ALZHEIMER'S DEMENTIA AND THE PRESIDENCY: NEW CHALLENGES IN AN AGING SOCIETY

Grandpa is in his 70s and the odd way he has been acting lately concerns you, but Grandpa may be distracted by a lot on his mind. Grandpa tells his employees a new policy decision and then the next day or even a few hours later, Grandpa changes his mind and tells them to start working in a totally different direction. His employees are often bewildered about what to do, but they trust that Grandpa always makes the right decisions, even if different from what he said yesterday. Grandpa likes to talk to people, but often is confusing because the topic at the end of his sentence is entirely different than at the beginning. It's almost like he talks in word salad. Sometimes Grandpa even denies telling you something, but you must have misunderstood what Grandpa said. Grandpa has funny mix-ups like coloring a stripe on the American flag blue, calling his house the Tippy Top Shape, saying the kidney has a wonderful place in the heart, and talking about the how the Continental Army took over the airports from the British during the Revolutionary War. Lately Grandpa is spending more time watching television and less time working at his office, but maybe Grandpa doesn't want to miss any of his favorite TV shows. Grandpa gets mad a lot and yells at people, but you don't blame him because people are so mean to him. Yes, you are a bit worried that Grandpa is acting a little odd but he has always been eccentric, moody, and unpredictable. When you think about it, maybe Grandpa is not that different than he has always been…so there is nothing to worry about.

Grandpa's behaviors are benign when viewed individually and can easily be rationalized as due to factors such as stress, a busy schedule, a lot on his mind, being tired, or that he has always acted like that. Yet confusion, forgetfulness, mood swings, frequently getting angry and lashing out, blaming others, being less interested in work, and spending more time watching television are all the subtle early symptoms of Alzheimer's dementia. Everyday, families face the challenge of recognizing whether their loved one has Alzheimer's dementia. The typical pattern for the family is an initial stage of denial and an attempt to explain away their loved one's odd behaviors as due to a myriad of reasons of everything but Alzheimer's dementia. Because the consequences of admitting it is Alzheimer's are so dire, most families become like ostriches sticking their heads in the sand. Eventually the collection of subtle disease behaviors becomes more obvious as Alzheimer's dementia and then the family has to decide how long the loved one can continue working, what types of decisions the person can capably still make, and how to tell their loved one he can no longer be trusted to manage aspects of his own life.

What if, instead of a family coping with the realities of Grandpa's Alzheimer's dementia, it is the country facing the challenges of a president with the disease? Instead of deciding whether to take the keys to the car away from Grandpa, what if the dilemma is taking the keys to the Oval Office away from the president? Ironically, many of the coping patterns of a family are the same for the country, only exaggerated: explaining away his odd behaviors as due to a plausible reason, denying he has Alzheimer's dementia, a reluctance to take away responsibilities, assuming his constantly changing decisions are part of a larger strategic plan, or pointing to periods of his seemingly normal behavior as evidence he does not have Alzheimer's dementia.

The political questions are many if a president has Alzheimer's dementia. How do political dynamics move Alzheimer's dementia from the realm of being a purely medical diagnosis to being a highly partisan one? What are the potential risks and consequences for domestic and foreign policy and for our political institutions if the president has Alzheimer's dementia? The 25th Amendment provides a constitutional means to remove a president who is "unable to discharge the powers and duties of his office," but is the 25th Amendment equipped with the necessary safeguards when a president has Alzheimer's dementia? How would the public even know if a president has Alzheimer's dementia when the political incentives of those around him are to cover up his lapses in memory? A stroke or a coma is a definitive event leading to an immediate and clear-cut disability, but Alzheimer's dementia is a progressive disease with a subtle beginning, fluctuating periods of confusion and clarity, sometimes even throughout a single day, and the pace of the disease varies from person to person. So at what stage of the disease and how is it determined that the president is no longer competent to make national decisions?

The aim of this paper is to overlay the prism of Alzheimer's dementia (accounting for 60% to 80% of dementia cases) onto the institution of the Presidency. From a perspective of political gerontology, the intersection of politics and aging yields a unique set of questions relative the procedure and resolution of the dilemmas arising from a president with Alzheimer's dementia. The normal complexities of dealing with a person with Alzheimer's dementia are confounded by the political environment surrounding the office of the presidency, so typical decisions and implications of a medical diagnosis of Alzheimer's dementia now become highly partisan.

THE SIGNIFICANCE AND LIKELIHOOD OF ALZHEIMER'S DEMENTIA REACHING THE PRESIDENCY

The term dementia is not a specific disease but the general term for a group of symptoms of diminished cognitive functioning. The term dementia can be thought of as an over-arching term that describes a condition with different causes, each with its own pathology. Alzheimer's dementia, comprising 60% to 80% of dementia cases, is one cause of dementia, but other causes include vascular dementia or multi-infarct dementia (stroke), frontotemporal lobe dementia, dementia with Lewy bodies, Parkinson's disease, Creutzfeldt-Jakob disease, Huntington disease, HIV/AIDs, and alcohol-related dementia. What these different causes of dementia have in common is decreased cognitive functioning that interferes with the ability to carry out routine daily tasks. Since Alzheimer's dementia is the most common and overwhelming cause of dementia, this paper focuses specifically on Alzheimer's dementia and not the other causes of dementia.

Alzheimer's dementia is a degenerative and progressive neurological disease distinguished by the accumulation of protein-fragment beta-amyloid (plaques) and twisted strands of the protein tau (tangles) in the brain. Plaques are located inside the neuron and inhibit the communication of brain messages at the synapses, leading to cell death. Tangles are located outside the neuron and prevent essential nutrients from entering the cell. Although recognized as biomarkers of the disease, it is not yet known whether the plaques and tangles are the cause or the effect of Alzheimer's dementia -- or even if they have any role in the disease. Nonetheless, their accumulation in the brain results in significant brain shrinkage due to cell loss. As the plaques and tangles increase in number and spread throughout the parts of the brain, the effects of the disease progress from the early stage of

forgetfulness and impaired judgment to problems in the later stages with ADLs (the Activities of Daily Living of dressing, bathing, walking, feeding oneself, transferring, and toileting) to the final disease stage of eventually being bed-ridden with severe inabilities such as unable to talk, sit up without restraints, and remembering how to swallow.

First described in 1906 by German psychiatrist and pathologist Dr. Alois Alzheimer who discovered the plaques and tangles in a brain of a 51 year-old woman during an autopsy, the disease was not initially connected to aging. It was labeled presenile dementia and assumed to occur in those ages 45 to 65. Senile dementia, then referred to as senility, continued to be considered a normal function of aging. This changed in 1977 when a conference concluded that the symptoms and pathologies of presenile dementia and senile dementia were the same, leading to the conclusion that Alzheimer's dementia was not normal aging (Katzman and Bick, 2000).

Despite the extensive disease research and significant investment of research funds over the last 40 years, much remains unknown about Alzheimer's dementia. There still is no definitive way to diagnose Alzheimer's dementia except through the plaques and tangles during an autopsy, although promising new technologies for diagnosis are emerging such as PET scans (positron emission tomography) which detect levels of beta amyloid in the brain and tests on cerebrospinal fluid which detect the levels of beta amyloid and tau. The cause of Alzheimer's dementia still remains a mystery but age, genetics, and lifestyle are known to play a role. Drug trials from various scientific approaches have been conducted, but there still is no drug to prevent, stop, slow down, or cure Alzheimer's dementia. At present, what few treatments exist are limited to a handful of Alzheimer's drugs with limited success in increasing cognitive functioning in the disease's early stages. In sum,

Alzheimer's dementia has no test for diagnosis, no known cause, and no drug to prevent, cure, or even treat the disease.

The early patterns of decreased cognitive functioning due to Alzheimer's dementia are subtle and often go undetected or are mistakenly attributed to aging or stress. Usually the first symptom is a problem with short-term memory and recalling recently learned information. This can be struggling with a friend's name, forgetting an important date, or not remembering the specifics of yesterday's conversation. Challenges with planning and problem solving start to develop as there is impairment with attentiveness, abstract thinking, and semantic memory in discerning meanings and concepts. As examples, following a recipe can result in the person using baking powder for sugar, counting change can be confusing, organizing the stages of a work project can be more difficult.

