Executive Parity: How the Structure of Executive Branches at the City, State, and Federal Level Impacts Presidents and Presidential Candidates.

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Part I

In the comedy film “My Fellow Americans,” a former president created the following lyrics for the iconic presidential tune “Hail to the Chief”: “Hail to the Chief, if you don’t I’m going to beat you.” While this is most certainly a comedic overstatement, the sentiment it echoes reflects an undeniable element in an American president’s persona – power of office and decisiveness. This element is unique to both the person and the office; the office has withstood a variety of personalities ranging from mild to magnetic because of the way in it is structured. Indeed, even during the nadir of the Clinton impeachment process, when pundits were exclaiming that the impeachment effort could cause a crisis of confidence in the presidency, the office endured because of its structure. Through strong presidents, weak presidents, wars, depressions, and times of relative calm, the office of the American president has been shaped and guided by the same structure that was created by the Founding Fathers.

With the specter of the 2008 presidential election already upon the electorate and daily reminders of its importance and the multitude of candidates seeking office broadcast through the media, there is perhaps no better time to examine the types of institutional structures which give presidential candidates the greatest exposure to and

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1 See MY FELLOW AMERICANS, WARNER HOME VIDEO, 1997.
experience in the powers, obligations, and identity of an executive in our three branch system of government. Without examining personalities or specific issues that have and will come into play during the 2008 election cycle, a comparison of the constitutional and legal powers of state governors, members of Congress, and mayors of large American cities provides unique insights into the skills acquired by aspiring presidential contenders as a result of the legal structure superimposed on their various current and previous governmental offices by constitution, laws, and charters.

Part II of this article examines the historical significance and success of governors who have become presidents. This section then goes on to examine the parallels between the constitutional and legal powers of the American president and the constitutional and legal powers common to state governors under the constitutions and statutory schemes of the individual states. Extrapolating from these provisions, this section argues that governors make strong presidential candidates because of the powers and duties vested in them through the structure of their office.

Part III of this article examines the constitutional and legal powers vested in members of Congress and contrasts them with the legal powers and duties vested in the American president. This section argues that members of Congress have different experiences due to the laws and structures which govern them and define their office and

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2 It is not the author’s intent to advocate for any candidate, or group of candidates, for the 2008 presidential election; indeed, the author’s hope in writing this article is to allow its readers a prism through which to re-examine all candidates in a way that removes personality and media attention from analysis and form their own conclusions as to the role that structural constraints on various offices should play in evaluating any presidential candidate.

3 See infra Part II. A.

4 See infra Part II. B.

5 See infra Part II. C.

6 See infra Parts III. A, III. B.
that, accordingly, they are less acclimated to the legal and personal demands made on the American president.⁷

Part IV of this article examines the powers and duties vested in the mayors of seven major U.S. cities – Boston, Chicago, Houston, Los Angeles, Miami, New York City, and Philadelphia— in contrast to the presidential powers and duties.⁸ This examination is made not only because of the possibility that a candidate in 2008 will be a former mayor, but also because, as mayors assume heightened visibility in a post-September 11th world, they are now, and in the future will be, more viable presidential candidates.

Finally, Part V of this article summarizes the constitutional and legal powers and duties of the American president, state governors, members of Congress, and mayors of large cities, and argues that state governors and mayors are given more executive practice due to the specific laws governing their respective offices.⁹ The goal of this article is not to support one candidate or party, rather, it is to demonstrate the ways in which law superimposes itself on the political system in perhaps unexplored ways.

**Part II**

Often, the only mention that a small or even medium sized state receives in the context of a presidential election is during the course of its primary. However,

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⁷ See infra Part III. B.  
⁸ See infra Part IV.  
⁹ See infra Part V.
gubernatorial presidents, such as Woodrow Wilson, William Henry Harrison, and William J. Clinton, have demonstrated that presidents can rise from smaller and less visible states as well as from larger and more dominant states. Indeed, it is interesting to note that Ronald Reagan was the first gubernatorial president from California, New York has not had a gubernatorial president since Franklin Delano Roosevelt, and Florida has never had a gubernatorial president. With these historical lessons in mind, the author has decided to focus on national trends of shared traits between all – or nearly all – state governors, regardless of the size or notoriety of the state they serve, because presidential history and legal structure teach that when it comes to gubernatorial presidents, any state can provide the next president.

A. Gubernatorial Presidencies

Of America’s forty-three presidents, fifteen have held office as governor of a state prior to their presidency. These fifteen presidents include many of the most iconic and well known presidents in American history, such as George W. Bush, Jimmy Carter, and

12 See THE WHITE HOUSE, The Presidents of the United States, William J. Clinton, available at http://www.whitehouse.gov/history/presidents/bc42.html (last visited March 11, 2007) (explaining that, prior to assuming the role of president, President Clinton was the Governor of Arkansas).
16 See generally id.
William Clinton, Ronald Reagan, Franklin Delano Roosevelt, Theodore Roosevelt, and Woodrow Wilson, as well as some the lesser known presidents, such as Calvin Coolidge, Warren Harding, William H. Harrison, Rutherford B. Hayes, William McKinley, James Polk, John Tyler, and Andrew Johnson.

Certainly, the House and Senate, as well as the military,\(^{32}\) have given the nation some of its most visible presidents as well. And, indeed, several presidents, including Abraham Lincoln,\(^{33}\) were state-wide politicians who held no federal or state office prior to their election,\(^{34}\) or were cabinet members or otherwise members of federal and state bureaucracies prior to their elections.\(^{35}\) However, in the World War II years and beyond, gubernatorial presidents have come to preside over the nation during some of the most important international and domestic security threats and crises.\(^{36}\) Many of the presidents who have served during this time and were not governors were vice presidents prior to assuming the role of president, and were in that sense better exposed to the requirements


\(^{34}\) See THE WHITE HOUSE, The Presidents of the United States, Grover Cleveland, available at http://www.whitehouse.gov/history/presidents/ge2224.html (last visited March 11, 2007) (explaining that President Cleveland had served as both Mayor of Buffalo, New York, and Governor of New York State prior to his election as president);


