelt if and when released by Texas' favorite son (The New York Times, 1932c).

But the largest campaigns were the "anybody but Roosevelt" campaigns. The governor was not believed to be suitable for the White House. In 1932, presidential candidates needed more than a simple majority of national convention delegates. A presidential nominee needed two-thirds of the delegates to secure the nomination. This change occurred in the 1830s when Andrew Jackson pushed for the change from a simple majority to a two-thirds majority in order to control who would receive the presidential nomination (Schlesinger, 1945).

Roosevelt had a majority of the delegates committed to him (Timmons, 1948). However, delegates for Garner and Smith held enough votes to prevent Roosevelt from an easy victory at the Democratic Convention in Chicago. Smith campaigned as if he were entitled to the nomination (Timmons, 1948). When he decided to run for president, Roosevelt had not sought the support of the former New York governor. Smith took this affront personally and refused to support the governor (Timmons, 1948). When it was clear that Roosevelt would not win the nomination without the support of the Smith or Garner delegates, Smith began to look for support for a dark-horse candidate. The former-nominee was intent on not releasing his delegates if it would result in Franklin Roosevelt being nominated. Many Democrats believed that Smith had the votes to prevent any candidate from getting a clear two-thirds majority. If Smith could not win the

nomination, he wanted anyone but Franklin Delano Roosevelt (Leuchtenburg, 1963).

Prior to 1932, only two Democratic nominees for president had a majority of delegates on the first ballot, but both failed to win the two-thirds needed for the nomination: Martin Van Buren (1836) and Champ Clark (1912). Roosevelt did not want to be the third on that list (The New York Times, 1932d).

Roosevelt needed support from California and Texas in order to win the nomination. Both delegations were pledged to the Speaker of the House of Representatives, John Garner. There was concern that a deadlocked Democratic Convention could result in the country deciding to leave the status quo in Washington (Timmons, 1948). Garner was committed to electing a Democrat to the White House, not in maintaining the current administration.

A political powerhouse from Massachusetts, Joseph P. Kennedy, Sr., approached others about convincing Garner delegates to support Roosevelt. The Massachusetts politico was hoping to convince Roosevelt to add Kennedy to the ticket in the vice presidential spot (Leuchtenburg, 1983). One of the power elites Kennedy tried to sway was publicist William Randolph Hearst who controlled the California delegation. California was adamant that it would rather the convention deadlock than to support Roosevelt. In order to gain the support of Hearst and win over the California delegation, Roosevelt publically opposed United States entry into the League of Nations (Leuchtenburg, 1963). When in the interest of party unity, Garner asked his delegates in California and Texas to support Roosevelt (Timmons, 1948). When the Texas delegation relented and switched

from Garner to Roosevelt, so did California's. On the fourth ballot, California and Texas joined the Roosevelt camp and the New Yorker became the 1932 Democratic nominee for president (Leuchtenburg, 1963). Roosevelt was nominated with 945 votes to Al Smith's 190.

In an unprecedented move, Roosevelt attended the Chicago convention to accept the nomination (Leuchtenburg, 1963). During his speech, the governor promised "a new deal" for the American People. Roosevelt's New Deal was his domestic agenda and served as a rallying point for the governor's supporters. Roosevelt did not attach any special significance to the words "new deal" in his acceptance speech (Leuchtenburg, 1963). However, those words he wrote in lowercase letters soon took on a life of their own that defined his administration in the 1930s as the "New Deal."

After Roosevelt secured the nomination, he agreed to round out the ticket with Garner (Leuchtenburg, 1983). Thanks to the Texan, Roosevelt was able to avoid drawn out balloting that could end with some other candidate taking the nomination. Garner was the first southerner since Andrew Johnson (in 1864) to be elected vice president. Roosevelt had a commanding knowledge of policy and politics; however, his interactions with Congress had proven less than adequate (Graubard, 2004). Garner would provide a much needed connection between the legislative and executive branches.

CHAPTER 4

THE ROOSEVELT/GARNER ADMINISTRATION

The first term: 1933-1937

Roosevelt and Garner were sworn into office on March 4, 1933; this was the last time a president would be sworn-in on that date. Two months earlier, the states ratified the 20th Amendment to the Constitution thereby changing the start date for presidential terms from March 4th to January 20th following the national election.

The following day, March 5, the president called a special session of Congress to convene on March 9 to address the depression and what Roosevelt viewed as a problem with the banks (Leuchtenburg, 1963). Surprisingly, many of the fiscal programs Roosevelt advocated were banking regulations originally proposed by former President Hoover's fiscal advisors. A bill to support the president's efforts was introduced in Congress. Without seeing the bill, after only thirty-eight minutes of debate, on a voice vote, members of the House passed it (Leuchtenburg, 1963). The Senate took slightly longer to adopt the bill later that evening by a vote of 73-7. By 9 p.m., the president had signed it into law.

