

# Smith (and Jones) Go to Washington: Democracy and Vice-Presidential Selection

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**ABSTRACT** The American Vice President's most notable Constitutional function is that of succession: if the president unexpectedly leaves office, the vice president becomes president. The process of selecting vice-presidential running mates has fallen into fewer hands over time, moving from the electorate, to party bosses and delegates, to a single person, the presidential candidate. The selection process presents challenges for democratic governance: electoral considerations may provide presidential candidates with incentive to choose vice-presidential running mates who differ from themselves politically. In cases of succession, this can lead to undemocratic outcomes and unstable policy.

Every four years, not only American citizens, but spectators worldwide watch as the presumed American presidential nominees discuss, consider, and finally choose their vice-presidential running mates. The media, both domestic and international, relentlessly cover the selection processes preceding the nominating conventions. These events are often covered as part of a parlor game, with the media predicting which party can gain an advantage by choosing which potential running mate. Despite the attention given to its selection, after the general election, vice presidents tend to slip into obscurity and receive public and media attention only in regard to gaffes, controversy, and scandal. This is likely because the vice president's most notable function lies in its role as successor.<sup>1</sup>

In case of the president's death, incapacitation, resignation, or removal, the vice president is expected to, regardless of not having entered the office through election, wield the same power and title as an elected president. Unexpected succession is not a trivial occurrence: nine US presidents, or one fifth, ascended "accidentally" from the vice presidency. John Tyler, Millard Fillmore, Andrew Johnson, Chester Arthur, Theodore Roosevelt, Calvin Coolidge, Harry Truman, and Lyndon Johnson succeeded because of the death of the sitting president. Gerald Ford entered after Richard Nixon's resignation. These unelected presidents served a total of 42 years (or for about 20% of US history under the Constitution).

Precedent, and later constitutional amendment, has put vice-presidential selection into fewer and fewer hands, making it less democratic. Vice presidents were originally elected by the electorate. After 1800, vice presidential candidates were chosen by party conventions and bosses. Since the 1940s presidential candidates

have single-handedly selected their running mates with input only from close advisers. The undemocratic nature of the selection process has an upside, however: by giving the choice of running mate to the presidential candidate (or party), candidates have the ability to select running mates who share their policy views or other important attributes. By choosing such a candidate, this *could* provide stable policy and a seamless transition should the president unexpectedly leave office. However, to increase the chances of winning the general election, historically parties, and currently presidential candidates, consider and/or choose vice-presidential running mates who are different (politically or otherwise) from the heads of the ticket. I note, however, that while such incentives continue to entice presidential candidates, such incentives are rarely realized. Thus, I argue that such a strategy on the part of candidates should be of great concern because it can significantly and negatively affect governance, policy, and democratic outcomes. Specifically, when presidents and vice presidents differ, (1) a perverse set of political incentives regarding assassination, impeachment, and incapacitation may be created and, (2) the country could inherit a leader espousing policies the country does not democratically support.

Over the years, these considerations have gone relatively unnoticed by scholars who have given only muted attention to the vice presidency.<sup>2</sup> Perhaps, more importantly, these considerations are also generally ignored by voters and the media who often pine for "dream teams" of ideologically divergent running mates who can unify a divided party or electorate. Although this article does not recommend institutional change; it does call for widespread attention to the problems outlined in the following analysis. Specifically, greater consideration from scholars, the media, and voters about how the politics of running mate selection affects democratic governance could provide guidance to presidential candidates. Although this study focuses on succession in the United States, the considerations are relevant to scholars and citizens of

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all regions given that questions surrounding leadership succession are universal problems.

This article proceeds by examining the policies and precedent which have made the nomination and election of the vice-president less democratic compared to other elected offices. Then, a discussion follows about how an ideologically divergent vice president could induce a perverse set of incentives and bring about undemocratic outcomes. A fictional illustration and a series of historical examples are provided as evidence. To conclude, specific suggestions to make media coverage of the vice-presidential selection process more informative for voters are given.

### DEMOCRACY AND VICE-PRESIDENTIAL RUNNING MATE SELECTION

The affirmation of voting rights through the 15th, 17th, 19th, 24th, and 26th amendments have made elections in the United States more inclusive and democratic (Dahl 2002).<sup>3</sup> Despite this, the vice presidency has shown the opposite tendency over the last 220 years. Rather than becoming more open, the selection of the vice-presidential running mate has instead fallen into the hands of only one person: the presidential nominee. As previous scholarly accounts have commented, because the vice-presidential race is “decided” only indirectly as a byproduct of the decision made on the presidential contest, “it can seriously be questioned whether the vice president is an elected official in the customary meaning of the term” (Sindler 1976,33).

Initially in the Constitution, the presidential candidate with the most electoral votes became president and the second most, vice president. In other words, the electors did not cast a ballot for the office of vice president; they only voted for president. This mode of election attempted to provide two things: First, that the vice president would be elected in a relatively democratic fashion: the electorate, through the electors, would choose the person with the second most votes for president as vice president.<sup>4</sup> Second, because the vice president was a presidential contender, the eventual winner would be of presidential caliber and could provide quality leadership if needed. However, three events occurred in the 1790s which called into question this method of electing vice presidents.

First, political parties, which were not yet formed during the drafting of the Constitution, slowly began to materialize more formally.<sup>5</sup> While the original mode of election guaranteed a successor of high quality, it did so by rejecting the idea that the vice president should be of the same party as the president (Sindler 1976, 23). In other words, it required a “depoliticized environment to sustain presidential contests among ‘statesmen’ unconnected with durable factions.”<sup>6</sup> Thus, the formation of parties aggravated the original method of election.

