

But his legacy to his successors was a significant personalization of the presidency that greatly accentuated its separation from the other centers of political power in the United States.

During Kennedy's one thousand days in office, the great promise of the personal presidency was widely celebrated. But developments within a few years of his death—the escalation of the Vietnam War and the divisions it opened in American society, the growing tendency of both liberals and conservatives to distrust government, and the popular disillusionment with presidential power—revealed the less desirable consequences of the Kennedy administration's innovations.

Lyndon B. Johnson and Presidential Government

The tragedy in Dallas placed the presidency in the hands of Lyndon Johnson, a Texan whom Kennedy had selected as his vice-presidential running mate in 1960 to balance the ticket geographically. LBJ's effective campaigning in the South, especially in Texas and Louisiana, was crucial to the Democrats' narrow victory against Nixon. Before becoming vice president, Johnson was known as a consummate political operator in the Senate, where as majority leader he exercised enormous influence during the Eisenhower years.³⁷ It remained to be seen, however, whether the quintessential legislative insider could adapt successfully to the requirements of the presidency.

Johnson's challenges as a successor president were compounded by the bitterness that many liberals felt about a southern power broker taking the place of their fallen leader. Johnson himself observed that African Americans, whose hopes for equality and justice had been raised by Kennedy, were disconcerted to awake "one morning to discover that their future was in the hands of a President born in the South."³⁸ After all, it was southern Democrats in Congress who had blocked Kennedy's civil rights legislation. From the moment Johnson became president, the press stressed that he was the first southerner in a century to occupy the White House

—”the first since another southerner named Johnson had taken power, also as the result of an assassination.”³⁹

Despite these obstacles, Johnson quickly grasped the reins of power. Indeed, he did more than reassure the nation and build confidence in his leadership. “In the wake of Kennedy’s assassination,” Jeffrey K. Tulis has written, “Lyndon Johnson was able to turn the country’s grief into a commitment to a moral crusade.”⁴⁰ Johnson’s crusade extended beyond completing the New Frontier. As William E. Leuchtenburg has observed, “He aimed instead to be ‘the greatest of them all, the whole bunch of them.’ And to be the greatest president in history, he needed not to match Roosevelt’s performance but to surpass it.”⁴¹

In many ways, Johnson was inadequate to the demands of the modern presidency, especially as a public educator. Unlike other twentieth- and twenty-first-century presidents who wanted to remake the nation, LBJ neglected, even scorned, the bully pulpit. Yet Johnson profoundly influenced the modern presidency in other ways. He more than maintained the power and independence of the executive office. Regrettably, however, his failings brought into serious question, for the first time since the 1930s, the widespread assumption that the national interest is served whenever the president dominates the affairs of state.



On November 22, 1963, Lyndon Johnson took the presidential oath of office aboard Air Force One from federal district judge Sarah T. Hughes. Jacqueline Kennedy is on Johnson's left.

Source: Cecil Stoughton/The Lyndon Baines Johnson Presidential Library.

The Great Society

Johnson defined as his first task the enactment of Kennedy's New Frontier, including civil rights, a tax cut, and Medicare. He succeeded: Congress passed all of these controversial measures in short order. Especially noteworthy was the Civil Rights Act of 1964. When Kennedy died, the bill was bogged down in the Senate. But, invoking the memory of the fallen

leader and bringing to bear his own extraordinary skill and experience in legislative politics, Johnson prevailed.

The new president's greatest strength as majority leader of the Senate had been personal persuasion, a talent he now used to convince the Senate Republican leader, Everett Dirksen, to endorse the bill and enlist moderate Republicans in the cause. But this support came with a price. Dirksen insisted on legislative compromises that limited the power of the new Equal Employment Opportunity Commission (EEOC) and authorized the Justice Department to bring suits only against businesses that had a clear "pattern and practice" of discrimination.⁴² These compromises assuaged moderate Republicans' distaste for overlapping bureaucracies and excessive litigation, as well as their desire to protect northern and western businesses from intrusive federal agencies. Still, the principal objective of the civil rights bill—eliminating entrenched segregation in the South—was preserved.