Three days later, Roosevelt presented the first of his "fireside chats." Roosevelt's message of hope restored Americans' faith in the banking system.

Roosevelt recognized that Garner had a firm understanding of what it took to make Congress work. He relied on the vice president to push through the New Deal policies (Corwin E. S., 1957). Roosevelt opined that each member of Congress could design a plan for repairing the country's financial condition or the president could create a plan for Congress to enact (Corwin E. S., 1957). The president took his plan to the American people in hope of pushing Congress to allow him to lead.

Roosevelt and Garner came into power during one of the worst economic crises in U.S. history. The stock market crash invaded every aspect of American life. The president and vice president each brought a wealth of knowledge to their new jobs (Timmons, 1948). Roosevelt was a policy wonk. He could see how government bureaucracy actually worked. Garner on the other hand was a congressional bureaucrat who understood the politics of Congress.

Roosevelt was unable to move many members of Congress on administration policies. For Roosevelt, getting Congress to do anything he wanted simply by his insistence was a challenge (Leuchtenburg, 1963). He found it difficult to engage the power elite to bow to his leadership and to relinquish some modicum of power. The president had to agree to deals in order to move New Deal programs through Congress (Leuchtenburg, 1963). Most of these deals were brokered between the members of Congress and a man whom they considered one of their own, the president of the Senate, Vice President John Nance Garner (Timmons, 1948). Roosevelt relied heavily on Garner to be his

messenger in Congress. The vice president in effect carried the message of the New Deal into legislative action.

Timmons also notes that most supporters of Roosevelt's plan called it the New Deal, capital 'N', capital 'D'. Garner viewed the new deal as a way of conducting business, not as a plan in and of itself (1948). He was particular about the new deal being, lowercase 'n', lowercase 'd'. While the vice president did not support many of the proposals Roosevelt pushed as part of the New Deal. He believed his role as vice president was to serve the American people and they had elected Franklin Delano Roosevelt president. Roosevelt was the face of the New Deal; however, he was not viewed as the architect (Donahoe, 1965). Garner used his influence in the Senate and his connections in the House to push through New Deal policies. Garner was an expert on taxation and fiscal matters. The president trusted that Garner understood not only the issues but how to convince others to support the president's agenda (Timmons, 1948).

When Roosevelt wanted Garner to give more speeches on behalf of the president, Garner refused. Garner did not like to give speeches because he believed they would be misquoted or misinterpreted. The vice president knew that if he spoke, many would view his statements as being from the president. Garner believed the press would be looking for weaknesses in the relationship between the president and the vice president (Timmons, 1948).

Nevertheless, the vice president travelled on behalf of the president on many occasions and he welcomed these assignments. On a trip to China, Garner was hailed for his ability to charm the Chinese and to articulate the president's

hopes for U.S.-China relations (Timmons, 1948). Roosevelt was impressed. The president encouraged Garner to speak more. However, Garner continued his policy of not speaking his own mind in public. The vice president viewed his job abroad as one of representation. He was there to represent the American people and the president of the United States. After returning from another trip abroad, Roosevelt called the vice president a selfless man who is helpful and useful to the promotion of America (Timmons, 1948).

Roosevelt pushed for measures that looked to control business and provide opportunities for workers. One proposal he was concerned about, however, was the bill proposed by Senator Arthur Vandenberg of Michigan and Representative Henry Steagall of Alabama. When the congressmen suggested that the federal government insure the bank deposits of Americans (Leuchtenburg, 1963). The president indicated that he did not support the measure.

Garner encouraged the president to support the bill. In fact Garner, a bank owner himself, personally guaranteed the deposits in his own banks. After prodding by Garner and Senator Carter Glass of Virginia, Roosevelt reluctantly agreed to support the creation of the Federal Deposit Insurance Corporation (FDIC) (Leuchtenburg, 1963).

Roosevelt did not have much of a tolerance for disruptive forces in his administration. In late 1933, Roosevelt was faced with two agricultural factions in his administration: Henry Wallace was secretary of agriculture and George Peek was in charge of the administration's farm recovery program. When problems

between Wallace and Peek were becoming distractions at home, Roosevelt eased Peek out by giving him a new assignment as special advisor on foreign trade with Secretary of State Cordell Hull (Leuchtenburg, 1963). The president was amused by this move. Peek and Hull were not friends and rarely saw eye-to-eye. Peek was in effect thrown into the lion's den. This would not be the last time Roosevelt would help someone in his administration to the door.

