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## SYMPOSIUM

### HOOSIER BRIDESMAIDS

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Indiana proudly proclaims itself the “Crossroads of America.”<sup>1</sup> While some northeast-corridor cynics might deride the boast as a paraphrase for flyover country, there is no denying the political significance of the Hoosier State’s geographical and cultural centrality. As one of Indiana’s most celebrated historians has observed, “[b]y the beginning of the twentieth century Indiana was often cited as the most typical of American states, perhaps because Hoosiers in this age of transition generally resisted radical change and were able usually to balance moderate change with due attention to the continuities of life and culture.”<sup>2</sup>

Throughout the Gilded Age, elections in the state were so closely fought that the winning party rarely claimed more than slimmest majority.<sup>3</sup> At the time, Indiana tended to favor Republicans over Democrats, but the races were close with Democrats claiming their share of victories.<sup>4</sup> During these years, voter turnout remained high in presidential elections, with Indiana ranging from the eightieth to the ninetieth percentiles, no doubt a product of the closeness of the contests. Such voter turnout substantially exceeded that typical of surrounding states.<sup>5</sup> Hoosiers liked to politick.

The state’s high voter participation may also have been, in some part, attributable to its relaxed voting laws for adult males during the nineteenth

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1. H.R. Con. Res. 6, 80th Gen. Assemb. (Ind. 1937).

2. JAMES H. MADISON, *THE INDIANA WAY: A STATE HISTORY* 146 (1986).

3. Tim Reuter, *Make Partisanship Great Again*, *FORBES* (Sep. 20, 2017), <https://www.forbes.com/sites/timreuter/2017/09/20/make-partisanship-great-again/#2e7abf5d1559> [https://perma.cc/KK3C-7BUD].

4. MADISON, *supra* note 2, at 209.

5. *Id.* at 211.

century—no voter registration laws were on the books until 1911.<sup>6</sup> In any event, once Indiana citizens aligned with a party, they tended to stick with that party and vote a straight party ticket. If a voter was unhappy with certain party elements, he sat out the race rather than split his ticket.<sup>7</sup> Voter turnout usually determined the victor, so the party machines were kept hopping, encouraging voters to get to the polls. Party affiliations were so stable that even when the candidate for President of the United States was a fellow Hoosier—Republican Benjamin Harrison in 1888—the Republican plurality in that year did not budge from the 1886 turnout, and Harrison prevailed by a mere 2,300 vote margin out of half a million cast.<sup>8</sup>

This party loyalty, and the fact that elections ran so close, classed Indiana as a swing state to watch closely at election time from the Civil War through the Progressive Era.<sup>9</sup> As Indiana voted, so usually went the national election.<sup>10</sup> Not surprisingly then, national campaigns sought to sway the Hoosier electorate.<sup>11</sup> One obvious means of suasion was sweetening the presidential pot with a Hoosier vice president, a strategy that has endured into the twenty-first century, as the most recent election of President Donald Trump and Vice President Mike Pence reflects.<sup>12</sup> To date, Indiana has produced eight major-party vice presidential candidates in just over two-hundred years of statehood, with six achieving victory, making it second in that regard only to New York.<sup>13</sup> As detailed below, Indiana's major party vice-presidential nominees have included: Schuyler Colfax (1868), William H. English (1880), Thomas A. Hendricks (1876, 1884), Charles W. Fairbanks (1904, 1916), John W. Kern (1908), Thomas R. Marshall (1912, 1916), James Danforth "Dan" Quayle (1988, 1992) and Michael R. Pence (2017).<sup>14</sup> In all these years, there has been only one major-party presidential

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6. *Id.*

7. *Id.*

8. *Id.* at 211-12.

9. *Id.* at 211.

10. *Id.* at 209.

11. Dorothy Hartman, *Politics of the 1870s and 1880s*, CONNER PRAIRIE, <http://www.connerprairie.org/education-research/indiana-history-1860-1900/politics-of-the-1870s-and-1880s> [<https://perma.cc/Z9FW-GJ5E>] (last visited Nov. 1, 2018).

12. Christopher J. Devine & Kyle C. Kopko, *The Vice Presidential Home State Advantage Reconsidered: Analyzing the Interactive Effect of Home State Population and Political Experience, 1884-2008*, 41 PRESIDENTIAL STUD. Q. 2 (2011). Major campaign strategies still reflect the perceived importance of the Hoosier vote, either for its early swing-state tendencies or its later perceived "heart of America" status, but studies have questioned the soundness of such strategies. Of course, the scope of this study excludes Indiana's first Vice President, Schuyler Colfax (1868), discussed *infra* at notes 16-91 and accompanying text.

13. Will Higgins, *Mike Pence Joins a Long List of Vice Presidents from Indiana*, INDIANAPOLIS STAR (Jan. 20, 2017, 8:56 AM), <https://www.indystar.com/story/life/2016/07/15/indiana-no-2-vice-president-state-us/87082488> [<https://perma.cc/E3VU-XABK>].

14. *Id.*

nominee: Benjamin Harrison (1888, 1892), who served one term (1889-1893).<sup>15</sup> Ohio might be the mother of presidents, but Indiana has brought many bridesmaids to the altar. This essay, a version of which opened the podium portion of this symposium, briefly recounts the careers of the six “Hoosier Bridesmaids” who served their nation in that penultimate post, offering, both along the way and in conclusion, some speculation as to what meaning might be attached to the state’s coming in second at coming in second.

#### I. SCHUYLER COLFAX: VICE PRESIDENT TO ULYSSES S. GRANT, 1869-1873

Schuyler Colfax was born in New York state in 1823.<sup>16</sup> His great-grandfather fought alongside George Washington in the Revolutionary War, but by the time of Colfax’s birth, the family had descended into poverty.<sup>17</sup> Colfax attended school until age ten, when family needs required him to work as a clerk. Shortly thereafter his mother remarried, and the family relocated with his new stepfather to northern Indiana.<sup>18</sup> Colfax worked in the local post office, where neighbors often found him pouring over the latest newspapers as they picked up their mail.<sup>19</sup> His keen interest in politics began to develop at this time. He soon turned from reading newspapers to writing for them, submitting articles about Indiana politics to Horace Greeley’s *New-York Tribune*.<sup>20</sup> He later studied law, but did not sit for the bar.<sup>21</sup>

Colfax bought the Indiana-based *State Register* newspaper in 1844, renaming it the *St. Joseph Valley Register*.<sup>22</sup> His journalism focused ever more intently upon Indiana politics; he avowed himself an admirer of Henry Clay and a Whig.<sup>23</sup> Indiana Whigs took note and invited him to their electoral convention.<sup>24</sup> He subsequently served in the 1850 Indiana Convention to rewrite the state Constitution.<sup>25</sup> There, Colfax established himself as a progressive on race issues when he resisted—sadly in vain—a state constitutional provision precluding

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15. *Id.*

16. *Id.*

17. Patrick J. Furlong & Ann Leonard, *Schuyler Colfax (1823-1885)*, in VICE PRESIDENTS: A BIOGRAPHICAL DICTIONARY 154 (L. Edward Purcell ed., 2001).

18. *Id.*; DIANA DIXON HEALY, AMERICA’S VICE-PRESIDENTS: OUR FIRST FORTY-THREE VICE-PRESIDENTS AND HOW THEY GOT TO BE NUMBER TWO 91-95 (1984).

19. Furlong & Leonard, *supra* note 17, at 156.

20. *Id.*

21. SOL BARZMAN, MADMEN AND GENIUSES: THE VICE-PRESIDENTS OF THE UNITED STATES 117 (1974); MARK O. HATFIELD, VICE PRESIDENTS OF THE UNITED STATES, 1789-1993, at 223-24 (1997); REV. A.Y. MOORE, THE LIFE OF SCHUYLER COLFAX 33-38 (1868); WILLARD H. SMITH, SCHUYLER COLFAX: THE CHANGING FORTUNES OF A POLITICAL IDOL, at x, 1-7 (1952); Furlong & Leonard, *supra* note 17, at 155.

22. Furlong & Leonard, *supra*, note 17, at 156.

23. *Id.* at 155.

24. *Id.*

25. *Id.*

further black migration to Indiana and restricting the ability of the state's existing black residents to acquire land.<sup>26</sup>

The Whigs nominated Colfax for a Congressional seat in 1851, but Colfax narrowly lost as Indiana leaned Democratic at the time.<sup>27</sup> He declined to run in 1852 as the Whig party began to disintegrate, broken by the intense political pressures of the 1850s.<sup>28</sup> Colfax himself vacillated on which party to join.<sup>29</sup> In 1854, in a fit of pique over Stephen Douglas's Kansas-Nebraska Act stance, Colfax again plunged into politics, describing himself as an Anti-Nebraska Democrat.<sup>30</sup> He was also interested in the Know-Nothing Party, which had recently surged in strength in Indiana.<sup>31</sup> While a defender of black civil rights, Colfax shared the Know-Nothing's Nativist fears about Roman Catholics, asserting, "only Protestant foreigners, who are thoroughly Americanized" should be admitted to the party.<sup>32</sup> But his anti-slavery stance was settled: only if the Know-Nothings were anti-slavery would he join them.<sup>33</sup> Nationally, the Know-Nothings tended toward slavery in the South and anti-slavery in the North, but in Indiana they were determinedly pro-slavery, so Colfax cut his ties with them.<sup>34</sup> As a result, when he began to serve in the House of Representatives in 1855, Colfax's political affiliations, like those of so many other Americans at the time, were hazy and unsettled.<sup>35</sup> The Know-Nothing power wavered, and a new party, the Republican Party, coalesced around opposition to slavery. In 1856, Colfax joined their ranks, ran under the Republican banner for re-election, and kept his seat.<sup>36</sup>

Colfax thrived in the House of Representatives. He gave a popular speech in 1856, railing against the proslavery Kansas legislature and declaring there was a short step between enslaving blacks and suppressing white civil liberties.<sup>37</sup> Republicans cheered and reprinted hundreds of copies to use in campaign efforts.<sup>38</sup> In 1862, Colfax was narrowly re-elected as many fellow Republicans

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26. ALBERT D. RICHARDSON, *A PERSONAL HISTORY OF ULYSSES S. GRANT* 554-55 (1868).

27. *Schuyler Colfax, 17th Vice President (1869-1873)*, U.S. SENATE, [https://www.senate.gov/artandhistory/history/common/generic/VP\\_Schuyler\\_Colfax.htm](https://www.senate.gov/artandhistory/history/common/generic/VP_Schuyler_Colfax.htm) [https://perma.cc/7Y68-GKRY] (Last visited Nov. 1, 2018) [hereinafter *17th Vice President*]; Furlong & Leonard, *supra* note 17, at 156.

28. Furlong & Leonard, *supra* note 17, at 156; *17th Vice President*, *supra* note 27.

29. *17th Vice President*, *supra* note 27.

30. Furlong & Leonard, *supra* note 17, at 156.

31. *Id.*; *17th Vice President*, *supra* note 27.

32. Furlong & Leonard, *supra* note 17, at 155; HATFIELD, *supra* note 21, at 224.

33. *17th Vice President*, *supra* note 27.

34. *Id.*

35. *Id.*

36. WILLIAM E. GIENAPP, *THE ORIGINS OF THE REPUBLICAN PARTY, 1852-1856*, at 109, 180-81, 240-41, 245 (1987).

37. Furlong & Leonard, *supra* note 17, at 156.

38. *17th Vice President*, *supra* note 27.

went down to defeat in the mid-term elections.<sup>39</sup> One notable loss was the Speaker of the House, Galusha Grow.<sup>40</sup> Colfax seized the opportunity, winning the coveted speakership for the thirty-eighth Congress in 1863.<sup>41</sup> President Lincoln feared that Colfax was too closely tied to the radical wing of the Republican party, but Colfax proved those fears unfounded.<sup>42</sup>

Rather, as Speaker of the House, Colfax's greatest accomplishment was managing to bridge the different factions of the Republican majority. Growing up, his political role model had been Henry Clay—the Great Compromiser—and Colfax pursued a similarly conciliatory strategy once he became Speaker.<sup>43</sup> Still, he was no mere spectator or traffic controller. He pushed for expulsion of an Ohio Democrat who had wished to acknowledge the independence of the Confederacy.<sup>44</sup> When the House approved the Thirteenth Amendment, Colfax famously took the extraordinary step of asking that his vote in the affirmative be recorded, breaking the tradition that the Speaker refrain from voting.<sup>45</sup> Throughout his Speakership, Colfax never enjoyed the kind of power wielded by radical Republican Thaddeus Stevens, but he remained a moderating, unifying force wedding the often-fractionous factions of the Republican caucus.<sup>46</sup> At the outset of the Reconstruction Era, he sought to temper the more forceful nature of the radical Republicans, helping more middle-of-the-road Republicans retain their positions.<sup>47</sup>

Colfax sought to maintain this moderate stance after President Lincoln's assassination and Andrew Johnson's transition to the presidency, but prickly Johnson resented Colfax's efforts, construing them as intrusions upon presidential authority and his Administration's agenda.<sup>48</sup> When Johnson vetoed the Freedman's Bureau Bill, which had been supported by Colfax and other moderates as well as party radicals, Colfax dropped his conciliatory efforts and joined the moderate/radical Republican alliance that brought about congressional Reconstruction of the South.<sup>49</sup>

As Speaker, Colfax also deftly maneuvered to further his own political ambitions. Once Grant's nomination as the Republican candidate for the

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39. *Id.*

40. *Speaker of the House Galusha Aaron Grow of Pennsylvania*, U.S. HOUSE OF REPRESENTATIVES: HISTORY, ART, & ARCHIVES, <https://history.house.gov/HistoricalHighlight/Detail/36827?ret=True> [<https://perma.cc/A6C9-9H5F>] (last visited Mar. 26, 2019).

41. *Id.*

42. DAVID HERBERT DONALD, *LINCOLN* 468-69 (1995); Furlong & Leonard, *supra* note 17, at 156.

43. *17th Vice President*, *supra* note 27.

44. *Id.*

45. Furlong & Leonard, *supra* note 17, at 158.

46. *Id.*

47. ALLAN G. BOGUE, *THE CONGRESSMAN'S CIVIL WAR* 116, 125 (1989); Furlong & Leonard, *supra* note 17, at 157-58.

48. *17th Vice President*, *supra* note 27.

49. Furlong & Leonard, *supra* note 17, at 158; RICHARDSON, *supra* note 26, at 559.

presidency was effectively secured, Colfax furtively positioned himself to be the obvious, if apparently and appropriately reluctant, choice for the second spot on the party ticket.<sup>50</sup> To that end, he ostentatiously refused to run for either Indiana's Governor's mansion or Senate seat, disingenuously asserting that serving as House Speaker was eminently more satisfactory than as head of the Senate in the vice presidency.<sup>51</sup> Nevertheless, political friends rallied to his aid and worked for his nomination to become vice president. His early-in-life pledge of abstinence from alcohol, which aligned him with the temperance movement, swayed the Republican Party, eager to offset a presidential candidate dogged with rumors of drunkenness.<sup>52</sup> In November 1868, the Grant-Colfax ticket was narrowly elected over Democratic New York Governor Horatio Seymour.<sup>53</sup>

As for the office itself, Colfax, like numerous vice presidents before him, had no real guidance as to what his duties were, besides presiding over the Senate and breaking any tie votes.<sup>54</sup> He did not challenge this tradition, but instead spent his free time lecturing, traveling, and writing for the press.<sup>55</sup> He was not close to President Grant, and that did not change during his vice-presidency.<sup>56</sup> His independence both advanced and hindered his political career. When scandals erupted in the administration, most notably the Black Friday Gold Panic of 1869, the distance between Colfax and Grant led to discussions of the possibility of jettisoning Grant and replacing him with Colfax in the 1872 presidential election.<sup>57</sup> Once again, Colfax utilized his coy ploy of feigning reticence to facilitate his advancement, announcing in September 1870, at the tender age of forty-seven, his intent to resign his position after one term.<sup>58</sup> Some politicians surmised this was Colfax's way of making himself available to fill the presidency. But the press, and Colfax's rival Senator Henry Wilson, whom Colfax had narrowly beat out for the vice-presidency in 1868, took the pledge at face value and began to plan for Colfax's replacement—likely disappointing the ambitious Colfax.<sup>59</sup>

Now Colfax's distance from Grant became a disadvantage. In 1871, Grant, after Colfax's announcement and perhaps upon sensing Colfax's desire to replace him, asked Colfax to "give up the vice-presidency" to fill in for Secretary of State

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50. Furlong & Leonard, *supra* note 17, at 158; RICHARDSON, *supra* note 26, at 559.