Although the person can still adequately communicate his basic ideas, subtle language problems begin to appear as the person struggles to find the right word, follow a conversation, or have a logical flow in sentence structure. Additional language problems develop including a shrinking vocabulary, decreased word fluency, and overuse of vague terms like "thing" and its variations (something, anything, everything, etc.). Mood and personality changes occur with heightened irritability, increased aggression and lashing out, heightened suspicion of others, more frequent confusion, and becoming easily upset when out of his comfort zone of a familiar environment. Another typical early symptom is repetitive behavior and repeatedly bringing up the same few items to the point of obsession. The person may keep folding the same towel or repeatedly ask if it is time to leave. They may relentlessly repeat the same few stories multiple times a day and in unrelated conversations.

The symptoms of Alzheimer's dementia are progressive and will gradually increase to the extent that they interfere with the person's everyday activities. Even though this is the point when family and friends begin to recognize their loved one has a problem and needs to be evaluated, multiple studies have found that the cognitive difficulties and impairment of Alzheimer's dementia actually begin anywhere from 3 to 20 years earlier (Alzheimer's Association, 2020; Amieva, et al., 2015). Eventually as cognitive functioning continues to decrease, the person will need assistance with routine daily tasks. When dressing, the person might put on three shirts and no pants or put his socks over his shoes. If thirsty, the person might use an ice cream scoop to drink from instead of a glass. Not remembering a name now extends to their spouse and children. Unlike other diseases and medical conditions, Alzheimer's dementia does not have an incipient event but gradually creeps from stage to stage without clearly delineated markers and will affect some areas of the person's functioning more than others. For example, the person may be able to play any song on the piano by memory but not remember his way home from the grocery store. This makes it difficult to decide exactly when the person can no longer be trusted to make decisions.

There are 5.8 million people in the United States living with Alzheimer's dementia (Alzheimer's Association, 2020). Every 65 seconds someone in the United States develops Alzheimer's dementia and each year there are nearly a half million new cases -- the same prevalence as breast cancer and prostate cancer combined (American Cancer Society, 2019). One in ten people over the age of 65 has Alzheimer's dementia with disease prevalence increasing with age. Yet, according to the Alzheimer's Association, the actual number of persons with Alzheimer's dementia is far higher since a large portion of those

who would meet the diagnostic criteria of the disease remains undiagnosed (Alzheimer's Association, 2020).

Putting these figures into the context of current political leaders' ages, a frightening foreshadow is cast on the future reality of the nation having to deal with a president with Alzheimer's dementia. For example, the 2020 and 2016 elections were between two senior citizens. In 2016, Trump was then 70 and Hillary Clinton then 69 and the 2020 election was between Trump age 74 and Biden age 78. Plus the 2020 primary elections had a number of senior citizen candidates: Sanders at 79, Warren at 71, Hickenlooper at 68, and Inslee at 69.

This is not to raise any alarm about electing a president over age 65 because Alzheimer's dementia is a disease, not normal aging. Older candidates may have the advantage of wisdom developed over a wider range of life experiences, political positions, and historical events that will serve them well as president. Nonetheless, since age is the main correlate increasing the risk of Alzheimer's dementia, it does beg the question of what would happen if the president has Alzheimer's dementia and if the provisions of the 25th Amendment can address the unique complexities presented by this disease.

ALZHEIMER'S DEMENTIA HAS POLITICAL CONSEQUENCES

The United States political system puts significant power in the hands of one single individual, the President, and thus must reckon with the problems that this creates. The Founders sought a powerful president who was a robustly healthy and imminently wise man capable of good judgment. But this vision is disrupted when a president has cognitive impairment from Alzheimer's dementia and has diminished critical thinking and executive decision-making skills. The symptoms and behaviors of a president with Alzheimer's

dementia can have widespread consequences on domestic and foreign policy, on relationships with foreign allies and adversaries, and on political institutions and the American public. Consider a few examples of the political consequences outlined below.

It is assumed that the president will make informed policy decisions based on in-depth knowledge and significant information gleaned from his reading of the President's Daily Briefing and his subsequent discussions with policy analysts who are experts in the various policy areas. However, one of the symptoms of Alzheimer's dementia is difficulty with reading comprehension and having to reread the same page multiple times. Often an individual with Alzheimer's dementia will subsequently reduce his reading time, especially of any lengthy document, and instead rely on other information sources like television, his friends, or his impaired/distorted memory of long ago events. The consequence of a president with Alzheimer's dementia would be ad hoc policy not rooted in an overall strategy based on no historical background, no knowledge of the key players, and no sense of the logistics and costs in administering the policy. While it is the president's prerogative to radically change the course of a policy and many presidents have done so, their changes usually stemmed from being enlightened by close an in-depth study of the most recent and relevant materials in that policy arena. A president with Alzheimer's dementia literally may not be capable of drawing upon such materials for policy decisions.

The country expects that when a president announces a policy direction that it is in-line with his overall political framework, reflects his underlying values, and furthers his or our strategic objectives. Therefore the new policy, be it tariffs, sanctions, a ban, a funding initiative, or the president's declared support of a position, is assumed to be the administration's policy going forward. Once a policy is announced, the consequences of the

new policy are set in motion: policy stakeholders begin planning how to adjust to the new policy, the stock market rises or plunges, political leaders get behind the president announcing their support of his new policy, high level White House staff and cabinet members do press briefings advocating the president's position and stating that his new policy has been planned for a long time as part of a larger strategy, and government agencies commit staff and resources to formulate new regulations.

But if a president has Alzheimer's dementia, his short-term memory is impaired and he may not remember a policy that he announced a few days earlier on this same issue as he declares a new policy in the totally opposite direction. The consequences would be whiplash in the stock market with people losing their savings, White House aides with sullied reputations because they lied about the existence of a policy background, disgruntled political leaders who feel blindsided and have to answer to their own constituents, and executive agencies who begin to ignore any policy pronouncements from the president in the future. Ultimately, government policy would become whatever the president says it is *at the moment*, nothing more. The usual procedure of public policy details being negotiated by the president's staff in meetings with Congressional leaders, policy stakeholders, and agency officials no longer works because no one can or will negotiate with a White House staff that has no idea what the president will do next. The only constant of Alzheimer's dementia is unpredictable behavior and in the case of the president, this unpredictability can have immense effects on public policy and people's lives.

The disease symptoms of irritability and quick to anger coupled with decreased attentiveness would make working for the president with Alzheimer's dementia a difficult

job. Meetings with the president could drag on forever as he meanders from the agenda topics into non-sequiturs on random items such as how much money a friend makes, how windmills cause cancer, or about a woman he once dated. Given the disease symptoms of over-reacting to a situation, the president may berate his aides privately as well as publicly if they present information he deems unfavorable. A consequence of this symptom in a president would be aides hiding any information from the president that might trigger his anger and also not pushing back if the president suggests a harebrained scheme or even an unconstitutional act. The White House staff also would know that there is a good chance the president will forget his new ideas and directives tomorrow anyway. Every president needs trusted confidants on his staff to serve as sounding boards willing to say when he is wrong. A president with Alzheimer's dementia who frequently descends into anger would create a situation of "the Emperor's new clothes" where no one is willing to tell him the truth.

Another symptom of Alzheimer's dementia is dysfunction in executive decision-making as the individual has difficulty with planning, understanding and following the necessary and logical steps of decision-making, and connecting the means with the ends for problem solving. Given these difficulties, a president with Alzheimer's dementia is likely to "shoot from the hip" and announce a policy without informing key administrative officials. His staff would then be forced to scramble to develop the policy details, including the rationale and justification, after the policy had already been announced as fait accompli. This reverse engineering of executive decision-making would result in poorly thought-out policy with little input from policy experts or interested and affected parties. The consequence would be both an administration in chaos and chaotic public policies.

Another consequence of backward policy-making is that key administrative officials responsible for overseeing a policy arena would not have been consulted in advance, leading to low morale or even a feeling of disrespect, ultimately resulting in their resignation. This would create even more chaos in the administration. Later, as the impossibilities of the policy's logistics emerge or when political outcry mounts up, the members of the administration would be forced to start walking back the president's policy that he initially announced. The result would be overall confusion and a total lack of clarity as to what the administration's policy even is. The political consequences of the president's Alzheimer's dementia symptom of impaired executive decision-making would end up with chaos and confusion in every direction. A corresponding consequence of such a chaotic environment is a revolving door of high staff turnover and difficulty in attracting top-notch people willing to knowingly walk into a buzz-saw work environment.

