

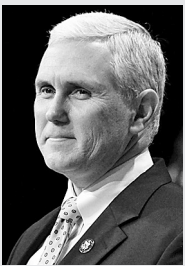
# Imprimis

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## The Presidency and the Constitution

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from Indiana University School of Law in 1986. After running for Congress in 1988 and 1990, he was named president of the Indiana Policy Review Commission, a state think tank based in Fort Wayne, Indiana, in 1991. He was first elected to Congress from Indiana's 6th District in 2000 and was most recently elected to a fifth term in 2008. That same year he was elected to serve as House Republican Conference Chairman. During the 109th Congress, he also served as chairman of the House Republican Study Committee, the largest caucus in the House of Representatives.

*The following is adapted from a speech delivered on the Hillsdale College campus on September 20, 2010.*

**The presidency** is the most visible thread that runs through the tapestry of the American government. More often than not, for good or for ill, it sets the tone for the other branches and spurs the expectations of the people. Its powers are vast and consequential, its requirements impossible for mortals to fulfill without humility and insistent attention to its purpose as set forth in the Constitution of the United States.

Isn't it amazing, given the great and momentous nature of the office, that those who seek it seldom pause to consider what they are seeking? Rather, unconstrained by principle or reflection, there is a mad rush toward something that, once its powers are seized, the new president can wield as an instrument with which to transform the nation and the people according to his highest aspirations.

But, other than in a crisis of the house divided, the presidency is neither fit nor intended to be such an instrument. When it is made that, the country sustains a wound, and cries out justly and indignantly. And what the nation says is the theme of this address. What it says—informed by its long history, impelled by the laws of nature and nature's God—is that we as a people are not to be ruled and not to be commanded. It says that the president should never forget this; that he has not risen above us, but is

merely one of us, chosen by ballot, dismissed after his term, tasked not to transform and work his will upon us, but to bear the weight of decision and to carry out faithfully the design laid down in the Constitution in accordance with the Declaration of Independence.

\* \* \*

The presidency must adhere to its definition as expressed in the Constitution, and to conduct defined over time and by tradition. While the powers of the office have enlarged, along with those of the legislature and the judiciary, the framework of the government was intended to restrict abuses common to classical empires and to the regal states of the 18th century.

Without proper adherence to the role contemplated in the Constitution for the presidency, the checks and balances in the constitutional plan become weakened. This has been most obvious in recent years when the three branches of government have been subject to the tutelage of a single party. Under either party, presidents have often forgotten that they are intended to restrain the Congress at times, and that the Congress is independent of their desires. And thus fused in unholy unity, the political class has raged forward in a drunken expansion of powers and prerogatives, mistakenly assuming that to exercise power is by default to do good.

Even the simplest among us knows that this is not so. Power is an instrument of fatal consequence. It is confined no more readily than quicksilver, and escapes good intentions as easily as

air flows through mesh. Therefore, those who are entrusted with it must educate themselves in self-restraint. A republic is about limitation, and for good reason, because we are mortal and our actions are imperfect.

The tragedy of presidential decision is that even with the best choice, some, perhaps many, will be left behind, and some, perhaps many, may die. Because of this, a true statesman lives continuously with what Churchill called “stress of soul.” He may give to Paul, but only because he robs Peter. And that is why you must always be wary of a president who seems to float upon his own greatness. For all greatness is tempered by mortality, every soul is equal, and distinctions among men cannot be owned; they are on loan from God, who takes them back and evens accounts at the end.

It is a tragedy indeed that new generations taking office attribute failures in governance to insufficient power, and seek more of it. In the judiciary, this

has seldom been better expressed than by Justice Thurgood Marshall, who said: “You do what you think is right and let the law catch up.” In the Congress, it presents itself in massive legislation, acts and codes thousands of pages long and so monstrously over-complicated that no human being can read through them—much less understand them, much less apply them justly to a people that increasingly feel like they are no longer being asked, but rather told. Our nation finds itself in the position of a dog whose duty it is not to ask why—because the “why” is too elevated for his nature—but simply to obey.