Second, when John Adams was elected president in 1796, Thomas Jefferson, Adams’ bitter political rival, became vice president. Given that Jefferson was a defeated opponent, it came as no surprise that the two did not work toward the same ends while in office. As vice president, Jefferson played little role in the executive branch and did not support the Adams’ presidency (Wilmerding 1953).<sup>7</sup> Given that the two were of different parties, some worried that the situation could, at worst, give rise to a coup d’état, and, at best, diminish the energy needed in a unitary executive branch (Crockett 2004).

Third, the election of 1800 demonstrated a glaring weakness in the original method of vice-presidential selection. Jefferson was

the presidential and Aaron Burr the vice-presidential nominee of the Democratic-Republican Party. Although they each received more votes than their defeated Federalist rivals, Adams and Charles Pinckney, Jefferson and Burr had tied. While the electors had clearly intended Jefferson to be president, balloting at the time did not discriminate between the two positions. Because of the tie, the Constitution required the Federalist-controlled House of Representatives to decide the election between Jefferson and Burr. Intending to disrupt the Democratic-Republican victory and perhaps extract concessions from the victor, the Federalist-controlled House cast 36 ballots before deciding to award correctly the presidency to Jefferson (Waugh 1956, 43).

To address these deficiencies, the 12th Amendment created separate ballots for president and vice president. This would ensure that presidential candidates could not tie with their vice-presidential running mate in the balloting (Crockett 2004). Additionally, to avoid the problems created by having a president of one party/ideology and a vice president of an opposing party/ideology, the drafters of the 12th Amendment intended presidential and vice-presidential running mates to run as pairs. This would, in their line of reasoning, unify the executive branch in the face of party divisions by having presidential and vice-presidential running mates of the same party and provide the “energy” and cohesiveness that Alexander Hamilton argued for in *Federalist #70* (Crockett 2004; Wright 1996).

Although many hoped that the 12th Amendment would lead parties to pair like-minded candidates on their respective tickets, several members in Congress feared that “the vice presidency would be hawked about at market and given in exchange for the presidency” (Wilmerding 1953). For example, senator Samuel White (F-DE) claimed that the vice president would be chosen simply to “best promote the election of a president” and senator Gouverneur Morris (F-NY) claimed “the vice presidency would be put as bait to catch state gudgeons.”<sup>8</sup> In more modern terms, this decision included choosing vice-presidential running mates based on their political differences with the presidential candidate to entice votes the presidential candidate could not obtain on their own. For instance, to appeal to moderate voters or voters of the opposite party, a party might “balance the ticket” by picking a running mate considered more moderate than themselves or of a differing ideology.<sup>9</sup>

Not surprisingly, given the political stakes of the presidential contests, the fears of the early members of Congress were realized. Following the ratification of the 12th amendment, parties began to choose running mates for their differences with the head of the ticket (Baumgartner 2006a; Nelson 1988a; Sindler 1976).<sup>10</sup> This strategy was used to gain an electoral advantage by unifying a divided party or to attract general election voters. Thus, while the passage of the 12th Amendment provided for *two* separate ballots, in practice there would be only *one* election of significance with parties selecting the vice-presidential running mate and appending them to the presidential candidate.<sup>11</sup> Thus, this practice limited the energy in the executive branch and directly contradicted at least part of the intention behind the 12th Amendment. For example, some of the pairs were not of the same party: in 1840, the Whig party chose Democrat John Tyler to run with their presidential nominee, William Henry Harrison, and in 1864, Republican Lincoln dropped incumbent Republican vice president Hannibal Hamlin to run with Democrat Andrew Johnson. Other pairs were of different ideologies and chosen to satisfy rival

party factions: In 1880, Chester Arthur, a member of the Stalwart faction of the Republican Party, was selected to run with James Garfield to appease the political boss Roscoe Conkling and his Stalwart followers (Baumgartner 2006a).

Since the 1940s, presidential nominees have taken an increasingly larger role in the selection of vice-presidential running mates and currently make the choice single-handedly (Sindler 1976; Baumgartner 2006a). Presidential nominees continue to consult advisers, influential party members, and party leaders; convention delegates continue to cast ballots for the vice-presidential nominee. However, in practice, the decision ultimately belongs to a single person, the candidate (Witcover 1992).<sup>12</sup> Unlike party bosses or conventions that made selections primarily based on policy and electoral concerns, presidential candidates also have incentive to choose a running mate who is competent, can carry on a legacy, and has similar views so that the pair will work well together (Nelson 1988b). The greater role played by the presidential candidates in choosing the vice president appears correlated with positive trends in vice-presidential selection. First, vice-presidential candidates have been more experienced and of “better quality” than previously (Baumgartner 2006a, 2006b; Nelson 1988a). Second, vice-presidential candidates have been more like their running mates as well (Hurwitz 1980; Baumgartner 2006a).<sup>13</sup> This has provided a more cohesive executive branch.<sup>14</sup>

However, the incentive for parties to sacrifice cohesive governance before the 1940s still exists for presidential candidates today: Having a competent and ideologically similar vice president means little to a presidential candidate who loses the election.<sup>15</sup> Thus, presidential candidates often consider and/or ask ideologically different politicians to join the ticket. For example, in 2004, the hypothetical Democratic ticket of John Kerry and Republican John McCain had a 14-point advantage over the incumbent Bush-Cheney ticket, 53% to 39%, in polls of registered voters (Halbfinger 2004). This lead was nearly double the advantage Kerry alone enjoyed over President George W. Bush. It seems with each new election, presidential nominees are tempted to consider running mates of opposing party and policy preferences. To name three recent examples, in 2008, Republican John McCain gave serious consideration to Democratic senator Joe Lieberman, and Democratic nominee Barack Obama is reported to have considered Republican senator Chuck Hagel of Nebraska (Kuhn 2008). Four years earlier, Democratic presidential nominee John Kerry asked Republican senator John McCain to join the Democratic ticket (Bumiller 2008).