\(^{36}\) Specifically, Franklin Delano Roosevelt during World War II, Jimmy Carter during the beginning of the Iranian Hostage Crisis, Ronald Reagan during both the end of the Iranian Hostage Crisis and the end of the Cold War, William Clinton during the Oklahoma City bombings, the bombing of the USS Cole, and the bombing of the U.S. embassy in Kenya, and George W. Bush during the September 11, 2001 attacks and both the wars in Afghanistan and Iraq. Further, Presidents Carter, Reagan, Clinton, and George W. Bush experiences economic downturns, and, for some, upturns, during the course of their presidencies.
of the presidency and further removed from their prior roles as members of the House or Senate.37

Interestingly, many presidents who came from Congress or other walks of life prior to serving as president had gubernatorial aspirations at one point in their lives.38 For most, the loss of a gubernatorial race spurred a Congressional career which would ultimately lead to election as president.39

Thus, while there is not a test for overall presidential success, presidential history since World War II indicates that this nation has consistently called on governors to tackle the challenges faced by the nation and the world in light of the increasingly listless global atmosphere and the status of the United States as a bulwark and defender of freedom.

B. Presidential Structuralism


When examining the issue of presidential structuralism, it is important to note that the Framers of the Constitution explicitly stated that the Office of the President and the Executive Branch were modeled exclusively on the various state constitutions in use by the original thirteen states. Although the Framers admitted that there were problems with the system of government devised by the Articles of Confederation, they faulted the weak federal construct and not the strong state apparatuses and created the constitution to accommodate this realization.

Perhaps the most well known of all the elements that create the structure of the American president is the president’s status as commander-in-chief of the military. This power is of vital importance, especially given the current war; however this power is only one of many powers that is specifically vested in the president which, when taken together, create the structure within which the presidency finds its definition and its source of strength.

Constitutionally, the President is the chief executive of the United States and the commander-in-chief of the United States Armed Forces. These dual functions guide the office of the president and his ultimate decisions. Unlike some systems where the president has a symbolic function and the prime minister has a more practical role, the

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41 See Alexander Hamilton, Federalist No. 15: The Insufficiency of the Present Confederation to Preserve the Union For the Independent Journal; John Jay, Federalist No. 3: Concerning the Dangers from Foreign Force and Influence For the Independent Journal.
42 U.S. Const. Art. II §2 cl. 1.
43 U.S. Const. Art. II § 1.
44 U.S. Const. Art. II § 2 cl. 1.
structure given to the American president is that of ultimate decision maker for every aspect of the nation’s policies, from economics to the military.

The presidency is not only bounded by the structure of the powers vested in it, but also by procedural boundaries and steps necessary to ensure that checks and balances are in fact maintained under the governmental systems devised by the constitutional framers. Each of the presidents’ terms is four years in duration, and, by virtue of the Twenty-Second amendment, the President is now subject to a two term limit. While the president is the chief executive, he is not above rebuke and can be impeached by the Congress, and the Congress only. In order to affect resolution of pressing issues to the nation and the president, the president is provided with the constitutional power to convene extraordinary sessions of Congress. In the event of death, resignation, or incapacity of a president, a legally established line of succession has been created, ensuring that the nation shall not be without a leader for any period of time. Thus, the structure of the presidency itself reinforces that the president is essential to the nation and that the president as a person is only part of the office, with the other part of importance being the office itself.

In order to allow the president to implement his policies and to rely on those he deems appropriate to work for the country and himself, the president has the authority to

45 U.S. Const. Art. II. § 1.
46 U.S. Const. Amend. XXII.
47 U.S. Const. Art. I. § 3 cl. 5.
48 U.S. Const. Art. II § 3.
49 U.S. Const. Amend. XX § 3.
appoint cabinet members,\textsuperscript{50} department and agency heads,\textsuperscript{51} and federal judges of all levels\textsuperscript{52} with the advice and consent of the senate.\textsuperscript{53} As the chief executive of the nation, the president has primary authority over the United States’ foreign policy and conduct of international relations and is the sole office holder who is responsible for meeting and accepting the credentials of foreign diplomats.\textsuperscript{54} Although Congress must ratify any treaty signed by the president in order for it to have the force and effect of law in the United States,\textsuperscript{55} the president may enter into executive agreements with foreign states without legislative approval.\textsuperscript{56}

Because of his structural role as the chief executive of the nation, the president is tasked with transmitting his proposed budget to Congress on an annual basis, and is constitutionally required to address Congress on what has been interpreted to be a yearly basis.\textsuperscript{57} Although all appropriations bills ultimately begin in the House,\textsuperscript{58} the president’s budget proposals serve as a guideline for the budgetary debate, and are unveiled prior to the creation of legislative appropriations bills. In this way, the structure of the presidency defines the debate over the nation’s funding of certain programs and initiatives and overall spending. At the other end of the legislative spectrum, the president has veto power,\textsuperscript{59} and may use it at any time that he deems fit, or may chose to exercise it

\begin{footnotesize}
\textsuperscript{50} U.S. CONST. ART. II § 2 cl. 2.
\textsuperscript{51} Id.
\textsuperscript{52} Id.
\textsuperscript{53} Id.
\textsuperscript{54} U.S. CONST. ART. II § 2 cl. 2.
\textsuperscript{55} U.S. CONST. ART. I § 8.
\textsuperscript{57} U.S. CONST. ART. II § 3.
\textsuperscript{58} U.S. CONST. ART. I § 9 cl. 7.
\textsuperscript{59} U.S. CONST. ART. I § 7.
\end{footnotesize}
passively through a pocket veto\textsuperscript{60}; however, a presidential veto may be overridden by a 2/3 majority vote of both the House and the Senate.\textsuperscript{61} Given the tight margins of majority that have predominated in recent Congressional sessions, however, veto overrides are becoming increasingly less likely. Thus, the veto power of the president is itself limited by another structure, albeit one that is constrained by its own structural confines.

Presidents are also the ultimate arbiter of emergency management, and have the ability to declare portions of any state as emergency areas following disasters or other events that cause havoc or devastation to an area.

Thus, subject to the checks and balances designed by the Founding Fathers, the American president is the quintessential chief executive, serving as the public face of the nation domestically and internationally, and bounded only by the structural limits placed on his office. In this, the presidency is the ultimate executive structure.