51. Furlong & Leonard, *supra* note 17, at 158; RICHARDSON, *supra* note 26, at 559.

52. For a deft and insightful treatment of Grant's troubles with alcohol, see generally RON CHERNOW, GRANT (2017).

53. PAUL F. BOLLER, JR., PRESIDENTIAL CAMPAIGNS: FROM GEORGE WASHINGTON TO GEORGE W. BUSH 125 (2004); BARZMAN, *supra* note 21, at 116; HATFIELD, *supra* note 21, at 227.

54. BARZMAN, *supra* note 21, at 118.

55. *Id.*

56. *Id.* at 117.

57. *Id.* at 118.

58. Furlong & Leonard, *supra* note 17, at 159; BARZMAN, *supra* note 21, at 118; SMITH, *supra* note 21, at 316-17, 324, 326, 333.

59. BARZMAN, *supra* note 21, at 118.

Hamilton Fish, who wanted to retire.<sup>60</sup> It was an odd request, clearly indicating Grant's wish to remove Colfax altogether. Colfax demurred and changed his mind about retirement in early 1872, signaling he was prepared to run again as Grant's running mate in the 1872 election.<sup>61</sup> But it was too late. Wilson had charged ahead in the wake of Colfax's previously announced plan to retire, and as the contest heated up between the two men, Grant remained quiet on the subject, leaving Colfax in a vulnerable position.<sup>62</sup>

The press, which heretofore had been so laudatory of Colfax—claiming he was 'one of their own' because of his own journalistic background—had started to sour on him when he remarried in 1868 to Benjamin Wade's niece, Ellen Wade, and had a son.<sup>63</sup> As home happiness surged, Colfax spent less time courting the press, and they resented it. Wilson, also friendly with the press, easily won them to his side.<sup>64</sup> Wilson won the nomination, leaving Colfax in the cold.<sup>65</sup>

At the age of forty-nine, Colfax might have continued in politics. But just as Grant's second presidential campaign got under way, Colfax found himself swept up in an even larger scandal than any so far connected to Grant, one dating to the Lincoln administration.<sup>66</sup> In September 1872 the *New York Sun* broke the Crédit Mobilier scandal, and Colfax's political hopes fell apart.<sup>67</sup>

Crédit Mobilier was a finance company created in 1864 to underwrite construction of the transcontinental Union Pacific Railroad.<sup>68</sup> Since the railroad depended upon federal subsidies to keep its momentum, it recruited Massachusetts Representative Oakes Ames to distribute stock among members of Congress who would be most sympathetic to the railroad's needs.<sup>69</sup> Ames complied, and sought out not only Colfax's aid but that of Henry Wilson and noted Representatives James Garfield and James G. Blaine.<sup>70</sup> Colfax, in a speech to a South Bend audience, swore he had never owned a dollar of stock that he had not purchased with his own money.<sup>71</sup>

The House committee investigating the scandal called for Colfax's testimony on January 7, 1873.<sup>72</sup> Ames asserted that Colfax did not have the financial means

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60. JULES WITCOVER, *THE AMERICAN VICE-PRESIDENCY: FROM IRRELEVANCE TO POWER* 171 (2014).

61. BARZMAN, *supra* note 21, at 118.

62. SMITH, *supra* note 21, at 358-59.

63. Furlong & Leonard, *supra* note 17, at 159.

64. SMITH, *supra* note 21, at 358-59.

65. Furlong & Leonard, *supra* note 17, at 159.

66. *Id.* at 159-60; BARZMAN, *supra* note 21, at 118.

67. BARZMAN, *supra* note 21, at 118; SMITH, *supra* note 21, at 369-74.

68. SMITH, *supra* note 21, at 369-70.

69. BARZMAN, *supra* note 21, at 118-19; SMITH, *supra* note 21, at 371.

70. SMITH, *supra* note 21, at 372.

71. BARZMAN, *supra* note 21, at 119; SMITH, *supra* note 21, at 371, 374.

72. SMITH, *supra* note 21, at 376-77.

to buy the stocks, so the stock had been paid for with its own inflated dividends.<sup>73</sup> Furthermore, Ames had records showing Colfax had been given another \$1,200 in dividends.<sup>74</sup> Colfax swore this was not true, but he was contradicted by evidence held by the House sergeant of arms.<sup>75</sup> Colfax then declared Ames must have signed the check in his stead, but that was easily disproven.<sup>76</sup> Over two weeks of testimony, Colfax continued to hem and haw, digging himself deeper as he tried to wiggle out of the scandal's taint.<sup>77</sup> His lies were so preposterous that they led to the committee finding out separate misconduct, namely that Colfax had been bribed by a campaign contributor.<sup>78</sup> A resolution to impeach Colfax failed.<sup>79</sup> But the public was unforgiving, and Colfax left the vice presidency in disgrace, one more example of Gilded Age sordidness inhabiting the American political system.<sup>80</sup> To add insult, later in 1873, the transcontinental railroads failed to make their bond payments, which led to the Depression of 1873.<sup>81</sup> Many associated Colfax with that disaster as well.<sup>82</sup>

Colfax was finished politically. There would be murmurs of him running for this office or that, but he declared himself out, stating: "You can't imagine the repugnance with which I now view the service of the many headed public with all its toils, its innumerable exactions of all kinds, the never ending work and worry . . . the misunderstandings, the envyings, backbitings, etc., etc., etc."<sup>83</sup> Ironically, the other men tarred with the same brush emerged politically intact. Henry Wilson, as noted, replaced Grant as vice president.<sup>84</sup> Garfield became president in 1880.<sup>85</sup> He denied the charges, which then clearly did not stick. And Blaine was put forward as the Republican candidate for president in 1884.<sup>86</sup>

Colfax turned instead to the lecture circuit.<sup>87</sup> He discovered Americans were hungry for information from someone who had known Abraham Lincoln personally.<sup>88</sup> He also leveraged his temperance credentials, drawing big audiences.<sup>89</sup> Finally, on January 13, 1885, while in route to a lecture in Iowa,

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73. *Id.* at 379, 383.

74. *Id.* at 380.

75. *Id.* at 380, 389.

76. *Id.* at 379.

77. HATFIELD, *supra* note 21, at 229.

78. Furlong & Leonard, *supra* note 17, at 160; SMITH, *supra* note 21, at 389-93.

79. Furlong & Leonard, *supra* note 17, at 160; BARZMAN, *supra* note 21, at 119; SMITH, *supra* note 21, at 397-99.

80. HATFIELD, *supra* note 21, at 229.

81. *Id.*

82. *Id.*

83. *Id.*; SMITH, *supra* note 21, at 422.

84. HATFIELD, *supra* note 21, at 229.

85. *Id.*

86. *Id.*

87. Furlong & Leonard, *supra* note 17, at 160; HATFIELD, *supra* note 21, at 229.

88. HATFIELD, *supra* note 21, at 229.

89. *Id.*



Colfax trekked from one train depot to another in frigid temperatures.<sup>90</sup> He reached the second depot only to collapse within and die of a heart attack at age sixty-one.<sup>91</sup>

II. THOMAS A. HENDRICKS, VICE PRESIDENT TO GROVER CLEVELAND,  
1884-1885

Like Colfax, Thomas Hendricks was not born in Indiana, but rather in his case in Muskingum County, Ohio.<sup>92</sup> Like Colfax, Hendricks is claimed by both Indiana and his birth state. His family had strong ties to Indiana, however. His paternal uncle, William Hendricks, served as Representative, Governor, and Senator from Indiana.<sup>93</sup> The family first settled in Madison (near the uncle's homestead), but after a couple of years traveled north to relocate in Shelby County.<sup>94</sup> Thomas Hendricks was educated there and then attended Hanover College in Hanover, Indiana, a Presbyterian college appealing to the Hendricks's staunch Presbyterian family.<sup>95</sup> He graduated from Hanover in 1841.<sup>96</sup> He then studied the law with another relative in Pennsylvania and passed the Indiana bar in 1843.<sup>97</sup> He set up his practice in Shelby County and began to insert himself in the Indiana political scene.<sup>98</sup>

Hendricks quickly rose in politics. He was elected to the Indiana House in 1848, served as a delegate to the same state constitutional convention as did Colfax (albeit on different sides of the aisle), and won a seat in the U.S. House in 1850.<sup>99</sup> He was a supporter of Stephen A. Douglas and Douglas's Kansas-Nebraska Act decision.<sup>100</sup> As alluded to above, the public outrage over the Kansas-Nebraska Act's repeal of the Missouri Compromise upended both the

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90. *Id.*

91. Furlong & Leonard, *supra* note 17, at 160; HATFIELD, *supra* note 21, at 229.

92. Ralph D. Gray, *Thomas A. Hendricks*, in THE GOVERNORS OF INDIANA 161-62 (Linda C. Gugin & James E. St. Clair eds., 2006).

93. JOHN W. HOLCOMBE & HUBERT M. SKINNER, LIFE AND PUBLIC SERVICES OF THOMAS A. HENDRICKS WITH SELECTED SPEECHES AND WRITINGS 19-39 (1886). When William Hendricks was elected as the first Representative to Congress from Indiana, Indiana was just making the transition to statehood, so there was some confusion as to whether Hendricks could legally sit in Congress. *Id.* at 20. One needs to remember that Indiana did not become a state until 1819, so it was the frontier for much of the first half of the nineteenth-century. *Id.* See also MADISON, *supra* note 2, at Part II.

94. Thomas Burnell Colbert, *Thomas Andrews Hendricks (1819-1885)*, in VICE PRESIDENTS: A BIOGRAPHICAL DICTIONARY, *supra* note 17, at 187.

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.* at 186-87; HATFIELD, *supra* note 21, at 261; HOLCOMBE & SKINNER, *supra* note 93, at 45-47, 68-89.

99. Colbert, *supra* note 94, at 187.

100. HOLCOMBE & SKINNER, *supra* note 93, at 155-65.

Whig party and some dissenting Democrats, eventually resulting in the formation of the Republican Party.<sup>101</sup> When Hendricks ran for re-election in 1854, he was opposed by a former fellow Democrat who had the backing of some Free Soilers, abolitionists, temperance supporters, Whigs, and Know-Nothings.<sup>102</sup> Hendricks, unlike Colfax, was a staunch opponent of the Know-Nothings, defending the rights of immigrants and religious minorities.<sup>103</sup> He was not, however, so supportive of blacks: During the 1849 state constitutional convention he voted for the "Black Laws," which Colfax had opposed and which prohibited further black migration to the state and restricted land ownership by blacks already in Indiana.<sup>104</sup> Hendricks lost the 1854 congressional election, with some citing his Kansas-Nebraska Act support as the reason.<sup>105</sup>

In 1855, President Franklin Pierce appointed Hendricks commissioner of the General Land Office in the Interior Department, a position Hendricks held until 1859.<sup>106</sup> Under President James Buchanan's distinctly anti-Douglas administration, Hendricks felt uncomfortable and ultimately resigned.<sup>107</sup> He headed back to Indiana, running unsuccessfully for governor and then turning back to his law practice.<sup>108</sup>

When the Civil War erupted in 1861, Indiana Democrats split between peace and pro-Union factions, with Hendricks an avowed Unionist.<sup>109</sup> The head of the peace Democrats, Jesse D. Bright, was also president pro tempore of the U.S. Senate.<sup>110</sup> The Senate expelled him when it was revealed that he had written a letter addressed to Jefferson Davis as "President of the Confederate States," encouraging the South to purchase guns from an Indiana manufacturer.<sup>111</sup> Judge David Turpie finished out Bright's term, and Hendricks snagged Bright's Senate seat in the election of 1862.<sup>112</sup>

By the time Hendricks joined the Senate in 1863, the Democrats were in a distinct minority of ten to thirty-three Republicans.<sup>113</sup> Hendricks quickly and ably became the leader of the beleaguered minority and continued to raise the Democrat flag.<sup>114</sup> Many admired how Hendricks long persevered as a member of

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101. *Id.* at 140-65.

102. HATFIELD, *supra* note 21, at 262.

103. *Id.*

104. *Id.*

105. Colbert, *supra* note 94, at 187.

106. *Id.* at 187-88; Gray, *supra* note 92, at 127-28.

107. Ralph D. Gray, *Thomas Hendricks: Spokesman for the Democracy*, in GENTLEMEN FROM INDIANA: NATIONAL PARTY CANDIDATES 1836-1940, at 128 (Ralph D. Gray ed., 1977); Gray, *supra* note 92, at 128.

108. Colbert, *supra* note 94, at 188.

109. HATFIELD, *supra* note 21, at 262.

110. HOLCOME & SKINNER, *supra* note 93, at 195.

111. HATFIELD, *supra* note 21, at 262.

112. HOLCOME & SKINNER, *supra* note 93, at 245.

113. HATFIELD, *supra* note 21, at 262.

114. *Id.*

the minority.<sup>115</sup> Lincoln even sought his support as one of the War Democrats.<sup>116</sup> After Lincoln's assassination, Hendricks continually reminded the Senate that Lincoln wanted a mild Reconstruction and a speedy return of the South to the Union.<sup>117</sup> Moreover, he clung to his racial prejudices—resisting repeal of the fugitive-slave laws, voting against the Thirteenth Amendment, and opposing African-American enfranchisement.<sup>118</sup>

Still, Hendricks was one of the few Democrats not accused of southern sympathies ("Copperhead" was the term) in the war period.<sup>119</sup> This boosted his political clout, and he was considered as a possible presidential candidate in 1868.<sup>120</sup> But the Democrats chose New York Governor Horatio Seymour instead.<sup>121</sup> Hendricks went back to Indiana and was nominated for governor. Both Hendricks and Seymour were defeated. And Hendricks again settled back into his law practice awaiting other political chances. His name was battled about a bit in 1872; some thought a Hoosier would appeal to the Midwest but worried about eastern support.<sup>122</sup> It was for naught; the party picked Horace Greeley for a fusion ticket with liberal Republicans who were disgruntled with Grant's administration.<sup>123</sup> The state party again submitted Hendricks's name for governor; this time, Greeley lost but Hendricks won.<sup>124</sup>

Secure in the governorship and abiding in that helpful Indiana swing state, people talked about Hendricks for president in 1876.<sup>125</sup> But Hendricks's political place had altered a bit; there had been a panic in 1873 and during the ensuing economic crisis Hendricks came to be seen as a supporter of agrarian reform and "soft money," arguing for relaxation of the gold standard for the currency.<sup>126</sup> "Hard money," gold-standard Democrats preferred Samuel Tilden, but Hendricks was added to the ticket to appease the "soft money" wing of the party.<sup>127</sup>

In the 1876 election Rutherford B. Hayes carried every midwestern state save

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115. *Id.* Democratic Senator Daniel Voorhees and journalist A.K. McClure both applauded his tenure there. *Id.*

116. *Id.*

117. Colbert, *supra* note 94, at 188.

118. ERIC FONER, RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION 1863-1877, at 278-79 (Henry Steele Commager & Richard B. Morris eds., 1988); BARZMAN, *supra* note 21, at 144; HOLCOMBE & SKINNER, *supra* note 93, at 267; Colbert, *supra* note 94, at 188. Of African-Americans, Hendricks infamously concluded: "I say we are not of the same race; we are so different that we ought not to compose one political community." FONER, *supra* note 118, at 279.

