## LBJ AND THE GREAT SOCIETY: PRELUDES TO THE OBAMA PRESIDENCY AND OBAMACARE

## DRAKE LAW SCHOOL CONSTITUTIONAL LAW SYMPOSIUM

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Thank you very much for that nice introduction, Mark. I should say first off I like it a lot more than the introduction I got a number of years back when I was lecturing in the Soviet Union. My host on that occasion—who I would like to think had an imperfect command of English—introduced me by saying, "Professor Dallek is the author of several distinguished works; they are the kinds of books that once you put them down, you can't pick them up again." Not music to the author's ears. I also like to begin these talks with an anecdote I love about my son, who when he was four years old said to me one day, "Daddy," he said, "you're a doctor, aren't you?" I said, "Well, yeah but not like your doctor, not like your pediatrician." He said, "Oh I know that because you're also a historian." Well I was delighted he could make this distinction at so tender an age, but then he wanted to know, "Does that mean that you make people in the past feel better?"

So let's see what I can do for Lyndon Johnson today. Next week on April 17 for the fifth time, I and a group of other presidential historians will be having dinner with President Obama, and it's been a fascinating experience to meet with and have a kind of close and intimate dinner; there are only about 12, 14 of us in the room, and he invites us to talk freely. But what he's most keenly interested in is hearing from us about historical analogies: what is there in the past, particularly in the history of the American presidency, that could be useful to him in his conduct of current affairs? And whenever I go to those dinners I have in mind a book by the

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late Harvard historian Ernest May called "Lessons" of the Past: The Use and Misuse of History in American Foreign Policy, because this is a dicey business, telling a president about past events, or past developments that might be appropriate in his conduct of office on current problems, dilemmas. Obama, of course, is struggling now. His agenda is anything but moving forward. Wages, advanced education for preschoolers, immigration, gun control; he's not been able to make any progress on this. And I've thought a lot about, "What can I say to him in this coming dinner that might be useful in terms of the experience of Lyndon Johnson?" Now Johnson, as Mark [Kende] was saying, is very much back in focus—very much back in the news. The symposium at the LBJ Library this week had all the ex-presidents except for George H. W. Bush, who lent his name to it as well even though he wasn't there—but Bill Clinton and Jimmy Carter. What's so fascinating about this is that Bill Clinton, two weeks before he was elected, came to the LBJ Library to give a talk. Very large, enthusiastic audience. He did not say a word in that talk about Lyndon Johnson. Nothing. Not a word. The Johnson people were furious. I talked to them about it. They were so angry. And I think now along with the fact that last week The New York Times with Peter Baker's front page article about Obama's connection to Johnson and Johnson's comeback,<sup>2</sup> a Washington Post article this week by Karen Tumulty about Lyndon Johnson: back in focus.<sup>3</sup>

So the first question I would address: what is there about Johnson that now seems to give him this, sort of, compelling appeal? Well, the guy was a phenom. Unlike the President and the Dean, I was about 107 years old when he was on the scene. I remember him very well. And into that bargain I spent 14 years—seven years going to the Johnson Library for each of the two volumes I wrote about him, Lone Star Rising<sup>4</sup> and Flawed Giant.<sup>5</sup> If you pick

ERNEST R. MAY, "LESSONS" OF THE PAST: THE USE AND MISUSE OF HISTORY IN AMERICAN FOREIGN POLICY (1975).

Peter Baker, For Obama Presidency, Lyndon Johnson Looms Large, N.Y. TIMES (Apr. 8, 2014), available at http://www.nytimes.com/2014/04/09/us/politics/forobama-presidency-lyndon-b-johnson-looms-large.html?\_r=0.

Karen Tumulty, LBJ's Presidency Gets Another Look as Civil Rights Law Marks its 50th Anniversary, WASH. POST (Apr. 8, 2014), http://www.washingtonpost.com/ politics/lbjs-presidency-gets-another-look-as-civil-rights-law-marks-its-50th-anniversary /2014/04/08/d31b9d2e-bf2d-11e3-bcec-b71ee10e9bc3\_story.html.

<sup>4.</sup> ROBERT DALLEK, LONE STAR RISING: LYNDON JOHNSON AND HIS TIMES. 1908–1960 (1992).