\textbf{C. Gubernatorial Structuralism}

A visit to multiple states, or a review of the constitutions and laws of multiple states, dramatically illustrates that no two states are the same in history, culture, or character. However, despite these differences, state constitutions and laws pertaining to governors are, by and large, uniform in the powers and checks they impose on that office and the structures through which these offices work.

In terms of structured procedure, uniformly governors have four year terms, and twenty-five states have placed term limits on their governors in order to limit the

\textsuperscript{60} Id.
\textsuperscript{61} Id.
influence and power wielded by those holding the executive office in the state. The states imposing gubernatorial term limits unanimously limit their governors to two terms in office.

In all states, governors are the chief executives of the state, and this forms the structural boundary within with the governor of each state operates. Nearly all states provide that their governor is the commander-in-chief of the state militia, and any other

62 See ALASKA CONST. ART. III § 5 (2006); ARIZ. CONST. ART. V § 1 (2006); CAL. CONST. ART. 5 § 2 (2006); COLO. CONST. ART. IV § 2 (2006); FLA. CONST. ART. IV § 5 (b) (2006); HAWAII CONST. ART. V § 1 (2006); IND. CONST. ART. 5 § 1 (2006); KANSAS CONST. ART. 1 § 1 (2006); KY. CONST. § 71 (2006); LA. CONST. ART. IV §3 (2006); MAINE CONST. ART. V pt. I § 2 (2006); MD. CONST. ART. II § 1 (2006); MICH. CONST. ART. V § 30 (2006); MISS. CONST. ART. 5 § 116 (2006); MO. CONST. ART. IV § 11 (b) (2006); MONT. CONST. ART. IV § 8 (2006); N.M. CONST. ART. V § 1 (2006); N.C. CONST. ART. III § 2 (2006); OHIO CONST. ART. III § 2 (2006); OKLA. CONST. ART. VI § 4 (2006); ORE. CONST. ART. V § 1 (2006); PENN. CONST. ART. 4 § 3 (2006); R.I. CONST. ART. IX §1 (2006); S.C. CONST. ART. IV § 3 (2006); TENN. CONST. ART. III § 4 (2006); VA. CONST. ART. V § 1 (2006); W. VA. CONST. ART. VII § 4 (2006).

63 Id.

64 See ALA. CONST. ART. V § 113 (2006); ALASKA CONST. ART. III § 1 (2006); ARK. CONST. ART. 6 § 2 (2006); ARIZ. CONST. ART. V § 4 (2006); CAL. CONST. ART. 5 § 1 (2006); COLO. CONST. ART. IV § 2 (2006); CONN. CONST. ART. VI § 5 (2006); DEL. CONST. ART. III § 1 (2006); FLA. CONST. ART. IV § 1 (a); GA. CONST. ART. V § II para. II (2006); HAWAII CONST. ART. V § 1 (2006); IDAHO CONST. ART. IV § 5 (2006); ILL. CONST. ART. V § 8 (2006); IND. CONST. ART. 5 § 1 (2006); IOWA CONST. ART. IV § 1 (2006); KANSAS CONST. ART. I § 3 (2006); KY. CONST. § 69 (2006); LA. CONST. ART. IV § 1 (2006); MAINE CONST. ART. V pt. I § 1 (2006); MASS. CONST. pt. II ch. I § I art. I (2006); MD. CONST. ART. II § 1 (2006); MICH. CONST. ART. V § 1 (2006); MINN. CONST. ART. V § 3 (2006); MISS. CONST. ART. 5 § 123 (2006); MO. CONST. ART. IV § 1 (2006); MONT. CONST. ART. IV § 8 (2006); NEB. CONST. ART. IV § 6 (2006); NEV. CONST. ART. 5 § 1 (2006); NH. CONST. pt. 2 art. 41 (2006); N.J. CONST. ART. V § 1 para 1 (2006); N.Y. CONST. ART. IV § 1 (McKinney 2006); N.C. CONST. ART. III 1 2 (2006); N.D. CONST. ART. V § 1 (2006); OHIO CONST. ART. III § 5 (2006); ORE. CONST. ART. V § 1 (2006); PENN. CONST. ART. 4 § 2 (2006); R.I. CONST. ART. IX §1 (2006); S.C. CONST. ART. IV § 1 (2006); S.D. CONST. ART. IV § 1 (2006); TENN. CONST. ART. III § 1 (2006); TEXAS CONST. ART. IV § 1 (2006); UTAH CONST. ART. VII § 5 (2006); Vt. CONST. ch. II § 3 (2006); WASH. CONST. ART. III § 2 (2006); W. VA. CONST. ART. VII § 5 (2006); WISC. CONST. ART. V § 4 (2006); WY. CONST. ART. 4 § 4 (2006).

65 See ALA. CONST. ART. V. § 131 (2006); ALASKA CONST. ART. II § 19; ARK. CONST. ART. 6 § 6 (2006); ARIZ. CONST. ART. V § 3 (2006); CAL. CONST. ART. 5 § 7 (2006); COLO. CONST. ART. IV § 5 (2006); DEL. CONST. ART. III § 8 (2006); FLA. CONST. ART. IV § 1 (a) (2006); GA. CONST. ART. V § II para. III (2006); HAWAII CONST. ART. V § 5 (2006); ILL. CONST. ART. XII § 4 (2006); IND. CONST. ART. 5 § 12 (2006); IOWA CONST. ART. IV § 7; KANSAS CONST. ART. 8 § 4 (2006); KY. CONST. § 75 (2006); LA. CONST. ART. IV § 8 (2006); MASS. CONST. pt. II ch. II § 1 art. VII (2006); MD. CONST. ART. II § 8 (2006); MICH. CONST. ART. V § 11 (2006); MONT. CONST. ART. V § 3 (2006); N.J. CONST. ART. V § 5 (2006); N.Y. CONST. ART. IV § 3 (McKinney 2006); N.C. CONST. ART. III § 5 (2006); N.D. CONST. ART. V § 7 (2006); R.I. CONST. ART. IX §3 (2006); TEXAS CONST. ART. IV § 7 (2006); WISC. CONST. ART. V § 4 (2006); WY. CONST. ART. 4 § 4 (2006).
state military body that might exist. The governor is also the primary emergency manager in each state, and this role is strengthened through the Interstate Emergency Management Compact, to which nearly all states are signatories and which provides uniformity in emergency response and in states offering assistance to other states that have been affected by a variety of emergencies, and the Interstate Civil Defense and Disaster Compact, which provides for many of the same protections and assurances as the Interstate Emergency Management Compact. All governors have the authority to work with governors of other states for a variety of purposes; examples of such cooperation include the adoption of various regional and interstate compacts and agreements addressing variety of issues, such as natural resource and water rights, trade facilitation