119. Colbert, *supra* note 94, at 188.

120. HORACE SAMUEL MERRILL, BOURBON DEMOCRACY OF THE MIDDLE WEST, 1865-1896, at 71 (1953); Gray, *supra* note 92, at 71.

121. HATFIELD, *supra* note 21, at 263.

122. MERRILL, *supra* note 120, at 262.

123. *Id.*

124. Gray, *supra* note 92, at 160-65; MERRILL, *supra* note 120, at 71.

125. BARZMAN, *supra* note 21, at 141.

126. HATFIELD, *supra* note 21, at 262; Colbert, *supra* note 94, at 189.

127. HATFIELD, *supra* note 21, at 262; Colbert, *supra* note 94, at 189.

for Indiana.<sup>128</sup> The election ran close, and it looked like Tilden-Hendricks might edge Hayes out, but there were three southern states still controlled by Reconstruction governments that remained in dispute.<sup>129</sup> Democrats needed just one state to win; Republicans needed all three. A special electoral commission was set up and the back-room Compromise of 1877 was achieved: The three states went to Hayes and the Republicans had the presidency for four years; but Reconstruction would end, and the South be left alone to rule itself.<sup>130</sup> Tilden and Hendricks acquiesced, but many Democrats cried foul.<sup>131</sup>

Hendricks's name came up yet again for the presidency in 1880, but he was vacationing and suffered a stroke, leaving him too ill to contemplate running.<sup>132</sup> By 1884 he had recovered somewhat, although his physical condition seemed in decline.<sup>133</sup> Tilden was out of the running because of his own health problems. Democrats considered Hendricks, but by this point, after so much consideration, Hendricks had lost some political desirability. The party wanted a fresh face and found it in Grover Cleveland of New York. There was an internal party push to try to assert Hendricks over Cleveland, but the efforts failed.<sup>134</sup> Still, Cleveland was another "hard money" Democrat, and Hendricks's "soft money" stance made him the choice for the second slot on the ticket in hopes that his presence might pull in the rural Democrats and swing Indiana.<sup>135</sup>

This time the Democrats won, their first victory in a presidential election since 1856.<sup>136</sup> Hendricks presided over the Senate where he had once valiantly strengthened the pitiful Democrat minority during the war years.<sup>137</sup> But from the beginning Hendricks and Cleveland were at odds.<sup>138</sup> Hendricks wanted government to assert itself more actively in the economy to protect agrarian interests, but Cleveland was far more reticent about federal governmental intervention in the economy.<sup>139</sup>

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128. HATFIELD, *supra* note 21, at 263.

129. *Id.*

130. *Id.*; Colbert, *supra* note 94, at 191.

131. HATFIELD, *supra* note 21, at 263; Colbert, *supra* note 94, at 190-91.

132. HATFIELD, *supra* note 21, at 263-64.

133. *Id.* Two years after the stroke, Hendricks developed a lameness in his foot. *Id.* at 263. Some attributed it to his fervent speech-making wherein he would rise on his toes to punctuate his declarations. *Id.* at 264. Hendricks was hobbled for six months and ever thereafter would suffer occasional bouts of lameness. *Id.*

134. BARZMAN, *supra* note 21, at 142.

135. *Id.* at 142-43; HERBERT EATON, PRESIDENTIAL TIMBER: A HISTORY OF NOMINATING CONVENTIONS, 1868-1960, at 111 (1964); HATFIELD, *supra* note 21, at 264; Colbert, *supra* note 94, at 191.

136. HOLCOME & SKINNER, *supra* note 93, at 366.

137. *Id.* at 369; W.U. Hensel, *A Biographical Sketch of Thomas A. Hendricks*, in LIFE AND PUBLIC SERVICES OF HON. GROVER CLEVELAND 225 (1884); HOLCOME & SKINNER, *supra* note 93, at 369.

138. Colbert, *supra* note 94, at 192.

139. HATFIELD, *supra* note 21, at 264-65.

Cleveland tried to adhere to recent political reforms that lessened the executive's ability to hand out patronage.<sup>140</sup> Hendricks and other long-serving politicians cried foul; Democrats had been away from the attractive government plums too long to deny themselves. Hendricks and others wanted to reward their state party systems for all their efforts.<sup>141</sup> Cleveland acquiesced by mid-1885, and cushy federal jobs were quickly handed out to thousands of loyal Democrats.<sup>142</sup> The Indiana Democrat party was especially grumpy about Cleveland's paltry patronage, and some blamed Hendricks, much to his chagrin.<sup>143</sup>

Hendricks traveled back to Indiana in September of 1885 to attend a reunion of the Indiana constitutional convention of 1849 and to rest up for the upcoming congressional session to open in December.<sup>144</sup> While back home, he died in his sleep on November 25, 1885.<sup>145</sup>

Hendricks's death meant there would be no vice president for three years, which worried those contemplating presidential succession.<sup>146</sup> The Presidential Succession Act of 1792 had established that the Senate's president pro tempore and the Speaker of the House would succeed in that order.<sup>147</sup> Both posts at the time of Hendricks's death were vacant, and the Democrats controlled the House but the Republicans controlled the Senate<sup>148</sup>—what if the opposite party was elevated to the presidency? Congress, in response to these fears, passed a law in 1886 that eliminated congressional officers from the line of succession, instead appointing successors from the cabinet level, in order of their rank.<sup>149</sup> This system would hold until 1947 when the death of Franklin Delano Roosevelt and the succession of Harry S. Truman would again leave the vice-presidency vacant for almost three years, prompting once more reconsideration on how to deal with succession.<sup>150</sup>

Cleveland ran for reelection in 1888, this time choosing Ohio Senator Allen G. Thurman as his running mate.<sup>151</sup> But Cleveland's opponent was Indiana's Benjamin Harrison. With no Hendricks to balance the ticket, the Democrats failed

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140. HEALY, *supra* note 18, at 116; Colbert, *supra* note 94, at 192.

141. Colbert, *supra* note 94, at 192.

142. HATFIELD, *supra* note 21, at 265.

143. *Id.*; HOLCOME & SKINNER, *supra* note 93, at 375.

144. HATFIELD, *supra* note 21, at 265; HOLCOME & SKINNER, *supra* note 93, at 387.

145. HOLCOME & SKINNER, *supra* note 93, at 389-90.

146. JOHN D. FEERICK, FROM FALLING HANDS: THE STORY OF PRESIDENTIAL SUCCESSION 141-142 (1965).

147. See Presidential Succession Act of 1792, ch. 8, § 1, 1 Stat. 239, *repealed by* Presidential Succession Act of 1886, ch. 4, § 3, 24 Stat. 1, 2.

148. FEERICK, *supra* note 146, at 141-42.

149. See Presidential Succession Act of 1886, Ch. 4, § 1, 24 Stat. 1, *repealed by* Presidential Succession Act of 1947, ch. 264 § (g), 61 Stat. 380, 381. See generally FEERICK, *supra* note 146, at 140-46 (discussing Vice-President Hendricks's death and the creation of the Presidential Succession Act of 1886).

150. See generally HATFIELD, *supra* note 21, at 265; FEERICK, *supra* note 146, at 146.

151. HATFIELD, *supra* note 21, at 265

to carry Indiana.<sup>152</sup> Cleveland won the majority of the popular vote but lost the electoral college and therefore the presidency.<sup>153</sup>

III. CHARLES W. FAIRBANKS, VICE PRESIDENT TO THEODORE ROOSEVELT,  
1905-1909

While he was still the New York City Police Commissioner, Theodore Roosevelt contemplated the position of vice president in an 1896 article for the *Review of Reviews*.<sup>154</sup> There, he argued for greater agency for the vice president, urging that he be included in cabinet meetings, major decision making, and perhaps even be allowed a regular vote in the Senate.<sup>155</sup> In his own brief tenure as vice president he probably still held these views. But when running for the presidency in 1904, Roosevelt abruptly dropped all such talk.<sup>156</sup> This was because the chosen candidate, Charles W. Fairbanks, was much too conservative to Roosevelt's progressively-inclined mind.<sup>157</sup> And looking back at Progressive Era history, there is certainly little mention of Fairbanks who, despite his abilities, paled in contrast to the frenetic and dashing Roosevelt.

Charles W. Fairbanks was born in Ohio in 1852.<sup>158</sup> His father was a farmer and wagon maker and was active in Union County, Ohio, politics.<sup>159</sup> His mother was active in the local temperance movement.<sup>160</sup> The family prospered and was able to send Charles to Ohio Wesleyan College and then to Cleveland Law College, where he earned his law degree and passed the bar in six months.<sup>161</sup>

In 1874, Fairbanks moved to Indianapolis, where his uncle helped set him up as an attorney for the Chesapeake and Ohio railroad system.<sup>162</sup> Fairbanks developed a strong reputation and personal fortune as a lawyer to numerous midwestern railroad interests in the following decades.<sup>163</sup> The state Republicans took note and cultivated his support.<sup>164</sup> Fairbanks' clout and wealth propelled him to become the leader of the Indiana Republicans, despite his own lack of actual

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152. *Id.*

153. *Id.*

154. Theodore Roosevelt, *The Three Vice-Presidential Candidates and What They Represent*, 14 AM. MONTHLY REV. OF REVS. 289, 289-97 (1896).

155. *Id.* at 291.

156. BARZMAN, *supra* note 21, at 179.

157. *Id.* at 178-79.

158. HATFIELD, *supra* note 21, at 313.

159. *Id.*

160. *Id.*

161. Ray E. Boomhower, *Charles Warren Fairbanks (1852-1918)*, in VICE PRESIDENTS: A BIOGRAPHICAL DICTIONARY, *supra* note 17, at 238; HATFIELD, *supra* note 21, at 313.

162. HATFIELD, *supra* note 21, at 313.

163. BARZMAN, *supra* note 21, at 177; HATFIELD, *supra* note 21, at 313; Boomhower, *supra* note 161, at 238.

164. BARZMAN, *supra* note 21, at 177; HATFIELD, *supra* note 21, at 314; Boomhower, *supra* note 161, at 238-39.

political experience.<sup>165</sup>

Fairbanks helped reinvigorate the state party after Benjamin Harrison's lackluster presidency and a subsequent surge in Democrat strength.<sup>166</sup> His money and political connections cemented his control of the party by the early 1890s.<sup>167</sup> His railroad connections brought him free passes that he liberally gave to Republican politicians.<sup>168</sup> Furthermore, he secretly owned a majority interest in the state's largest newspaper, *The Indianapolis News*.<sup>169</sup> In 1901 he also purchased the major opposition daily paper, *The Indianapolis Journal*.<sup>170</sup> Control of the two largest media outlets in Indiana at that time definitely promoted the Republican cause.<sup>171</sup> During the campaign of 1892 he met Ohio governor William McKinley and forged a deep relationship that first aided but later hindered Fairbanks' political ambitions.<sup>172</sup>

During McKinley's presidential bid in 1896 he tapped Fairbanks to serve as an important player in his campaign.<sup>173</sup> "Fairbanks ran McKinley's campaign in Indiana...delivering a united Hoosier delegation . . . at the Republican National Convention."<sup>174</sup> McKinley handily beat William Jennings Bryan in Indiana.<sup>175</sup> The state was important in McKinley's victory.<sup>176</sup> The National Republican Party took notice of Fairbanks efforts as well as his state's significance.<sup>177</sup> From 1868 to 1916, in thirteen presidential elections, eleven of the national tickets had boasted a Hoosier candidate, in all but one instance in the vice-presidential position.<sup>178</sup> Fairbanks' political significance profited from his relationship with McKinley, McKinley's success in Indiana, and the widespread perception that Hoosiers had a place on national tickets.<sup>179</sup>

In the 1896 election Republicans regained control of the Indiana legislature, and Fairbanks' name came up as their choice for the U.S. Senate.<sup>180</sup> McKinley backed the effort, and Fairbanks won easily.<sup>181</sup> His Senate career was solid but

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165. HATFIELD, *supra* note 21, at 314; James H. Madison, *Charles Warren Fairbanks and Indiana Republicanism*, in GENTLEMEN FROM INDIANA: NATIONAL PARTY CANDIDATES, 1836-1940, *supra* note 107, at 182-83.

166. Boomhower, *supra* note 161, at 238.

167. *Id.*

168. *Id.*

169. HATFIELD, *supra* note 21, at 314.

170. *Id.*

171. *Id.*

172. *Id.* at 314-15; Boomhower, *supra* note 161, at 239; Madison, *supra* note 165, at 179.

173. HATFIELD, *supra* note 21, at 314.

174. *Id.*

175. *Id.*

176. *Id.*

177. BARZMAN, *supra* note 21, at 177.

178. HATFIELD, *supra* note 21, at 314.

179. *Id.*; Boomhower, *supra* note 161, at 238-39.

180. HATFIELD, *supra* note 21, at 314.

181. *Id.*; Boomhower, *supra* note 161, at 239.

bland. He stayed the party line and was respected by his colleagues.<sup>182</sup> His clout there was secured because of his close relationship to the president.<sup>183</sup> McKinley appointed him to a Joint-High Commission to decide the U.S.-Canadian boundary in Alaska.<sup>184</sup> The commission did not reach a settlement, but Fairbanks earned Alaska's love when he asserted: "I am opposed to the yielding of an inch of United States territory."<sup>185</sup> They named the city of Fairbanks in his honor.<sup>186</sup>

Fairbanks' calmness, his connection to the swing state Indiana, and his relationship with McKinley all prompted chatter of Fairbanks as McKinley's successor.<sup>187</sup> An effort by the conservative portion of the Republican party to insert him as McKinley's vice president in the 1900 election faltered when progressive Republicans instead won the nomination of Theodore Roosevelt.<sup>188</sup> In any event, Fairbanks was then eyeing the presidency and was not as interested in second place.<sup>189</sup>

On September 6, 1901, Fairbanks' political ambitions were shattered by President McKinley's assassination.<sup>190</sup> Fairbanks' White House connection was severed, as he had no real ties to Roosevelt. Roosevelt's ascendancy began to further alter the United States' political landscape, as the Progressive Movement gained momentum.<sup>191</sup> Furthermore, the Indiana Republican guard was undergoing changes as well. Albert J. Beveridge, an assertive Progressive, was elected to the U.S. Senate in 1899.<sup>192</sup> Both Roosevelt and Beveridge saw eye to eye politically, overshadowing Fairbanks' more conservative Republicanism.<sup>193</sup> Fairbanks' political star began to falter. Now he was not certain of the presidency at all.<sup>194</sup>

As Roosevelt's popularity surged, the McKinley conservatives of the Republican Party lost some of their power.<sup>195</sup> But they still possessed enough strength to choose a vice president of their stripe, and they wanted Fairbanks.<sup>196</sup> Roosevelt, for obvious reasons, was not so enamored with Fairbanks. But as President, he had no lingering interest in pumping up the political power of the

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182. HATFIELD, *supra* note 21, at 314.

183. BARZMAN, *supra* note 21, at 177.

184. HATFIELD, *supra* note 21, at 314.

185. *Id.*

186. *Id.*

187. *Id.* at 315.

188. *Id.*

189. *Id.* at 314.

190. *Id.* at 315.

191. *Id.*

192. BARZMAN, *supra* note 21, at 178; HATFIELD, *supra* note 21, at 315.

193. HATFIELD, *supra* note 21, at 315. For more on the career of Albert Beveridge, see generally JOHN BRAEMAN, ALBERT J. BEVERIDGE: AMERICAN NATIONALIST (1971).

194. HATFIELD, *supra* note 21, at 315; Boomhower, *supra* note 161, at 239.

195. BARZMAN, *supra* note 21, at 178; Boomhower, *supra* note 161, at 239.

196. BARZMAN, *supra* note 21, at 178; HATFIELD, *supra* note 21, at 315; Boomhower, *supra* note 161, at 239.



Vice President, so he decided that battle was not worth fighting.<sup>197</sup> The 1904 ticket was Roosevelt-Fairbanks.<sup>198</sup>

The two men complimented each other well: Roosevelt's brash Progressivism was muted by Fairbanks' stolid conservatism, pleasing the divided Republican Party.<sup>199</sup> Roosevelt was eastern, a New York man; Fairbanks connected the ticket to the heartland with Indiana. Roosevelt's pugnaciousness was tempered by Fairbanks' coolness.<sup>200</sup> But the two, while balancing the disparities in their party, remained oil and water to one another.<sup>201</sup> Fairbanks continued to carry a McKinley flag, which was increasingly eclipsed by that of the indefatigable Roosevelt.