ROBERT DALLEK, FLAWED GIANT: LYNDON JOHNSON AND HIS TIMES, 5.

up his memoir<sup>6</sup> and turn the front page, turn the front cover, you will see a listing of 208 reform measures. Two hundred eight reforms that he signed into law: civil rights; voting rights; Medicare and Medicaid; federal aid to elementary, secondary, and higher education; the 1965 immigration statute, which represented a huge change from the National Origins Act of 1924. Johnson called that Act, the original Act, a racist piece of legislation, and he wiped it away with that '65 law. A host of environmental and consumer protections: clear air, clean harbors, clean oceans. I don't have the list before me, I have it over there, but it goes on and on: child safety, traffic safety. You read this list, and it's just stunning: national public radio, public television, the Freedom of Information Act, and a scent of a study of cancer and heart disease and blood disorders. Congressman Smith and I spoke last night about the fact that Johnson pushed forward the state interhighway legislation that Eisenhower proposed. He left a phenomenal mark on the country. The first question that one needs to ask if you are going to say anything to Obama about the Johnson example is: How did he do it? How could he have accomplished so much? Because you know, he eclipsed Theodore Roosevelt, Woodrow Wilson. He loved FDR, he thought of FDR he said, as his daddy, as his mentor, and he wanted to eclipse him as well. How did he do it?

First, ambition. The guy, frankly, was a driven lunatic. He worked night and day. When he was the head of the National Youth Administration of Texas, he got a bunch of young kids from the Sam Houston High School in Houston who had been his students when he taught debate there. And he had them working for him. And if one of these kids would take a break to go into the bathroom, Johnson would jump up and go and bang on the door and say, "Can't you do that on your own time?!" He worked them 12, 14, 16 hours a day. And he was a workaholic. He had telephones constantly going, radio, television; he just was so driven and he had to, above all, he had to be the best. He got the first car telephone of any senator in Washington when he was Senate Majority Leader in '56–'60. Everett Dirksen, who was the Republican minority leader and a rival, also got a phone. He called Johnson up and he said, "Lyndon, I want you to be the first one I called on my new car telephone." And Johnson said, "Can you hang on a second, Ev? My other phone is ringing."

1961-1973 (1998).

<sup>6.</sup> Lyndon B. Johnson, The Vantage Point: Perspectives of the Presidency (1971).

When they tell him about John Kennedy's womanizing, he'd bang the table and say, "God dammit to hell. I had more women by accident than he ever had by design." He just was not going to be outdone. So ambition, drive, political skill. The guy spent 23 years in the House and the Senate. He had an extraordinary congressional career. But when he got to the House and then got to the Senate he didn't want to serve on any particular committee. What he wanted was leadership. What he wanted was to have control. He had an aide named Bobby Baker. Some of you may remember that name. He of course later went to prison. Johnson forgot he ever knew him at that point. But, Baker was the eyes and ears, and Johnson collected intelligence on every one of the senators. Would his wife want to go on a congressional junket? What did he like to drink? Was he happy with his parking space? What legislation would help get him reelected? No detail was too small for Johnson to incorporate into his digest, so to speak, so that he could influence these guys. And he was a deal maker. A deal maker.

There are other stories of how Everett Dirksen would come in when he was President. They would sit kneecap to kneecap in the small hideaway office, drinking bourbon and branch water and Dirksen would say, "Mr. President, I have this fine young man in my home state of Illinois who deserves, I think, to be a judge." And Johnson would say, "Ev, we're going to look into that." The deal was cut. Dirksen was going to get that judgeship for his constituent, and Johnson was going to get Dirksen's votes on a particular piece of legislation. Now, one of the problems currently is: can you do that anymore? CNN would be all over it like a bee on honey. They'd call it corruption. But this is how Johnson worked. On Saturday afternoons in Washington, CSPAN radio plays the Johnson tapes. Have you ever listened to any of these? You want to see a guy at work in managing the Congress? He would call these people up: "This is your President calling. I need your help, you see." He'd came off in this sort of cautious, ingratiating way, but if you weren't cooperative, then he'd start to bully you. "You're going to do what I tell you to do." Somebody once said, "Lyndon,"—who was six foot, three and a half—"when he backed you into a corner and began breathing in your mouth, you knew you were finished." A Republican congressman from Massachusetts by the name of Silvio Conte said later, "I was in Congress for 32 years, never had a call from a president until LBJ. He would call me up." And he said, "I nearly fell out of my seat. I'll never forget it." And of course, Conte was a convert. He began voting for what Johnson wanted him to vote for.

Last story about him as a politician. In 1958, Richard Nixon went to

Latin America; you may recall this some of you. In Caracas, Venezuela, he was stoned, spat upon, and he came back to a hero's welcome at Andrews Air Force Base. Johnson, majority leader, was out there to embrace him. A couple of days later, a young reporter caught up with Johnson on Capitol Hill and said, "Senator, I saw you out there the other day embracing Vice President Nixon. I thought you told me last week that this guy was nothing but chicken shit." And Johnson said, "Son, what you've got to understand is that in politics, overnight, chicken shit can turn to chicken salad."