66 For example, in New York the constitution provides for a state navy. Although largely ceremonial today, it is still in existence and serves under the ultimate command of the governor. See N.Y. CONST. ART. IV § 3 (McKinney 2006). See also CAL. CONST. APPX. I ART. V § 5 (2006); DEL. CONST. ART. III § 8 (2006); IOWA CONST. ART. IV § 7 (2006); KY. CONST. § 75 (2006); MASS. CONST. pt. II ch. II § I art. VII (2006); MD. CONST. ART. II § 8 (2006); N.J. CONST. ART. V § 5 (2006); R.I. CONST. ART. IX § 3 (2006).


69 See ARK. STAT. ANN. § 15-72-902 (2006) (signing Arkansas onto the Interstate Compact to Conserve Oil and Gas); CAL. PUB. RESOURCES CODE § 3276 (signing California onto the Interstate Compact to Conserve Oil and Gas); 45 ILCS 55/1 (adopting the Interstate Compact to Conserve Oil and Gas); IND. STAT. ANN. § 14-35-4-1 (2006) (adopting the Interstate Mining Compact); KY. STAT. ANN. § 350.300 (adopting the Interstate Mining Compact); MA. SPEC. L. CH. S19 §1 (adopting the Water Pollution Control Compact); MASS. SPEC. L. CH. 121 § 1 (adopting the Northeastern Water and Related Resources Compact); MD. ENV. CODE. ANN. § 14-603 (2006) (adopting the Interstate Oil and Gas Compact); MO. STAT. ANN. § 643.600 (2006) (adopting the Kansas-Missouri Air Quality Compact); MONT. STAT. ANN. § 82-11-302 (2006) (adopting the Interstate Oil and Gas Conservation Compact); NEV. STAT. ANN. § 522.190 (2006) (adopting the Interstate Oil and Gas Conservation Compact); N.H. STAT. ANN. § 163-A:1 (adopting the Northeast Interstate Planning Compact); N.J. STAT. ANN. 32:11E-1 (2006) (adopting the Atlantic States Marine Fisheries Compact); N.C. STAT. ANN. § 104D-1 (2006) (adopting the Southern States Energy Compact); 52 OKL. STAT. § 205 (2006) (adopting the Interstate Oil and Gas Conservation Compact); S.C. STAT. ANN. § 48-41-10 (adopting the Interstate Oil and Gas Conservation Compact); TENN. STAT. ANN. § 59-10-101
and regulation,\textsuperscript{70} transportation and shared waterways security and conservation,\textsuperscript{71} and security, and law enforcement related agreements.\textsuperscript{72} Indeed, many issues which are faced by a governor require the input of other governors, be it for compacts or for assistance and aid in the event of an emergency or disaster or in the regulation of shared boarders and the activities occurring on and near them.


Within the executive structure, governors are the designated representatives of their state to the United States government\(^73\) – outside of those elected to federal office from the state – which frequently requires addressing issues such as border control and enforcement and handling federal financing for state projects and federal highways running through their states.\(^74\) In states with Native American populations, and attendant sovereignty issues, governors are given primary authority over state relations with Native American groups.\(^75\) Additionally, in several states the governor is tasked with handling international relations, to the extent that this field is not preempted by the president’s powers, and international economic development issues,\(^76\) such as the Virginia-Israel Advisory Board\(^77\) and the Virginia Asian Advisory Board.\(^78\)

At home, governors have appointment powers for department and agency heads, subject to legislative confirmation in most instances.\(^79\) Many states allow governors to

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\(^{74}\) See, e.g., HAWAII STAT. ANN. § 264-24 (2006); 30 ILCS 255/1.


\(^{76}\) See ALASKA STAT. ANN. § 44.19.015 (2006); 5 M.R.S. § 263 (2006) (vesting the governor of the State of Maine with the responsibility of overseeing the Maine-Canada Trade Ombudsman); MASS. SPEC. L. S141 § 1 (adopting the International Emergency Management Assistance Compact); MICH. STAT. ANN. § 447.154 (establishing the governor’s authority under the Michigan Export Development Act); MICH. STAT. ANN. § 447.212 (describing Michigan’s international trade programs and the role of the governor in administering them); N.M. STAT. ANN. § 12-13A-5 (adopting the New Mexico-Chihuahua Commission); IND. STAT. ANN. § 2D.1 (2006); MICH. STAT. ANN. § 16.715 (2006).

\(^{77}\) See VA. STAT. ANN. § 2.2-2425 (2006).

\(^{78}\) See VA. STAT. ANN. § 2.2-2450 (2006).

\(^{79}\) See ALASKA CONST. ART. III § 25 (2006); CAL. GOV. CODE § 1300 (2006); COLO. CONST. ART. IV § 6 (2006); FLA. CONST. ART. IV § 6 (2006); GA. CONST. ART. V § II para. IV (2006); HAWAII CONST. ART. V § 6 (2006); IDAHO CONST. ART. IV § 6 (2006); ILL. CONST. ART. V § 9 (2006); IND. CONST. ART. 5 § 18 (2006); KANSAS CONST. ART. 1 § 11 (2006); KY. CONST. § 76 (2006); LA. CONST. ART. IV § 8 (2006); MASS. CONST. pt. II ch. II § 1 art. IX (2006); MD. CONST. ART. II § 10 (2006); MICHI. CONST. ART. V § 3 (2006); MISS. CONST. ART. 5 § 120 (2006); MO. CONST. ART. IV § 4 (2006); NEB. CONST. ART. IV § 1 (2006); NEV. CONST. ART. 5 § 8 (2006); NH. CONST. pt. 2 art. 49 (2006); N.J. CONST. ART. V § IV para 2 (2006); N.M. CONST. ART. IV § 42 (2006); N.Y. CONST. ART. V § 4 (McKinney 2006); N.C. CONST. ART. III § 5 (2006); OHIO CONST. ART. III § 21 (2006); OKLA. CONST. ART. VI § 13 (2006); ORE. CONST. ART. III
fill legislative vacancies,80 judicial vacancies,81 and to make recess appointments.82 Governors have the power to convene special sessions of their state legislature,83 and, in many instances, may move the meeting place of their legislatures in times of emergency.84 When these special or extraordinary sessions are convened, the legislature is typically bound to address only the issues which the governor has placed on the agenda, and cannot introduce any additional measurers.85 Governors are typically