The Democrat's lackluster ticket could not compare to Roosevelt-Fairbanks, and Fairbanks found himself back among his colleagues in the Senate, this time as the body's president.<sup>202</sup> Work-wise, that was all Roosevelt allowed him, despite those past thoughts of making the vice presidency mean something more.<sup>203</sup> Fairbanks took what he had, however, and made the most of it. He helped pass the president's Progressive agenda, including the Hepburn Act (the regulation of railroad rates) and the Pure Food and Drug Act.<sup>204</sup> Fairbanks never presided over a tied vote, but he collaborated with other Republican leaders to usher these and other acts through by burying unwanted legislation in hostile committees or declaring opposition speakers "out of order" to quell dissent.<sup>205</sup>

The most noted moment of Fairbanks' effectiveness as leader of the Senate came during a debate over the Aldrich-Vreeland Emergency Currency Act in 1908.<sup>206</sup> The act sought to authorize issuance of emergency currency based on state, municipal, and railroad bonds.<sup>207</sup> Many Progressives howled at the inclusion of railroad bonds, citing the railroads' already overlarge position of power within Congress.<sup>208</sup> Long affiliated with the railroads, Fairbanks was less troubled by the industry's influence.<sup>209</sup> A small cadre of progressives filibustered the bill.<sup>210</sup> Senator Robert La Follette of Wisconsin, joined by Democratic senators Thomas

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197. BARZMAN, *supra* note 21, at 178; HATFIELD, *supra* note 21, at 315-16; Boomhower, *supra* note 161, at 239.

198. BARZMAN, *supra* note 21, at 178; HATFIELD, *supra* note 21, at 316; Boomhower, *supra* note 161, at 239.

199. HATFIELD, *supra* note 21, at 316; Boomhower, *supra* note 161, at 240-41.

200. One wag deemed the pair "The Hot Tamale and the Indiana Icicle." HATFIELD, *supra* note 21, at 316.

201. *Id.*

202. *Id.*

203. Boomhower, *supra* note 161, at 240.

204. HATFIELD, *supra* note 21, at 316-17.

205. HEALY, *supra* note 18, at 141.

206. HATFIELD, *supra* note 21, at 317.

207. *Id.*

208. *Id.*

209. *See generally* Boomhower, *supra* note 161, at 238-39.

210. *Id.*

Gore of Oklahoma and William Stone of Missouri, started after noon on May 29, 1908.<sup>211</sup>

Filibustering in the days before air conditioning was a draining task.<sup>212</sup> The hot Senate chamber prompted many senators to head for the cloakroom for relief.<sup>213</sup> If too many senators left during a filibuster, however, the speaker, or an ally, could suggest the absence of quorum without losing control of the floor.<sup>214</sup> The vice president then was directed by Senate rule to declare a roll be called, and, if a quorum was not present, the Senate would adjourn until a quorum could be obtained, supporting the filibuster's delaying tactics.<sup>215</sup> With brief adjournments La Follette and the other filibusters could snatch short naps to refresh their fight.<sup>216</sup>

Finally, the three doing the filibustering erred when Senator Gore—who was blind—heard that Senator Stone had returned and yielded the floor.<sup>217</sup> It is unclear whether it was by accident or design, but Stone was not in the chamber.<sup>218</sup> Seizing the opportunity, Fairbanks recognized Senator Nelson Aldrich, who moved for a vote.<sup>219</sup> Over the shouts of other speakers requesting recognition, Fairbanks directed the clerk to call for votes.<sup>220</sup> Aldrich, first on the roll, gave his yea, initiating the senate rule that “once a vote began, it could not be stopped for further debate.”<sup>221</sup> The twenty-eight-plus hour filibuster was over, and the Aldrich-Vreeland Act was passed. Roosevelt was pleased.<sup>222</sup>

Perhaps Fairbanks' utmost victory was rebuffing Roosevelt's continued attempts to enlarge executive power and weaken Congress in the process.<sup>223</sup> Fairbanks aligned himself firmly with the Senate in this fight.<sup>224</sup> He vigorously defended his Senate colleagues and their actions against Roosevelt's efforts, and essentially offered a senatorial response to Roosevelt's increasingly ardent “bully pulpit”: Fairbanks declared that “[a] servile Senate was not contemplated by its founders.” For a time, at least, presidential power was checked and balanced.<sup>225</sup>

While Vice President, Fairbanks angled one last time to position himself for

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211. *Id.*; HATFIELD, *supra* note 21, at 317.

212. HATFIELD, *supra* note 21, at 317.

213. *Id.*

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

219. *Id.* at 317-18.

220. *Id.*

221. *Id.* at 318.

222. 1 BELLE CASE LA FOLLETTE & FOLA LA FOLLETTE, ROBERT M. LA FOLLETTE, JUNE 14, 1855-JUNE 18, 1925, at 256 (1953) (providing a detailed if one-sided view of the filibuster); *see also* HATFIELD, *supra* note 21, at 318.

223. HATFIELD, *supra* note 21, at 318.

224. *Id.*

225. 42 CONG. REC. S3825 (1909).

the presidential nomination in the 1908 election.<sup>226</sup> But Fairbanks' cool demeanor could never take the place of Roosevelt's fervid energy.<sup>227</sup> Roosevelt at least always aroused interest, if not loyalty, and Fairbanks could never adequately muster either.<sup>228</sup> Furthermore, Roosevelt had no interest in promoting Fairbanks' ambitions.<sup>229</sup> He had chosen his friend and protégé, William Howard Taft, to succeed him and advance his progressive vision. Roosevelt's popularity meant Fairbanks never had a real chance.<sup>230</sup> Taft handily beat Bryan in the 1908 contest.<sup>231</sup>

Fairbanks returned to Indiana and kept his hand in politics.<sup>232</sup> The Indiana delegation wanted him for the presidency in the 1916 election but was beaten by the nomination of Charles Evan Hughes.<sup>233</sup> Fairbanks initially resisted entreaties that he run for vice president again, but he was eventually swayed by his sense of duty to the Republican Party.<sup>234</sup> His opponent for the vice presidency was a fellow Hoosier, Thomas Marshall.<sup>235</sup> Neither man excited much support (but their presence on the tickets again reflected the breadth and vitality of the notion that Indiana had an outsized importance in presidential elections).<sup>236</sup> Hughes and Fairbanks suffered a narrow defeat in 1916, but at least Fairbanks could be comforted by the point that Indiana at least had swung Republican.<sup>237</sup>

That was Fairbanks' last political hurrah; he retired from politics and died June 14, 1918, at the age of sixty-six.<sup>238</sup> Charles Fairbanks was not noted for his great speaking abilities nor for political ideology.<sup>239</sup> But he was skilled as a political insider, whether helping maneuver Indiana Republicans into office or negotiating Senate hurdles to get legislation passed.<sup>240</sup> His talents sufficed to propel him to the vice-presidency. But in an era of Roosevelt, La Follette, Bryan, and Wilson, Fairbanks failed to achieve more.<sup>241</sup>

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226. Boomhower, *supra* note 161, at 239-40.

227. *Id.* at 241.

228. *Id.* at 239-41.

229. *Id.*

230. *Id.* at 241.

231. HATFIELD, *supra* note 21, at 320.

232. *Id.*; Boomhower, *supra* note 161, at 241.

233. HATFIELD, *supra* note 21, at 320; Boomhower, *supra* note 161, at 241.

234. HATFIELD, *supra* note 21, at 320; Boomhower, *supra* note 161, at 241.

235. HATFIELD, *supra* note 21, at 320; Boomhower, *supra* note 161, at 241.

236. HATFIELD, *supra* note 21, at 320; Boomhower, *supra* note 161, at 241.

237. HATFIELD, *supra* note 21, at 320.

238. *Id.*

239. *Id.* at 320-21.

240. *Id.*

241. *Id.*; Boomhower, *supra* note 161, at 241.

IV. THOMAS R. MARSHALL, VICE PRESIDENT TO WOODROW WILSON,  
1913-1921

Thomas Marshall was born in Columbia City, Indiana, in 1854.<sup>242</sup> His family was able to send him to Wabash College, after which he studied law.<sup>243</sup> Marshall was a life-long Democrat, following family tradition.<sup>244</sup> Marshall became secretary for the Democratic County convention in 1876.<sup>245</sup> When he finally ran for election, it was for prosecuting attorney in 1880, and he lost.<sup>246</sup> He then became a member of the Democratic State Central Committee, but stayed away from running until he ran for Indiana Governor in 1908.<sup>247</sup> In that same year Indiana swung for William Howard Taft over the William Jennings Bryan ticket that included a hopeful Hoosier vice presidential candidate, John W. Kern.<sup>248</sup> But with Marshall's win, Democrats were finally back in the governor's seat, having been out since 1896.<sup>249</sup>

Garnering Democrats' attention while governor, Marshall's name was put up for the vice president with Woodrow Wilson in the 1912 election.<sup>250</sup> Yet again, the party sought to balance one candidate's (Wilson's) eastern/southern heft with another's (Marshall's) Midwestern popularity.<sup>251</sup> Wilson was dismissive of Marshall, viewing him as an intellectual lightweight.<sup>252</sup> But the Democrats won heavily when Teddy Roosevelt stormed back and divided the Republican vote with his Bull Moose party.<sup>253</sup> By his own account, Marshall himself entered the vice presidency with trepidation; he was none too certain of holding his own in Washington, not having a lot of political experience.<sup>254</sup> This insecurity would plague him throughout his vice presidency.<sup>255</sup>

Wilson himself dismissed the importance of the office of vice president.<sup>256</sup> In

242. HATFIELD, *supra* note 21, at 338.

243. *Id.*

244. THOMAS R. MARSHALL, RECOLLECTIONS OF THOMAS R. MARSHALL, VICE-PRESIDENT AND HOOSIER PHILOSOPHER: A HOOSIER SALAD 24 (1925); Peter T. Harstad, *Thomas Riley Marshall (1854-1925)*, in VICE PRESIDENTS: A BIOGRAPHICAL DICTIONARY, *supra* note 17, at 233.

245. HATFIELD, *supra* note 21, at 338.

246. *Id.*

247. *Id.*

248. *Id.*

249. *Id.*; Peter T. Harstad, *Thomas R. Marshall*, in GOVERNORS OF INDIANA, *supra* note 92, at 232-42; MARSHALL, *supra* note 244, at 174-79.

250. HATFIELD, *supra* note 21, at 337.

251. HEALY, *supra* note 18, at 148; Harstad, *supra* note 249, at 257.

252. BARZMAN, *supra* note 21, at 191. Wilson was known for being impressed with his own intellectual capacities, having earned a PhD, taught at Princeton, and served as the prestigious institution's president. HATFIELD, *supra* note 21, at 337.

253. HATFIELD, *supra* note 21, at 339.

254. MARSHALL, *supra* note 244, at 158.

255. *Id.* at 16-18.

256. WOODROW WILSON, CONGRESSIONAL GOVERNMENT: A STUDY IN AMERICAN POLITICS

his 1885 book *Congressional Government*, Wilson wrote that the position of the vice president “is one of anomalous insignificance and curious uncertainty,” whose chief importance “consists in the fact that he may cease to be Vice President.”<sup>257</sup> Marshall surely knew Wilson’s views, which likely compounded his insecurities.<sup>258</sup>

When Marshall began to work with Wilson, Wilson invited him to attend cabinet meetings.<sup>259</sup> Marshall attended one, but his insecurities reared up and he never attended another.<sup>260</sup> His excuse was that his voice would never really be heard, so what was the point in attending?<sup>261</sup> Part of this was Wilson’s overweening self-confidence and certainty in his intellectual abilities, but part was Marshall’s flaw of insecurity.<sup>262</sup>

Marshall himself recalled one of his first meetings as a vice president as a member of the Regents of the Smithsonian, a job he complained was make-work.<sup>263</sup> While on the Regents’ committee, Marshall was working with the chief justice of the Supreme Court, senators, and the like. Marshall remembered making a joke and claimed he knew in an instant, when he glanced at the other men’s eyes and saw no returning laughter, that he was not suited to be vice president.<sup>264</sup> Others applauded Marshall’s humor.<sup>265</sup> At first the staid senators did not quite know what to make of Marshall’s quips.<sup>266</sup> But soon they began sneaking into the cloakroom to let out their guffaws.<sup>267</sup> Wilson himself loved regaling friends with Marshall’s witticisms.<sup>268</sup> But one of Wilson’s confidants, Colonel Edward House, remained concerned that Marshall’s wit and humor would make him appear as a jester rather than a serious statesman.<sup>269</sup> “An unfriendly fairy godmother presented him with a keen sense of humor,” House wrote. “Nothing is more fatal in politics.”<sup>270</sup>

Wilson’s active presidency further quelled Marshall’s inclination to put himself forward.<sup>271</sup> The President would personally come to the Capitol to lobby senators for his proposals.<sup>272</sup> Marshall claimed that he was “of no importance to

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239-40 (1885).

257. *Id.*

258. *Id.*

259. 4 RAY STANNARD BAKER, WOODROW WILSON, LIFE AND LETTERS 104-09 (1932).

260. *Id.*

261. *Id.*

262. *Id.*; HATFIELD, *supra* note 21, at 340.

263. MARSHALL, *supra* note 244, at 16-18.

264. *Id.* at 266-67.

265. HEALY, *supra* note 18, at 148-49.

266. *Id.*

267. *Id.*

268. *Id.*

269. HATFIELD, *supra* note 21, at 341.

270. *Id.*

271. 4 BAKER, *supra* note 259, at 104-09.

272. HATFIELD, *supra* note 21, at 340.

the administration beyond the duty of being loyal to it and ready, at any time, to act as a sort of pinch hitter; that is, when everybody else on the team failed, I was to be given a chance.”<sup>273</sup> But even when that chance would come in Marshall’s second term, his insecurities would hinder his time at bat.<sup>274</sup>

Wilson and Marshall shared some surface similarities: Both had served as Democratic governors; both were Calvinist Presbyterians.<sup>275</sup> But beyond that, they had little in common.<sup>276</sup> Marshall viewed himself as a progressive Democrat while Indiana governor, but Wilson dismissed him as too conservative.<sup>277</sup> After Wilson’s overture to sit in cabinet meetings and Marshall’s demurral, it really seemed as though Marshall himself relegated his position to the title one early senator gave to John Adams while he served as the first vice president: “His Superfluous Excellency.”<sup>278</sup>

Marshall muddled through his first term, and in 1916 the Democratic Convention re-nominated both incumbents.<sup>279</sup> There were rumors Wilson planned to seek the selection of a replacement, but no such effort materialized at the Convention.<sup>280</sup> In his spare time during his first term, Marshall hit the lecture circuit to supplement his meager salary,<sup>281</sup> gaining from these efforts ever greater national prominence.<sup>282</sup> He might not have been respected by the Washington politicians, but he was well-liked by Americans.<sup>283</sup> This popularity, along with the strategic consideration of Indiana as a bellwether state, may have helped Marshall sustain his post, notwithstanding Wilson’s indifference.<sup>284</sup>

Wilson and Marshall edged out the Republican ticket of Charles Evans Hughes and a returning Hoosier—Charles W. Fairbanks.<sup>285</sup> And Indiana for once did not vote that winning ticket—it swung Republican (perhaps divided between two Hoosier golden sons).<sup>286</sup> Also, Marshall accomplished what no vice president had done since John C. Calhoun: he was reelected to a second term.<sup>287</sup> But it is in

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273. MARSHALL, *supra* note 244, at 233.

274. *Id.*

275. HATFIELD, *supra* note 21, at 340.

276. *Id.*

277. *Id.*

278. MARSHALL, *supra* note 244, at 221-25, 229.

279. HATFIELD, *supra* note 21, at 341.

280. *Id.*

281. In those years the vice president earned \$15,000 to the president’s \$75,000 and was on the hook for his housing and travel expenses. *See id.* at 340.