The following sections demonstrate how having an ideologically balanced ticket may induce perverse incentives and undemocratic outcomes using historical examples and a fictional illustration featuring a President “Smith” and a Vice President “Jones.” In addition, the following sections show that although the strategy of balancing the ticket appears to be advantageous during the campaign, a wealth of previous literature demonstrates that, ironically, the choice of vice president plays little role in election outcomes.

#### DEMOCRATIC OUTCOMES AND PERVERSE INCENTIVES

It is unlikely that a modern presidential candidate could put together a winning coalition that can win the primaries and secure a major party nomination without having policy preferences or other characteristics preferred by a majority of the constituency (e.g. Norrander 1986).<sup>16</sup> Hence, a nominee, who we will call

“Smith,” could be said to be democratically chosen. But, that same candidate, Smith, may single-handedly choose a running mate—let us name her “Jones”—who has a dissimilar position on a salient policy issue.<sup>17</sup> Let us say Smith is in favor of the gold standard and Jones is in favor of the silver standard. Smith may have chosen Jones to appeal to Jones’ losing coalition and thus broaden his own coalition.

On one hand, balancing in this way may provide normative value: having a president and vice president who vary in their issue positions (or have different geographic, demographic, or other characteristics) may provide better representation to more segments of the population. In terms of governance, dissimilar presidents and vice presidents may provide more balanced governing, with policy disagreements being negotiated between the two (e.g., Kengor 2000b). With this said, however, vice presidents have few formal powers and duties; they perform these, for the most part, at the discretion of the president. Should the president prefer not to work or negotiate with the vice president, the president does not have to do so. Thus, the vice president’s ideological distance from the president may add little to White House policy.

On the other hand, however, this presents a problem for democracy because Smith’s choice of Jones, from the beginning, was undemocratic. The winning coalition that chose Smith likely would not have chosen Jones—the coalition would have preferred a vice-presidential candidate similar to Smith. This highlights the problem for democracy: Smith sacrificed the wishes of his majority coalition to appeal to a minority coalition. As Ronald Reagan said publicly, he did not believe that “you choose someone of an opposite philosophy in hopes he’ll get you some votes you can’t get yourself, because that’s being false with the people who vote for you and your philosophy.”<sup>18</sup>

In the past scholars have argued that voters can punish candidates who select vice-presidential candidates for overly political purposes (e.g., Heclo, Reuss, and Schlesinger 1988). Returning to the Smith and Jones example, the voters could punish Smith for his choice of running mate by not voting for him in the upcoming election. This is, in theory, a democratic mechanism that could keep Smith from selecting a candidate too different from himself. However, this strategy presents serious problems. Given that the ticket of Smith and Jones still most likely represents the best choice for Smith’s coalition, Smith’s supporters have little choice but to support the ticket (e.g., Wattenberg 1995). In other words, asking citizens to vote for their least-preferred presidential candidate because they disapprove of their party’s vice-presidential candidate could lead to an undemocratic outcome as well: citizens would be supporting their least-preferred presidential candidate and least-preferred policy positions.

An overwhelming body of extant literature, however, shows that citizens do not hold presidential candidates accountable for their choice of running mate. In other words, vice-presidential candidates do not affect general election outcomes. For instance, Polsby and Wildavsky (1971) comment that “there is no evidence whatsoever to suggest that vice presidents add or detract from the popularity of presidential candidates with the voters.” Dudley and Rapoport (1989) find that, even in their home state, vice-presidential running mates add only 0.3% more votes than expected (see also Devine and Kopko 2011). Frankovic (1985) shows that in the 1984 election, less than 1% of all voters cited the vice-presidential candidates as the prevailing reason for their

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vote choice. When examining the small segment of the population that prefers a presidential candidate of one party and a vice-presidential candidate of another party, Wattenberg (1995) finds that the former preference overwhelmingly prevails. Furthermore, while some voters claim that the vice-presidential candidate swayed their vote choice, Romero (2001) finds that after rationalization effects are accounted for, vice-presidential candidates have “no influence on the voters’ choice for president.” Even in the 2008 election, where Republican vice-presidential candidate Sarah Palin was a highly salient and polarizing figure, the compiled evidence suggests that her effect on the eventual outcome was negligible (Kenski 2010; Knuckey 2011; Mutz and Dilliplane 2011; Ulbig 2010; Brox and Cassels 2009).

Beyond the findings from the extant literature, I provide two specific examples of this. In 1972, the press reported that then Democratic vice-presidential nominee Thomas Eagleton had received frequent electroconvulsive therapy treatments for mental illness (Tubbesing 1973; Witcover 1992). Even after Eagleton admitted to receiving the treatments, polls showed supporters of Democratic presidential nominee George McGovern still intended to support the ticket.<sup>19</sup> In other words, McGovern supporters stayed loyal regardless of the fact that by doing so, a person (1) on the potent anti-psychotic drug, Thorazine (2) diagnosed with manic depression, suicidal tendencies, alcoholism, bouts of nervous exhaustion, and gastric disturbances, and (3) who had received electroconvulsive therapy would have been a heartbeat away from control of the country’s nuclear arsenal. Clearly, turning to incumbent Republican Richard Nixon and his policies was not a viable option for McGovern’s supporters.