Another symptom of Alzheimer's dementia that could play havoc with government policy is the president's confusion in time and place and his inability to distinguish reality from fiction that he conceives as real. Long-term memories are often more vivid than what happened yesterday. A president with Alzheimer's dementia might repeatedly focus on a previous national event from years ago as if its circumstances were still relevant and talk like he and those around him are still in the midst of that event. The country wants its president to be fully engaged in the challenges of present day issues and not sidetracked by a long ago event or a fiction that lingers as his reality. This might be a past election, a past legislative vote, or negative comment from another political leader that is consuming the president's focus instead of the pressing demands of today's political issues and policy decisions.

In addition, people with Alzheimer's dementia often confuse fact with fiction and will confuse the plots and characters of television shows and movies with reality. They will talk about the show's characters as real people or will think that the action in the show really happened. For example, there could be political consequences if a president confuses reality with a television show's plot of migrant women being bound and gagged with duct tape across their mouths, driven through the desert in the back of cars and windowless vans, and smuggled illegally across the border. If a president remembers this as reality and repeatedly states it as fact, federal resources could be allocated in an effort to track down and apprehend the particular suspects (who are actually characters from a television show). Both the government employees and the public assume the president is privy to high-level information and that his public comments are based on such sources, not his confusion with the plot of a television show.

The president's own political party may face consequences as his symptoms of Alzheimer's dementia impact his governing process. Every political party has a decades-old ideology along the liberal/conservative spectrum, a stance on free-trade versus market regulations, established strategic alliances, well-formulated foreign policy goals, and an inclination towards support or opposition to military intervention. The president's cognitive impairment affecting his judgment may lead him to announce that new legislation will be coming within days from his party, while his party leaders have nothing in the works. Plus the coming soon policy announced by the president may be directly opposite to his political party's basic guiding principles. The president may announce that a major tax break, a major trade policy, or an entirely new health care program is about to be rolled out by his political party, despite the fact that these policy initiatives take months if not years

to craft. The leaders of his political party would either have to immediately try to pull something together or ignore the president's announcement entirely.

Either option would bring political peril and consequences for his political party. The party leaders would recognize that a massive program overhaul like a new health care program involves health care providers, insurance companies, hospitals, and employers who will be affected and who all need to have a role in crafting a new program. Most importantly, the party leaders would recognize that this cannot be done in the matter of a few days that the president announced the new program will be unveiled. In addition, the political party may have long established alliances with various stakeholders that could be jeopardized by the policy that the president just announced. So the political party would be between a rock and a hard place. They can either let down the president and the public by not rolling out the new program as he declared the party would do or the party could craft a new last minute policy in line with what the president's announced but in a direction that the party has no desire to go. The president with Alzheimer's dementia may say anything that pops into his head about an impending policy, but it would fall on the political party leaders to pick up the pieces.

No area is more precarious than foreign policy if a president has Alzheimer's dementia, as the whole spectrum of his disease symptoms can have political consequences abroad. A president with decreased cognitive functioning and short-term memory loss may meet with a foreign leader or an adversary and totally forget the list of items critical for him to bring up or, just as important, not to mention. This could result in classified information being inadvertently revealed that jeopardizes national security and the lives of our soldiers or government agents overseas. The president taking a private meeting with a

foreign leader would be especially perilous given the inability of the president with short-term memory loss to debrief his aides and government officials afterwards about what was discussed in the meeting. The version of the conversation that the president remembers may be entirely different than what transpired and could have immeasurable political consequences. For example, a president might announce a foreign leader agreed to remove tariffs on U.S. products that causes a stock market whiplash as the market soars on the president's announcement only to plunge on later announcement that there never was such an agreement. The president's confusion over discussions with a foreign leader could create conflict and strife for that other country as well when the president erroneously announces that they agreed to a new policy that is completely opposite of that country's existing relationships with its allies or that violates their existing membership in international organizations. On the flip side, a calculating foreign leader could take advantage of the president's confusion and short-term memory loss by announcing that the president agreed to new treaties, major arms control deals, or cooperation in military invention in other countries -- agreements all to the advantage of the foreign leader and not the United States. The military, State Department, White House staff, and others involved in U.S. foreign policy would all be in the dark whether the president actually made those new agreements as the other country's leader announced.

The symptoms of impaired executive decision-making and organizational planning would make it difficult for other countries to know what the president wants, what his demands mean, and how to negotiate as the president keeps changing his mind. Other countries would become frustrated and utterly confused by his mixed messages without clear demands. This could be especially difficult if the president's team was in the midst of

working with the other country on agreements opposite to the policy position that the president now declares he wants. Another political consequence of a president with Alzheimer's dementia is an escalation of heated relations and potential military conflicts as the president's quick anger and loss of censoring what he says could end up with name-calling and threatening foreign leaders. This can be especially dangerous if the foreign leader has nuclear weapons or an inclination to retaliate. Foreign policy is the arena where strategic planning is key and is much like a multi-dimensional chess game. The country needs a president always to be planning at least three or four steps ahead when he interacts on the international stage. A president with Alzheimer's dementia is simply not capable of doing that.

SCENARIOS OF DANGEROUS CONSERQUENCES

The following scenario sums up what could happen in foreign and defense policy if a president has problems of cognitive functioning due to Alzheimer's dementia. Let's assume that without informing the Secretary of Defense or the Chairman of the Joint Chiefs of Staff, the president announces seemingly out of the blue that troops will immediately be withdrawn from a country where they have been deployed for years to combat terrorism. No one in the administration nor the military are aware of this policy change prior to the president's announcement, so everyone in the administration, including those at the Pentagon, are forced to scramble to develop both what the policy actually means and to begin planning the logistics of pulling troops out. The president also made the announcement without discussing it with U.S. partners and allies in the region. Such an abrupt announcement without notifying all the key players and without significant advance

planning would jeopardize our military forces, our allies and partners, as well as undermine previous achievements in defeating the targeted enemy. The Secretary of Defense subsequently resigns stating incompatible values with the president. Over the following weeks, the plan to withdraw troops keeps morphing as administration officials announce various timelines and new conditions for withdrawing troops, even though the president initially announced an immediate withdrawal without conditions. Clearly, chaos and instability would reign at all levels of policy both here and abroad. If this scenario occurred, the first assumption would be that the president made an informed rational policy choice to withdraw troops long deployed in the other country. Instead, overlay the prism of the Alzheimer's dementia symptoms of diminished executive functioning and an inability to follow decision-making protocol. Now, an alternative rival hypothesis emerges that equally describes what happened. Maybe the president, incapable of executive decision-making and planning, announced the withdrawal of troops simply because it popped into his head at that particular moment when he was before the media. This example shows how the president's ad hoc foreign policy definitely would have ramifications around the world.

The second scenario and most obvious potential consequence of a president with Alzheimer's dementia is his unrestrained authority to launch nuclear weapons. This is a unilateral power of the president that cannot be delegated. If the president overreacts to a comment or an action by another country or merely becomes confused and decides to give the command to launch nuclear weapons, the Secretary of Defense is empowered solely to authenticate that the order is from the president but has no power to veto it, no matter how ill-conceived the command might be. Ironically, while every officer in the military

involved in executing orders for nuclear weapons must periodically pass a battery of evaluations of their emotional, mental, physical, and financial health to assure their continued stability, there is no similar evaluation to assure the mental stability of the president giving the order.

In summary, Alzheimer's dementia would mean a president with a constantly changing mindset, quick and unprovoked anger, lashing out at others, and aggressive behavior – all with consequences for the country. The country and the world look to the American president for stability, an even temperament, and a comforting calmness during crisis. These expectations of behavior are the antithesis for a president with Alzheimer's dementia. The reality of a mercurial temperament for anyone with Alzheimer's dementia, be it Grandpa or the president, is increasing instability in relationships, a lack of trust by others, and an unwillingness of others to depend upon the person's current decisions as they are likely to change in an instant. These are not traits of presidential leadership that engender stability and strong alliances at home or abroad.

ALZHEIMER'S DEMENTIA AND THE 25th AMENDMENT

If a president has Alzheimer's dementia, what is the likelihood that the existing constitutional safeguards to remove a president "unable to discharge the powers and duties" of the office will be triggered? The reality is almost none. History has already shown that the mechanisms to remove an incapable president have never been invoked -- even in times of blatant inability such as President Wilson after his massive stroke or President Reagan during his critical high-risk surgery after being shot. The specific circumstances and complexities of Alzheimer's dementia add additional layers to the significant political

disincentives of any steps being taken to address the reality of a president unable to perform the duties of the office due to dementia.