Hugh Johnson was appointed by Roosevelt in 1933 to head up the newly created National Recovery Administration (NRA). However, Johnson was a loose cannon. He often lost his temper which led to poorly made decisions compounded by poorly constructed public statements (Leuchtenburg, 1963). By the following year, Roosevelt was faced with a major obstacle within his own administration. The president eased Johnson out of the decision making process and accepted his resignation in September 1934 (Leuchtenburg, 1963).

When the 1934 mid-term elections rolled around, more and more candidates for public office began attaching themselves to Roosevelt's New Deal (The Wall Street Journal, 1934). Roosevelt and Garner were propelling new policies through the Democratic controlled Congress.

By the end of the first term in office, Roosevelt considered Vice President Garner invaluable. The president referred to Mr. Garner as "Mr. Common Sense" (Timmons, 1948). Garner could be counted on to support the president and understood how to move policies of good governance. Roosevelt recognized that the vice president was a loyal public servant and he respected Garner for that. But this allure soon faded.

The second term: 1937-1941

1936 was the beginning of the end for the Roosevelt-Garner partnership. The election brought the Democrats large returns. Congressional Democrats won large majorities and the Roosevelt and Garner team secured a second term in the White House. Under the provisions of the 22nd Amendment, Congress began its new term on January 3, 1937.

On January 20, 1937, the first day a president was inaugurated in January, Roosevelt told Jack Garner that when this term ended, the president was going home to Hyde Park. Garner told Roosevelt that this too would be his last oath of office. Garner wanted to travel with Ettie and get back to his life in Uvalde (Timmons, 1948). Both men agreed; the Roosevelt/Garner administration would end in 1941.

Buoyed by the 1936 elections, the Democrats were in nearly complete control of Washington. Roosevelt easily won a second term. Garner was keeping Congress in line and pushing forward the New Deal programs. The only problem was several of Chief Justice Charles Evans Hughes' colleagues on the United States Supreme Court who had concluded that proposals of the New Deal were unconstitutional (Donahoe, 1965).

New Deal policies produced an impact on the average American (Graubard, 2004). The number of jobs increased and the public had a general sense of hope. With a landslide win in 1936, Roosevelt was emboldened to push further. The president had almost no reason to slow down. Roosevelt controlled

the domestic agenda. Garner controlled the congressional agenda. But there was one problem, the Supreme Court. However, the president was developing a plan that would hopefully address his concerns about the Supreme Court (Leuchtenburg, 1963).

According to Edward Corwin's book *The President: Office and Powers* (1957), between the George Washington and Andrew Johnson administrations, the Supreme Court found two acts of Congress as unconstitutional. Later, Corwin (1957) notes that between the Woodrow Wilson administration which began in 1913 and the Herbert Hoover administration which ended in 1933, 22 congressional acts were struck down (approximately one per year). Remarkably, in just two years of the Franklin Roosevelt administration, 1934-1936, the Court overturned thirteen of the president's New Deal policies which the courts deemed to be in conflict with the constitution (Corwin, 1976). Corwin also asserts that by the mid-1930s, many in Washington viewed the Supreme Court's interpretations of the constitution as arbitrary and concerning (1976).

Chief Justice Charles Evans Hughes presided over a Supreme Court often at odds with the White House. Never one to back away from a fight, Roosevelt constructed a plan to control the court. After large Democratic wins in 1936, Roosevelt concluded that since the United States Constitution did not limit the number of justices on the Supreme Court, he would change the size of the court. In a press conference, Roosevelt introduced a new bill that would add six new justices to the Supreme Court (Timmons, 1948). The president hoped these new justices would recognize the New Deal programs as sound public policy.

Roosevelt presented the enlargement plan as a part of a general reform of the federal court system (Corwin, 1976). Roosevelt did not consult with anyone in Congress or the vice president about the proposed court reorganization bill.

Members of Congress were caught off guard. Garner and the Democrats were concerned that Roosevelt was pushing legislation without consulting either the vice president or the congressional leadership (Timmons, 1948). Timmons notes that Vice President Garner opposed the president's court packing plan and he shared this concern with Roosevelt. However, the president was buoyed by election wins. Roosevelt refused to listen. In a rare move, Garner publically spoke against a proposal of the president. In addition, the vice president actively worked to kill the plan in both houses of Congress (Timmons, 1948). This marked the beginning of the end for the Roosevelt/Garner partnership.