Another example showing the vice-presidential candidate’s inconsequence to the ticket occurred in 1984. Democratic nominee Walter Mondale had been receiving pressure from women’s groups to choose a female running mate. During the summer, several polls showed that a majority of voters wanted a female vice president, and that a female running mate could bring Mondale not only a majority of female voters, but also 10 percentage points in the general election (Frankovic 1985). Responding to political pressure and to the potential gains he could make in November with a female candidate, Mondale chose Geraldine Ferraro as his running mate (Witcover 1992). However, in the general election, the expected electoral advantage from choosing a female did not materialize: Mondale not only lost in one of the biggest defeats in recent history, but ironically, the Democratic ticket lost the female vote to Reagan as well (Frankovic 1985).

As the extant literature and above examples show, the vice-presidential candidate has little influence over the general election outcome. Beyond this, asking voters to support their least-preferred presidential candidate because of disagreement with their party’s vice-presidential candidate makes little logical sense. Thus, the idea of holding presidential candidates accountable at the ballot box for their choice of running mate appears untenable.

Returning to the fictional example of Smith and Jones, if “President Smith” carries out his term uninterrupted for the next four years, the problem of having a vice president with minority policy preferences is somewhat mitigated—Smith enacts the policies he prefers and Jones has little power to enact the policies she prefers. However, if Smith leaves office unexpectedly, then greater problems could manifest—voters would inherit President Jones who espouses policies the opposite of what voters intended. Although the voters supported Smith’s gold standard, the country could

inherit a president supporting and instituting the silver standard. Disagreement between the president and vice president could lead not only to an abrupt change in policy, but also to policy that is discordant with public preferences. As one early representative, John Clopton of Virginia remarked, “When one person is intended for an office and another person actually obtains it, such election, if indeed it can properly be called an election, is not conformable to the will of those by whom it was made.”<sup>20</sup>

### DEATH

Given that eight elected presidents have died while in office,<sup>21</sup> how would differences between the president and vice president affect democratic outcomes if the president passes? Returning to the previous example, assume that Smith dies. Smith’s vice president, Jones, who has different policy preferences and appeals to different constituencies takes office. Let us say Smith was in favor of and instituted the gold standard, but died while in office, and Jones is in favor of the silver standard. On becoming president, Jones may decide to put national policy in line with her own preferences and abruptly switch to the silver standard. Jones represents a losing coalition and a minor subset of voters. In this example, although the country voted for a president who was in favor of one policy, because of a natural and unexpected occurrence, death, the country receives a policy in opposition to the majority’s expressed preferences.<sup>22</sup> Such undemocratic outcomes have occurred. For example, when the Democrat John Tyler succeeded the deceased William Henry Harrison, a Whig, in 1841, he governed like a Democrat rather than a Whig (Waugh 1956, 70). Tyler vetoed Whig-sponsored bills, especially bank and tariff legislation, that came out of the Whig-controlled Congress. Most of Harrison’s Whig cabinet resigned after Tyler’s ascension, and he was eventually renounced by the Whig party (Abbott 2005). Although the voters reasonably expected to have a president espousing Whig policies for four years, they inherited a Democrat following Democratic policies for almost a full term. As such, Tyler was not renominated by the Whigs or reelected to the White House.

### ASSASSINATION

Having a president and vice president who differ politically may incentivize policy-minded assassination. Again, assume that President Smith is in favor of the gold standard and Vice President Jones is in favor of the silver. Also, assume the money standard is a rather contentious issue, and some people are so concerned they are willing to resort to violence. The dissimilarity between Smith and Jones makes assassination an advantageous way to single-handedly change policy. An assassin in favor of the silver standard has motive to kill President Smith. Should the assassin be successful, he would be rewarded with Jones, a president who would change policy favorably for him. However, if Jones agreed with Smith on the gold standard, then the assassin would have little incentive to kill Smith: policy would not change. In other words, a more preferred policy outcome may be achieved if a sitting president is assassinated whose vice president has discordant policy positions. The problem for democratic governance is that this provides incentive to thwart majority rule with the pull of a trigger.

In US history, several assassins have been concerned with political issues and some were able to put a vice president in the White House who more closely agreed with their views.<sup>23</sup> John Wilkes

Booth, a southern sympathizer, killed Republican president Abraham Lincoln, putting Democrat Andrew Johnson into the presidency. Like Booth, Johnson was a Southern sympathizer and stymied efforts to bring about racial justice in the South (Clarke 2001). Charles Guiteau, a disgruntled “Stalwart,” unhappy with president James Garfield’s “Half-Breed” patronage appointments, killed Garfield putting vice president Chester Arthur into the presidency. Like Guiteau, Arthur was a member of the Stalwarts and was viewed as more favorable to the patronage system (Clarke 1982; Waugh 1956, 80).<sup>24</sup> President William McKinley was killed by Leon Czolgosz, an anarchist in opposition to McKinley’s imperialist and capitalist policies (Clarke 2006). Czolgosz put into the White House, vice president Theodore Roosevelt, who championed trust busting, greater regulation over business, and conservation; Roosevelt was far more progressive than the conservative McKinley (Rauchway 2004). History does not suggest the vice-presidents’ positions caused, on their own, the assassinations.<sup>25</sup> However, these examples do show that when presidents and vice presidents differ, incentives are created to make policy change through assassination.