The initial procedure set out to remove a president was tacked onto the draft of the Constitution in September 1787, late in the Constitutional Convention when the Founders were tired and wanted to go home. Article II, Section I of the Constitution only vaguely addressed the issue: "In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President…" As Gilbert (2010) points out, it is unclear what the Framers meant by inability, how inability is determined and who determines the inability. This lack of definition was raised at the Constitutional Convention, in fact, by delegate John Dickinson from Delaware who asked two questions (that Madison's notes stated were met with silence): "What is the extent of the term inability? Who is to be the judge of it?" (Ferrick, 2014; Abrams, 1993). The Framers chose not to resolve these issues and left Article II, Section I with vagueness and unanswered questions.

This clause in Article II, Section I has never been tested even though there have been numerous instances of presidential illness that caused "an inability to discharge the powers and duties" at least for a period of time. A review of a few of the more notable times presidents were incapacitated and the lengths gone to hide it demonstrates how the Vice President has never stepped in. President George Washington had surgery for a tumor on his thigh twice and one on his face putting him in critical condition for months while his secretaries handled his correspondence. President James Madison had a high fever and bouts of delirium making him unable to work for a month. President James Garfield after being shot and his condition worsened by doctors probing his wound with unwashed

fingers lingered for 80 days before he died. President Grover Cleveland had two surgeries for jaw cancer aboard a yacht on the Potomac River to keep his condition secret. President Woodrow Wilson suffered two strokes and was so ill he was unable to carry out his presidential duties that his wife Ethel took over his responsibilities as president for the remaining 18 months of his term. President Dwight Eisenhower had a massive heart attack, surgery for ileitis, and a stroke in three consecutive years while in office. Both President Lyndon Johnson after his gallbladder surgery and President Ronald Reagan after his extensive surgery when he was shot were unable to return to work for weeks. All of these were physiological illnesses with a clear incidence of occurrence and a definitive medical diagnosis making the determination of the president's inability to discharge the powers and duties of his office fairly straight forward. Nonetheless, there was no attempt to invoke Article II, Section I of the Constitution for any of them (Ferrick, 2014; Gilbert, 2010).

After the three major illnesses of Eisenhower in the 1950s, any of which could have been permanently debilitating or even fatal (Link and Toole, 1994), and especially after the Kennedy assassination in 1963, it became abundantly clear there was no procedure in place for the possible event a president is unable to carry out the duties of his office. The most glaring omission was what would have happened if Kennedy had survived and was comatose or, maybe even more complicating, was left with little cognitive functioning. This stark realization triggered the drafting of the 25th Amendment, spearheaded by Senator Birch Bayh (D-IN), that was ratified in 1967 and establishing the constitutional procedure if the president is unable to carry out the duties of the office.. Even with the specific steps and deadlines, the 25th Amendment still suffers from the same problem of vagueness and lack of definition as Article II, Section I. Delegate Dickinson's question in 1787 as to what

"unable to discharge duties and powers" means is still unanswered (Gustafson, 2009). As a result, the 25th Amendment puts the president's medical condition in the crosshairs of partisan dynamics and leaves much uncertainty as to how the process would be implemented.

Sections 1, 2 & 3 of the 25th Amendment

There are four sections of the 25th Amendment. Section 1 establishes in law the "Tyler Precedent" that the Vice President becomes President not Acting President, if the president is removed from office. The Tyler Precedent stems from when President Harrison died in 1841and the Constitution was unclear on this point, so John Tyler took it upon himself to immediately have a local justice of the peace administer his oath of office prior to his going to Washington, D.C. and moving into the White House. Needless to say, there were many critics of Tyler's bold move (Gilbert, 2010).

Section 2 establishes how to deal with a vacancy in the Vice Presidency since it was not constitutionally specified (despite eight vacancies prior to the ratification of the 25th Amendment). The 25th Amendment states the president nominates a Vice President who is confirmed by a majority vote of both houses of Congress. Section 2 was first used by Richard Nixon to replace Spiro Agnew, who resigned after his guilty plea in a kickback scandal of tax evasion, and used again shortly thereafter by Gerald Ford to name Nelson Rockefeller his Vice President when Ford became President on Nixon's resignation (Gilbert and Bucy, 2014).

Section 3 is the first section of the 25th Amendment that deals with what to do if a president is temporarily unable to discharge the powers and duties of the office. It sets up a

procedure for the president to voluntarily transmit his powers to the Vice President through a written declaration to the President pro tempore of the Senate and the Speaker of the House. This is considered a temporary situation due to the president's recognition that circumstances will impair his ability to carry out the responsibilities of his presidency. The Vice President assumes the position of Acting President and conducts all the functions of the presidency. Once the president decides that he is able to resume his responsibilities, he sends a written declaration so stating to the President pro tem of the Senate and the Speaker of the House whereupon he returns as President with all the powers and authority of the office.

Section 3 has been invoked three times. The first time Section 3 was used it was mostly "in spirit" since the procedure to voluntarily transfer power was followed, but Section 3 was not explicitly invoked. This first use demonstrates the reluctance of presidents to invoke Section 3. In July 1985, President Reagan was diagnosed with villous adenoma of the colon and had surgery the next morning. The White House Legal Counsel drafted two letters, one explicitly invoking Section 3 and an optional version to transfer power but bypassing Section 3. Reagan opted to sign the optional version with his explanation that he did not want to set a precedent for future presidents (Kassop, 2005). That letter was delivered to the President pro tem of the Senate and the Speaker of the House, and prior to his surgery President Reagan handed over his powers to Vice President George H.W. Bush. Approximately eight hours later, despite awaking from surgery confused and heavily medicated, with multiple tubes and an incision from his navel to his chest, President Reagan signed the letter to resume his powers.

As an aside and a reminder of the dangers of an incapacitated president resuming office too soon, Ultimately, two days later Reagan made the decisions that contributed to the Iran Contra scandal (Fisher, Franklin and Post, 2014). While many believed President Reagan lied about his involvement in the secret arms sale to Iran to fund support of the Contras in Nicaragua, Robert Gilbert, a leading authority on presidential disability, believes differently of a medical explanation based on Reagan's condition at the time (Gilbert and Bucy, 2014; Gilbert, 2014).

The two times Section 3 has been formally invoked was by President George W. Bush when he temporarily handed over his powers to Vice President Cheney during two colon procedures. At each time, part of Bush's decision to invoke Section 3 was because the country was at war and a potential crisis might unfold while he was under anesthesia.

Section 4 of the 25th Amendment

In the context of Alzheimer's dementia, it is Section 4 of the 25th Amendment that is relevant. Section 4 sets out the procedure (and a highly charged political process) when a president is incapable of carrying out the duties of his office but refuses to voluntarily step aside. Section 4 begins:

> Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

It is important to note that Section 4 does not permanently remove the president from office, but transfers power temporarily to the Vice President as Acting President. It sets up the four-part process of Invocation, Restoration, Potential for Dispute, and the

Aftermath (Kalt, 2018). What this means is that either the Vice President and a majority of the principal executive officers, in reality the 15 Cabinet Secretaries, or the Vice President and a body established by Congress invoke Section 4 by providing written notification to the leaders of Congress that the President is unable to carry out his job. The Vice President then immediately assumes the position of Acting President. Section 4 also stipulates a process for the president to contest this declaration and a transfer of power away from him. The president can provide a written declaration to the Speaker of the House and the President pro tem of the Senate stating he has no such inability. The president then can resume the powers and duties of the presidency, unless the Vice President and either a majority of the 15 Cabinet Secretaries or the body created by Congress provides written declaration within four days to the two Congressional leaders stating that the President is still unable to discharge the duties of his office. At that point, the matter goes to Congress for a vote within 21 days. Section 4 requires a two-thirds vote in both houses, a considerably high bar, to declare the president is unable to discharge his duties. If both houses of Congress reach the two-thirds vote threshold, the Vice President continues as Acting President. If not, the president resumes the powers and duties of his office.

This may seem like a straight-forward process, but it is laden with intense political pressures and implications. The Vice President is initially selected by the President and the 15 Cabinet Secretaries are also chosen by the president. They owe their political positions to the president and, in turn, have strong loyalties to him. Barring a coma or an equally obvious disabling condition, the Vice President and the Cabinet Secretaries have no incentive to invoke Section 4 of the 25th Amendment. They can merely carry on behind the scenes in running the government and keep the president's condition under wraps.