Garner expressed his concern by noting that "No President can control that court" (Timmons, 1948). Former President Herbert Hoover warned that the president's court idea was an attempt to bully forward a "court packing" plan (Timmons, 1948). Some members of Congress were willing to allow for one new associate justice per year to be added over a number of years. Garner was becoming weary with the contentious debate about six or one new justice and when. When he determined he could contribute nothing new to the debate, Garner decided to return home to Uvalde (Leuchtenburg, 1963). The vice president was sure the court bill would not survive the Congress even with the proposal to amend it to allow for one new justice each year instead of all six at

once. In addition, Leuchtenburg suggests that in this debate, Garner's opinion was not welcomed by the president (1963).

The following month, in the first sign of support for Roosevelt's New Deal policies, the U.S. Supreme Court upheld one of the program's major bills, the Wagner Act (today known as the National Labor Relations Act). This concession by the court did not sway the president. Timmons suggests that concerns about the court bill from members of Congress and from the vice president fell on deaf ears in the White House.

Garner decided he could no longer push the president's ideas through Congress without first being consulted. The vice president was beginning to have concerns about the president's agenda. He noticed an increase in deficit spending and a willingness by the president to spend the country into better economic times (Timmons, 1948). Roosevelt was angered that the vice president would question his judgment. He proceeded with his agenda while intentionally leaving Garner in the dark (Leuchtenburg, 1963). The vice president was finding himself being squeezed out of the Roosevelt White House.

After weeks of negative reaction to the court reorganization plan, the president realized that in addition to Garner, he had lost the support of many members of Congress, including long time allies. Roosevelt agreed to back down on the portion of the plan that called for an increase in the number of Supreme Court justices and the bill was recommitted to committee (Leuchtenburg, 1963). The court packing scheme was dead. Timmons notes that Roosevelt was dissatisfied with Garner's handling of the issue in Congress (1948). Garner was

convinced that the way the president presented and promoted for the plan spelled disaster from day one (Timmons, 1948). The rift continued to expand between the president and the vice president.

Former Vice President Al Gore notes in his book *Common Sense Government*, that Franklin Roosevelt's philosophy of governance was to do something and if that doesn't work then to do something else (Gore, 1995). Roosevelt was committed to finding solutions not obstacles. The plan to increase the size of the court failed. But Roosevelt was committed to moving forward not looking backward.

Following the 1936 election, Garner cautioned that although Democrats had managed to win large majorities in the House, Senate, and Governors' offices a government too heavy with one point of view could not support a policy of good governance (Timmons, 1948). The Texan argued that good public policy required allowing for honest points of disagreement. Roosevelt opposed congressional ideas about how to solve the country's economic crisis. Garner was instrumental in the overwhelming passage of economic reforms that were not part of the agenda of New Deal Democrats (Donahoe, 1965).

As Roosevelt and Garner began to part ways on what was best for the country, the vice president maintained his public silence over disagreements with the president. However, he still shared his private concerns with his friends in Congress and when given the opportunity, with the president himself (Mooney, 1971). Although Garner proved himself invaluable during the first term, Roosevelt found Garner uncooperative and impossible to work with during the second term.

Garner was eventually viewed as a plague in the Roosevelt administration (Leuchtenburg, 1983). By the end of the second term, the president rarely saw the vice president (Cronin & Genovese, 1998). The Roosevelt/Garner partnership was coming to an end.

A third term?

But what about the third term? If there was to be one, the president was convinced it must be without Garner (Leuchtenburg, 1963). The question Roosevelt still needed to answer was: should he run for a third term or step down?

While president of the United States, Andrew Jackson suggested a constitutional amendment calling for the direct election of the president for a single four- or six- year term (Corwin E. S., 1957). Jackson was concerned about only educated men obtaining the office of president and choosing never to leave it. He contended that a single fixed term could allow for more common men to serve in the office. However, years earlier when participating in the drafting the constitution, Alexander Hamilton argued that re-eligibility was a way to ensure that a man did not simply attain the office and coast through to completion (Hamilton, Federalist No. 72, 1787-1788). The ability to run again served both as an incentive to accomplish good government and a protection against bad governance.

By all accounts, Roosevelt had decided not to seek a third term (Timmons, 1948). Garner was likeminded about a third term and was ready to return to Texas. Both men were resolved that eight years in Washington would be enough.

At the March 4, 1937 victory dinner, Roosevelt announced that he was looking forward to turning over the White House to his successor on January 20, 1941 (Timmons, 1948). Timmons notes that Roosevelt intended for his successor to be a proven New Deal supporter. There were only four men he thought fit the bill: Secretary of Interior Harry Ickes, Attorney General Robert Jackson, Secretary of Agriculture Henry Wallace, or the Republican Mayor of New York, Fiorello La Guardia (Donahoe, 1965). However, the president could not envision any of these men being able to win the Democratic nomination.