### IMPEACHMENT

Impeachment is rather extreme; only presidents Andrew Johnson and Bill Clinton have been impeached, however, discussions of impeachment have become more frequent in the last 50 years (Kyvig 2008).<sup>26</sup> The impeachment and removal processes are in the Constitution to ensure against the abuse of executive power and facilitate removal in the case of high crimes and misdemeanors (Tassel and Finkelman 1999). These removal mechanisms were not meant to give Congress the power to remove executives for political purposes or decide the length of presidential terms (e.g., Berger 1973).<sup>27</sup> Impeachment has an inherently political component (e.g., Amar and Amar 1995), however, and has been increasingly discussed as a mechanism for Congress to bring political change (Kyvig 2008). For this reason, legal scholars recognize that political disagreement between presidents and their successors can introduce a perverse set of incentives into the impeachment process (e.g., Calabresi 1995).<sup>28</sup>

When deciding to impeach or remove, Congress may consider the crime committed, the political costs for pursuing impeachment, and the successor. Concentrating on the latter consideration, if the successor is more favorable to Congress’s political agenda, then Congress may have political incentive to impeach the president. Although scholars suggest that presidents should only be impeached when a crime has been committed, the two cases of presidential impeachment show the charges were more for political purposes than for the “high crimes” discussed in the Constitution (Kyvig 2008). For example, in 1868, president Andrew Johnson had no vice president because he inherited the presidency from Lincoln.<sup>29</sup> As such, because the president pro-tempore of the Senate, Radical Republican Benjamin Wade, was first in line to succeed Johnson, Wade, for all intents and purposes, was the vice president. Because Johnson was a Democrat in opposition to most of the Republican reconstruction policies (Clarke 2001), the Republican-controlled Congress wanted Johnson removed so they could pursue their policies unhindered (Silva 1968).

To remove Johnson, the Republicans essentially pushed him into not complying with a law of questionable constitutionality that Congress had passed specifically to induce his non-compliance

(Silva 1968).<sup>30</sup> When, as expected, Johnson did not comply, the Republican-controlled House haphazardly drew up articles of impeachment and sent the case to the Senate for trial (Tassel and Finkelman 1999). Although most historians rate Johnson a poor president,<sup>31</sup> many agree that his impeachment and trial were politically motivated and based on trumped-up charges (Kyvig 2008; Linder 1999; Silva 1968). In this case, although the president did not act criminally, Congress impeached and tried a president because the alternative was politically better: the political differences between President Johnson and his potential successor provided incentive to Congress use the impeachment mechanism mischievously.

However, in other cases, the successor to the sitting president may not present a preferable choice for Congress. In these cases, vice presidents who have similar policy stands to the president may incentivize Congress *not* to impeach or convict. In other words, a vice president may help a president escape removal. The impeachment charges against Bill Clinton were based on crimes poorly understood by the public (Shah et al. 2002; Tassel and Finkelman 1999). However, it was clear that Clinton had perjured himself (Kyvig 2008), and because of this, he later lost his ability to practice law.<sup>32</sup> Following the House vote to impeach, Clinton’s conviction proceedings ended deadlocked, 50-50, and Clinton remained in office.<sup>33</sup> Had the Republican-controlled Senate removed Clinton from office, they would have inherited a President Gore. Gore would have been politically worse for the Republicans: Gore had been termed a “Presidential Vice President” and was not carrying the baggage of scandal and infidelity consuming the Clinton presidency (Cohen 2001; Kengor 2000b). Removing Clinton from office at the time would have advantaged Gore, the presumed frontrunner in the 2000 election: the Republican Congress would have made the front-runner, Gore, an incumbent who would have been constitutionally able to serve almost 10 years in office if re-elected in 2000 and 2004.<sup>34</sup> This outcome could have appeared far worse to Republicans than simply damaging Clinton and leaving Gore to stand in the 2000 election as the heir apparent to an impeached and scandal-ridden administration. In the end, Republicans did the most damage they could to the Democrats without removing Clinton. Unlike in the Johnson proceedings, Congress had a political incentive to *keep* Clinton, even though unlike Johnson, Clinton *was* guilty of an actual crime.<sup>35</sup> Just as the prospect of a Republican presidency brought about illegitimate charges against Johnson, Gore may have protected Clinton from removal for crimes he *did* commit.<sup>36</sup>

### INCAPACITATION

It is imperative that the president be of good health and mind. For instance, assume again that President Smith is for the gold standard and Vice President Jones is for the silver. Also assume that Smith becomes severely ill and bed-ridden. Most would argue that, if Smith cannot carry out the duties of the office, he should cede, either temporarily or permanently, the duties of office to Jones. However, President Smith may be reluctant to cede power to Jones given her policy positions are different than Smith’s. Smith and his staff may fear Jones overturning his policies. This creates a dilemma because citizens would have to endure dysfunctional government to preserve the democratically preferred policy agenda. Had Smith and Jones shared policy positions, Smith may have allowed Jones to carry out policy.

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Let us examine one historical example where the differences between the president and vice president may have led to such a situation. President James Garfield was a member of the “Half-Breed” faction of the Republican Party while his vice president, Chester Arthur, was a member of the “Stalwarts.” This essentially meant that Garfield was in favor of civil service reform while Arthur was not. Without delving too far into specifics, when two Stalwarts, Conkling and Thomas Platt, resigned their Senate seats in protest of Garfield’s policies, Vice President Arthur came to their aid, publicly defying Garfield. This led to “hostility between the president and vice president” (Hansen 1962, 22).

On July 2, 1881, Charles J. Guiteau shot Garfield twice in the back. Garfield survived the assassination attempt for 80 days, lingering bed-ridden between life and death before finally succumbing.<sup>37</sup> While the members of Garfield’s cabinet attempted to keep executive business moving, the country was in “political limbo” (Bernstein and Agel 2003, 162). Foreign affairs and the prosecution of Post Office swindlers were put on hold and executive officers were unable to carry out their duties because they had not yet been commissioned (Silva 1968).