80 See ALA. CONST. ART. IV § 46 (2006); ALASKA CONST. ART. II § 4 (2006); ARK. CONST. ART. 6 § 23 (2006); CAL. CONST. ART. IV § 2 (2006); HAWAI'I CONST. ART. III § 5 (2006); ILL. CONST. ART. V § 7 (2006); IOWA CONST. ART. IV § 10 (2006); LA. CONST. ART. IV § 8 (2006); MINN. CONST. ART. IV § 4 (2006); S.D. CONST. ART. III § 10 (2006); WISC. CONST. ART. XIII § 10 (2006).

81 See ALASKA CONST. ART. IV §§ 5, 8 (2006); ARK. CONST. ART. 6 § 23 (2006); CAL. CONST. ART. VI § 16 (2006); COLO. CONST. ART. VI § 20 (2006); DEL. CONST. ART. IV § 3 (2006); HAWAI'I CONST. ART. VI § 3 (2006); IOWA CONST. ART. V § 15 (2006); KANSAS CONST. ART. 3 § 5 (2006); KY. CONST. § 118 (2006); MAINE CONST. ART. V pt. I § 8 (2006); MASS. CONST. PT. II ch. II § 1 art. IX (2006); MINN. CONST. ART. VI § 8 (2006); N.J. CONST. ART. VI § VI para 1 (2006); N.Y. CONST. ART. VI (McKinney 2006); PENN. CONST. ART. 4 § 8 (2006); S.D. CONST. ART. V § 7 (2006); VT. CONST. CH. II § 32 (2006); WY. CONST. ART. 5 § 4 (2006).

82 See ALASKA CONST. ART. III § 27 (2006); IDAHO CONST. ART. IV § 6 (2006); ILL. CONST. ART. 9 (2006); IND. CONST. ART. 5 § 18 (2006); IOWA CONST. ART. IV § 10 (2006); LA. CONST. ART. IV § 8 (2006); MD. CONST. ART. II § 11 (2006); MONT. CONST. ART. VI § 8 (2006); N.E. CONST. ART. IV § 12 (2006); N.J. CONST. ART. V § 1 para 8 (2006); N.D. CONST. ART. V § 8 (2006); OHIO CONST. ART. III § 21 (2006); TEXAS CONST. ART. IV § 12 (2006).

83 See ALA. CONST. ART. IV § 48 (2006); ALASKA CONST. ART. III § 17 (2006); ARK. CONST. ART. 6 § 19; ARIZ. CONST. ART. V § 4 (2006); CAL. CONST. ART. IV § 3 (2006); COLO. CONST. ART. IV § 9 (2006); CONN. CONST. ART. III § 2 (2006); DEL. CONST. ART. II § 4 (2006); FLA. CONST. ART. III § 3 (2006); GA. CONST. ART. V § II para. VII (2006); HAWAI'I CONST. ART. III § 10 (2006); IDAHO CONST. ART. III § 8 (2006); ILL. CONST. ART. IV § 5 (2006); IND. CONST. ART. IV § 9 (2006); IOWA CONST. ART. III § 2 (2006); KANSAS CONST. ART. 1 § 5 (2006); KY. CONST. § 36 (2006); MAINE CONST. ART. V, pt. I § 13 (2006); MASS. CONST. PT. II ch. II § 1 art. V (2006); MD. CONST. ART. II § 16 (2006); MICH. CONST. ART. V § 15 (2006); MINN. CONST. ART. IV § 12 (2006); MISS. CONST. ART. 5 § 121 (2006); MONT. CONST. ART. V § 6 (2006); NEB. CONST. ART. IV § 8 (2006); NEV. CONST. ART. 5 § 9 (2006); N.M. CONST. ART. IV § 6 (2006); N.Y. CONST. ART. IV § 3 (McKinney 2006); N.C. CONST. ART. III § 5 (2006); N.D. CONST. ART. V § 7 (2006); OHIO CONST. ART. III § 8 (2006); OKLA. CONST. ART. VI § 7 (2006); ORE. CONST. ART. V § 12 (2006); PENN. CONST. ART. 2 § 4 (2006); R.I. CONST. ART. IX § 7 (2006); S.C. CONST. ART. IV § 19 (2006); TENN. CONST. ART. III § 9 (2006); TEXAS CONST. ART. IV § 8 (2006); UTAH CONST. ART. VII § 16 (2006); VA. CONST. ART. V § 6 (2006); WASH. CONST. ART. II § 12 (2006); W. VA. CONST. ART. VII § 19 (2006); WISC. CONST. ART. IV § 11 (2006); WY. CONST. ART. 3 § 7 (2006).

84 See ALA. CONST. ART. V. § 122 (2006); ARK. CONST. ART. 6 § 19 (2006); HAWAI'I CONST. ART. III § 10 (2006); KY. CONST. § 36 (2006); MAINE CONST. ART. V, pt. I § 13 (2006); MD. CONST. ART. II § 16 (2006); MICH. CONST. ART. V § 16 (2006); MISS. CONST. ART. 5 § 121 (2006); NH. CONST. PT. 2 art. 43 (2006); R.I. CONST. ART. IX § 17 (2006); TEXAS CONST. ART. IV § 8 (2006); WY. CONST. ART. 3 § 7 (2006).