The bipartisan alliance forged by Johnson and Dirksen sounded the death knell for the conservative coalition against civil rights. For the first time, the Senate voted cloture against a southern filibuster designed to thwart a civil rights bill and did so by a substantial 71–29 majority. Once the filibuster was ended, Congress passed the bill quickly, and Johnson signed it on July 2, 1964.⁴³

The passage of the Civil Rights Act of 1964 signaled a dramatic reinvigoration of the president's preeminence as legislative leader. Even more important, the act enlisted the president and several executive agencies in the ongoing effort to ban racial discrimination. It empowered the federal bureaucracy—especially the Department of Justice, the Department of Health, Education and Welfare, and the newly formed EEOC—to assist the courts by creating parallel enforcement mechanisms for civil rights. These mechanisms proved to be effective, and in four years the Johnson administration accomplished more desegregation in southern schools than the courts had in the previous fourteen, which followed the Supreme Court's decision in *Brown v. Board of Education*.⁴⁴

Johnson's successful battle for civil rights dazzled the liberals in his party. Presidential scholar and self-professed Kennedy loyalist James MacGregor Burns wrote, "What will baffle the historian . . . will be how the complete Senate man moved so surely into the presidency and began to employ from the start the levers of presidential influence."⁴⁵ But the civil rights bill was only the beginning. "Many people felt we should rest after the victory of the 1964 Civil Rights Act, take it easy on Congress, and leave some breathing space for the bureaucracy and nation," wrote Johnson in his memoir. "But, there was no time to rest."⁴⁶

Johnson's desire to move beyond Kennedy's New Frontier agenda toward what he called the "Great Society" made him impatient to push on. The 1964 elections, in which he and the Democrats won a resounding victory over the Republicans and their candidate, the archconservative senator Barry Goldwater of Arizona, provided the opportunity to do so. The election gave LBJ the most convincing popular mandate in history—more decisive, even, than FDR's triumph in 1936. Johnson won more than 60 percent of the national popular vote, and the Democrats gained thirty-seven seats in the House and one in the Senate, which secured two-thirds majorities for them in both houses of Congress. The coalition of conservative Republicans and southern Democrats no longer had the votes to obstruct the president's liberal agenda.

Johnson gave the signature speech of his presidency on May 22, 1964, in a commencement address at the University of Michigan. His bold vision treated the reform aspirations of the past only as a point of departure:

The Great Society rests on abundance and liberty for all. It demands an end of poverty and racial justice, to which we are totally committed in our time. But this is just the beginning. . . .

The Great Society is a place where every child can find knowledge to enrich his mind and to enlarge his talents. It is a place where leisure is a welcome chance to build and reflect, not a feared cause of boredom and restlessness. It is a place where the

city of man serves not only the needs of the body and the demands of commerce but the desire for beauty and the hunger of community.⁴⁷

Johnson's vision gave rise to a legislative program of extraordinary breadth, which he placed before the Eighty-Ninth Congress when it convened in January 1965. Congress responded enthusiastically. "No [Congress] since Reconstruction," Theodore White observed, "or perhaps since Roosevelt's seventy-third Congress of 1933–34, did more to reorder the nation."⁴⁸ In 1965 alone, Congress passed eighty of Johnson's legislative proposals, denying him only three. The new laws included important policy departures such as Medicare and Medicaid, the Voting Rights Act, the Older Americans Act, the Elementary and Secondary Education Act, the Equal Opportunity Act, the Air Pollution Control Act, and legislation to create the Department of Transportation and the Department of Housing and Urban Development.

Johnson and the Institution of the Presidency

Johnson's domination of the political process had enduring effects on the presidency, some of which extended developments that had begun with Kennedy. Acting on his legislative ambitions, Kennedy had designed a freewheeling process of policy innovation that departed from the existing practice of letting domestic proposals move methodically through the departments and agencies and then undergo screening and clarification in the Bureau of the Budget. Johnson went much further. More and more, policies began to be invented by the White House staff, which was committed to moving quickly on the president's agenda. At the same time, career officials in the departments and agencies and professional policy analysts in the Bureau of the Budget became less influential.