**Imprimis** (im-pri-mis),  
[Latin]: in the first place

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America is not a dog, and does not require a “because-I-said-so” jurisprudence; or legislators who knit laws of such insulting complexity that they are heavier than chains; or a president who acts like, speaks like, and is received as a king.

The president is not our teacher, our tutor, our guide or ruler. He does not command us; we command him. We serve neither him nor his vision. It is not his job or his prerogative to redefine custom, law, and beliefs; to appropriate industries; to seize the country, as it were, by the shoulders or by the throat so as to impose by force of theatrical charisma his justice upon 300 million others. It is neither his job nor his prerogative to shift the power of decision away from them, and to him and the acolytes of his choosing.

Is my characterization of unprecendented presumption incorrect? Listen to the words of the leader of President Obama’s transition team and perhaps his next chief-of-staff: “It’s important that President-Elect Obama is prepared to really take power and begin to rule day one.” Or, more recently, the latest presidential appointment to avoid confirmation by the Senate—the new head of the Consumer Financial Protection Bureau—who wrote last Friday: “President Obama understands the importance of leveling the playing field again.”

“Take power. . . rule. . . leveling.” Though it is the model now, this has never been and should never again be the model of the presidency or the character of the American president. No one can say this too strongly, and no one can say it enough until it is remedied. We are not subjects; we are citizens. We fought a war so that we do not have to treat even kings like kings, and—if I may remind you—we won that war. Since then, the principle of royalty has, in this country, been inoperative. Who is better suited or more required to exemplify this conviction, in word and deed, than the President of the United States?

\* \* \*

The powers of the presidency are extraordinary and necessarily great, and

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great presidents treat them sparingly. For example, it is not the president’s job to manipulate the nation’s youth for the sake of his agenda or his party. They are a potent political force when massed by the social network to which they are permanently attached. But if the president has their true interests at heart he will neither flatter them nor let them adore him, for in flattery is condescension and in adoration is direction, and youth is neither seasoned nor tested enough to direct a nation. Nor should it be the president’s business to presume to direct them. It is difficult enough to do right by one’s own children. No one can be the father of a whole continent’s youth.

Is the president, therefore, expected to turn away from this and other easy advantage? Yes. Like Harry Truman, who went to bed before the result on election night, he must know when to withdraw, to hold back, and to forgo attention, publicity, or advantage.

There is no finer, more moving, or more profound understanding of the nature of the presidency and the command of humility placed upon it than that expressed by President Coolidge. He, like Lincoln, lost a child while he was president, a son of sixteen. “The day I became president,” Coolidge wrote, “he had just started to work in a tobacco field. When one of his fellow laborers said to him, ‘If my father was president I would not work in a tobacco field,’ Calvin replied, ‘If my father were your father you would.’” His admiration for the boy was obvious.

Young Calvin contracted blood poisoning from an incident on the South Lawn of the White House. Coolidge wrote, “What might have happened to him under other circumstances we do not know, but if I had not been president. . . .” And then he continued,

In his suffering he was asking me to make him well. I could not. When he went, the power and glory of the

Presidency went with him.

A sensibility such as this, and not power, is the source of presidential dignity, and must be restored. It depends entirely upon character, self-discipline, and an understanding of the fundamental principles that underlie not only the republic, but life itself. It communicates that the president feels the gravity of his office and is willing to sacrifice himself; that his eye is not upon his own prospects but on the storm of history, through which he must navigate with the specific powers accorded to him and the limitations placed on those powers both by man and by God.