282. *Id.*

283. HEALY, *supra* note 18, at 150.

284. *Id.*

285. Harstad, *supra* note 244, at 257.

286. HATFIELD, *supra* note 21, at 341.

287. *See generally* George S. Sirgiovanni, *Dumping the Vice President: An Historical Overview and Analysis*, 24 PRESIDENTIAL STUD. Q. 765 (1994); George Sirgiovanni, *The “Van Buren Jinx”: Vice Presidents Need Not Beware*, 18 PRESIDENTIAL STUD. Q. 61 (1988).

the second term when Marshall's insecurities eclipsed his abilities.<sup>288</sup>

The U.S. officially entered the First World War in April 1917.<sup>289</sup> Marshall busied himself by urging Americans at rallies to buy Liberty Bonds.<sup>290</sup> When the Allies won, President Wilson sailed for France in December 1918 to help negotiate the peace treaty.<sup>291</sup> Except for a brief return from late February to early March, Wilson remained out of the country until July 1919, making his absence the then-longest of any sitting President.<sup>292</sup> Wilson designated Marshall to preside over cabinet meetings in his stead.<sup>293</sup> Surprised but agreeable, Marshall led the cabinet December 10, 1918 meeting.<sup>294</sup> One journalist noted that "[t]his was the first instance in history when a President showed an inclination to make a real use of his spare tire."<sup>295</sup>

But Marshall presided over only a few cabinet meetings, soon withdrawing himself, claiming the vice president could not keep a confidential relationship with both the executive and legislative branches.<sup>296</sup> Still, precedent had been established: when the president was abroad, the vice president could preside over the cabinet.<sup>297</sup> This fact soon loomed large when Wilson became absent due to illness.<sup>298</sup>

In October 1919, Wilson suffered a paralytic stroke.<sup>299</sup> At first, Wilson's wife Edith, his personal physician Admiral Cary Grayson, and his secretary Joe Tumulty, kept the vice president, the cabinet, and the nation from knowing the true severity of Wilson's illness.<sup>300</sup> Wilson would come very close to dying and remain unable to perform his presidential duties for the next eighteen months.<sup>301</sup> Marshall joked that the country stated that "the only business of the vice-president is to ring the White House bell every morning and ask what is the state of health of the president."<sup>302</sup> But Marshall panicked—he was afraid that if he did

288. HATFIELD, *supra* note 21, at 342.

289. *Id.* at 341.

290. *Id.*

291. *The Paris Peace Conference and the Treaty of Versailles*, U.S. DEPT. OF STATE, <https://2001-2009.state.gov/r/pa/ho/time/wwi/89875.htm> [<https://perma.cc/7SDG-Nq3K>] (last visited Mar. 26, 2019).

292. HATFIELD, *supra* note 21, at 342.

293. HEALY, *supra* note 18, at 150; Harstad, *supra* note 244, at 258.

294. *Thomas R. Marshall, 28th Vice President (1913-1921)*, U.S. SENATE, [https://www.senate.gov/artandhistory/history/common/generic/VP\\_Thomas\\_Marshall.htm](https://www.senate.gov/artandhistory/history/common/generic/VP_Thomas_Marshall.htm) [<https://perma.cc/7GVF-YBG7>] (last visited Nov. 27, 2018); HATFIELD, *supra* note 21, at 341.

295. LOUIS LUDLOW, *FROM CORNFIELD TO PRESS GALLERY: ADVENTURES AND REMINISCENCES OF A VETERAN WASHINGTON CORRESPONDENT* 301 (1924).

296. HATFIELD, *supra* note 21, at 342.

297. *Id.*

298. *Id.*

299. *Id.*

300. *Id.*

301. *Id.*

302. *Id.*

ask too closely after the president's health, people, and the president, might accuse him of "longing for his place."<sup>303</sup> Despite the recent precedent of Marshall presiding over cabinet sessions in the president's absence, his insecurity once again kept him from acting.<sup>304</sup>

As Marshall fretted, Secretary of State Robert Lansing took the lead and convened the cabinet, which met from October 1919 until February 1920.<sup>305</sup> When Wilson recovered, he fired Lansing for his insubordination, accusing Lansing of trying to take over the presidency.<sup>306</sup> In some small way, at this moment, Marshall was vindicated—what he had feared would happen, did. And yet as vice president, his one duty was to be there when the president could not, and it was arguable that Wilson most definitely could not carry out his presidential duties during his severe illness. Wilson exclaimed that cabinet meetings carried no weight since decisions could not be made without the president.<sup>307</sup> Yet, Wilson left Marshall in charge when he traveled to Versailles.<sup>308</sup> In any event, having the cabinet hold regular meetings would have assured the American public that the government was up and running.<sup>309</sup>

The Constitution asserts that the vice president could assume the president's duties in case of the president's "[inability] to discharge the powers and duties of his office."<sup>310</sup> But nowhere did the Constitution state how the vice president was to go about such an assumption.<sup>311</sup> Only with the adoption of the Twenty-fifth Amendment in 1967 would the vice president's duties be made clearer.<sup>312</sup> Even had the amendment then been law, Marshall might well have been required to trigger the laborious process detailed in the Amendment's fourth section, though at least the text would have suggested such a course.<sup>313</sup> In any event, in the absence of such direction, Marshall froze, and was overshadowed by the Secretary of State's actions.<sup>314</sup> Marshall's self-doubt became a self-fulfilling prophecy.

Marshall never tried to compete with Wilson for the presidency.<sup>315</sup> Whenever given a chance for action, even with the president's permission, he kept himself aloof. When the 1920 campaign season began to heat up, Marshall let it be known

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303. MARSHALL, *supra* note 244, at 368.

304. Harstad, *supra* note 244, at 260.

305. JOHN D. FEERICK, *THE TWENTY-FIFTH AMENDMENT: ITS COMPLETE HISTORY AND APPLICATIONS* 14 (3d ed. 2014).

306. *Id.*

307. HATFIELD, *supra* note 21, at 342.

308. *Id.*

309. *Id.*

310. U.S. CONST. amend. XXV, § 4.

311. HATFIELD, *supra* note 21, at 342.

312. U.S. CONST. amend. XXV; HATFIELD, *supra* note 21, at 342.

313. See John D. Feerick, *Remarks: Presidential Succession and Impeachment: Historical Precedents, from Indiana and Beyond*, 52 IND. L. REV. 43 (2019).

314. HATFIELD, *supra* note 21, at 342.

315. *Id.* at 343.



he would be amenable to succeeding Wilson as president.<sup>316</sup> But no one outside of Indiana had any real interest in promoting Marshall.<sup>317</sup> He had been well liked, but not much respected after his turn as vice president. Democrats chose James M. Cox and Franklin Delano Roosevelt, who lost in a landslide to the Republican's ticket of Warren G. Harding and Calvin Coolidge.<sup>318</sup>

Marshall returned to Indiana and asserted that he had retired, even after he accepted President Harding's request to serve on the Federal Coal Commission to settle labor disputes in the mines.<sup>319</sup> On a trip back to Washington in 1925, he died at age seventy-one.<sup>320</sup> While some lists include him as one of the worst vice presidents,<sup>321</sup> the well-respected historian John D. Hicks asserted that Marshall was "perhaps the most popular vice president the country ever had."<sup>322</sup>

V. J. DANFORTH "DAN" QUAYLE, VICE PRESIDENT TO GEORGE H.W. BUSH,  
1989-1993

Dan Quayle's life has been comprised of intermittent bouts of apparent idleness and intense achievement. Too often the public has been made aware of his weaknesses and too rarely of his strengths. When this unfortunate reality is coupled with an uncommon propensity to publicly misspeak, the effect is a common but perhaps undeserved estimation of Dan Quayle's career as a laughingstock. On the numerous, varied lists identifying the "worst vice presidents," Quayle's presence is a fixture.<sup>323</sup>

Quayle was born in 1947 in Indianapolis.<sup>324</sup> His family, staunch Republicans, was heir to several prominent newspapers in Indiana and Arizona.<sup>325</sup> Quayle attend DePauw University where he was a lackadaisical student.<sup>326</sup> He focused

316. *Id.*

317. *Id.*

318. *Id.*

319. *Id.*

320. *Id.*

321. *America's Worst Vice Presidents*, TIME (Aug. 21, 2008), <http://time.com/4314491/americas-worst-vice-presidents/> [<https://perma.cc/U8ZG-WXFK>].

322. Harstad, *supra* note 244, at 261. Barzman concurred in this assessment. Barzman, *supra* note 21, at 193.

323. Sean Cunningham, *The Dumbest Vice Presidential Picks of All Time*, ESQUIRE (Aug. 25, 2008), <https://www.esquire.com/news-politics/news/g78/worst-running-mates-ever-0909/?slide=2> [<https://perma.cc/Q35X-6FHK>]; Elana Schor, *The Best and Worst Vice President Picks of All Time*, GUARDIAN (Aug. 23, 2008), <https://www.theguardian.com/world/2008/aug/22/uselections2008.usa> [<https://perma.cc/6D4H-PA5Z>]; *America's Worst Vice Presidents*, *supra* note 321.

324. *Biography*, DAN QUAYLE: 44TH VICE PRESIDENT OF U.S., 1989-1993, <http://www.vicepresidentdanquayle.com/biography.html> [<https://perma.cc/R3LK-TJBP>] (last visited Mar. 26, 2019) [hereinafter *Biography of Dan Quayle*].

325. Shirley Anne Warshaw, *J. Danforth Quayle*, in VICE PRESIDENTS: A BIOGRAPHICAL DICTIONARY, *supra* note 17, at 394.

326. *Biography of Dan Quayle*, *supra* note 324.

more on golf and fraternity life than on academics.<sup>327</sup> He wanted to go to law school but realized his draft deferment would expire upon graduation from college. Eager to avoid Vietnam, like countless other young men, he joined the Indiana National Guard.<sup>328</sup> This decision would haunt his political career. The media peppered him with questions about his avoidance of the Vietnam War; Quayle admitted that his family's prominence had held sway getting him into the Guard and into an assignment as an information officer in the Guard's public relations unit.<sup>329</sup>

After a six-month stint in the Guard, Quayle entered what is now the Indiana University McKinney School of Law in Indianapolis.<sup>330</sup> As a law student, Quayle applied himself more diligently, working as a research assistant for the state attorney general, as an administrative assistant in the governor's office, and as a director of inheritance taxes in the state department of revenue.<sup>331</sup> While working on a capital-punishment project, he met his future wife, fellow law student Marilyn Tucker.<sup>332</sup> The two married ten weeks after they first met.<sup>333</sup> In 1974, they both passed the bar exam a few days after Marilyn Tucker Quayle gave birth to the couple's first child.<sup>334</sup>

After law school, the Quayles moved to Huntington, Indiana to set up a law practice and position Dan for political life—his ultimate goal.<sup>335</sup> In their practice—Quayle and Quayle—Marilyn did most of the legal business while Dan worked as an associate publisher of his father's newspaper.<sup>336</sup> They bought a

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327. DAVID S. BRODER & BOB WOODWARD, *THE MAN WHO WOULD BE PRESIDENT: DAN QUAYLE* 37, 84-87 (1992); Sharon Cohen, *Dan Quayle: From Idyllic Hoosier Childhood to Rock-Ribbed Republican*, ASSOCIATED PRESS (Aug. 27, 1988), <https://www.apnews.com/100b880a84fb57567b22735ccf526259> [https://perma.cc/97SC-6EBH].

328. Michael Isikoff & Joe Pichirallo, *Quayle Was in Line to Be Drafted*, WASH. POST (Aug. 20, 1988), [https://www.washingtonpost.com/archive/politics/1988/08/20/quayle-was-in-line-to-be-drafted/0db23177-013e-4aa4-9003-89cc4fd1d139/?utm\\_term=.6161304a345b](https://www.washingtonpost.com/archive/politics/1988/08/20/quayle-was-in-line-to-be-drafted/0db23177-013e-4aa4-9003-89cc4fd1d139/?utm_term=.6161304a345b). [https://perma.cc/E9QW-BS8J]

329. HATFIELD, *supra* note 21, at 544.

330. DAN QUAYLE, *STANDING FIRM: A VICE-PRESIDENTIAL MEMOIR* 12 (1994).

331. George Lardner Jr. & Dan Morgan, *Quayle Drew on Energy, Affability in Political Rise*, WASH. POST (Oct. 2, 1988), [https://www.washingtonpost.com/archive/politics/1988/10/02/quayle-drew-on-energy-affability-in-political-rise/a7c64c74-c669-4e2c-aeba-d57a6d8ed44e/?utm\\_term=.7341c2232042](https://www.washingtonpost.com/archive/politics/1988/10/02/quayle-drew-on-energy-affability-in-political-rise/a7c64c74-c669-4e2c-aeba-d57a6d8ed44e/?utm_term=.7341c2232042) [https://perma.cc/48D8-33U4]; *Biography of Dan Quayle*, *supra* note 324.

332. QUAYLE, *supra* note 330, at 12.

333. Lisa Belkin, *Quayle Advisor for Life Hits the Campaign Trail*, N.Y. TIMES (Sept. 11, 1988), <https://www.nytimes.com/1988/09/11/us/quayle-adviser-for-life-hits-the-campaign-trail.html> [https://perma.cc/5KFJ-QKK4].

334. Alicia Dean Carlson, *Quayles' Gift Makes an Impact on Law Students*, IU L. INDIANAPOLIS ALUMNI MAG., Summer 2011, at 6, available at <https://mckinneylaw.iu.edu/alumni-donors/alumni-magazines/2011summer.pdf> [https://perma.cc/3SWH-4J7N].

335. Belkin, *supra* note 333.

336. Warshaw, *supra* note 325, at 395.

house in a district represented in the state legislature by a Democrat, planning one day to challenge him for the statehouse seat.<sup>337</sup>

While Quayle eyed getting elected to the Indiana state legislature, the Republican County Chairman, Orvas Beers, asked Quayle whether he would be willing to run against eight-term U.S. Representative Ed Roush in 1976.<sup>338</sup> Quayle, only twenty-nine at the time, was surprised, but eager once he was promised enough support by the Republicans to run a decent campaign.<sup>339</sup> Following the lead of Jimmy Carter, Quayle characterized himself as a “Washington outsider,” but in his case, seeking to unseat a Democratic incumbent.<sup>340</sup>

Roush did not take Quayle seriously. He agreed to a series of debates which gave a great deal of exposure to Quayle, who proved himself a decent public speaker.<sup>341</sup> On election day Indiana went Republican, voting in Gerald Ford as president, Otis Bowen as governor, Richard Lugar as senator, and Quayle in an upset victory over Roush with fifty-four percent of the vote.<sup>342</sup> It was a pleasant surprise and one that would repeat itself in the future.<sup>343</sup>

Quayle was never deeply interested in serving in the House.<sup>344</sup> He admitted that from the beginning he wanted to move up or leave altogether.<sup>345</sup> He did introduce a bill to limit service as a Representative in the House to a maximum of twelve years.<sup>346</sup> He capitalized on his “outsider” status to oppose pork-barrel politics, congressional pay raises, and government bureaucracy in general.<sup>347</sup> But he often skipped sessions to golf or play basketball in the House gymnasium, which his fellow members noticed.<sup>348</sup> Since he was such a freshman in the four-hundred plus member House, Quayle found it difficult to do much to influence legislation.<sup>349</sup> So instead he built up his support back home and got ready for re-election.<sup>350</sup> His district had always seemed to be a marginal one with close voting

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337. RICHARD F. FENNO, JR., *THE MAKING OF A SENATOR: DAN QUAYLE* 3-4 (1989); QUAYLE, *supra* note 330, at 3-4.

338. FENNO, *supra* note 337, at 12-13.

339. *Biography of Dan Quayle*, *supra* note 324; QUAYLE, *supra* note 330, at 12-14.

340. *J. Danforth Quayle, 44th Vice President (1989-1993)*, U.S. SENATE, [https://www.senate.gov/artandhistory/history/common/generic/VP\\_Dan\\_Quayle.htm](https://www.senate.gov/artandhistory/history/common/generic/VP_Dan_Quayle.htm) [<https://perma.cc/F49V-2BR4>] (last visited Nov. 26, 2018) [hereinafter *J. Danforth Quayle*]; QUAYLE, *supra* note 330, at 13-14.

341. QUAYLE, *supra* note 330, at 13.

342. *Id.*; *J. Danforth Quayle*, *supra* note 340.

343. QUAYLE, *supra* note 330, at 15.

344. FENNO, *supra* note 337, at 18.

345. *Id.*

346. *Id.* at 11.

347. *Id.* at 11-12.

348. *Book: Quayle Bored with House Seat*, TIMES: SHREVEPORT-BOSSIER, Dec. 16, 1988, at 15-A.