Despite this, Vice President Arthur was not employed to help manage government affairs during the 80 days. Historians cite two reasons to explain this: First, the Constitutional and other legal provisions were unclear about whether Arthur could assume temporary or permanent presidential responsibility during Garfield’s incapacitation.<sup>38</sup> And given that, Arthur did not want to exceed his authority and appear as a usurper. Second, while the cabinet did consider attempting to install Arthur at least temporarily to handle executive business, the cabinet feared, because of Arthur’s affiliation with the Stalwarts, that “if Arthur took over executive power, the President’s civil service reform would be washed down the drain in a flood of patronage” (Hansen 1962, 26). Beyond the cabinet’s reluctance to designate Arthur, Garfield did not even see Arthur during his incapacitation. This was perhaps because of their political rifts; Garfield deeply distrusted Arthur (Feerick 1976, 8). Had Garfield and Arthur been of like minds politically, it is possible that Garfield and his cabinet may have engaged Arthur better in an effort to carry out executive prerogatives during the president’s incapacitation. This response could have provided better functioning government.<sup>39</sup> For example, president George W. Bush transferred power to his vice president, Dick Cheney, during minor outpatient procedures in 2002 and 2007. Although it was not necessary that Bush transfer power to Cheney in these instances, Bush wanted to be “super cautious” during a time of war (Bush 2002). Bush and Cheney agreed on a broad range of salient policy issues and had a very close relationship (Pika 2010; Warshaw 2009), which made it easy for Bush to transfer presidential responsibilities.

### SUMMARY AND CONCLUSION

Given that the vice president is expected to carry out the functions of the presidency at a moment’s notice, scholars should reflect on the implications of vice-presidential running mate selection. Because of precedent and constitutional amendment, over time, vice-presidential selection has fallen into fewer hands. This practice was partially intended to provide stable policy and a seamless transition should the president unexpectedly leave office. However, parties and presidential candidates have often opted for vice-presidential running mates who are politically different from the heads of the ticket. This strategy has often been fol-

lowed to increase the chances of winning the general election. At the same time, when presidents and vice presidents differ significantly, (1) the country could inherit a leader espousing policies the country does not democratically support, and (2) a perverse set of political incentives may be created. I have demonstrated this using a fictional illustration and a series of historical examples.

During the election cycle, the media generally assess potential vice-presidential running mates by two criteria: (1) the running mates’ ability to lead as president if the unfortunate were to occur and (2) the votes they may bring to the ticket. The media provide an important service by assessing and vetting potential running mates’ qualifications and weaknesses. On one hand, this type of coverage not only informs the public, but may dissuade presidential candidates from picking unqualified running mates (e.g., Nelson 1988a). On the other hand, the horserace style of coverage, which captivates most of the media coverage during elections, provides little pertinent information to voters. The media spends much time hypothesizing about the electoral advantage a running mate may offer. This coverage has already begun for the 2012 election cycle: For example, *Washington Post* commentator, Sally Quinn, recently argued that President Obama should choose Hillary Clinton as his running mate in 2012 because Clinton “appeals to independents.”<sup>40</sup> Ironically, extant research has been unable to show that these supposed advantages materialize on Election Day.

The media generally ignore the undemocratic outcomes and perverse incentives that may be created when presidents and vice presidents differ substantially. In other words, while news outlets do assess the qualifications of a vice-presidential candidate, news outlets rarely ask what the resultant policies will be should the vice president succeed. As such, the public is rarely asked to consider the unintended policy consequences that may result. Because of this, polls show that citizens often hunger for “dream teams” of dissimilar running mates who can unify a divided party or polarized electorate. For example, while numerous articles touted the electability of a Kerry/McCain ticket in 2004, few journalists stopped to consider what the outcome would have been had Kerry left the office before his term had ended. It is hard to imagine that Kerry’s anti-war base would have been thrilled with a president John McCain.

Over the years, while many scholars have, for a variety of reasons, advocated the reform or abolition of the vice presidency (Ackerman 2008; Sindler 1976; Schlesinger 1974; Rossitier 1948), for a variety of reasons, this article does not advocate structural change to the electoral process or Constitution. This article does, however, ask scholars and the media to consider more closely how political differences between the president and vice president may lead to unexpected shifts in policy. During election years, the media should not only discuss the ability of the vice president to lead, but also how their policies may differ from the head of their ticket. This should not be done as a “game of gotcha” with the presidential candidates, but rather in a concerted effort to inform the public of potential policy shifts given an unexpected change in power. This type of further consideration by both the media and voters could lead presidential candidates to choose running mates who share similar policy positions on the most salient and divisive issues facing the electorate. This review could insure that the public gets continuity in the executive should the unfortunate occur. ■

## NOTES

The author would like to thank Kristin Kanthak, James Clarke, and the anonymous reviewers. All errors remain the fault of the author.