Joseph Califano, the chief White House aide for domestic affairs, supervised the creation of dozens of task forces composed of government officials and prominent academics. These task forces were charged with formulating innovative proposals in virtually every area of domestic policy,

including poverty, environmental quality, urban planning, and aid to education. The Johnson administration took great care to immunize the task forces against political pressure, even keeping their proceedings secret. Moreover, task force members were told not to worry about whether their recommendations would be acceptable to Congress or to party leaders.⁴⁹

Several task force proposals became law; indeed, they formed the heart of the Great Society agenda. Almost as important, however, was the revolutionary character of the process itself. By placing policy development under White House supervision, free from traditional institutional restraints, the task force approach avoided what Johnson and his advisers regarded as the bureaucratic timidity and conservatism of the existing departments and agencies. Califano's small staff was the precursor of the Domestic Council, which was established by Johnson's successor, Richard Nixon, and of the domestic policy staffs that have been a part of every subsequent administration.⁵⁰ As James Gaither, an assistant to Califano, observed, "I regard the change [in legislative program development] as one of the most significant institutional changes of the presidency. . . . It reflected the president's . . . belief that the traditional processes were not producing the kind of innovative and imaginative new approaches that were necessary to deal with the very significant problems that were facing the country."⁵¹

The early years of the Johnson administration marked the historical height of "presidential government." The White House staff and the Executive Office of the President (EOP) had been increasingly active in formulating programs since the administration of Franklin Roosevelt. Under Johnson, however, political and policy responsibility was concentrated in the presidency to an unprecedented extent. Major domestic policy innovations were conceived in the White House, hastened through Congress by the extraordinary legislative skill of the president and his sophisticated congressional liaison team, and administered by new or refurbished executive agencies that had been designed to respond to the president's directives. Finally, Johnson established a personal governing coalition that reached beyond his party. As columnist David Broder wrote in 1966, more than was true of any of his predecessors, LBJ's leadership and program

depended “for its success largely on the skill, negotiating ability, and maneuvering of the president.”⁵²

Soon, however, Johnson overextended himself. Ironically, the personalization of his presidency contributed to its undoing. Although LBJ was a gifted Washington insider, he could not rouse the American people in the ways required by the office he had helped to re-create. As his aide Harry MacPherson noted, Johnson was incapable of “rising above the dirt of ‘political governing,’ so that he could inspire the nation.”⁵³ His best words and teachings were laws and policies, but he was unable to cultivate the broad, stable base of popular support that his domestic agenda required in order to be implemented effectively. Even Johnson realized that his most serious weakness as president was “a general inability to stimulate, inspire, and unite all the public in the country.”⁵⁴ The presence of television cameras seemed to intimidate this gregarious, consummate operator in political backrooms. Wanting to appear dignified on television, he shrank his naturally outsized personality in a way that seemed inauthentic to viewers because it was.

Since its inception under Theodore Roosevelt and Woodrow Wilson, the modern presidency has been grounded in a theory of executive power that enjoins the president to be both the shaper and the instrument of the popular will. Johnson, however, was inclined to ignore the normal tasks of public leadership in his pursuit of policies and programs that he hoped would serve the nation’s long-term interests. LBJ’s “gargantuan aspirations” actually magnified the political burdens of the modern executive. His obvious domination of the legislative process ensured that he, not Congress, would be blamed if the Great Society programs failed. And fail many of them did, the victims of hasty packaging and unrealistic goals.⁵⁵

The Fall of Lyndon Johnson

The war in Vietnam clearly demonstrated both Johnson’s shortcomings and the more troubling aspects of presidential government. In 1965 the president concluded that only by committing a large contingent of

American forces to combat could he prevent a communist takeover in South Vietnam. Johnson's extraordinary ability to build a governing coalition in Washington helped to sustain the Americanization of the war.⁵⁶ With little resistance from either Congress or, in the beginning, the public, the troop commitment rose from 23,000 at the end of 1964 to 181,000 a year later, 389,000 a year after that, and more than 500,000 by the end of 1967.

The war in Southeast Asia became, in an unprecedented way, the president's war. Harry S. Truman had at least been able to claim that the United States was "carrying out an obligation for the United Nations" when he sent troops to fight in Korea. But in Vietnam, Richard M. Pious has noted, "no treaty obligations or other commitments required the United States to intervene."⁵⁷ Nor did Congress declare war. It passed only the Gulf of Tonkin Resolution, which was rushed through both houses at Johnson's request on August 7, 1964, after the communists allegedly attacked two American naval destroyers off the coast of North Vietnam. The resolution stated that Congress "approves and supports the determination of the President, as Commander-in-Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression."⁵⁸ Johnson, who believed that Truman had erred politically by not asking Congress to support the Korean War, was anxious to have a legislative endorsement.