\* \* \*

The modern presidency has drifted far from the great strength and illumination of its source: the Constitution as given life by the Declaration of Independence, the greatest political document ever written. The Constitution—terse, sober, and specific—does not, except by implication, address the president’s demeanor. But this we can read in the best qualities of the founding generation, which we would do well to imitate. In the Capitol Rotunda are heroic paintings of the signing of the Declaration of Independence, the victory at Saratoga, the victory at Yorktown, and—something seldom seen in history—a general, the leader of an armed rebellion, resigning his commission and surrendering his army to a new democracy. Upon hearing from Benjamin West that George Washington, having won the war and been urged by some to use the army to make himself king, would instead return to his farm, King George III said: “If he does that, he will be the greatest man in the world.” He did, and he was.

To aspire to such virtue and self-restraint would in a sense be difficult, but in another sense it should be easy—difficult because it would be demanding and ideal, and easy because it is the right thing to do and the rewards are immediately self-evident.

A president who slights the Constitution is like a rider who hates his horse: he will be thrown, and the nation along with him.

The president solemnly swears to preserve, protect, and defend the Constitution. He does not solemnly swear to ignore, overlook, supplement, or reinterpret it. Other than in a crisis of existence, such as the Civil War, amendment should be the sole means of circumventing the Constitution. For if a president joins the powers of his office to his own willful interpretation, he steps away from a government of laws and toward a government of men.

Is the Constitution a fluctuating and inconstant document, a collection of suggestions whose purpose is to stimulate debate in a future to which the Founders were necessarily blind? Progressives tell us that even the Framers themselves could not reach agreement in its regard. But they did agree upon it. And they wrote it down. And they signed it. And they lived by it. Its words are unchanging and unchangeable except, again, by amendment. There is no allowance for a president to override it according to his supposed superior conception. Why is this good? It is good because the sun will burn out, the Ohio River will flow backwards, and the cow will jump over the moon 10,000 times before any modern president’s conception is superior to that of the Founders of this nation.

Would it be such a great surprise that a good part of the political strife of our times is because one president after another, rather than keeping faith with it, argues with the document he is supposed to live by? This discontent will only be calmed by returning the presidency to the nation’s first principles. The Constitution and the Declaration should be on a president’s mind all the time, as the prism through which the light of all question of governance passes. Though we have—sometimes gradually, sometimes radically—moved away from this, we can move back to it. And who better than the president to restore this wholesome devotion to limited government?

\* \* \*

And as the president returns to the consistent application of the principles in the Constitution, he will also ensure



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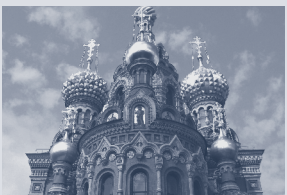
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fiscal responsibility and prosperity. Who is better suited, with his executive and veto powers, to carry over the duty of self-restraint and discipline to the idea of fiscal solvency? When the president restrains government spending, leaving room for the American people to enjoy the fruits of their labor, growth is inevitable. As Senator Robert Taft wrote: “Liberty has been the key to our progress in the past and is the key to our progress in the future.... If we can preserve liberty in all its essentials, there is no limit to the future of the American people.”

Whereas the president must be cautious, dutiful, and deferential at home, his character must change abroad. Were he to ask for a primer on how to act in relation to other states, which no holder of the office has needed to this point, and were that primer to be written by the American people, whether of 1776 or 2010, you can be confident that it would contain the following instructions:

You do not bow to kings. Outside our shores, the President of the United States of America bows to no man. When in foreign lands, you do not criticize your own country. You do not argue the case against the United States, but the case for it. You do not apologize to the enemies of the United States. Should you be confused, a country, people, or region that harbors,

shelters, supports, encourages, or cheers attacks upon our country or the slaughter of our friends and families are enemies of the United States. And, to repeat, you do not apologize to them.

Closely related to this, and perhaps the least ambiguous of the president’s complex responsibilities, is his duty as commander-in-chief of the military. In this regard there is a very simple rule, unknown to some presidents regardless of party: If, after careful determination, intense stress of soul, and the deepest prayer, you go to war, then, having gone to war, you go to war to win. You do not cast away American lives, or those of the innocent noncombatant enemy, upon a theory, a gambit, or a notion. And if the politics of your own election or of your party intrude upon your decisions for even an instant—there are no words for this.