As noted earlier, some political scientists credit John Nance Garner with having constructed many of the Roosevelt first term New Deal program successes in Congress. Donahoe asserts that during the second term Garner was reputed to engineer a congressional revolt against presidential policies if their success would lead to a third term (1965). Freshmen Democrats in Congress were advised not to give much weight to the programs of the president as the vice president was the real power in Congress (Donahoe, 1965). Roosevelt was concerned about the real potential of a "President Garner." Garner's popularity in Congress, the media, and throughout the country was growing as he bridged a gap between conservative Democrats and the Republicans (Donahoe, 1965). A businessman himself, Garner supported expanding pro-business legislation rather than social welfare programs

(Timmons, 1948). As Congress moved toward supporting the Garner plan for domestic matters, Roosevelt moved closer toward deciding to seek a third term.

Many Democrats suspected that Roosevelt was planning to run for a third term (Leuchtenburg, 1963). The split in the Democratic Party over opposition to a third term sparked new battles. Leuchtenburg notes that some Democrats thought the only way to defeat a third term was to stop or stall the President's efforts in Congress.

Unlikely allies came together to oppose Roosevelt continuing his reign over Washington politics in 1940. Both pro- and anti- New Dealers were concerned about what they called the "Roosevelt dictatorship" continuing into a third term (Donahoe, 1965). While the anti-Roosevelt forces gathered, the president decided to go on the offensive regarding one of the conservative voices of dissent against him. Roosevelt began to make it clear that he did not want Vice President Garner to become the next president (Donahoe, 1965). In fact, Roosevelt promised to desert the Democratic Party if Garner was the party's nominee in 1940 (Cronin & Genovese, 1998).

With all the talk of a Garner presidency, there was still an unanswered question: did Garner even want to run for president in 1940? During an interview, when Garner was asked about serving as president, Donahoe reports in his book *Private Plans and Public Dangers* that the vice president, "crooked a finger in the direction of the White House and remarked, 'I don't want to go down there. That place is a jail. The job's a four year prison sentence. But if the people want me'..." (Donahoe, 1965). One surprising Garner supporter concerned the

president. In 1939, the president's son Elliott publically endorsed Garner as the best man to be elected president in 1940 (The New York Times, 1939).

Donahoe notes that New Dealers were becoming increasingly concerned that the momentum was heading toward a Garner presidency. Concerted efforts were made to dismantle what San Antonio Mayor Maury Maverick called the "Garner myth" (Donahoe, 1965). With the help of sympathetic newspapers, negative stories on the vice president helped slow the Garner express to the White House.

In May 1940, Roosevelt decided to seek a 3rd term. Robert Jackson suggested that Roosevelt should be given another term in 1940 since his first term was cancelled by the Supreme Court nullifying many of Roosevelt's initiatives (Donahoe, 1965).

For the 1940 race, Garner was viewed as a stronger candidate for president rather than as Roosevelt's vice president. Garner supported the president on many issues but also was willing to stand up against the president when it mattered (Gallup, 1938). Yet Garner still did not campaign for president. The vice president appeared content to allow the nomination to fall where it may as long as it wasn't a third term for Roosevelt (Donahoe, 1965). Another question was: whether or not Garner was ready for leading on the world stage?

Europe was at war in 1940 and Roosevelt was taking sides...sort of. The United States was not involved directly in the conflict. However, Roosevelt ordered the navy to protect British convoys without specific congressional authorization to interject the United States into World War II (Cronin & Genovese,

1998). Backers of a third term felt that if the United States were drawn into the war in Europe, having Franklin Roosevelt on your side would be a good thing.

Ultimately, the American people agreed. Roosevelt was re-elected to a third term. The new vice president was former Secretary of Agriculture Henry Wallace.

CHAPTER 5

CONCLUSION

In the Beginning

The founding fathers feared the dangers inherent in consolidated power. James Madison suggested that there must be an appropriate distribution of power among the branches of government (Madison, Federalist No. 41, 1787-1788). He asserted that government power is required in order to achieve a necessary end. However, that power should not be centralized behind one man.

Madison wrote that “you must first enable the government to control the governed; and in the next place oblige it to control itself” (Madison, Federalist No. 51, 1787-1788). Garner believed that the executive branch of government should not have control over the judicial branch (Timmons, 1948). Fortunately, the founders put checks and balances in place to prevent a unilateral usurpation of power.