349. FENNO, *supra* note 337, at 12. Quayle was oft described as a “wet head” for frequently appearing after a session in the gym. *Id.*

350. *Id.* at 30; QUAYLE, *supra* note 330, at 14.

between Democrat and Republican candidates.<sup>351</sup> But in 1978 he again surprised many when he was reelected by a two-to-one margin.<sup>352</sup> People began to talk about him running against the Democratic stalwart Senator Birch Bayh.<sup>353</sup>

As no other Republican was interested in running against Bayh, Quayle moved ahead.<sup>354</sup> Quayle was the decided underdog in the race that posited Quayle's conservatism against Bayh's liberalism.<sup>355</sup> The Moral Majority and the National Conservative Political Action Committee (NCPAC) ran ads slamming Bayh.<sup>356</sup> But Quayle's biggest help came from double-digit inflation and unemployment, which had hit Hoosiers hard.<sup>357</sup> Ronald Reagan's run against Carter further aided Republican hopefuls like Quayle.<sup>358</sup> Like the last two elections, Quayle managed an upset victory.<sup>359</sup> And for the first time since 1952, the Republicans controlled the U.S. Senate.<sup>360</sup>

People started referring to Quayle as a "golden boy" who lived a "charmed life," which aggravated Quayle.<sup>361</sup> The press viewed him as having had a "wealthy" upbringing, though Quayle viewed his background as more typically middle class.<sup>362</sup> The "charmed life" characterization became a prophecy fulfilled when it was revealed that Quayle and two other representatives had shared their cottage with an attractive female lobbyist while on a golfing weekend in Florida.<sup>363</sup> The resulting scandal cost the two other representatives their seats in the next election; Quayle lost some face but kept his job.<sup>364</sup>

Quayle supported Reagan's determination to cut government spending on domestic programs, especially those connected to the welfare state.<sup>365</sup> But Quayle was in a quandary: As Senator, he no longer had to worry merely about the relatively well-off district he had previously represented but had now to advance the interests of a broader constituency, including cities such as Gary, which had been especially hard hit with unemployment.<sup>366</sup> Gary needed programs like CETA (the Comprehensive Employment and Training Act), a program Quayle had called wasteful while campaigning.<sup>367</sup> So, even though the Reagan administration

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351. Warshaw, *supra* note 325, at 395.

352. BRODER & WOODWARD, *supra* note 327, at 49.

353. Warshaw, *supra* note 325, at 395; QUAYLE, *supra* note 330, at 14.

354. BRODER & WOODWARD, *supra* note 327, at 51.

355. *Id.*

356. FENNO, *supra* note 337, at 19-20.

357. Warshaw, *supra* note 325, at 396.

358. *Id.* at 395; FENNO, *supra* note 337, at 15.

359. FENNO, *supra* note 337, at 6.

360. *Id.* at 15.

361. *Id.* at 21-22.

362. HATFIELD, *supra* note 21, at 544.

363. FENNO, *supra* note 337, at 21-22.

364. *Id.*

365. *Id.* at 36.

366. *Id.* at 38.

367. *Id.*; QUAYLE, *supra* note 330, at 15-16.

hoped to quietly let CETA expire, Quayle became its champion.<sup>368</sup> The Republicans controlled the Senate but barely, so Quayle sought a bipartisan approach, forging an alliance with Massachusetts Senator Edward M. Kennedy to save the endangered program.<sup>369</sup>

The Reagan administration was surprised by the move and tried to counter with an alternative bill.<sup>370</sup> But Quayle's bipartisan approach enabled him to negotiate a deal between Kennedy, Orrin Hatch (chair of the relevant subcommittee), and the Reagan administration.<sup>371</sup> Others bayed over Quayle claiming credit, but he had enough proof of his effort to sustain his claim to be a hard-working and effective Senator.<sup>372</sup>

Quayle also worked diligently while a member of the Armed Services Committee, marshalling fellow Republicans in support of the Reagan Administration's aspirations.<sup>373</sup> But Quayle was also not afraid to oppose the Administration when he disagreed with it, as he did regarding the Intermediate Nuclear Forces Treaty of 1987.<sup>374</sup> Quayle also worked on an internal Senate committee to try to streamline the Senate bureaucracy.<sup>375</sup> None of his recommendations were accepted, as fellow Senators worried the streamlining would lessen their budgets.<sup>376</sup> Still some Senators independently abided by Quayle's recommendations.<sup>377</sup> And fellow Republicans were impressed with his work.<sup>378</sup>

All this evidence of hard work aided Quayle's campaign for reelection.<sup>379</sup> He won the election in 1986 against Jill Long by a remarkable sixty-one percent of the vote.<sup>380</sup> This achievement was especially impressive because there was no Reagan headlining this campaign year, and several other first-term Senate Republicans flamed out.<sup>381</sup> Quayle's margin of victory even had him thinking of possibly running for the presidency.<sup>382</sup> But Vice President George H.W. Bush

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368. Warshaw, *supra* note 325, at 396-97; FENNO, *supra* note 337, at 39.

369. Warshaw, *supra* note 325, at 396-97.

370. FENNO, *supra* note 337, at 71-76.

371. *Id.* at 106; Warshaw, *supra* note 325, at 397.

372. FENNO, *supra* note 337, at 106-18.

373. Warshaw, *supra* note 325, at 397; FENNO, *supra* note 337, at 24-25. AWACS are an airborne early warning and control systems, designed for long-range detection of enemy aircraft and ships. See *Advanced Warning Systems Milestones*, BOEING, <https://www.boeing.com/defense/airborne-early-warning-and-control/#/milestones> [<https://perma.cc/YL4U-C7PQ>] (last visited Nov. 28, 2018).

374. HATFIELD, *supra* note 21, at 547.

375. *Id.*

376. *Id.*

377. *Id.*

378. See generally 133 CONG. REC. 1215-17 (1987) (statement of Sen. Quayle).

379. HATFIELD, *supra* note 21, at 547.

380. *Id.*

381. *Id.* Examples include Mark Andrews of North Dakota and Paula Hawkins of Florida. *Id.*

382. *Id.*

emerged relatively untouched by the Iran-Contra scandal and asserted his intentions of running as the next Republican nominee.<sup>383</sup> Quayle shifted his ambition accordingly to the vice-presidential spot.<sup>384</sup>

Quayle quietly but assertively began to make his case for being nominated for the vice-presidency.<sup>385</sup> Some on the Bush team dismissed Quayle as a lightweight.<sup>386</sup> But others liked the contrast of a youthful running mate to Bush's sixty-four years.<sup>387</sup> Perhaps Quayle would draw in younger voters.<sup>388</sup> Also, he had performed well in the Senate and achieved strong marks from conservative groups, which were leery of Bush's moderation.<sup>389</sup> Plus, Quayle was not yet known well nationally, which meant he would be better able to remain in Bush's shadow as Bush had done under Reagan.<sup>390</sup> Finally, Quayle's mid-western origins nicely balanced Bush's compound New England-Texas identity.<sup>391</sup>

Bush decided to make his selection of Quayle a surprise, to heighten attention to his campaign.<sup>392</sup> The plan backfired.<sup>393</sup> The press was irritated, having been caught off guard by the naming of one so few already knew.<sup>394</sup> They had to scramble to collect information about Quayle.<sup>395</sup> Also, Quayle was the first person on a national ticket born after World War II, and this meant he bore especially searching scrutiny.<sup>396</sup> The press attacked Quayle's Vietnam record and his family's connections and wealth.<sup>397</sup> They pinned him as a person of "privilege," which was not a great first impression.<sup>398</sup>

Quayle blamed Bush's aides for being slow to release background material, which he thought added to the misperceptions.<sup>399</sup> The Bush team thought Quayle too raw to handle the national press.<sup>400</sup> "He had a habit of not reading prepared texts" carefully, too often inserting his own words which were, unfortunately, often incoherent or gaffes.<sup>401</sup> Quayle quickly became favorite late-night fodder

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383. *Id.*; QUAYLE, *supra* note 330, at 18.

384. QUAYLE, *supra* note 330, at 18.

385. *Id.*

386. HATFIELD, *supra* note 21, at 547.

387. *Id.*; Warshaw, *supra* note 325, at 394.

388. QUAYLE, *supra* note 330, at 18.

389. Warshaw, *supra* note 325, at 394.

390. HATFIELD, *supra* note 21, at 548.

391. *Id.*

392. Warshaw, *supra* note 325, at 397.

393. *Id.* at 398.

394. QUAYLE, *supra* note 330, at 9.

395. HATFIELD, *supra* note 21, at 548.

396. *Id.*

397. Warshaw, *supra* note 325, at 398.

398. *Id.*

399. HATFIELD, *supra* note 21, at 548.

400. *Id.*

401. *Id.*

on the TV.<sup>402</sup> One of his most famous gaffes was when he debated Lloyd Bentsen, the Democratic vice-presidential candidate.<sup>403</sup> Many criticized Quayle's lack of experience, and he persisted in responding he had as much as Jack Kennedy, prompting his handlers to warn him that such a statement could blow up in his face.<sup>404</sup> And so it did during the debate.<sup>405</sup> When Quayle trotted the point out again Bentsen responded: "Senator, I served with Jack Kennedy. I knew Jack Kennedy. Jack Kennedy was a friend of mine. Senator, you are no Jack Kennedy."<sup>406</sup> The audience roared with laughter, and the Dukakis campaign made the most of the humiliating moment.<sup>407</sup> But rarely have voters cast an opposition ballot because of a vice-presidential nomination, and the election of 1988 was of course no exception.<sup>408</sup>

The new vice president enjoyed rather easy access to the president and was encouraged to attend all significant meetings to stay abreast of every aspect of the presidency.<sup>409</sup> But he was given traditional vice-presidential busy-work by prominent cabinet members such as Secretary of State James A. Baker and White House Chief of Staff John Sununu, who thought Quayle too inconsequential for serious business.<sup>410</sup> Quayle responded by collecting a smart staff (several had Ph.D.s) and using them to help him create his own niche in the administration.<sup>411</sup>

Having recently come from the Senate, Quayle hoped to make his mark there.<sup>412</sup> But he was thwarted by a continued Democrat majority.<sup>413</sup> He found his loyalties shifting from the Senate to the Executive Branch.<sup>414</sup> Quayle found the vice-presidency to be an "awkward job."<sup>415</sup> He attended the important meetings and gave his opinions freely, abiding by the decisions made without regard to whether they matched the views he had expressed behind closed doors.<sup>416</sup> He traveled widely at home and abroad giving speeches in support of the administration.<sup>417</sup> In the White House, he was picked to chair the White House

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402. *Id.*

403. *Id.*

404. *Id.*; QUAYLE, *supra* note 330, at 63.

405. HATFIELD, *supra* note 21, at 548; QUAYLE, *supra* note 330, at 63.

406. HATFIELD, *supra* note 21, at 548.

407. *Id.* at 547; QUAYLE, *supra* note 330, at 59-67; *see also* BOLLER, *supra* note 53, at 385.

408. QUAYLE, *supra* note 330, at 64-65.

409. HATFIELD, *supra* note 21, at 548-49; QUAYLE, *supra* note 330, at 74-75.

410. HATFIELD, *supra* note 21, at 548-49; BRODER & WOODWARD, *supra* note 327, at 89-90.

411. Maureen Dowd, *The Education of Dan Quayle*, N.Y. TIMES MAG. (June 25, 1989), <https://www.nytimes.com/1989/06/25/magazine/the-education-of-dan-quayle.html> [<https://perma.cc/S5WL-6RPM>]; HATFIELD, *supra* note 21, at 549; QUAYLE, *supra* note 330, at 87-90.

412. HATFIELD, *supra* note 21, at 549.

413. *Id.*

414. *Id.*

415. *Id.* BRODER & WOODWARD, *supra* note 327, at 90.

416. HATFIELD, *supra* note 21, at 549; Dowd, *supra* note 411.

417. HATFIELD, *supra* note 21, at 549; QUAYLE, *supra* note 330, at 91-92.

Council on Competitiveness.<sup>418</sup> This committee sought to reduce burdensome regulations.<sup>419</sup> Quayle was little noticed in this role because he deliberately worked behind the scenes, believing too bold an approach would prompt too many fights with Congress.<sup>420</sup> He garnered more attention when he chaired the National Space Council, helping set policy for the space program.<sup>421</sup>

Quayle worked as a conservative liaison to the Republicans on Capitol Hill.<sup>422</sup> This was especially useful when he had to deal with the backlash from Bush's infamous retreat from his campaign pledge of "no new taxes."<sup>423</sup> The House Republicans revolted initially, but were eventually allayed by Quayle.<sup>424</sup> In private, his reputation ascended among Republicans and the Bush administration; in public, it slumped because he tried to blame the tax increases on the Democrats.<sup>425</sup>

There was another prominent matter where Quayle excelled behind the scenes, but because of security concerns, the public had little idea of his work.<sup>426</sup> In late 1989, when President Bush and Secretary of State Baker were flying to a meeting with Mikhail Gorbachev in Malta, a coup attempt occurred in the Philippines.<sup>427</sup> Quayle manned the behind-the-scenes workings to keep President Corazon Aquino's government from falling.<sup>428</sup> Aquino wanted U.S. planes to bomb the rebels; instead, the Situation Room decided to use U.S. planes to prevent rebel planes from taking off.<sup>429</sup> He notified Bush on Air Force One once the crisis was managed.<sup>430</sup> But this behind-the-scenes mastery was little known because it was out of public view and Quayle could not broadcast his role due to security concerns.<sup>431</sup>

Bush kept most matters of foreign policy under his own control.<sup>432</sup> Bush did send Quayle to the Middle East in January 1991—just before "Operation Desert Shield" became "Desert Storm"—to meet with Saudi Arabian leaders.<sup>433</sup> On his own initiative, Quayle also visited American troops, even though he suspected he was opening himself up to further ridicule and comparisons with his long-ago

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418. HATFIELD, *supra* note 21, at 549; Warshaw, *supra* note 325, at 399.

419. HATFIELD, *supra* note 21, at 549; Warshaw, *supra* note 325, at 399.

420. HATFIELD, *supra* note 21, at 550.

421. QUAYLE, *supra* note 330, at 177-90.

422. HATFIELD, *supra* note 21, at 550; Warshaw, *supra* note 325, at 398.

423. Warshaw, *supra* note 325, at 397-98.

424. QUAYLE, *supra* note 330, at 199-200.

425. *Id.*

426. *Id.* at 139.

427. *Id.* at 136.

428. *Id.* at 138-40.

429. *Id.* at 137-38.

430. *Id.* at 137.

431. *Id.* at 139.

432. HATFIELD, *supra* note 21, at 550.

433. QUAYLE, *supra* note 330, at 218-20.



National Guard duty.<sup>434</sup>

Victory in the Persian Gulf War elevated Bush's polls and it looked like another term was inevitable.<sup>435</sup> Quayle received a timely morale boost when prominent journalists David Broder and Bob Woodward published a series of article on the front page of the Washington Post in January 1992 praising Quayle's vice-presidency.<sup>436</sup> The articles argued that "serious assessments of Quayle have taken a back seat to jokes about him."<sup>437</sup> The journalists concluded, however, that "all jokes aside—Dan Quayle has proved himself to be a skillful player of the political game, with a competitive drive that has been underestimated repeatedly by his rivals."<sup>438</sup>

Though success in the war seemed to set the Bush administration on the path to victory, there were clouds on the horizon. The country remained in a recession which the Bush administration had done little to alleviate. Bush developed heart problems in May 1991 while jogging, and there was talk of Quayle becoming president if the president had to be anesthetized.<sup>439</sup> Visions of "President Quayle" worried the public.<sup>440</sup> Furthermore, Quayle continued to misspeak and was sometimes credited with gaffes he never uttered.<sup>441</sup> He also delivered a speech about family values wherein he criticized the popular television program "Murphy Brown" because the lead character had a child out of wedlock and "mock[ed] the importance of fathers," Quayle asserted.<sup>442</sup> His point was a timely one, as Americans were increasingly worried by the rise of single-parent families, but his attack on a fictional character made him seem ludicrous.<sup>443</sup> At another photo-op, this time a local spelling bee, Quayle made the mistake of amending a child's correct spelling of the word "potato" because Quayle had been given a card with "potato" written on it.<sup>444</sup>

With these problems, the Bush administration seemed very vulnerable by the summer of 1992, and some Republicans suggested getting rid of Quayle to strengthen their position.<sup>445</sup> Opinion polls revealed Quayle was the most unpopular vice president in the last forty years, scoring even lower than Spiro Agnew, Nixon's vice president who resigned after he was caught in a corruption scandal. But Bush remained loyal to Quayle, and the Bush team decided a last-minute switch in vice presidents might make it look as though the Bush

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434. *Id.* at 219.

435. *Id.* at 248.

436. BRODER & WOODWARD, *supra* note 327, at 11.

437. *Id.* at 10.

438. *Id.* at 18.

439. QUAYLE, *supra* note 330, at 253.

440. *Id.* at 254.