The other route is for the Vice President and a body established by Congress to act. Despite the 25th Amendment being ratified in 1967, no such body has ever been established by Congress. To set one up would require a law passed by both Houses and signed by the President. The political reality is highly unlikely that any President would sign a bill that could potentially oust him. The president's veto on establishing a body under Section 4 could be overridden by Congress, but this too is a high hurdle of a two-thirds vote of both Houses so it too is unlikely to muster the necessary political support. The remainder of this discussion will assume the Vice President and the Cabinet Secretaries are those who would invoke the 25th Amendment since a designated congressional body has no political reality beyond its mention in Section 4.

THE CHALLENGES OF SECTION 4 AND ALZHEIMER'S DEMENTIA

The political unlikelihood of Section 4 being invoked for a clear-cut debilitating medical condition is multiplied a thousand times over if the president has Alzheimer's dementia. The specific challenges raised by Alzheimer's dementia compared to a stroke or coma are diagnosis uncertainty, gradual progression, stigma, denial, and the gap in disease knowledge. Add these to the political realities of loyalty to the president, job prestige and security, re-election prospects, and the ease of manipulating the president for one's own political gain (Ferrick, 2014; Abrams, 1999), and the chances of Section 4 being invoked for a president with Alzheimer's dementia diminish even more.

First and most basic is how would the Vice President and the Cabinet Secretaries know if a president has Alzheimer's dementia? While promising diagnostic tests are emerging, currently there is no definitive test or marker for Alzheimer's dementia outside

of the plaques and tangles found in the brain on autopsy. Therefore, diagnosis of Alzheimer's dementia is generally done by eliminating other possible causes and through a series of psychological tests such as the Mini-Mental Status Exam (MMSE) and the Mini-Cog with questions of "What year is it? Who is the President? What are the names of your children? Can you draw a clock with the hands at ten to two?" to assess attention, orientation, and short term memory; the Wisconsin Card Sorting test for mental flexibility and problem solving; and the Stroop Color Word test. These tests indicating an Alzheimer's dementia diagnosis can be construed as subjective measures and some doctors are reluctant to make a disease diagnosis. Politically, the reliance on such diagnostic psychological tests is likely to raise questions from a partisan perspective among the Vice President and the 15 Cabinet Secretaries about the accuracy of an Alzheimer's diagnosis and heighten their reluctance to invoke Section 4. If instead they could point to hard evidence such as the president's level on a blood test or an MRI finding, they might feel more comfortable invoking Section 4 and subsequently explaining their decision to fellow partisans. But such Alzheimer's diagnostic tests do not exist. The Vice President and the Cabinet Secretaries, already strong supporters of the president who chose them for their positions, are far more likely to brush off an Alzheimer's diagnosis based on the psychological tests as not conclusive.

Second, when and how is it determined whether the President is no longer competent to make national decisions? The behavioral symptoms of Alzheimer's dementia create challenges in determining the point of incompetency, as does the vague language of the 25th Amendment in not defining what it means for the president to be "unable to discharge the powers and duties" of the office. Unlike a stroke or a coma that has a specific

incidence of occurrence, Alzheimer's dementia is a progressive disease that has very subtle early indicators. The person struggles more frequently in finding a word, uses the word "thing" more often when talking, or seems more irritable. Certainly none of these behaviors would seem like red flags of a larger problem, much less justify removing a democratically elected leader from power. But when do these seemingly benign disease indicators escalate to the point of questioning a president's competency? This is one of the challenge if a president has Alzheimer's dementia.

The usual indicators for removing responsibilities from a loved one with Alzheimer's dementia are difficulties with routine tasks such as the inability to manage one's finances, not being able to find the way home from the grocery store, leaving food cooking on the stove to take a shower, putting dishes in the washing machine, or constantly losing the car keys. In the president's case, he has a cook, a driver, a steward, and other assistants to manage the daily tasks of his life. The absence of the president's need to complete routine tasks creates the ironic dilemma of determining what behaviors will trigger concern that the president is no longer competent to carry out the duties of his office. Possibly pouring coffee on his morning eggs or putting his socks over his shoes or not recognizing his wife, or using the TV remote to make a phone call would all be good indicators of impaired cognitive functioning. However, these are behaviors of the later stages of the disease, meaning that by the time they occur a cognitively impaired president could have been leading the country for years. Plus, his family and personal White House staff could keep such "odd" behaviors hidden from the Vice President and the Cabinet Secretaries so that they would not be aware of the severity of the president's condition. Both Arthur Caplan, bioethicist at NYU School of Medicine, and Jacob Appel, psychiatrist at

Mt. Sinai School of Medicine, state there is no hope that the public would be aware if the president's cognition starts to meaningfully decline (Stetka, 2017).

Alzheimer's dementia, unlike a stroke, does not have a distinct point of occurrence but has gradual onset over months and years, so knowing when the president should be removed from office is further complicated than it might seem at first. In fact, studies have found that disease symptoms begin to present from 3 to 20 years prior to the time that most people are diagnosed (Alzheimer's Association, 2020; Ameiva, et al., 2015). The complexities of determining that point when the president needs to be removed from office is further complicated by the daily fluctuations of disease symptoms. A person will have constant forgetfulness and total confusion, yet there may be times of the day or even a few days in a row when the person has total clarity and demonstrates no symptoms of Alzheimer's dementia. Thus, there is no specific moment or incident with Alzheimer's that will pinpoint for the Vice President and the Cabinet Secretaries that it is now time to invoke Section 4. Meanwhile, the president with decreased cognitive functioning continues to make critical decisions for the country.

One of the typical responses of family and friends when a loved is exhibiting odd behaviors is denial and rationalizing the behaviors as due to an entire range of other reasons, anything but Alzheimer's dementia. Their denials take the form of: *He has been under a lot of stress lately. He is just lazy and refuses to remember. He has never been a big reader so what if he doesn't read now.. He is just an angry crotchety mean old man. He knows exactly what he is doing and just likes to upset everyone with his wild statements. He is just getting older and everyone forgets things with age. He is not forgetting the facts or lying about them, he has always boasted and stretched the truth. He has made impulsive decisions*

his whole life but they usually turn out all right. Such explanations of the person's odd behaviors ignore the possibility of Alzheimer's dementia.

The President's family and friends will not want to admit his odd behaviors are signs of Alzheimer's dementia knowing that the road ahead is dismal as he will progressively lose his memory and cognitive functioning. The staff, political loyalists, and family surrounding the president will be in denial and rationale his odd behaviors. They will bring up current activities or successes of the president as evidence that he cannot possibly have Alzheimer's dementia. They will deny incidents when what the president did or said made no sense and instead describe a meeting when the president was coherent as evidence that he is fine. The Vice President and the Cabinet Secretaries too are likely to rationalize the president's behavior and deny that it is Alzheimer's dementia to downplay their responsibility to invoke Section 4.

Another problem beyond the natural inclination of denial is that those around the president may not have an adequate knowledge base to recognize his odd behaviors as potentially Alzheimer's dementia. This author conducted the first ever poll of the public's knowledge of Alzheimer's in 1985 and found significant gaps in what people knew about the disease (Steckenrider, 1993). The study found that while 91% of people were aware of Alzheimer's disease, most people lacked knowledge of disease specifics and did not perceive themselves as knowledgeable. Given the abundance of public attention, scientific research, media stories, books and movies about the disease since then, we would hope the public's disease knowledge has significantly increased over the ensuing three and a half decades. Sadly, numerous recent studies of the public's knowledge of Alzheimer's dementia find significant gaps still remain in disease knowledge, with most people today having only

fair to moderate knowledge levels. The most common knowledge gap is distinguishing dementia from normal aging and a lack of clarity about detecting the first signs of Alzheimer's dementia (Hart Research, 2019; Weise, et al., 2017; Cahill, et al., 2015; Anderson, et al., 2009). The staff, family, Vice President, and the Cabinet Secretaries are likely to fall into the same category of lacking disease knowledge and will likely be unable to recognize the nuances and seriousness of disease indicators and consequences.