But the Gulf of Tonkin Resolution was hardly "the functional equivalent of a declaration of war," as Under Secretary of State Nicholas Katzenbach claimed at a Senate hearing in 1967.⁵⁹ Johnson believed that the resolution could help to protect his political flank but that he already had all the constitutional authority he needed to deploy troops to Vietnam. In March 1966 the State Department's legal adviser wrote, "There can be no question in present circumstances of the President's authority to commit U.S. forces to the defense of South Vietnam. The grant of authority to the President in Article 2 of the Constitution extends to the actions of the United States currently undertaken in Vietnam." Johnson embraced this position at a news conference on August 18, 1967. Speaking of the Gulf of Tonkin Resolution, he said, "We stated then and we repeat now, we did not think the resolution was necessary to do what we did and what we're doing. But we thought it

was desirable and we thought if we were going to ask them [Congress] to stay the whole route and if we expected them to be there on the landing we ought to ask them to be there on the take off.”⁶⁰

By early 1968, however, the military situation in Vietnam had deteriorated so severely that Johnson’s political consensus at home crumbled. The last president not to seek reelection after only five years in office had been Calvin Coolidge. On March 31 Johnson astonished the nation and the world by announcing, “I shall not seek, and I will not accept, the nomination of my party for another term as your President.” But Johnson never lost his faith in the extraordinary powers of the presidency. Nor, even under the stress of war, did he ever give up his dream of the Great Society. Indeed, Johnson’s insistence on trying to have “guns and butter”—the Vietnam War and the Great Society—subjected the economy to inflationary strains that were aggravated by his reluctance to ask Congress to enact a tax increase.

The Twenty-Fifth Amendment

One enduring legacy of the Kennedy–Johnson years was the Twenty-Fifth Amendment, proposed by Congress in 1965 and ratified by the states in 1967. The main purpose of the amendment was to provide for two separate but related situations: presidential disabilities and vacancies in the vice presidency.

The need for a reform like the Twenty-Fifth Amendment had long been apparent. As with the death, resignation, or impeachment of the president, the original Constitution stated in Article II, section 1: “in Case of the . . . Inability [of the president] to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President.” The Constitution gave no guidance about what a disability was, how the vice president was to step in should the need arise, or even whether the vice president was to become president or merely assume the powers and duties of the office until the president recovered (did “the Same” refer to “the Powers and Duties” or to “the said Office”?).⁶¹ During the long disabilities of Presidents James A.

Garfield and Woodrow Wilson, the problems raised by the Constitution's vagueness became obvious.⁶²

Vice-presidential vacancies were another frequent historical occurrence. The vice presidency becomes vacant when the president dies, resigns, or is impeached and removed, or when the vice president dies, resigns, or is impeached and removed. Such circumstances left the nation without a vice president on sixteen occasions between 1789 and 1963: seven times because the vice president died, eight times because the president died, and once because the vice president resigned.⁶³ By the merest chance, a double vacancy in the presidency and vice presidency never occurred.

Public and congressional concern about the problems of presidential disability and vice-presidential vacancy was minor and episodic through most of American history. Concern usually rose for a brief period while a president was disabled and then waned when the crisis passed. From 1945 to 1963, however, a combination of events placed these problems high on the nation's constitutional agenda.

The invention and spread of nuclear weapons after 1945 heightened public concern that an able president always be available to wield the powers of the office in the event of a sudden Soviet attack. Then, in rapid succession, President Eisenhower suffered a series of temporarily disabling illnesses—a heart attack in 1955, an ileitis attack and operation in 1956, and a stroke in 1957. Kennedy's assassination in 1963 left the nation with a president, Lyndon Johnson, who had a history of heart trouble and whose legally designated successors under the Presidential Succession Act of 1947 were an old and ailing Speaker of the House, John W. McCormack, and, as Senate president pro tempore, an even older and frailer Carl Hayden.

In December 1963, less than a month after Kennedy was assassinated, Birch Bayh, a Democratic senator from Indiana and the chair of the Senate Judiciary Committee's Subcommittee on Constitutional Amendments, announced that he would hold hearings in early 1964 to consider constitutional remedies to the disability and vacancy problems. Coordinating his efforts with those of a special committee of the American

Bar Association, Bayh drafted the proposal that formed the basis for the Senate subcommittee's hearings and, with minor modifications, soon entered the Constitution as the Twenty-Fifth Amendment.

The Senate approved the amendment on September 29, 1964, by a vote of 65–0. The House did not act in 1964, possibly because to propose an amendment to fill vice-presidential vacancies would be perceived as a slap at Speaker McCormack, who was still first in line to succeed President Johnson. In 1965, however, just months after the election of Hubert H. Humphrey as Johnson's vice president, the House joined the Senate, which had reaffirmed its support of the amendment by a 72–0 vote on February 19, and on April 13 voted its approval, 368–29.