85 See ARK. CONST. ART. 6 § 19 (2006); CAL. CONST. ART. IV § 3 (2006); COLO. CONST. ART. IV § 9 (2006); IDAHO CONST. ART. IV § 9 (2006); ILL. CONST. ART. IV § 5 (2006); LA. CONST. ART. IV § 8 (2006); MINN. CONST. ART. IV § 14 (2006); NEB. CONST. ART. IV § 12 (2006); N.H. CONST. ART. IV § 13 (2006); N.J. CONST. ART. IV § 11 (2006); N.M. CONST. ART. § 141 (2006); N.Y. CONST. ART. IV § 13 (2006); OHIO CONST. ART. IV § 6 (2006); PENN. CONST. ART. 4 § 8 (2006); S.C. CONST. ART. IV § 19 (2006); S.D. CONST. ART. V § 15 (2006); TEXAS CONST. ART. IV § 8 (2006); UTAH CONST. ART. VII § 16 (2006); WASH. CONST. ART. II § 12 (2006); W. VA. CONST. ART. VII § 19 (2006); WISC. CONST. ART. IV § 11 (2006); WY. CONST. ART. 3 § 7 (2006).

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required to submit a proposed budget for their state to the legislature on an annual basis, and are usually required to address the legislative body in their state on annually. Veto powers are vested solely in governors, who may typically be overridden only by extraordinary votes of their legislatures, although in some instances, such as popular initiatives, governors are not allowed to exercise their veto power. Impeachment of a governor is universally provided for in state constitutions, with the state legislature exclusively hearing and deciding the issue, except in recall states, where a constitutional
amendment now allows governors to be recalled by the people. Additionally, all states have established a set line of succession in the event that a governor dies, resigns, or becomes incapacitated while in office. Governors are provided with pardoning power for criminals, although some states have attempted to check this power through the creation of pardon commissions, which evaluate those eligible to receive a pardon and recommend a specific list of potential pardon recipients to the governor.

HAWAII CONST. ART. III § 19 (2006); IDAHO CONST. ART. V § 4 (2006); ILL. CONST. ART. IV § 4 (2006); IOWA CONST. ART. III § 20 (2006); KANSAS CONST. ART. 2 § 28 (2006); KY. CONST. § 68 (2006); MASS. CONST. pt. II ch. I § 1 art. 8 (2006); MD. CONST. ART. II § 7 (2006); MINN. CONST. ART. VIII § 2 (2006); MISS. CONST. ART. 4 § 50 (2006); MO. CONST. ART. III § 2 (2006); MONT. CONST. ART. V § 13 (2006); NEV. CONST. ART. 7 § 1 (2006); NH. CONST. pt. 2 art. 40 (2006); N.M. CONST. ART. IV § 36 (2006); N.Y. CONST. ART. VI § 24 (McKinney 2006); N.C. CONST. ART. IV § 4 (2006); N.D. CONST. ART. XI § 8 (2006); OHIO CONST. ART. II § 24 (2006); OKLA. CONST. ART. VIII § 1 (2006); R.I. CONST. ART. IX § 1 (2006); S.C. CONST. ART. V § 2 (2006); S.D. CONST. ART. XVI § 3 (2006); TENN. CONST. ART. V § 4 (2006); TEXAS CONST. ART. XV § 2 (2006); UTAH CONST. ART. VII § 19 (2006); VA. CONST. ART. V § 17 (2006); WISC. CONST. ART. VII § 1 (2006); WY. CONST. ART. 3 § 17 (2006).


D. Executive Parity

Examining the powers of presidents and governors, and the structures which mold and define these powers, reveals that they are strikingly similar, perhaps best distinguished by size of constituencies and scope of people and issues served by each office. Historically, this might not be as surprising, given that the same people and ideology behind the United States Constitution were the motivating forces behind the constitutions of the original thirteen states. As the nation grew, new states entering the union adopted constitutions which were based on the original states’ constitutions, and even the most culturally diverse states, such as Hawaii, and the newer states, such as Alaska, have adopted the same structural principles and standards when defining the office of governor.

Beyond procedure and powers, the similarity between the office of the American president and the office of an American governor is one of structural boundaries and efficiency. In both instances, the requirement that the officeholder act as the chief executive of the political entity at issue requires that the officeholder act decisively and render final decisions as an arbiter of the best interests of the state and its citizens. The officeholder’s voice stands as a sole and powerful one within the government of his state and within his citizenry. The officeholder’s powers are fettered at the same time that

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95 Indeed, the constitution of the State of Hawaii has taken the structure used to define the roles of the executive, legislature, and judiciary created by early state constitutions and incorporated it with provisions that preserve native Hawaiian culture, history, and lands. See generally Hawaii Const. (2006).
96 See generally Alaska Const. (2006).
97 See supra Pts. II B, C.
98 See supra Pts. II B, C.
they are above those of the other branches of government.\textsuperscript{99} The officeholder speaks for his people domestically and, when necessary, internationally.\textsuperscript{100} The officeholder is the spearhead in times of emergency and crisis, both legally and ceremonially, and has the task of reassuring his citizens that the government will protect them from peril.\textsuperscript{101} The officeholder is charged with representing the interests of his people against and in cooperation with other heads of state, be they foreign leaders, state governors, or the American president himself.\textsuperscript{102}

Thus, there is a common structural thread, expressed in the laws and norms which confine those serving as a governmental executive, either in the office of the American president and the office of the governor of any American state, in a way that is symbiotic with other executive officeholders and different than the relationship between these offices and any other offices except, as set forth below, the office of mayor of a large American city.

\textbf{Part III}

\textbf{A. Congressional Structure}

Just as the constitution created a structure within which the American president functions as the executive of the nation, so too does the constitution create a governing structure for members of Congress. However, unlike the structural impact of Article II,

\textsuperscript{99} \textit{See supra} Pts. II B, C.
\textsuperscript{100} \textit{See supra} Pts. II B, C.
\textsuperscript{101} \textit{See supra} Pts. II B, C.
\textsuperscript{102} \textit{See supra} Pts. II B, C.
with its emphasis on the person as the lynchpin of the presidential apparatus, Article I is concerned primarily with giving structure to the institution of the Congress as a whole, with less attention to the individual members who comprise it. Individually, members of the House and Senate are elected to, respectively, two year terms and six year terms. Unlike the office of president, members of Congress are not subject to term limits and can remain in power until they chose to resign or are voted out, unless their sending state opts to require otherwise.