Third, what is the responsibility of the White House staff, the President's family, the Vice President, or the Cabinet Secretaries if they recognize the President is exhibiting behaviors of Alzheimer's dementia? If the president emerges from his quarters with his underwear outside his clothing or gets up in a meeting to talk to or urinate in a plant, should those around him be required to report his behavior or take some action? Political reality is likely to make everyone inclined to shield the president, that person to whom they owe their position and their loyalty. The structure of Section 4 sets up political landmines along the path of its being invoked if a president has Alzheimer's dementia or, frankly, any condition that makes him unable to discharge the duties of his office.

Section 4 of the 25th Amendment places the Vice President in an awkward, if not impossible, situation because it is up to him to initiate actions on the president's impairment and the Cabinet Secretaries will be of little help (Joynt, 1994). The Vice President is the worst person to decide whether to invoke the 25th Amendment and will be hesitant to take any action for fear he will look over-eager and as leading a palace coup. The Vice President was selected by the president as his running mate, so he has loyalties to the president and also has his own political future to safeguard. An image as disloyal and

usurping power would continue to haunt the Vice President in future elections (Link and Toole, 1994).

History has also shown us that Vice Presidents are reluctant to act even in seemingly obvious situations of president disability. Vice President Arthur intentionally stayed out of Washington, D.C. after President Garfield was shot and lying totally debilitated for 80 days prior to his death. Vice President Marshall refused to step in after President Wilson's strokes, thus allowing Ethel Wilson to carry out all the presidential duties for the 18 months remaining in his term (Ferrick, 2014). When President Reagan was shot and in surgery, Vice President George H.W. Bush demurred to the White House staff that the 25th Amendment did not need to be invoked. In fact, when Vice President Bush immediately returned to Washington, D.C., he went so far as not allowing his helicopter to land on the South Lawn of the White House because he said it was reserved for the president. This caused an additional hour delay in Vice President Bush getting to the Situation Room after Reagan was shot due to the drive from the airport, all to avoid looking like he was grabbing power even though the president at the time was unconscious and undergoing critical surgery (Kassop, 2005).

THE DILEMMA OF THE CAPTIVE KING AND HIS CAPTIVE COURT

The 15 Cabinet Secretaries are appointed by the president and serve at his pleasure. These Cabinet members tend to be highly partisan individuals and often longtime friends of the president. In sum, they are highly loyal to the president. They also realize their current job, prestige, political future as well as potential lucrative opportunities after serving in the Cabinet rest in his hands (Link and Toole, 1994; Knebel, 1965). These 15 Cabinet officials

are going to be equally reluctant as the Vice President to go forward with invoking Section 4 and are likely to question every aspect such as "what does unable to discharge duties mean," "how do we know the president really has Alzheimer's dementia," "is the president dangerous," "can there be staff assigned to oversee all his actions instead," etc. One of the fears of the Cabinet members would be that their mere discussion of the 25th Amendment might leak out and the president will then fire all of them and replace them with Cabinet members he deems more loyal to him, even if he is in the throes of Alzheimer's dementia.

The Vice President, the Cabinet Secretaries, the White House staff, and the president's family are all caught in what Post and Robins (1993) calls the "dilemma of the Captive King and his Captive Court" when there is a partially disabled leader. The leader and his inner circle are locked in a fatal embrace where each is dependent on the other for survival. They all depend on a continued presidency and will go to great lengths to create the image of a strong, vital president who is in charge and making all the decisions. Presidential history is replete with this pattern of covering up a president's illness – Woodrow Wilson's strokes, Dwight Eisenhower's heart attacks, Ronald Reagan's extremely serious condition after being shot, and even Grover Cleveland having two surgeries on a yacht in the Potomac River to hide his jaw cancer. Everyone around the president is invested in him remaining in office and will be reluctant to breathe a word of the president's lack of attention to his duties and responsibilities -- whether due to impairment of cognitive functioning or even a debilitating heart attack. Gilbert sums up this perspective, "No one in the White House wants to emphasize the fact that the president might be too ill to carry out responsibilities…. They want everyone to think that the president is able to surmount any problem, no matter how serious, because they are

thinking of reelection, and they are thinking of the judgment of history" (Osnos, 2017). So unless the president is in a totally unresponsive condition where there is no question and no confusion about his inability to carry out the duties and responsibilities of his office, the president's inner circle will twist themselves into pretzels to prevent any inkling of the president's inability being revealed to the public in order to protect the president's power and for their own self-preservation.

An Example When Section 4 Was Not Invoked – But Should It Have Been?

An example concerning the health condition of President Reagan ties together both the complexities and the political realities of invoking the 25th Amendment, the loyalty of the staff, the ability of the presidency to continue without the active participation of a president, and the challenges of Alzheimer's dementia.

This example of what occurred when Reagan was shot shows the weakness of the 25th Amendment in that the presidency can continue without the involvement of the president. This creates little incentive for the White House staff or for the Vice President to reveal how the president is not leading but is following. The circumstances surrounding President Reagan's grave condition after being shot and during his surgery and recovery period fall directly into the intent of the temporary transfer of power under the 25th Amendment. And yet, the political forces in play confounded any notion of invoking the 25th Amendment.

The example from the Reagan presidency deals with his Alzheimer's dementia and has all the markings of how this disease challenges the 25th Amendment.. President Reagan was diagnosed with Alzheimer's dementia in 1994, five years after he left office. However,

there are conflicting opinions whether he demonstrated disease symptoms when he was in office. Since the signs of Alzheimer's dementia begin subtly in forgetting details or conversations or having increased confusion, the signs are often overlooked. His son Ron Reagan, Jr. suggested in his book that there were early signs when Reagan was president such as being bewildered in the 1984 debate with Mondale and forgetting names of famous landmarks, but his son Ron said that he nor anyone else were aware of the disease condition when Reagan was president (Reagan, 2011).

Interestingly, early signs of Reagan's Alzheimer's dementia were found in a study by Gottschalk, Uliana, and Gilbert (1988) who examined the transcripts of the 1980 and 1984 debates using a measure of cognitive impairment based on the analysis of the form and content of verbal behavior. Gottschalk, Uliana, and Gilbert found that Reagan had significantly higher cognitive impairment scores than Carter and Mondale and that Reagan also had higher scores in 1984 than in 1980. However, the measure was not sufficient evidence for Gottschalk, Uliana, and GIlbert to conclude that Reagan's decision making and executive functioning were flawed while president. Another study in the Journal of Alzheimer's Disease (Berisha, et al., 2015) examined transcripts from Reagan's presidential news conferences and found changes in his speech linked to disease onset like repeating words and using "thing" instead of specific nouns. These researchers too did not conclude whether Reagan's judgment and decision-making were affected when he was in office. These two studies coincide with the findings of other studies that evidence of symptoms of Alzheimer's dementia generally present anywhere from 3 to 20 years prior to diagnosis.

This example also shows the typical rationalization or explaining away of Reagan's disease signs by those around him. In her book Reporting Live, Lesley Stahl, then the White

House correspondent for CBS, describes a meeting with President Reagan where he did not know her and seemed to have lapsed into semi-awareness of his surroundings. Stahl described him as a "doddling space cadet," but then rationalized that it was instead an act of Reagan's to avoid answering her questions (Stahl, 2000). Peggy Noonan, Reagan's speechwriter, when asked about any signs of Alzheimer's dementia during his presidency, said people with Alzheimer's dementia don't take down the Soviet Union as her rationale that it was impossible for Reagan to have had disease symptoms while in office (Stahl, 2000).

Denial and rationalization were also shown in a 1987 incident when Howard Baker took over as Reagan's Chief of Staff. High-level White House aides told him that the President was ineffective, inept, and inattentive during the Iran Contra Scandal. Baker enlisted White House aides James Cannon and Thomas Griscom to investigate the reported chaos and dysfunction at the White House. They found that Reagan was not reading briefing papers nor even the short position papers, did not come to work, and instead stayed in the residence watching television and movies. Cannon and Griscom raised the 25th Amendment in their memo to Baker reporting on what they found. The solution for Chief of Staff Baker, Cannon, and Griscom was to closely watch President Reagan at the next cabinet meeting for any signs of a problem. President Reagan was attentive, alert, and charming so they decided he was fine (Meyer and McManus, 1988). This is a prime example of the challenges of Alzheimer's dementia in how there are fluctuations in periods of cognitive functioning alternating between lucidity and significant confusion. Because the President "seemed normal" during the cabinet meeting is not evidence that his judgment and decision-making functioning were not impaired.