441. *Id.* at 131. For example, the story that Quayle's Latin American travels made him wish he had studied Latin harder in school appears apocryphal. *Id.*

442. *Id.* at 319-22.

443. *Id.* at 321.

444. *Id.* at 331-32.

445. *Id.* at 341.

administration was panicking.<sup>446</sup>

Quayle hoped for a much more favorable campaign this time around. He made sure he had his own team in place to coordinate his activities.<sup>447</sup> He prepared thoroughly and performed impressively in a debate with Al Gore, holding his own if not quite achieving a decisive triumph.<sup>448</sup> As the Bush-Quayle chances began to fade with the rise of Bill Clinton and Al Gore, Quayle stood more upright and pushed harder to redeem himself.<sup>449</sup> But it was for naught: Bush-Quayle lost with thirty-eight percent of the vote to Clinton-Gore's forty-three percent (Perot's third-party campaign claiming nineteen percent).<sup>450</sup>

Quayle retreated from politics, writing his memoir instead.<sup>451</sup> There was talk of him running for governor of Indiana, but he demurred, claiming he would only run again if for the presidency.<sup>452</sup> He appeared to be gearing up to do so in 1996 when health issues derailed him, and he opted out to focus on health and family until the next opportunity presented itself.<sup>453</sup> It did so in 1999 when he declared his intention to run against George W. Bush, arguing that "we do not want another candidate who needs on-the-job-training."<sup>454</sup> In the straw poll of August 1999, Quayle emerged eighth, which prompted him again to bow out and support the second Bush.<sup>455</sup> He supported Romney's run and Jeb Bush's run.<sup>456</sup> When Jeb was ousted, Quayle publicly supported Donald Trump for president.<sup>457</sup> A museum established in his honor, The Dan Quayle Center and Museum, in Huntington, Indiana, details not just Quayle's contributions but an overall history of all who have served as vice president.<sup>458</sup>

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446. *Id.*

447. *Id.* at 306.

448. *Id.* at 353.

449. *Id.* at 341.

450. BOLLER, *supra* note 53, at 390.

451. HATFIELD, *supra* note 21, at 552.

452. *Id.*

453. Warshaw, *supra* note 325, at 399-400.

454. Richard L. Berke, *Quayle Enters G.O.P. Race with Vow to Protect Values*, N.Y. TIMES (Apr. 15, 1999), <https://www.nytimes.com/1999/04/15/us/quayle-enters-gop-race-with-vow-to-protect-values.html> [<https://perma.cc/JB36-GFZ8>].

455. David S. Broder, *Quayle Pulls Out of GOP Race*, WASH. POST, Sept. 27, 1999, at A1.

456. Dan Nowicki, *Jeb Bush's Arizona Supporters Include Dan Quayle, Fife Symington*, ARIZ. REPUBLIC (Oct. 28, 2015, 2:09 PM), <https://www.azcentral.com/story/news/politics/azdc/2015/10/28/jeb-bush-arizona-supporters-dan-quayle-fife-symington/74756070/> [<https://perma.cc/CRG5-WKWK>].

457. Veronica Stracqualursi, *Dan Quayle on Donald Trump: 'I'm Going to Support the Nominee'*, ABCNEWS (May 12, 2016, 9:12 AM), <https://abcnews.go.com/Politics/dan-quayle-donald-trump-im-support-nominee/story?id=39061225> [<https://perma.cc/5HMD-C9FB>].

458. Tony Horwitz, *The Vice Presidents That History Forgot*, SMITHSONIAN MAG., (July 2012), <https://www.smithsonianmag.com/history/the-vice-presidents-that-history-forgot-137851151/> [<https://perma.cc/4YNL-7WJQ>].

## VI. MICHAEL RICHARD PENCE, VICE PRESIDENT TO DONALD TRUMP, 2017-

Our current vice president, Mike Pence, was born in Columbus, Indiana, in 1959.<sup>459</sup> Like Thomas Hendricks, he is a Hanover College alumnus.<sup>460</sup> Like Dan Quayle, he studied law at Indiana University McKinney School of Law, after which he entered private practice.<sup>461</sup> His first two runs for a congressional seat in 1988 and 1990 were unsuccessful.<sup>462</sup> After those attempts he became a conservative radio talk show host from 1994 until 1999.<sup>463</sup> His slogan for the show, which he would continue to use throughout his political career, was that he was “a Christian, a conservative and a Republican, in that order.”<sup>464</sup> In 2000, he earned his first political office, representing Indiana’s 2nd congressional district in the U.S. House.<sup>465</sup>

While in Congress he aligned himself with the Tea Party Caucus, often pitting him against legislation promoted by President George W. Bush.<sup>466</sup> In his following four reelections to the House, he won with comfortable margins.<sup>467</sup> He served on numerous committees, including Agriculture, International Relations, Judiciary, and Foreign Affairs.<sup>468</sup> He began to climb within the party itself when he first served as chairman from 2005-2007 of the Republican Study Committee, a group of conservative Representatives.<sup>469</sup> In 2006, he sought to become leader

459. *Mike Pence’s File*, POLITIFACT, <http://www.politifact.com/personalities/mike-pence/> [https://perma.cc/J3RP-M8WS] (last visited Sept. 22, 2018).

460. Michael Barbaro & Monica Davey, *Mike Pence: A Conservative Proudly Out of Sync with His Times*, N.Y. TIMES (July 15, 2016), <https://www.nytimes.com/2016/07/16/us/politics/mike-pence-history.html> [https://perma.cc/478A-76GP]. So, too, are your authors.

461. *Mike Pence’s File*, *supra* note 459.

462. *Id.*

463. Emily McFarlan Miller & Kimberly Winston, *5 Faith Facts About Mike Pence: A ‘Born-again, Evangelical Catholic,’* RELIGION NEWS SERV., (July 15, 2016), <http://religionnews.com/2016/07/14/5-faith-facts-on-mike-pence-a-born-again-evangelical-catholic> [https://perma.cc/L3C2-3UHU].

464. *Id.*

465. *Id.* The district was renumbered the 6th district in 2002. *Id.*

466. *See generally* Barbaro & Davey, *supra* note 460.

467. *See* IND. ELECTION DIVISION, 2002 INDIANA ELECTION REPORT 67 (2002), *available at* [https://www.in.gov/sos/elections/files/2002\\_ELECTION\\_BOOKLET.pdf](https://www.in.gov/sos/elections/files/2002_ELECTION_BOOKLET.pdf) [https://perma.cc/BCX6-JE63]; IND. ELECTION DIVISION, 2004 INDIANA ELECTION REPORT 49-51 (2004), *available at* [https://www.in.gov/sos/elections/files/AR-M550N\\_20120328\\_154342.pdf](https://www.in.gov/sos/elections/files/AR-M550N_20120328_154342.pdf) [https://perma.cc/363D-2LEE]; IND. ELECTION DIVISION, 2006 INDIANA ELECTION REPORT 69-70 (2006), *available at* [https://www.in.gov/sos/elections/files/2006\\_Election\\_Report.pdf](https://www.in.gov/sos/elections/files/2006_Election_Report.pdf) [https://perma.cc/U9BW-QFQS]; IND. ELECTION DIVISION, 2008 INDIANA ELECTION REPORT 66-67 (2008), *available at* [https://www.in.gov/sos/elections/files/AR-M550N\\_20120404\\_152743.pdf](https://www.in.gov/sos/elections/files/AR-M550N_20120404_152743.pdf) [https://perma.cc/P4XU-TCAL].

468. *Mike Pence Congressional Papers*, IND. U. ARCHIVES, <https://libraries.indiana.edu/mike-pence-congressional-papers> [https://perma.cc/28KZ-M4VN] (last visited Mar. 26, 2019).

469. *Id.*; Shane Harris, *Donald Trump and Mike Pence: Two Newbies, One Dangerous World*,

of the Republican Party in the House, which would position him as minority leader, but he was beaten handily by John Boehner.<sup>470</sup> In 2009, he was elected as the Republican Conference chairman, the third-highest-ranking Republican leadership position.<sup>471</sup> When he achieved this position he became the first Indiana Representative to hold a House leadership position since 1981.<sup>472</sup>

During his time in Congress, he introduced 90 bills and resolutions; none became law.<sup>473</sup> In 2008, *Esquire* magazine listed Pence as one of the ten best members of Congress, noting that his “unalloyed traditional conservatism has repeatedly pitted him against his party elders.”<sup>474</sup> Republicans began mentioning him as a possible presidential candidate in 2008 and again in 2012.<sup>475</sup>

In May 2011, Pence switched gears and announced he was running for the Indiana governorship.<sup>476</sup> Incumbent Republican Governor Mitch Daniels was term-limited, which opened up the position. The race was intense, despite Daniels’s popularity with voters. Pence won with just under fifty percent of the vote, beating out Democrat John R. Gregg<sup>477</sup> and Libertarian Rupert Boneham.<sup>478</sup> Pence became governor of Indiana in January 2013.<sup>479</sup>

Pence was determined to maintain Indiana’s budget surplus. To do so, he ordered budget cuts to colleges and universities, to the Family and Social Services Administration, and to the Department of Corrections.<sup>480</sup> Overall

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DAILY BEAST (July 15, 2016, 12:11 PM), <https://www.thedailybeast.com/donald-trump-and-mike-pence-two-newbies-one-dangerous-world> [https://perma.cc/75KK-EAD3].

470. *The 10 Best Members of Congress*, *ESQUIRE* (Oct. 15, 2008), <http://www.esquire.com/news-politics/a5110/10-best-members-congress-text/> [https://perma.cc/6YFY-KNNZ].

471. He was unopposed for the position to which he was elected unanimously. *See* Maureen Groppe, *U.S. Rep. Mike Pence of Indiana to Get House GOP’s No. 3 Leadership Job*, *INDIANAPOLIS STAR* (Nov. 19, 2008), <https://web.archive.org/web/20150129081041/http://www.indystar.com/article/20081119/NEWS05/811190387> [https://perma.cc/PE7J-XGPN].

472. *Id.*

473. Jesse Rifkin, *Before Mike Pence was Donald Trump’s Running Mate, He Served in Congress for 12 Years*, *GOVTRACK INSIDER* (July 18, 2016), <https://govtrackinsider.com/before-mike-pence-was-donald-trumps-running-mate-he-served-in-congress-for-12-years-72b511b95d9> [https://perma.cc/D46L-S8KJ].

474. *The 10 Best Members of Congress*, *supra* note 470.

475. Amber Phillips, *Who is Mike Pence?*, *WASH. POST* (Oct. 4, 2016), <https://www.washingtonpost.com/news/the-fix/wp/2016/07/14/10-things-you-should-know-about-mike-pence-who-may-join-donald-trump-on-the-gop-ticket/> [https://perma.cc/W72Z-2Z3F].

476. *Id.*

477. *Id.*

478. Kari Huus, *Pence in as Governor of Indiana; Hassan Wins N.H.*, *NBC POLITICS* (Nov. 6, 2012 3:54 PM), [http://nbcpolitics.nbcnews.com/\\_news/2012/11/06/14973266-pence-in-as-governor-of-indiana-hassan-wins-nh?lite](http://nbcpolitics.nbcnews.com/_news/2012/11/06/14973266-pence-in-as-governor-of-indiana-hassan-wins-nh?lite) [https://perma.cc/E92N-X3QX].

479. *Mike Pence’s File*, *supra* note 459.

480. Maureen Hayden, *State Reports Budget Surplus, \$2 Billion in Reserves*, *TRIB. STAR* (July 14, 2014), [https://www.tribstar.com/news/state-reports-budget-surplus-billion-in-reserves/article\\_311ce759-c38e-5b03-af6c-d7dfd0cecbd3.html](https://www.tribstar.com/news/state-reports-budget-surplus-billion-in-reserves/article_311ce759-c38e-5b03-af6c-d7dfd0cecbd3.html) [https://perma.cc/2DS3-CDW6].

Indiana's unemployment rate matched the national average during Pence's tenure.<sup>481</sup> Indiana's job growth lagged a little behind the national average; it was among the slowest-growing economies in the U.S. with .4 percent GDP growth, compared to the national average of 2.2 percent.<sup>482</sup> Two major manufacturers in Indiana closed factories in 2016 and sent 2100 jobs to Mexico.<sup>483</sup> Pence tried to persuade them to stay but was unsuccessful.<sup>484</sup> The state was, however, able to get the companies to reimburse certain tax incentives they had been awarded for setting up business in Indiana.<sup>485</sup>

Pence made tax reform a priority during his tenure. He sought a ten percent income-tax rate in 2013.<sup>486</sup> He did not achieve this but did manage to cut state taxes.<sup>487</sup> The income tax was cut by five percent and the inheritance tax was abolished.<sup>488</sup> He also signed the Senate bill lowering the state's corporate income tax from 6.5 percent to 4.9 percent by 2021, foreshadowing Trump's own tax reforms in 2018.<sup>489</sup> In 2014 he supported the Indiana Gateway project which was a \$71.4 million passenger and freight rail improvement initiative paid for by the American Recovery and Reinvestment Act of 2009, which he had voted against as a Representative.<sup>490</sup>

In matters regarding education, besides cutting funds to higher education, Pence was an advocate for better funding pre-schools, voucher programs, and charter schools.<sup>491</sup> The pre-school program was opposed by state Republicans

481. *Fact-Checking Trump's First Appearance with Running Mate Mike Pence*, NBC NEWS (July 16, 2016 2:01 PM), <https://www.nbcnews.com/politics/2016-election/fact-checking-trump-s-first-appearance-running-mate-mike-pence-n610871> [https://perma.cc/M565-YEMP].

482. Maureen Groppe, *Indiana's Economy Growing More Slowly than U.S. Average*, INDIANAPOLIS STAR (June 10, 2015, 5:51 PM), <https://www.indystar.com/story/news/2015/06/10/indianas-economy-growing-slowly-us-average/71030396/> [https://perma.cc/7M24-J34L].

483. Tony Cook, *Under Pence, State Gave Incentives to Companies that Offshored Jobs*, INDIANAPOLIS STAR (Aug. 28, 2016, 12:25 PM), <http://www.indystar.com/story/news/politics/2016/08/28/under-pence-state-gave-incentives-companies-offshored-jobs/89260966/> [https://perma.cc/L8L5-UKVR].

484. *Id.*

485. *Id.*

486. Philip Rucker, *Mike Pence Lays Out Vision for a Presidential Campaign. But Will He Be a Candidate?*, WASH. POST (Dec. 12, 2014), [https://www.washingtonpost.com/politics/mike-pence-lays-out-a-vision-for-presidential-campaign-but-will-he-be-a-candidate/2014/12/11/0988c650-7cbd-11e4-84d4-7c896b90abdc\\_story.html](https://www.washingtonpost.com/politics/mike-pence-lays-out-a-vision-for-presidential-campaign-but-will-he-be-a-candidate/2014/12/11/0988c650-7cbd-11e4-84d4-7c896b90abdc_story.html) [https://perma.cc/QRG8-YSK7].

487. *Id.*

488. *Id.*

489. Tony Cook, *Gov. Mike Pence Signs Off on Business Tax Cuts*, INDIANAPOLIS STAR (Mar. 25, 2014, 7:27 AM) <https://www.indystar.com/story/news/politics/2014/03/25/gov-mike-pence-sign-business-tax-cuts/6859237/> [https://perma.cc/A4QW-9XKL].

490. Dan Carden, *Pence Sweetens on Stimulus as State Benefits*, NWI.COM (June 1, 2014), [https://www.nwtimes.com/news/local/govt-and-politics/pence-sweetens-on-stimulus-as-state-benefits/article\\_fd09e549-992a-50f0-8776-013d6634755a.html](https://www.nwtimes.com/news/local/govt-and-politics/pence-sweetens-on-stimulus-as-state-benefits/article_fd09e549-992a-50f0-8776-013d6634755a.html) [https://perma.cc/VSQ7-GYWV].