1. This is also true from a comparative perspective as well: vice presidents in other presidential democracies, on the whole, are characterized as marginal institutions (Baumgartner and Case 2009)
2. This is not to say scholars have not addressed some questions about the office. Researchers have examined the normative (Nelson 1988b, 1988a) and empirical (Baumgartner 2008b, 2006b; Watson and Yon 2006; Sigelman and Wahlbeck 1997; Sirgiiovanni 1994; Kiser 1992; Hurwitz 1980) characteristics that lead to running mate selection, and others have examined the affect vice presidential candidates have on electoral outcomes (Romero 2001; Wattenberg 1995; Holbrook 1994; Dudley and Rapoport 1989). Research also addresses the role vice presidents play in administrations (Stevens 1996; Walch 1995), with an emphasis post-WWII (Pika 2010; Relyea 2010; Edwards and Jacobs 2008; Moe 2008; Goldstein 2008; Baumgartner 2008a; Kengor 2000a, 2000b, 1997; Light 1984a, 1984b). A body of legal research addresses the legal mechanisms providing for succession (McQueeney 2007; Kassop 2005; Crockett 2004). Researchers have also studied vice presidents' success at seeking the presidency in their own right (Kincade 2000; Murphy and Stuckey 2002; Mattei and Weisberg 1994; Jones 2008; Simonton 1985) and researchers have, after the fact, examined vice presidents' success at governing should they become president (Farrar-Myers 2007; Abbott 2005; Langston 2002; King and Riddlesperger 1995; Simonton 1981).
3. The voting rights of racial minorities, women, and young adults were affirmed by the 15th, 19th, and 26th Amendments respectively. The rights of the poor were affirmed by the 24th Amendment, which made it unconstitutional to require a poll tax. The 23rd Amendment provided representation in the Electoral College to residents of Washington DC. The 17th Amendment provides that citizens can directly elect their Senators.
4. The Electoral College is at best a semi-democratic institution—it was not designed to have a completely popular election, but rather have input from the voters and then cast ballots. However, most of the time, the Electoral College results mirror the popular vote. I do note that, in the 1790s, many groups were excluded from voting: slaves, Native Americans, women, non-landowners, and others were not allowed to vote. Some states did not have a popular vote. However, given 1790s standards, the elections were “popular” and “democratic.”
5. This is not to say parties in the 1800s were as organized, far-reaching, or durable as parties are currently.
6. Sindler 1976, 16.
7. This is best evidenced by Jefferson running against Adams in both 1796 and in 1800.
8. Quoted in Wilmerding (1953, 30–31).
9. Geography has traditionally played a large role in selecting vice-presidential running mates (Baumgartner 2006a). For instance, a presidential candidate from the north may choose a running mate from the south to appeal to southern voters (Waugh 1956, 54). A presidential candidate may also want to run with a candidate from a “swing” state; this could help win that state's electoral votes. However, geographic strategies have waned in recent years (Baumgartner 2006a; Hurwitz 1980). While differing political cultures throughout the US still exist, these are of far less consequence than they were during the Slavery, Civil War, or Civil Rights eras. In other words, geographic ties correlate less with policy positions on salient issues; hence presidential candidates have not used geography as much recently in selecting running mates.
10. This was also often done with little regard to the qualifications of the vice-presidential running mate (Baumgartner 2006b).
11. This also sent the vice presidency into obscurity: less-qualified candidates vied for the position, and because presidents often had widely varying policy positions than their running mates, vice presidents played little to no role in their administrations.
12. The president's role in choosing a running mate was recognized in the 25th amendment which gave the president the power to appoint a vice-president, with the consent of Congress, should a vacancy occur (Sindler 1976).
13. For example, many have pointed out that recent tickets, such as Clinton/Gore and Bush/Cheney, have had candidates very similar to each other. Clinton and Gore were both white male southerners with similar policy views. Bush and Cheney were both living in Texas at the time they ran for office and had similar views on most issues (for instance, see Quaid 2008). The vice-presidential selections in 2008 appear to buck this trend, however. Sarah Palin represented the more conservative right-wing of the Republican Party, while John McCain was viewed by many in his party as moderate. In addition, Palin was demographically different than McCain: she was a woman. On the other side, Biden was white, and was thought by many to have been on the Democratic ticket to appeal to Appalachian white voters, a group with whom Obama was polling poorly (Tilove 2008).
14. Since the time that presidents began choosing their own vice-presidential running mates, vice presidents have been given greater roles in their administrations. This has allowed presidents to delegate important tasks and seek advice from their vice presidents (Pika 2010; Relyea 2010; Edwards and Jacobs 2008; Moe 2008; Goldstein 2008; Baumgartner 2008a; Kengor 2000a, 2000b, 1997; Light 1984a, 1984b).
15. This is not to suggest that a presidential candidate who picks a running mate very much like him or herself is not concerned with their electoral prospects; presidential candidates generally want to win. Nor do I suggest that a vice-presidential candidate different from the presidential candidate is incompetent or unable to govern if president.
16. This paper makes the assumption that voters choose candidates based upon policy preferences. Of course, citizens may vote based on personal characteristics of the candidates, such as their race, religion, experience, or age. However, a long history of scholarship demonstrates that most voters cast ballots based on party affiliation and that this is tied closely to issue positions (e.g., Campbell et al. 1960). For instance, two presidential candidates of opposing parties are likely to have differing policy stances on a wide variety of issues.
17. Both genders are equally suited for the presidency and vice presidency. Therefore, I will use both male and female pronouns equally where appropriate.
18. Witcover 1992, 286.
19. See “McGovern's First Crisis: The Eagleton Affair” (1972). Eagleton later removed himself from the Democratic ticket at McGovern's request (Tubbesing 1973).
20. Quoted in Wilmerding (1953, 32). Clopton served in the House until his death, whereas he was replaced by future president John Tyler. Ironically, Tyler was the first vice president to succeed to the presidency after the death of president William Henry Harrison. As Clopton had eloquently predicted, Tyler's presidency was not comfortable to those that had elected the Harrison/Tyler ticket.
21. Four elected presidents have died naturally while in office: William Henry Harrison, Zachary Taylor, Warren Harding, and Franklin Roosevelt. Four presidents have been assassinated: Abraham Lincoln, James Garfield, William McKinley, and John Kennedy.
22. As such, voters have been more likely to reject these succeeding presidents. Prior to the 1940s when presidential candidates began having a greater role in picking their running mates, seven vice presidents unexpectedly succeeded to the presidency. Only two (29%) were subsequently elected to their own term, while five (71%) were not elected to serve after completing their predecessors' term. To put this in comparison, elected presidents have been reelected to another term 58% of the time. This is a 29 percentage point difference in rates of election between presidents who were elected and those who succeeded to the position. Beginning in the 1940s when presidential candidates began picking running mates more similar to themselves, vice presidents who succeeded unexpectedly have fared better. Harry Truman and Lyndon Johnson were both elected to their own terms; only Gerald Ford was not.
23. Of course, many assassins and would-be assassins are driven by mental delusion and psychosis; their assassination attempts may not be driven by policy. For instance, John Hinckley, Jr. attempted to assassinate Ronald Reagan because he wanted to impress Jody Foster (Clarke 1990). Lynette “Squeaky” Fromme, attempted to assassinate Gerald Ford; Fromme was a mentally unstable follower of Charles Manson (Clarke 1982). In such cases, the death of the president can be examined just as the natural deaths discussed above.
24. Guiteau, in particular, seems to be acutely aware of the line of succession and the political ramifications of his actions. After Guiteau was apprehended, he exclaimed “I am a Stalwart of the Stalwarts. Arthur is President now.” Some scholars claim that Guiteau was directly “motivated by a desire to have Arthur succeed to the presidency...” and because of Arthur's break with Garfield, “saw his mission clearly” (Feerick 1976, 8; Witcover 1992, 49). Arthur went on to reform civil service, despite his being a Stalwart.
25. It is difficult to get into the minds of assassins (e.g., Dorff and Pedahzur 2009). We do know, however, that Booth, Guiteau, and Czolgosz were driven as much by rage, delusion, revenge, and depression as they were by politics (Clarke 1982, 1990, 2006). Thus, the shape of subsequent policy did not necessarily motivate these men. As such, I do not suggest that differences between the president and vice president cause assassination. Nor do I suggest that differences between the president and vice president would lead the average person to attempt to kill the president. The examples do suggest, however, that political incentives are created when the president and vice president differ.
26. Many considered impeaching Ronald Reagan, George W. Bush, and vice president Dick Cheney (Kyvig 2008). Given that Nixon had lost the support of his own party in Congress, historians believe had he not resigned, he would have been impeached and removed (Tassel and Finkelman 1999).
27. For example, arguments made during the Constitutional Convention suggested that delegates were weary of an impeachment mechanism because it could make the executive dependent on the legislature (see <http://www.law.umkc.edu/faculty/projects/ftrials/impeach/constitution.html>).