The loyalty to the president by his staff, his family, the Vice President, and his cabinet, while noble in intent, was an obstacle to considering whether to invoke the 25th Amendment. One of Reagan's aides said, "People didn't talk about it. They treated him with very special care. You had to explain things in elementary terms, but because he was so likeable…everyone protected him. He was intellectually vacant, but I never felt the country was in danger"(Corn, 2011). This loyalty to the president continued long after Reagan left office and even after his death. Michael Reagan, Reagan's older son, called his brother Ron's comments that their father was bewildered and confused when he was president as lies and a conspiracy to sell books. They no longer speak (Corn, 2011). In 2018, thirty years after he left office, Reagan's aides and supporters were still claiming that he did not have Alzheimer's dementia as president (Craig and Heurbusch, 2018). Presidential loyalty runs long and deep and a challenge for staff and family to admit that a president is showing signs of Alzheimer's dementia, much less push to have the 25th Amendment invoked.

RECOMMENDATIONS FOR THE CHALLENGES OF A PRESIDENT WITH ALZHEIMER'S DEMENTIA

We would like to assume that if a president has Alzheimer's dementia, the provisions of the 25th Amendment would be triggered and a president with impaired cognitive and executive decision-making functioning would be removed from his position of power. However, history has shown us this is unlikely as the 25th Amendment has never been invoked, even in clear-cut instances of the president's inability. It is incumbent upon Congress and the public to ensure the process of the 25th Amendment is strengthened to circumvent the political obstacles that would hamper power from being transferred from a

president with Alzheimer's dementia. The country is lucky to have dodged the bullet thus far and not had a major crisis during a period when a president's condition has incapacitated him to the point of being unable to carry out his responsibilities. It is inevitable that a significant problem will eventually occur and we need to take precautions now.

Today, even though Section 4 of the 25th Amendment puts the authority of invoking it on the Vice President and the 15 Cabinet Secretaries, much of the responsibility rests squarely on the shoulders of the White House doctor to detect and diagnose the president's Alzheimer's dementia and then to take active steps to inform the appropriate political leaders, family members, and the public. This puts the White House physician in an awkward and difficult position. The White House doctor regularly exams the president, but he may not have the breadth of expertise and training to conduct the psychological diagnostic tests and may feel uncomfortable or even embarrassed asking the president such questions as "what is your address, what season is it, count backward from 100 by 7s, draw a clock with the hands at ten to two o'clock." Even if the White House physician determines the president has Alzheimer's dementia, there are many reasons that will make him unlikely to publicly disclose the president's condition. The doctor may feel his oath of professional confidentiality of a patient's condition or current HIPAA policy require him to keep the president's diagnosis private. However, the White House doctor also has the conflicting role of serving as the public spokesman to the country on the president's health condition. A president's debilitating illness could be an issue of national security, so patient confidentiality and HIPAA laws should take a backseat.

Nonetheless, the White House physician is just like the president's staff in gaining prestige from his position, being concerned about the president's re-election and image, and being protective and loyal to the president – all making him unlikely to disclose any information that a president has Alzheimer's dementia (Abrams, 1999; Link and Toole, 1994). In addition, White House doctors usually are close personal friends of the president making them even less likely to disclose anything. President Carter acknowledged that Admiral William Lukash, his personal physician as well as tennis partner, cross-country skiing buddy, and fellow fly-fisher, would do anything Carter asked him to do (Raj, 2005). Thus Carter doubts whether the White House doctor can be depended upon to convey important information about the president's medical condition such as a stroke or changes in an incapacitating illness without the full consent of the president. The White House doctor is the one who has his finger on the president's pulse (literally), but if a president has Alzheimer's dementia he cannot be depended upon as an accurate information source for the Vice President and 15 Cabinet Secretaries.

There have been numerous suggestions over the years for changes to the 25th Amendment to address its weaknesses and to strengthen the chances it will actually be invoked. The Commission on Presidential Disability and the 25th Amendment at the Miller Center in 1988 and the Working Group on Presidential Disability in 1994 and 1996 explored various proposals including that Congress create a medical panel to advise the Vice President or a nonpartisan group of experts in the medical community who are not involved in the president's care periodically evaluate his physical and mental health. Other proposals suggested over the years have been a legal requirement for presidential candidates over age 70 to have a neuropsychiatric test to rule out a progressive illness, a

panel comprised of leading medical authorities from top medical schools, an advisory Congressional panel of former presidents and vice presidents along with medical personnel to evaluate the president's mental stability, and an independent panel to evaluate all Presidential and Vice Presidential candidates prior to the General Election, as well a proposal to do an evaluation before the Primary Elections so voters do not vote for an ineligible candidate (See Gottschalk, et al., 1988; Raj, 2005; Rubin, 2017; Abrams, 1999; Carter, 1994). Each of these proposals have some merit in addressing aspects of the 25th Amendment but suffer from a variety of problems such as a lack of political feasibility, the potential of highly partisanship outcomes, requiring a change in the 25th Amendment, or no means to resolve varying medical opinions, etc.

A POLITICALLY FEASIBLE HYBRID APPROACH

Clearly, no recommendation for a means to address the challenges of Alzheimer's dementia and the president is going to be foolproof, but it first and foremost must be politically feasible. Therefore, a hybrid approach that does not require changing the 25th Amendment has a greater chance of being implemented. By blending together different aspects of the various proposals, a workable safeguard for the possibility of a president with Alzheimer's dementia could be created. The 25th Amendment, has a provision whereby Congress can create a separate body that with the Vice President can invoke Section 4 instead of the current process based on the Cabinet Secretaries with the Vice President. Thus, Congress can create the Medical Advisory Commission on the Health of the President and set up a system for independent evaluations of the president's mental and physical condition. Such a Congressional body keeps the process of the 25th Amendment

intact, falls within the separation of powers, and only requires a majority vote to create. This Medical Advisory Commission of medical experts would be comprised of two internists, a neurologist, a clinical psychologist, and two neuro-psychiatrists who are nominated by the nonpartisan nongovernmental National Academy of Medicine. Each member would serve a six-year term with only one person replaced each year to maintain the Medical Advisory Commission's collective memory. (The members of the first Commission would draw lots for the initial terms ranging from one to six years.) Unlike the White House physician or the Cabinet Secretaries, the Medical Advisory Commission members could not be discharged by the president, so they would not fear removal if they disclosed his medical condition.

The Medical Advisory Commission would conduct an annual evaluation of the president's health including his medical history, a physical exam, various medical and lab tests, and psychological tests including the MMSE, Mini-Cog, Wisconsin Card Sorting Test, Stroop Color Word Test. The Medical Advisory Commission would have the authority to bring in other medical specialists as needed and to conduct additional tests such as biomarker testing and PET scan for Alzheimer's dementia, if indicated as necessary. This annual medical review would give the Commission an ongoing baseline for changes in the president's physical and mental health. The Medical Advisory Commission would submit its findings to the President, Vice President, and the public. If a question arises whether the president is able to discharge the responsibilities and duties of his office, the president's doctor or the Vice President could convene the Medical Advisory Commission for an immediate evaluation. Again, this updated information on the president's medical condition would be provided to the President, Vice President, and the public.

This process circumvents some of the obstacles of the reluctance of the Vice President to invoke the 25th Amendment and of the White House doctor and staff to disclose concerns that the president is demonstrating odd behaviors. Since the Medical Advisory Commission's would disclose the president's medical report to the Vice President and to the public, this would not create the appearance of the Vice President grabbing for power if he begins to invoke the 25th Amendment because the public would already have the evidence and the president's test results. It also creates the incentive for the Vice President to act because there undoubtedly would be public pressure if the president is diagnosed with Alzheimer's dementia or any other condition making him incapable of carrying out his duties. While the assumption is the medical experts on the Medical Advisory Commission will be independent and nonpartisan, the chances of a continued partisan leaning of the Medical Advisory Commission are also lessened since the composition will change yearly as an old member rolls off and a new member is added.

There may be a concern with this proposal that the Medical Advisory Commission on the President's Health would be releasing their report on the president's annual medical review to the public and that could be seen as having a potential of damaging overreach. A reminder is that this is the president whose policy decisions affect millions of people and who can issue a unilateral command to launch nuclear weapons. The gravity of the situation demands that heightened safeguards are in place to assure the president's cognitive functioning is not impaired. This standard of certainly is inline with the framework of the required periodic medical certification of many professions who are responsible for people's lives such as pilots, firemen, police, and all military personnel connected to nuclear weapons.