The remaining constitutional provisions under Article I address the powers of Congress as a legislative entity, and are not structured to enhance the power or duties of individual members. Congress, collectively, is vested with the power to declare war, impeach the president or decide whether to remove the president from office, provide advice and consent to the president on his nominees for department and agency heads, cabinet heads, and federal judges at all levels, create federal courts other than the Supreme Court, approve each year’s federal appropriations and budget provisions, levy taxes, promulgate rules governing immigration and citizenship requirements, and may vote to override a presidential veto. Members of Congress, in committees and

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103 See generally U.S. Const. Art. II.
104 See generally U.S. Const. Art. I.
106 Id. § 3.
107 Id. § 2.
108 Id. § 8.
109 Id. § 3.
111 Id.
112 Id.
114 Id. § 7.
115 Id. § 8.
116 Id.
117 Id. § 7.
subcommittees, may hold hearings and inquests into issues within the jurisdiction given to the particular committees and subcommittees. Perhaps the most important function of any member of Congress is the regular function of attending votes and enacting laws, the central function for which the legislative branch of government was created by the Founding Fathers. Even here, however, Congressional structure does not allow any member of Congress to determine how a vote will go, or the outcome as an issue; rather, a majority of the Congress, working together, must act and vote in order for the primary function of members of Congress to be achieved.

B. Lack of Structural Parity

The duties of a member of Congress are some of the most important under the constitution, yet in terms of constitutional structure and legal practice, there is far less parity between the office of the American president and an American Congressman than between the office of the American president and a governor of any state in the United States or the mayor of a large city. One need only take a peripheral view of the constitution to understand that these branches, which are intended to balance each other, would necessarily be vested with powers that are structurally and legally different. And certainly there is no bar which prohibits an effective president to be made from a member of Congress. However, being one vote amongst many other colleagues, no matter how high ranking or decisive a vote, puts one on a higher learning curve when in office than when one is already accustomed to being the governmental executive and is used to the

118 See generally U.S. CONST. ART. I § 1 (“All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.”).
119 Indeed, as demonstrated above, many strong presidents have come from legislative backgrounds. See supra Pt. II. A.
attendant governmental structure. Particularly in today’s domestic and international 
climate of war and turmoil, the constitutional structure of Congress, the American 
president, and governors can be seen as a strong guide from the Founding Fathers to 
future presidents and those who would chose them to look beyond the personalization of 
politics and towards the structure of the office which presidential candidates seek.

**Part IV**

A. Overview

Mayors throughout the United States are charged with being the figurehead and 
chief executive of their cities and towns, and the structure which surrounds these 
executives is akin to that which surrounds the American president and state governors. 
For the purposes of this article, the author has decided to examine the mayoral powers 
vested in the mayors of Boston, Chicago, Houston, Miami, New York, Los Angeles and 
Philadelphia for several reasons, not the least of which being the size and complexity of 
these cities and the issues faced by them. Boston and Philadelphia, while smaller in 
population than the other cities surveyed, represent two of the oldest cities in the United 
States and, as such, allow an observation of the structural beginnings of mayors in the 
United States, and the persistent trends in mayoral powers which started in the 1600s and 
have continued until the present day. Miami was selected because of its cultural diversity 
and because of the many public security issues faced by the City of Miami, ranging from 
hurricanes to floods of illegal immigrants, which are a constant test of the structure of the 
City of Miami as a whole, and its executive in particular. The remaining cities, Chicago, 
Houston, New York, and Los Angeles were selected because the U.S. Census Bureau
lists these cities as the four largest cities in the United States, and an examination of their executive structure is a telling evaluation of the structural needs of any executive that is charged with ensuring the safety and well being of a large and diverse group of people.

The author would like to note that nothing in the following evaluation is intended to suggest that the mayor of another city would not be a logical candidate for president or a successful candidate if indeed elected; rather, these cities were chosen to illustrate the many ways in which parallels between presidents and mayors exist and, in so doing, demonstrate that, as American society has grown and changed since the days when the Boston and New York Charters were written, the structure ascribed to mayors as the chief executives of their cities have remained the same regardless of the differences in their respective cities.

B. Mayoral Structure

Regardless of location or history, the mayors of all cities studied are, without qualification, the chief executives of their cities and the structure of their offices reflects this status. As such, these mayors are universally required to provide a proposed budget prior to the beginning of each fiscal year; may appoint department and agency heads and may remove such officers as well; coordinate emergency responses in the

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120 See BOSTON CHARTER § 11; CHICAGO MUN. CODE ch. 2-4-020; HOUSTON CHARTER art. VI § 1; L.A. CHARTER § 230; N.Y.C. CHARTER Ch. 1 § 3; PHILADELPHIA CHARTER art. IV ch. 1 § 4-100.
121 See BOSTON CHARTER § 17E; HOUSTON CHARTER art. VI § 7a; L.A. CHARTER § 232; MIAMI MUN. CODE ch. 2 art. II § 2-36; N.Y.C. CHARTER § 249; PHILADELPHIA CHARTER art. IV ch. 1 § 4-101.
122 See CHICAGO MUN. CODE ch. 2-4-010; BOSTON CHARTER EXEC. DEP’T § 9; HOUSTON CHARTER art. VI § 7a; L.A. CHARTER § 231; N.Y.C. CHARTER Ch. 1 § 6; PHILADELPHIA CHARTER art. IV ch. 1 § 4-104.
event of any type of disaster, and generally must deliver a state of the city address to
the city legislature each year. All of the mayoral offices studied are for terms of four
years, and the mayors of New York City, Los Angeles, and Philadelphia are limited to
two consecutive terms as mayor.

All mayors studied have a cabinet, although there is some variation in the elected
versus appointed status of cabinet members. Because mayors are universally tasked
with overseeing the operation of the city which elects them, most cities have an
established line of succession in the event that a mayor dies, resigns, or becomes
incapacitated for any reason; however when a mayoral post is filled due to the death,
resignation, or incapacity of the sitting, elected mayor, the vacancy is officially filled at
the next election cycle. Boston and New York City further provide for a chain of
authority in the event that the sitting mayor travels outside of the area during his term.