One could argue that the federal court system is intended to provide an equality of condition, not a synchronization of ideology. The founders intended the court to provide balance to the executive and the legislative branch. In *Marbury v. Madison* (1804), the Supreme Court recognized that the judiciary plays a significant role in determining that federal laws are compatible with the

principles of the United States Constitution. In *Marbury*, Chief Justice John Marshall asserted that the adoption of laws is the prerogative of the legislative branch and the execution of those laws is at the pleasure of the executive branch. However, Marshall argued that none of the branches is exempted from compliance with the governing principles of the Constitution. This compartmentalization of functions allows government to remain a government of the people rather than a government of one individual or group. The founders never intended for one faction or one group or one individual to rule over government. Allowing one person to control government is dangerous.

However, the will of the people is not always in the best interest of the people. In Federalist No. 63, Madison noted, “liberty may be endangered by the abuses of liberty as well as by the abuses of power” (Madison, Federalist No. 63, 1787-1788). Just because it was possible for Roosevelt with the help of a Democratic Congress to pack the court, does not mean it should have been done. The freedom of the courts from the politics of the day could have been greatly compromised for future generations.

Under the United States Articles of Confederation, the president was selected by the members of the federal legislature and presided over the legislative session rather than serving as an administrator of government. Consequently, the president could only provide as much balance to the government as the Congress was willing to allow. The Articles of Confederation were “widely regarded as having a number of weaknesses, including insufficient powers and the absence of an executive branch” (Nelson, 2008). At the time of

the adoption of the Articles, the primary concern was protecting the rights of individual states. Most of the states were concerned with adopting a national government structure that did not allow them autonomy and that did not prevent the establishment of a king.

The drafters of the United States Constitution were met with the challenge of creating of a chief executive who was empowered to act rather than a monarch who would act to empower himself. James Madison expressed concern for “both executive power and executive weakness, regarding the former as the seed of tyranny and the latter as the wellspring of anarchy” (Nelson, 2008). The power of the president did need the ability to manage the executive branch; however, the office also required limitations.

The president serves as the administrative head of the federal government. The constitution provides both limitations and expansions of presidential power. The president does have the power to command the military, to direct thousands of federal employees and agencies, and to balance the actions of the Congress by signing legislation, using the veto, and by faithfully executing the laws of the land. However, the power of the presidency also is limited by the other two branches of government: the legislative and judicial branches. To understand presidential limitations it is necessary to understand how these restrictions could be side-stepped and co-opted.

The separation between the branches was intended by the founders. However, the founders acknowledged that some overlap was allowed to exist. One major overlap is the designation of the vice president as both the successor

to the president and as the president of the United States Senate. In Federalist No. 68, Alexander Hamilton noted that some prefer to allow the Senate to determine who should serve as the President of the Senate. However, Hamilton suggested two reasons for not allowing the senate to make the choice. One, the president only casts a tie breaking vote. Second, it would not due to have a senator serve as vice president since from time to time he may have to act as president of the United States (Hamilton, Federalist No. 68, 1787-1788).

Limits on Power

Presidential limitations on power are fluid. Depending on the time, the person, the will of the Congress, the assertions of the Supreme Court, and the influence of outside forces, the presidency may be limited or expanded. The Congress is inconsistent with its allowances for the president to lead versus it's expectation that the president will follow the lead of Congress. The Supreme Court is constantly changing its mind on constitutional issues. The presidency has been limited and expanded by court action or inaction.

There is a danger to the president extending presidential power to control the votes of the court. Some scholars concede that under Article II of the Constitution the president has the power of appointment (Corwin, 1976). And Congress has the authority to give their consent to or rejection of those appointments. However, Roosevelt learned the hard way that popularly elected

presidents still have to work with the political power brokers in order to achieve their policy goals.

The Power of Two: Roosevelt and Garner

Assume for a moment, a hypothetical, that Vice President Garner continued his first term loyal support for the president's initiatives. Garner was so familiar with what individual members of Congress wanted, he could have convinced a majority to support the president. Six new justices would have been added to the Supreme Court bringing the total justices to fifteen. These would not be simply justices with an agenda; and, they would have life-tenure. With the support of pro-New Deal justices, Roosevelt would have seen a widespread reversal in the decisions of the court. Those justices, who opposed Roosevelt's programs as unconstitutional may have become frustrated with the new politics of the court and chosen to retire rather than wallow in the "Supreme Court of the Franklin Delano Roosevelt Administration".

Politicians could get a lot done if not for the constant distraction of politics which can be made increasingly difficult by the passions of the people. Presidents and members of the Supreme Court are not immune to the ravages of political factions. The New Dealers, including Roosevelt were greatly disturbed that the Republican dominated Supreme Court was going to prevent their agenda from moving forward.