Presidential Disabilities

From the beginning, most congressional concerns about the Twenty-Fifth Amendment involved its disability provisions. As drafted by Bayh and enacted by Congress, three situations were covered by sections 3 and 4 of the amendment. In the first, the president is “unable to discharge the powers and duties of his office” and recognizes this condition—say, before or after undergoing surgery. A simple letter from the president to the Speaker of the House and the president pro tempore of the Senate is all it takes to make the vice president the acting president. A subsequent presidential letter declaring that the disability is ended restores the president's powers.

In the second situation, the president is disabled but, perhaps having suddenly lost consciousness, is unable to say so. Should this happen, either the vice president or the head of an executive department may call a meeting of the vice president and cabinet to discuss the situation. If both the vice president and a majority of the heads of the departments declare the president disabled, the vice president becomes acting president—again, until the president writes to the leaders of Congress to announce an end to the disability.

The third situation covered by the disability portions of the amendment is the most troubling. It involves instances, such as questionable mental health

or severe physical impairment, in which the president's ability to fulfill the office is in doubt—the president claims to be able, but the vice president and the cabinet disagree. The amendment provides that, if this happens, the vice president becomes acting president until Congress can resolve the matter. Congress would have a maximum of three weeks to decide whether the president is disabled, with a two-thirds vote of both the House and the Senate needed to overturn the president's judgment. But because the Twenty-Fifth Amendment only transfers power to the vice president for as long as the presidential disability lasts, a subsequent claim of restored health by the president would set the whole process in motion again.

Some critics of the Bayh proposal argued that it vested too much power in the executive branch to make disability determinations. An alternative proposal was to create a disability commission that included members of all three branches, perhaps joined by some physicians. Bayh defended his proposal by saying that any move to strip power from the president by officials outside the administration risked violating the constitutional separation of powers. In the end, both to satisfy the critics and to preclude the possibility that a president might fire some or all department heads in order to forestall a disability declaration, the amendment authorized Congress, at its discretion, to substitute another body for the cabinet.

Although the Twenty-Fifth Amendment created an elaborate set of procedures for disability determinations, it included no definition of *disability*. It is clear from the congressional debate that disability is not to be equated with incompetence, laziness, unpopularity, or impeachable conduct. As to what disability is, Congress thought that any definition it might write into the Constitution in 1965 would be rendered obsolete by changes in medical science.

Vice-Presidential Vacancies

By the mid-1960s members of Congress generally agreed that the vice president should be replaced when the office becomes vacant, both to increase the likelihood of a smooth succession to the presidency, if needed, by a member of the president's party and to ensure that the presidential

before him and George W. Bush did afterward, that public acceptance of a claim of sweeping executive power does not redound automatically to a president who prosecutes an unpopular, undeclared war.

Nixon's determination to expand the boundaries of presidential power in the face of growing political resistance encouraged him to pursue his domestic and foreign policies by executive fiat. In doing so, he effected significant changes in the organization and conduct of the presidency. But he also planted the seeds of his own disgrace and resignation in 1974.^{[81](#)}

Nixon and the Administrative Presidency

Nixon's "administrative presidency" was born of his inability to persuade Congress to enact the New Federalism. Although Nixon took a legislative approach to reform during his first two years as president, most of his proposals bogged down on Capitol Hill. In response, he shifted to a strategy to achieve his objectives through administrative action. As scholar-practitioner Richard P. Nathan has noted, "Nixon came to the conclusion sometime in 1971 that in many areas of government, particularly domestic affairs, *operations is policy*. Many day-to-day management tasks for domestic programs—for example, regulation writing, grant approval, and budget apportionment—are substantive and therefore involve policy."^{[82](#)}

The first phase of Nixon's administrative strategy was to expand and reorganize the EOP so that it could preempt the traditional responsibilities of the departments and agencies. Nixon doubled the staff of the White House Office from 292 under Johnson to 583 by the end of his first term. With size came power. Nixon loyalists in the White House and in the other agencies of the EOP not only formulated policy, as in the Johnson administration, but also tried to carry out policy.

In foreign affairs, Kissinger created the first completely White House-dominated system of policy making. Starting with Kennedy, the president's national security adviser had assumed a greater share of the responsibilities of the State Department. But Nixon and Kissinger built a foreign policy staff of unprecedented scale and influence. So marginal was the State