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28. Given the way Gerald Ford came to the vice presidency, there were political incentives for Congress to impeach Nixon. When the Watergate investigation began, Nixon's vice president, Spiro Agnew, had already resigned (Witcover 1992). Under the 25th amendment, Nixon was able to appoint, with the consent of Congress, a replacement. Nixon's first choice to succeed Agnew was John Connally; however, congressional Democrats intimated that they would not support Connally's nomination. Essentially, Congress did not want to give Nixon a vice president who could win the presidency in 1976 (Witcover 1992). Congress consented to Nixon's choice of Ford, because, unlike John Connally, Ford was seen in many quarters as a lightweight who could not win the presidency on his own (Witcover 1992, 265–266). When Watergate hit its crescendo in Congress, Ford held the vice presidency less than a year. If Congress were to remove Nixon, Congress would have been left with President Ford, who, given that he had neither been elected president or vice president (Sindler 1976, 6), would have his legitimacy as president questioned. Thus, congressional Democrats would have inherited a president who was of questionable legitimacy and would fare poorly in the upcoming election. Interestingly, Ford lost in 1976 to the Democrat, Jimmy Carter.
29. At that time, the Constitution did not allow for the filling of a vacancy in the vice presidency.
30. The Tenure of Office Act, later repealed, was passed over Johnson's veto. A similar law was found unconstitutional by the Supreme Court (*Myers vs. United States* 1926).
31. A 2009 C-SPAN poll of presidential historians ranks him 41 out of 42 presidents.
32. Clinton was suspended from the US Supreme Court bar in 2000. Clinton also lost his ability to practice law in Arkansas for five years.
33. On the charge of perjury, 55 senators voted not guilty, and 45 voted guilty. On the charge of obstruction, the vote was 50–50.
34. The 25th amendment specifies that a president may serve only two whole terms, or a total of 10 years. For example, if Lyndon Johnson had chosen to seek a second full term in office, he could have.
35. The US Supreme Court suspended Mr. Clinton from its bar in 2000. Clinton also gave up his Arkansas law license for five years as part of a three-way deal with the Arkansas Committee on Professional Conduct and the independent counsel who investigated the president's statements about Monica Lewinsky. Clinton acknowledged that some answers he gave during a 1998 deposition were false. This was the same deposition mentioned in the articles of impeachment (Gerstein 2006).
36. More recently, articles of impeachment were introduced by Democrats against George W. Bush and Dick Cheney (e.g. Kucinich 2008). However, some supporting impeachment were interested in impeaching Cheney first, because they did not want to remove Bush and inherit a President Cheney, who, in their minds, would be a worse alternative than a continued Bush Administration (Bresnahan 2008). Given the difficulty of impeaching both a president and vice president along with the fear of a Cheney presidency, Cheney provided incentive to not impeach Bush. The Democratic Congress did not take action to impeach Bush.
37. Although Garfield was of a clear mind during part of his incapacitation, there is sufficient evidence suggesting that he was physically unable to discharge his duties (Hansen 1962, 24).
38. The Garfield episode provided part of the impetus for a portion of the 25th Amendment (1967) which allows (1) the president to give powers temporarily to the vice president and (2) the vice president, with the consent of the cabinet, to take powers from the president at least temporarily.
39. With this said, however, presidents and their staffs may be reluctant to turn over power to the vice president, regardless of the vice president's policy positions. This may be simply because presidents do not generally want to give up power.
40. Quinn 2010.

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