Franklin Roosevelt was a smart man with political skill. His appetite for control pushed some to achieve greatness and others to the back door of the White House. Graubard suggests that in conversations among Washington insiders, there was a belief that Roosevelt was so power hungry that he never gave the Supreme Court credit for perhaps being right about striking down several New Deal programs. Furthermore, the president never allowed his vice presidents the opportunity to have significant input into the administration's goals (2004).

John Nance Garner was such a political force in Washington politics that he never fully learned to follow [the will of the president] (Leuchtenburg, 1983). Roosevelt couldn't ignore the vice president without conceding control of Congress back to others outside his administration. Garner's years of experience and the sheer number of political friends he accumulated through the years gave him the political capital to make the vice presidency relevant to federal policy and governance.

The founders placed the vice presidency firmly on the fence between the presidency and the Congress. They assumed the office of vice president would appear less brilliant if it were to be occupied by the president's leading challenger for the office (Milkis & Nelson, 1999). Perhaps the founders never imagined the vice president could yield as much (or more) power at times than the president.

The Future of Presidential and Vice Presidential Partnerships

John Locke suggested in 1690, that the branches of government should be separate (Corwin, 1976). The vice president serving as the head of one of the houses of the legislature does not in fact separate the executive and legislative branches. Does the president in fact have powers implied by the vice president being part of both branches?

In the early 20th century, two presidents conflicted over the powers of the president. President Theodore Roosevelt's view (typical of 20th century presidents) was that "the president could do anything that the Constitution or laws did not forbid." President William Howard Taft's literalist view (typical of the 19th century presidents) was that "the president could not do anything that the Constitution or laws did not permit" (Nelson, 2008). These distinctly different concepts of the presidency would lead to many conflicts between Theodore Roosevelt (T.R.) and Taft. Under T.R.'s interpretation of the presidency, the office of president could grow. In *The Autobiography of Theodore Roosevelt*, T.R. opined, "the executive power was limited only by specific restrictions and prohibitions appearing in the Constitution or imposed by Congress under its constitutional powers" (1913). If the constitution did not restrict the president, he should act as the people's steward of the office.

President Taft disagreed with his predecessor. In *Our Chief Magistrate and His Powers*, Taft asserted, "the president can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly

implied and included within such express grant as proper and necessary to its exercise" (1925). Taft recognized the constitution has a loose nature; however, he advocated constriction in its interpretation. The future Supreme Court chief justice continued, "Ascribing an undefined residuum of power to the president is an unsafe doctrine and that it might lead under emergencies to results of an arbitrary character, doing irremediable injustice to private right." He cautioned that an unlimited presidency is freed to "play the part of a Universal Providence...and [may do] anything that in his judgment will help the people" (Taft, 1925).

Supreme Court Associate Justice Robert H. Jackson argued, "Presidential power is variable: strong when supported by Congress, moderate when Congress is silent, and 'at its lowest ebb' when exercised in opposition to Congress" (Nelson, 2008). President Franklin Roosevelt enjoyed the power of control in his first term. He directed the executive branch and Garner maneuvered the Congress. However, the president learned that when the power brokers that controlled Congress moved away from blanket support of the president the net-loss to one is a net-gain to everyone else. Expanding the Supreme Court would have ultimately expanded the power of the Roosevelt presidency. If successful, Roosevelt could have been the first to example an unlimited presidency.

BIBLIOGRAPHY

- Brown, G. R. (1932). *The Speaker of the House: The Romantic Story of John N. Garner*. New York City, NY: Brewer, Warren & Putnam.
- Champagne, A. (1998). John Nance Garner. In R. H. Davidson, S. W. Hammond, & R. W. Smock (Eds.), *Masters of the House: Congressional Leadership Over Two Centuries* (pp. 145-180). Boulder, CO: Westview Press.
- Corwin, E. S. (1976). *Presidential Power and the Constitution: Essays*. (R. Loss, Ed.) London, United Kingdom: Cornell University Press.
- Corwin, E. S. (1957). *The President: Office and Powers* (4th Edition ed.). New York City, NY: New York University Press.
- Cronin, T. E., & Genovese, M. A. (1998). *The Paradoxes of the American Presidency*. New York City, NY: Oxford University Press.
- Donahoe, B. F. (1965). *Private Plans and Public Dangers*. Notre Dame, IN: University of Notre Dame Press.
- Edwards, G. C., & Jacobs, L. R. (2008). The New Vice Presidency: Institutions and Politics. *Presidential Studies Quarterly*, 38:3, p. 369(5). Retrieved November 13, 2009, from Academic OneFile via Gale:
<http://find.galegroup.com/gtx/start.do?prodID=AONE&userGroupName=txshracd2550>
- Gallup, G. (1938, July 31). Garner is Popular for the 1940 Race. *The New York Times*, p. 2.
- Goldstein, J. K. (2008, September). The Rising Power of the Modern Vice Presidency. *Presidential Studies Quarterly*, 38, 3. p.374(16).
- Gore, A. (1995). *Common Sense Government: Works Better and Costs Less*. New York City, NY: Random House.