All mayors studied work with a city legislative body, the legislation enacted by
which all mayors but the Mayor of Houston may veto. Several mayors are empowered

123 See CHICAGO Mun. CODE ch. 2-4-110; HOUSTON CHARTER art. VI § 7a; L.A. CHARTER § 231; N.Y.C
CHARTER CH. 1 § 8.
124 See BOSTON CHARTER § 17E; HOUSTON CHARTER art. VI § 7a; L.A. CHARTER § 231; N.Y.C. CHARTER
CH. 1 § 5; PHILADELPHIA CHARTER art. IV ch. 1 § 4-101.
125 See L.A. Charter § 206; N.Y.C. Charter Ch. 1 § 4; Philadelphia Charter art. III ch. 4 § 3-400;
126 See CHICAGO Mun. CODE ch. 2-4-010; HOUSTON CHARTER art. VI § 7a; L.A. CHARTER § 231; N.Y.C.
CHARTER CH. 1 §§ 6 – 7; but see MIAMI Mun. CODE ch. II.
127 See BOSTON CHARTER § 13; HOUSTON CHARTER art. VI § 3; L.A. Charter § 207; N.Y.C. CHARTER CH.
1 §§ 9 – 10; PHILADELPHIA CHARTER art. III ch. 5 § 3-500;
128 Id.
129 Id.
130 See N.Y.C. CHARTER CH. 1 § 10; BOSTON CHARTER § 11(B);
131 See CHICAGO Mun. CODE ch. 2-8; HOUSTON CHARTER ART. VII; L.A. CHARTER § 240; MIAMI Mun.
CODE ch. II art. II; N.Y.C. CHARTER CH. 2; PHILADELPHIA CHARTER ART. II.
with the ability to convene special meetings of their city legislatures for a variety of reasons. The mayors of Boston and New York City may create departments within the city’s governmental structure, while the mayors of Houston, Los Angeles, and Philadelphia are subject to citizen recall provisions. Within the executive and administrative structures of every city studied, there are myriad departments and agencies, dealing with a vast array of issues facing these cities by virtue of their size, cultural diversity, commercial needs, historical needs, and safety issues. Indeed, with an increasing focus of domestic safety policy falling on large American cities, the mayors of these cities have become far more visible not only for political and media coverage, but also because these mayors must now be the calm and careful face of their cities in the face of constant threats from at home and abroad.

B. Structural Parity Revisited

As the above comparisons demonstrate, there is a striking level of structural parity between the legal powers vested in mayors, governors, and presidents. The powers of each office have become better defined and broader during the course of the nation’s history, with mayors of even relatively new cities such as Los Angeles being subject to the same legal and operational structure as the mayors of the oldest cities in the nation. At

131 See Chicago Mun. Code Ch. 2-4-40; Boston Charter § 17D; L.A. Charter § 240; Miami Mun. Code Ch. 2 art. II § 2-36; N.Y.C. Charter § 255; Philadelphia Charter art. IV ch. 1 § 4-103; but see Houston Charter art. VI § 6.
132 See Boston Charter § 17A; Houston Charter art. VI § 7a; N.Y.C. Charter Ch. 2 § 43.
133 See N.Y.C. Charter Ch. 1 § 8.
134 See Houston Charter art. VII-a; L.A. Charter § 200; Philadelphia Charter art. IX.
the same time, the structure under which governors of the original thirteen states serve as the chief executive of their states is the same structure that binds even the newest of states and their governors. And, throughout all of these changes and expansions, the structure under which the American presidency is defined and limited has remained consistent.

Beyond an interesting academic exercise, this comparison illustrates that the office of mayor in a large U.S. city is parallel to that of a president or state governor in that a mayor is the figurehead of his city, and is also the ultimate decision maker for his government and his citizens. This requires that a mayor act as one rather than one of many, and that a mayor is able to act decisively in what he believes are the best interests of the city he serves. The founders of the cities profiled adopted the legal and operational structure imposed upon presidents and governors when creating the office of mayor for these cities, and these structures have continued to be replicated even in cities founded centuries after others.

PART V

What do the above comparisons mean for the presidency? Certainly, it is overly simplistic to conclude that familiarity with the structure of an institution alone will guarantee that a particular presidential candidate will win a primary or general election, or will be a successful president if elected. It is equally simplistic, however, to ignore the role that the legal structures controlling the various political offices from which
presidential candidates come do not have a profound impact on their governing style and ability to quickly adapt to the demands of the presidential office.

Rather, in anticipation of a highly contested presidential election, which will in all likelihood determine the course of America’s war on terror and its domestic economic and societal agenda, it is important to examine the legal structures and demands placed on the governors, members of Congress, and mayors of large American cities relative to the presidency in order to gain appreciation for the structural parallels and differences that the Founding Fathers created between these institutions. Such an examination reveals that, regardless of size of constituency or state, governors in the United States share the same powers and duties of office as the president, albeit on a smaller scale and subject to checks on the national level. So too do the mayors of the largest and most historic cities in the United States.

There is nothing counterintuitive in this structural parity; after all, the federal, state, and local governmental structures used throughout this country are operated on the tripartite branch system, under which each branch is accorded a different role in governing. This parity becomes important when examining potential presidents because of the way in which structure affects the experiences created by membership in the executive and legislative branches, and subjects members of each branch to different standards of decision making, decisiveness, and consequences.
Further, the offices of governmental executives in this country are designed to be personal, and invite those who hold them to exercise a higher degree of personality in policy crafting, governing, and guiding of the people served than any other branch of government. At the same time, those who hold executive positions in the United States have been and are reigned in by the structure of their office, and, at least theoretically are better acclimated to the possibilities and restrictions which the structure of their office brings.

Thus, before heading to the polls in 2008, in addition to media coverage and candidate statements, it is imperative that voters assess the structural qualities that are placed on the office of president of the United States, and the ways in which the previous governmental experiences of the candidates for president will mold and shape each candidate as a president, chief executive, commander-in-chief, and overall symbol of freedom and democracy in the world when placed within the presidential structure. Such an assessment reveals that there is executive parity in the structure of presidents, governors, and mayors, and that this parity can be a useful tool for a presidential candidate and new president when called to act within the confines of the presidential structure.