The political reality of a Congress being able to create a Medical Advisory Commission on the President's Health will require the alignment of specific and fairly rare legislative and executive circumstances in our current politically polarized environment. Both Houses of Congress would need to pass the legislation, so this would require bipartisan support or that both Houses are controlled by the same political party. Likewise, the President is likely to veto a bill proposing a Medical Advisory Commission because he would not want to be evaluated by this Commission nor have his medical report released to the public. Therefore, a president would only be likely to sign such legislation during the remaining few months of his second term or at the end of his first term if he is not running again or was not re-elected. It is easy to envision that only a president who would not be subjected to this new procedure would be willing to support such legislation. Another conceivable scenario of a president willing to sign the legislation to create a Medical Advisory Commission would be an exceptionally healthy and physically fit president concerned about the future well-being of the presidency and fully confident of his own health reports.

The proposed Medical Advisory Commission on the President's Health does not solve all the problems of the 25th Amendment nor the challenges of a President with Alzheimer's dementia, but it is an attempt to face the dilemma head-on. It is far better to try to achieve an appropriate balance in addressing the potential reality and the problems than to ignore the potential risks of a president with Alzheimer's dementia.

CONCLUSION

One would like to think that a president unable to carry out the duties of the office because of Alzheimer's dementia would, without question, set in motion an obvious course of transfer of power under the 25th Amendment. However, the reality is that political forces and the partisan atmosphere are likely to impede any steps in that direction. Given the risk of Alzheimer's dementia increasing with age and the current trend of elderly statesmen, it is only a matter of time before the presidency is faced with the unique challenges of Alzheimer's dementia. Careful consideration needs to be given to possible safeguards including a presidential health committee comprised of medical experts, regular psychological testing of the president, required medical and psychological reviews, and reports of the president's cognitive functioning and medical condition released to the public.

The 25th Amendment, considered the safety valve to remove a president unable to carry out the duties of his office, needs to be examined through the prism of political gerontology in considering the consequences of a president with Alzheimer's dementia.

REFERENCES

Abrams, H.L. (1999). Can the Twenty-Fifth Amendment Deal with a Disabled President? Preventing Future White House Cover-Ups. *Presidential Studies Quarterly*, 29(1), 115-133.

Abrams, H.L. (1993). Shielding the President from the Constitution: Disability and the 25th Amendment. *Presidential Studies Quarterly*, 23(3), 533-553.

Alzheimer's Association. (2020). 2020 Alzheimer's Disease Facts and Figures. Retrieved

from https://www.alz.org.

Amieva, H., Jacqmin-Gadda, H., Orgogozo, J., Le Carret, N., Helmer, C., Letenneur, L., Barberger-Gateau, P., Fabrigoule, C., and Dartigues, J. (2005). The 9 Year Cognitive Decline before Dementia of the Alzheimer's Type: A Prospective Population-Based Study. *Brain,* 128, 193-1101.

Anderson, L.A., Day, K.L., Beard, R.L., Reed, P.S., and Wu, B. (2009). The Public's Perception About Cognitive Health and Alzheimer's Disease Among the U.S. Population: A National Review. *The Gerontologist*, 49(S1), S3-S11.

Berisha, V., Wang, S., Lacross, A., and Liss, J.M. (2015). Tracking Discourse Complexity Preceding Alzheimer's Disease Diagnosis: A Case Study Comparing the Press Conferences of Presidents Ronald Reagan and George Herbert Walker Bush. *Journal of Alzheimer's Disease*, 45(3), 959-963.

Cahill, S., Pierce, NM., Werner, P. Darley, A., and Bobersky, A. (2015). A Systematic Review Of the Public's Knowledge of Alzheimer's Disease and Dementia. *Alzheimer's Disease & Associated Disorders*, 29(3), 255-275.

Carter, J. (1994). Presidential Disability and the Twenty-fifth Amendment: A President's Perspective. *JAMA*, 272(21), 1698.

Corn, D. (2011, January 11). How Close Did Lesley Stahl Come to Reporting Reagan Had Alzheimer's While in Office? Very Close. *Mother Jones.* Retrieved from https://www.motherjones.com.

Ferrick, J.D. (2014). Presidential Inability: Filling in the Gaps. *Politics and the Life Sciences,* 33(2), 11-36.

Fisher, M., D. Franklin, and J. Post. (2014). Executive Dysfunction, Brain Aging and

Political Leadership. *Politics and the Life Sciences*, 33(2), 93-102.

Gilbert, R.E. (2014). The Politics of Presidential Illness: Ronald Reagan and the Iran-Contra Scandal. *Politics and the Life Sciences*, 33(2), 58-76.

Gilbert, R. E. (2010). Presidential Disability and the Twenty-Fifth Amendment: The Difficulties Posed by Psychological Illness. *Fordham Law Review*, 79, 843-879.

Gilbert, R.E. and E.P. Bucy. (2014). Introduction: Presidential Disability and Presidential Succession. *Politics and the Life Sciences*, 33(2), 2-10.

Gottschalk, L.A., R. Uliana and R. Gilbert. (1988). Presidential Candidates and Cognitive Impairment Measured from Behavior in Campaign Debates. *Public Administration Review,* 48(2), 613-619.

Gustafson, A.R. (2009). Presidential Inability and Subjective Meaning. *Yale Law & Policy Review*, 27, 459-497.

Hamilton, J. (2019, July 4). New Markers for Alzheimer's Disease Could Aid Diagnosis and Speed Up Drug Development. *NPR.* Retrieved from https://www.npr.org.

Hart Research. (2017, November 1). Majority of Americans Have Astounding Knowledge Gap about Alzheimer's and Caregiving. Retrieved from https: //www.hartresearch.com.

Joynt, R.J. (1994). Who is Minding the World? *JAMA,* 272(21), 1699-1700.

Kalt, B.C. (2018). The Limits of the 25th Amendment. *National Affairs,* 37, 81-93.

Kassop, N. (2005). The Law: When Law and Politics Collide: Presidents and the Use of The Twenty-Fifth Amendment. *Presidential Studies Quarterly*, 35(1), 147-165.

Katzman, R. and K. Bick. (2000). Alzheimer's Disease: *The Changing View.* San Diego:

Academic Press.

Knebel, F. (1965). *Night of Camp David.* New York: Vintage Books.

Link, A.S. and J.F. Toole. (1994). Presidential Disability and the Twenty-Fifth Amendment. *JAMA,* 272(21), 1694-1697.

Meyer, J. and D. McManus. (1989). *Landslide: The Unmaking of the President.* New York: Houghton Mifflin.

Osnos, E. (2017, May 1). How Trump Could Get Fired. *The New Yorker.* Retrieved from https://www.newyorker.com.

Post, J. and R.S. Robins. (1993). *When Illness Strikes the Leader: The Dilemma of the Captive King.* New Haven, CT: Yale University Press.

Raj, K. (2005). The Presidents' Mental Health. *American Journal of Law & Medicine*, 31, 509-524.

Reagan, Jr., R. (2011). *My Father at 100: A Memoir*. New York: Viking Penguin.

Rubin, J. (2017, December 7). And about the 25th Amendment… *Washington Post.* Retrieved from https://www.washingtonpost.com.

Shirley, C. and J. Heubusch. (2018, January 11). President Reagan Didn't Have Alzheimer's While in Office. *CNN.* Retrieved from https://www.cnn.com.

Steckenrider, J. (1993). What People Know About Alzheimer's Disease: A Study of Public Knowledge. *The American Journal of Alzheimer's Care and Related Disorders and Research,* 8(1), 6-14.

Stahl, Lesley. 1999. *Reporting Live.* New York: Simon & Schuster.

Stetka, B. (2017, February 17). As Presidents Live Longer, Doctors Debate Whether to Test For Dementia. *NPR.* Retrieved from https://www.npr.org.

Weise, L.K., Williams, C.L., Tappen, R., Newman, D. and Rosselli, M. (2017). Assessment of Basic Knowledge about Alzheimer's Disease Among Older Rural Residents: A Pilot Test of a New Measure. *Journal of Nursing Measurement,* 25(3), 519-548.

Yale Law School Rule of Law Clinic. (2018). The Twenty-Fifth Amendment to the United States Constitution: A Reader's Guide. Retrieved from https://www.law.yale.edu.