491. Scott Elliott, *The Basics of Mike Pence on Education: A Battle for Control*, CHALKBEAT

who initially defeated the plan.<sup>492</sup> Pence managed to revive it and helped get “Indiana off the list of just 10 states that spent no direct funds to help poor children attend preschool.”<sup>493</sup> With Pence’s support, the legislature increased the number of Indiana students who qualified for vouchers, making it one of the largest voucher programs in the United States.<sup>494</sup> He supported abolishing the Common Core Initiative, and Indiana became the first state to do so.<sup>495</sup>

In 2015, Pence found himself in the national limelight regarding religion and LGBTQ rights. In March Pence signed the Religious Freedom Restoration Act into law.<sup>496</sup> Critics of the bill argued it was worded in a way that would permit discrimination against LGBTQ persons.<sup>497</sup> Several organizations, such as the NCAA, Gen Con (the gamer convention), and the Disciples of Christ church spoke out against the law and threatened to remove their business from the state.<sup>498</sup> Pence continually supported the law, but the backlash was so great that Pence signed legislation in April 2015 revising the law to protect against potential discrimination.<sup>499</sup>

Pence ran unopposed in the Republican primary for reelection as governor in May 2016.<sup>500</sup> He planned to run against Democrat John R. Gregg, his opponent from the last race.<sup>501</sup> Pence filed paperwork to end his campaign in July 2016, however, when Trump announced Pence as his choice for running mate.<sup>502</sup> Trump

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(July 13, 2015), <https://www.chalkbeat.org/posts/in/2015/07/13/the-basics-of-mike-pence-on-education-a-battle-for-control/> [<https://perma.cc/VH7S-XYRF>].

492. *Id.*

493. *Id.*

494. Eric Weddle & Claire McNerny, *What Did Mike Pence Do For Indiana Schools as Governor? Here’s a Look*, NPR (July 20, 2016, 7:15 AM), <https://www.npr.org/sections/ed/2016/07/20/486654015/what-did-pence-do-for-schools-as-governor-heres-a-look>. [<https://perma.cc/3HG8-EEEN>].

495. Alyson Klein, *Indiana’s Pence, Trump VP Pick: Pro-School Choice, Anti-Common Core*, EDUC. WEEK (July 15, 2016, 9:43 AM), [http://blogs.edweek.org/edweek/campaign-k-12/2016/07/like\\_trump\\_pence\\_favors\\_school.html](http://blogs.edweek.org/edweek/campaign-k-12/2016/07/like_trump_pence_favors_school.html) [<https://perma.cc/7VH7-CLX7>].

496. Dwight Adams, *RFRA: Why the 'Religious Freedom Law' Signed by Mike Pence was So Controversial*, INDIANAPOLIS STAR (Apr. 25, 2018), <https://www.indystar.com/story/news/2018/04/25/rfra-indiana-why-law-signed-mike-pence-so-controversial/546411002/> [<https://perma.cc/L6VB-3NH3>].

497. *Id.*

498. *Id.*

499. *Indiana, Arkansas Pass Revised Religious Objection Proposals*, NOLA.COM (Apr. 2, 2015, 5:08 PM), [http://www.nola.com/politics/index.ssf/2015/04/religious\\_objection\\_laws.html](http://www.nola.com/politics/index.ssf/2015/04/religious_objection_laws.html) [<https://perma.cc/9694-LFE8>].

500. Maureen Groppe, *7 Things We Learned from Indiana’s Primary*, INDIANAPOLIS STAR (May 6, 2016, 4:05 PM), <https://www.indystar.com/story/news/politics/behind-closed-doors/2016/05/06/seven-things-we-learned-indianas-primary/84021796/> [<https://perma.cc/9J9Z-CER2>].

501. *Id.*

502. Matt McCutcheon, *Mike Pence Withdraws from Indiana Governor’s Race as Trump Makes Running Mate Announcement*, WTHR (July 21, 2016, 3:00 PM), <https://www.wthr.com/>

considered many individuals, but what he liked about Pence was his close connection to the politically influential Koch brothers.<sup>503</sup> And again, there was that middle-of-the-country Indiana appeal to balance Trump's New York base.<sup>504</sup> According to FiveThirtyEight's rating of candidates' ideology, Pence was the most conservative vice-presidential candidate in the last forty years.<sup>505</sup> Perhaps his conservative heft added ballast to Trump's less known political ideology.

During the campaign Pence supported Trump's stances toward immigration and the Mexican wall proposal.<sup>506</sup> When Trump's coarse comments about women from 2005 were revealed, Pence said: "I do not condone his remarks and cannot defend them," but he made it clear he was sticking by Trump.<sup>507</sup> Trump and Pence were elected in November 2016.

So far during his vice-presidency, Pence has played a close role to Trump. He sat in on early calls to several foreign heads of government.<sup>508</sup> He became the first vice president, in his role as president of the U.S. Senate, to cast a tie-breaking vote to confirm a cabinet nominee—Betsy DeVos as Secretary of Education.<sup>509</sup> He cast his second tie-breaking vote in March 2017, voting to advance a bill written to defund Planned Parenthood. By December 2017, Pence had cast six tie-

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article/mike-pence-withdraws-from-indiana-governors-race-as-trump-makes-running-mate-announcement [https://perma.cc/7VLB-Z4YR].

503. Chris Cillizza, *5 Reasons Mike Pence Makes a Lot of Sense as Donald Trump's Vice President*, WASH. POST (July 14, 2016), [https://www.washingtonpost.com/news/the-fix/wp/2016/07/14/5-reasons-why-mike-pence-makes-a-lot-of-sense-as-donald-trumps-vice-president/?utm\\_term=.f54b93d58190](https://www.washingtonpost.com/news/the-fix/wp/2016/07/14/5-reasons-why-mike-pence-makes-a-lot-of-sense-as-donald-trumps-vice-president/?utm_term=.f54b93d58190) [https://perma.cc/M4MY-H9UC].

504. Lisa Mascaro, *Pence to Headline Koch Network's Strategy Session for the Midterm Elections*, L.A. TIMES (Sept. 29, 2017, 11:30 AM), <https://www.latimes.com/politics/washington/la-na-essential-washington-updates-vice-president-pence-to-headline-koch-1506705515-htmistory.html> [https://perma.cc/U38B-V65H].

505. Harry Enten, *Mike Pence is a Really Conservative and Mostly Unknown VP Pick*, FIVETHIRTYEIGHT (July 15, 2016, 3:06 PM), <http://fivethirtyeight.com/features/mike-pence-would-be-a-really-conservative-and-mostly-unknown-vp-pick/> [https://perma.cc/C8VC-VRZE].

506. Max Greenwood, *Mike Pence: Mexico Will Pay for Border Wall*, HILL (Mar. 1, 2017, 7:55 AM), <https://thehill.com/homenews/administration/321744-mike-pence-mexico-will-pay-for-border-wall> [https://perma.cc/B72F-M4WW].

507. Dave Quinn & Sandra Sobieraj Westfall, *Mike Pence 'Offended' and Praying for Donald Trump's Family Amid Crisis Over His 2005 Lewd Comments*, PEOPLE (Oct. 8, 2016, 10:14 AM), <http://people.com/politics/mike-pence-donald-trumps-2005-lewd-comments/> [https://perma.cc/2L44-EMJK].

508. Erik Ortiz, *Trump Fields Calls From Several Foreign Leaders, Including Putin and Merkel*, NBC NEWS (Jan. 28, 2017, 6:54 PM), <https://www.nbcnews.com/politics/2016-election/trump-field-calls-several-foreign-leaders-including-putin-merkel-n713581> [https://perma.cc/Y2KQ-4Y6B].

509. Jordain Carney, *Senate Confirms DeVos With Tie-Breaking Vote by Pence*, HILL (Feb. 7, 2017, 12:30 PM), <https://thehill.com/homenews/senate/318262-senate-confirms-devos-with-tie-breaking-vote-by-pence> [https://perma.cc/P5V8-KKE8].

breaking votes.<sup>510</sup>

He has continued to play an active role in foreign affairs. In April 2017, he made a tour of the Asia-Pacific region.<sup>511</sup> He visited South Korean then-president Hwang Kyo-ahn, met with Japan's prime minister Shinzo Abe, traveled to Jakarta and Indonesia, and ended his trip with a visit to Australia to meet personally with Prime Minister Malcolm Turnbull.<sup>512</sup> He made a shorter visit to South Korea during the 2018 Winter Olympic Games.<sup>513</sup>

On May 17, 2017, Pence created a Political Action Committee (PAC) called Great America Committee, headed by former campaign staffers.<sup>514</sup> This is the first time a vice president has started his own PAC while in office.<sup>515</sup> When asked whether he planned to run for president in 2020, Pence called the suggestion "laughable and absurd" and said the article was "disgraceful and offensive."<sup>516</sup>

## VII. REFLECTIONS AND CONCLUSIONS

The vice presidency has, since its creation, been an awkward office in our constitutional scheme, charged solely with the most ministerial of duties<sup>517</sup> and occupying a twilight zone between the legislative and executive branches.<sup>518</sup> The Twelfth Amendment foreclosed the egregious opportunity for mischief created by the rise of political parties and illustrated by the "magnificent catastrophe" which followed the election of 1800.<sup>519</sup> But this clarification came at the cost of

510. Ryan Struyk, *Mike Pence is Breaking Ties in the Senate at a Record-Setting Pace*, CNN (Jan. 24, 2018, 10:05 PM), <https://www.cnn.com/2017/07/26/politics/pence-tie-breaking-senate-record-setting-pace/index.html> [https://perma.cc/T226-B9GG].

511. Press Release, White House, Vice President Mike Pence to Travel to the Republic of Korea, Japan, Indonesia, Australia, and Hawaii (Apr. 6, 2017), <https://www.whitehouse.gov/briefings-statements/vice-president-mike-pence-travel-republic-korea-japan-indonesia-australia-hawaii/> [https://perma.cc/CGF2-HELS].

512. *Id.*

513. Aamer Madhani, *Pence Arrives for Winter Olympics, Sounds Alarm About North Korea's Record on Human Rights*, USA TODAY (Feb. 8, 2018, 6:58 AM), <https://www.usatoday.com/story/sports/winter-olympics-2018/2018/02/08/mike-pence-north-korea-south-korea-cooperation-human-rights/318614002/> [https://perma.cc/KY7U-7XND].

514. Emily Shugerman, *Vice President Mike Pence Calls Claims He Will Run in 2020 'Disgraceful and Offensive'*, INDEPENDENT (Aug. 6, 2017, 4:08 PM), <https://www.independent.co.uk/news/world/americas/us-politics/mike-pence-vice-president-run-in-2020-disgraceful-and-offensive-a7879686.html> [https://perma.cc/4A6L-TNG8].

515. Paul Blumenthal, *Mike Pence's Fundraising Is Unprecedented For A Vice President*, HUFFINGTON POST (Aug. 15, 2017, 11:00 AM), [https://www.huffingtonpost.com/entry/mike-pence-fundraising\\_us\\_598a5eace4b0d793738b276a](https://www.huffingtonpost.com/entry/mike-pence-fundraising_us_598a5eace4b0d793738b276a) [https://perma.cc/QFB8-YRB8].

516. Shugerman, *supra* note 514.

517. U.S. CONST., art. I, § 3, cl. 4 ("The Vice President of the United States shall be President of the Senate but shall have no Vote, unless they be equally divided.").

518. See generally JOEL K. GOLDSTEIN, THE MODERN AMERICAN VICE PRESIDENCY (1982).

519. EDWARD J. LARSON, A MAGNIFICENT CATASTROPHE: THE TUMULTUOUS ELECTION OF



diminishing further the vice presidency's significance; no longer would the vice president be the runner-up to the presidency, but rather would be someone chosen to fill that anomalous position.<sup>520</sup> The vice presidency is to the Constitution what the appendix has become to the human body.

Accordingly, one charge of this Symposium – to reflect on the significance of Indiana's status as a disproportionately fruitful supplier of vice presidents – is a daunting one. Still, we persevere and offer the following observations as to what meaning might be drawn from the state's uncommon success in placing men in the second spot of winning presidential tickets.

First, the six Hoosier vice presidents divide naturally into two groups: (1) the first four (Colfax, Hendricks, Fairbanks, and Marshall), and (2) the two most recent (Quayle and Pence). Not only are the two sets separated by a gap of six decades, but the process for selecting vice presidents changed materially in the interim.<sup>521</sup> Prior to Franklin Delano Roosevelt's insistence on Wallace as his running mate in 1940, the choice had been the party convention's; subsequently, the presidential nominee has dictated the selection.<sup>522</sup> Hence, the choice of Colfax, Hendricks, Fairbanks, and Marshall may say much about the tenor of the relevant political party's national convention (and its estimation of the nation's political temperature) but relatively little about the man at the head of the ticket. With Vice Presidents Quayle and Pence, of course, the opposite becomes true, as their selection was entirely the product of the wisdom of the presidential candidate himself, and in both cases, it was immediately and widely understood as revealing something important about the presidential nominee and his strategy for the general election.

Indiana's political status also changed in the intervening decades. Between the end of the Civil War and the 1920s, Indiana was a "swing state" widely perceived as a bellwether for the country.<sup>523</sup> But by the time the senior Bush chose Quayle, Indiana had shifted more reliably into the Republican column, so the motive to select a Hoosier in order to carry a battleground state had receded in importance.

So, what explains the selection of Quayle and Pence? In each case, of course, distinctive dynamics drove the choices. Still, in both cases senior men at the ticket's top sought balance as much in the realm of style and personality as in geography or ideology. Quayle, it was hoped, would bring youthful vigor to a ticket headed by an August but staid lifelong public servant.<sup>524</sup> Pence has acknowledged the yawning chasm between his own inveterate mildness and

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1800, AMERICA'S FIRST PRESIDENTIAL CAMPAIGN (2007).

520. See David P. Currie, *The Twelfth Amendment*, in UNINTENDED CONSEQUENCES OF CONSTITUTIONAL AMENDMENT 73, 76 (David E. Kyvig ed., 2000) ("The Twelfth Amendment is stacked against selection of a vice president qualified to take over the presidency.").

521. Lee Sigelman & Paul J. Wahlbeck, *The "Veepstakes": Strategic Choice in Presidential Running Mate Selection*, 91 AM. POL. SCI. REV. 855, 855 (1997).

522. *Id.*

523. See *supra* notes 9-15 and accompanying text.

524. See *supra* note 391 and accompanying text.

Trump's flamboyant and bombastic manner.<sup>525</sup> Beyond that contrast, Trump undoubtedly hoped that Pence's hard won national identity as a culture warrior in the evangelical Christian camp would (and by all appearances did) ease the way for that element of the Republican base to embrace a thrice-married New York mogul who was once graced the cover of *Playboy* magazine.<sup>526</sup>

At the risk of reading the present into the past, both of the two most recent vice-presidential tapings suggest a theme unifying all six Hoosier vice presidents: They were singularly prominent, even controversially so, in Indiana, but they were all moderates who in some way moderated more outlier candidates when considered on the national stage. Colfax was literally the sober counterweight to Grant's unfortunate reputation for the occasional binge.<sup>527</sup> Hendricks status as an unrepentant Civil War Democrat with impeccable Unionist *bona fides* propelled him to the second spot on multiple presidential tickets.<sup>528</sup> Fairbanks and Marshall both fancied themselves as vanguards, and perhaps they were by Hoosier standards; but both were decidedly conservative when paired with Roosevelt and Wilson, respectively.<sup>529</sup>

To date, this recurring theme of Hoosier moderateness has sufficed to propel native sons *almost* all the way to the top. Whether the incumbent bridesmaid becomes, one way<sup>530</sup> or another,<sup>531</sup> a bride, is as of the time of writing too soon to tell.

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525. Valerie Bauerlein, 'Born to be Mild' Mike Pence: I Stand 'Shoulder to Shoulder' with Trump, WALL STREET J. (Aug. 4, 2016, 1:40 PM), <https://blogs.wsj.com/washwire/2016/08/04/born-to-be-mild-mike-pence-i-stand-shoulder-to-shoulder-with-trump/> [https://perma.cc/RT4N-5J8S].

526. See Steve Sanders, *The Cultural Politics of Dan Quayle and Mike Pence*, 52 IND. L. REV. 69 (2019).

527. See *supra* note 52 and accompanying text.

528. See *supra* notes 115-39 and accompanying text.

529. See *supra* notes 179-322 and accompanying text.

530. See *supra* note 505 and accompanying text discussing possibility of a future Pence campaign for the presidency.

531. See Alexander Burns, *Pledge to Impeach Trump, a Key Donor Demands of Democrats*, N.Y. TIMES (Oct. 11, 2017) <https://www.nytimes.com/2017/10/11/us/tom-steyer-trump-impeachment.html> [https://perma.cc/WB3T-DHR6].