- Graubard, S. (2004). *Command of Office: How War, Secrecy, and Deception Transformed the Presidency from Theodore Roosevelt to George W. Bush*. New York, NY: Basic Books, Perseus Book Group.
- Hamilton, A. (1787-1788). Federalist No. 59. In A. Hamilton, J. Madison, & J. Jay, *The Federalist Papers*. New York City, NY: New American Library.
- Hamilton, A. (1787-1788). Federalist No. 68. In A. Hamilton, J. Madison, & J. Jay, *The Federalist Papers*. New York City, NY: New American Library.
- Hamilton, A. (1787-1788). Federalist No. 72. In A. Hamilton, J. Madison, & J. Jay, *The Federalist Papers*. New York City, NY: New American Library.
- Leech, M. (1959). *In the Days of McKinley*. New York, NY: Harper & Brothers.
- Leuchtenburg, W. E. (1963). *Franklin D. Roosevelt and the New Deal*. New York City, New York: Harper & Row.
- Leuchtenburg, W. E. (1983). *In the Shadow of FDR: From Harry Truman to Ronald Reagan*. Ithaca, NY: Cornell University Press.
- Madison, J. (1787-1788). Federalist No. 41. In A. Hamilton, J. Madison, J. Jay, & C. Rossiter (Ed.), *The Federalist Papers*. New York City, NY: New American Library.
- Madison, J. (1787-1788). Federalist No. 51. In A. Hamilton, J. Madison, & J. Jay, *The Federalist Papers*. New York City, NY: New American Library.
- Madison, J. (1787-1788). Federalist No. 63. In A. Hamilton, J. Madison, & J. Jay, *The Federalist Papers*. New York City, NY: New American Library.
- Milkis, S. M., & Nelson, M. (1999). *The American Presidency: Origins and Development, 1776-1998* (3rd Edition ed.). Washington, D.C.: CQ Press.
- Mooney, B. (1971). *Roosevelt and Rayburn: A Political Partnership*. Philadelphia, PA: J.B. Lippincott Company.
- Nelson, M. (Ed.). (2008). *The Evolving Presidency: Landmark Documents, 1787-2008* (3rd Edition ed.). Washington, D.C.: CQ Press.
- Pfiffner, J. P. (2009). Can the President Manage the Government? In J. P. Pfiffner, & R. H. Davidson, *Understanding the Presidency* (5th Edition ed., pp. 234-250). New York City, NY: Pearson Longman.

- Roosevelt, T. (1913). *The Autobiography of Theodore Roosevelt*. New York, NY: Charles Scribner's Sons.
- Schlesinger, Jr. A. M. (1945). *The Age of Jackson*. Old Saybrook, CT: Konecky & Konecky.
- Taft, W. H. (1925). *Our Chief Magistrate and His Powers*. New York, NY: Columbia University Press.
- Taubkin, I. (1932, February 28). Texas Democrats Keep Up Party Row. *The New York Times*, p. E5.
- Taubkin, I. (1931, November 15). Texas Would Know More About Garner. *The New York Times*, p. E5.
- The New York Times. (1931, December 6). Democrats in New Congress Outline the Task Before Them. *The New York Times*, p. xx24.
- The New York Times. (1932a, February 20). Will Rogers for Garner. *The New York Times*, p. 3.
- The New York Times. (1932b, February 22). Texans Assemble for Garner Rally. *The New York Times*, p. 3.
- The New York Times. (1932c, June 1). The Garner Boom at Home. *The New York Times*, p. 22.
- The New York Times. (1932d, June 29). Roosevelt Forces Hail Walsh Victory. *The New York Times*, p. 14.
- The New York Times. (1939, March 25). Elliott Roosevelt Listed as Garner Man. *The New York Times*, p. 2.
- The Wall Street Journal. (1934, August 31). Mr. Roosevelt and Sinclair. *The Wall Street Journal*, p. 8.
- Timmons, B. N. (1948). *Garner of Texas: A Personal History*. New York City, NY: Harper & Brothers Publishers.

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