More commonplace, but hardly less important, are other expectations of the president in this regard. He must not stint on the equipment and provisioning of the armed forces, and if he errs it must be not on the side of scarcity but of surplus. And he must be the guardian of his troops, taking every step to avoid the loss of even a single life.

The American soldier is as precious as the closest of your kin—because he is your kin, and for his sake the president must, in effect, say to the Congress and

to the people: “I am the Commander-in-Chief. It is my sacred duty to defend the United States, and to give our soldiers what they need to complete the mission and come home safe, whatever the cost.”

If, in fulfilling this duty, the president wavers, he will have betrayed his office, for this is not a policy, it is probity. It is written on the blood-soaked ground of Saratoga, Yorktown, Antietam, Cold Harbor, the Marne, Guadalcanal, the Pointe du Hoc, the Chosin Reservoir, Khe Sanh, Iraq, Afghanistan, and a thousand other places in our history, in lessons repeated over and over again.

\* \* \*

The presidency, a great and complex subject upon which I have only touched, has become symbolic of overreaching. There are many truths that we have been frightened to tell or face. If we run from them, they will catch us with our backs turned and pull us down. Better that we should not flee but rather stop and look them in the eye.

What might our forebears say to us, knowing what they knew, and having done what they did? I have no doubt that they would tell us to channel our passions, speak the truth and do what is right, slowly and with resolution; to work calmly, steadily and without animus or fear; to be like a rock in the tide, let the water tumble about us, and be firm and unashamed in our love of country.

I see us like those in Philadelphia in 1776. Danger all around, but a fresh chapter, ready to begin, uncorrupted, with great possibilities and—inexplicably, perhaps miraculously—the way is clearing ahead. I have never doubted that Providence can appear in history like the sun emerging from behind the clouds, if only as a reward for adherence to first principles. As Winston Churchill said in a speech to Congress on December 26, 1941: “He must indeed have a blind soul who cannot see that some great purpose and design is

being worked out here below, of which we have the honor to be the faithful servants.”

As Americans, we inherit what Lincoln in his First Inaugural called “the mystic chords of memory stretching from every patriot grave.” They bind us to the great and the humble, the known and the unknown of Americans past—and if I hear them clearly, what they say is that although we may have strayed, we have not strayed too far to return, for we are their descendants. We can still astound the world with justice, reason and strength. I know this is true, but even if it was not we could not in decency stand down, if only for our debt to history. We owe a debt to those who came before, who did great things, and suffered more than we suffer, and gave more than we give, and pledged their lives, their fortunes, and their sacred honor for us, whom they did not know. For we “drink from wells we did not dig” and are “warmed by fires we did not build,” and so we must be faithful in our time as they were in theirs.

Many great generations are gone, but by the character and memory of their existence they forbid us to despair of the republic. I see them crossing the prairies in the sun and wind. I see their faces looking out from steel mills and coal mines, and immigrant ships crawling into the harbors at dawn. I see them at war, at work and at peace. I see them, long departed, looking into the camera, with hopeful and sad eyes. And I see them embracing their children, who became us. They are our family and our blood, and we cannot desert them. In spirit, all of them come down to all of us, in a connection that, out of love, we cannot betray.

They are silent now and forever, but

from the eternal silence of every patriot grave there is yet an echo that says, “It is not too late; keep faith with us, keep faith with God, and do not, do not ever despair of the republic.” ■



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#### DID YOU KNOW?

Sam Knecht, chairman and professor of art at Hillsdale College, has produced an oil painting of the signing of the American Constitution. Measuring over 5'x9', it will hang in Hillsdale's Kirby Center for Constitutional Studies and Citizenship in Washington, D.C. To view the painting online, go to [hillsdale.edu/kirbycenter/painting](http://hillsdale.edu/kirbycenter/painting).