He was practical, pragmatic, but again, a last story here, he could bully people. In 1965, when the voting rights bill was on the agenda, George Wallace was governor of Alabama. There was the danger of violence, of bloodshed, and Wallace—who had larger ambitions—didn't want to be burdened with that business of having bloodshed in his state. He called Johnson up and he said, "Can I come and talk to you because I would like you to federalize the Alabama National Guard." Johnson said, "Sure, come in." He comes in, and Johnson brings him to the Oval Office. Now, Wallace was a man of about five foot, seven and a half. Johnson is six foot, three and a half. He sits Wallace down in this couch with very soft cushions, and Wallace now is about five foot, four. Johnson pulls up a chair next to him with this cushion that makes him now about seven feet tall. And he leans over Wallace and he says, "George, why don't you let the Negroes vote?" And Wallace says, "Oh, Mr. President, I don't control that, that is controlled by the registrars." And Johnson says, "Don't you shit me none, George. Don't you shit me none." Wallace later said, "If I didn't get out of there when I did, he would have had me out on the south lawn, coming out with civil rights." He was masterful as a politician.

Three. Number three. The guy was sincere about the issue of minority rights. He identified with them. He believed in this. He was a Texan, and in those days, he felt that Texans suffered from bias from a kind of contempt from people from the Northeast. He used to make fun of what he called the "Harvards." When he taught an elementary school for one year in Cotulla, Texas, in the Rio Grande Valley, he had these Mexican-American kids. He would bring them toothpaste and toothbrushes to improve their dental hygiene. He would bring them food so they could have a healthy breakfast, you see. In 1935, he became the head of the Texas National Youth Administration—Roosevelt's NYA. He later was identified as the best Head Director of any National Youth Administration state program in the country. He would occasionally spend a night at a black college in Texas. He was fiercely ambitious. He wanted to run for Congress. He wanted to be a

senator. He thought vaguely about being the president. If it were known at the time that he spent a night at the black college in this strictly segregated era, it would've destroyed his opportunity to run for high office. He used to tell the story about his black cook, Zephyr Wright. When he was Vice President, he asked him to drive one of his cars back to Texas, to Austin. And she later told him that as she got into the Deep South, mind you an era of strict segregation, she couldn't find a bathroom to go to, and she said she stopped the car and she'd go and squat at the side of the road to urinate. Johnson was outraged by this. He was furious about it. He used to get letters when he was the head of the NYA from black kids who would say, "Can I be an engineer?"; "Can I be a pilot?"; "Could I be an officer in the Army?" His heart went out to them because what he believed in was the idea of opportunity—that they should have a chance to achieve as much as they possibly could. So, I think this compassion, this commitment to the disadvantaged was very important in shaping his agenda.

Finally, I'd say, there were the circumstances that made a huge difference in allowing him to get 208 bills passed. First of all, there was Kennedy's assassination. You read Johnson's speeches, and in the first 10, 12 months before he is elected in his own right, he is constantly invoking the name of the martyred president, John Kennedy. He said in his first speech before a joint session, "President Kennedy said let us begin. I said you let us continue." And he invokes Kennedy's memory to get the tax cut through, to get the civil rights bill passed, the voting rights bill passed, to get Medicare passed, because these were on Kennedy's list of bills which had been stymied in the Congress. In addition to Kennedy's assassination is the fact that he had the fabulous good fortune of running against Barry Goldwater in 1964. Goldwater was a dream opponent. Goldwater talked about privatizing Social Security. He joked, saying, "We ought to think about lobbying one into the men's room of the Kremlin." Bill Moyers, Johnson's press secretary, then came up with the most famous negative political ad of American history: the daisy field ad.<sup>8</sup> Have any of you seen this? The daisy field ad. This little girl, blonde, beautiful kid, sitting in a daisy field. She picks the flower up, picks off the petals counting down ten, nine, eight—gets down to zero, and the bomb goes off in the background. And underneath it says, "Vote for Lyndon Johnson. Secure her future." Johnson, after that ad ran,

<sup>7.</sup> Lyndon Johnson, *Address Before a Joint Session of Congress* (Nov. 27, 1963), *available at* http://www.presidency.ucsb.edu/ws/?pid=25988.

<sup>8.</sup> Girl with Daisy and Atomic Bomb Explosion (1964), https://www.youtube.com/watch?v=fbIfVEboAzg.

calls Moyers up and he says, "Get over here to the White House, Bill. The White House switchboard is lit up like a Christmas tree." Moyers comes in. Johnson's with about 12 people, and he starts dressing down Moyers. "You're going to ruin me, man. This is terrible. What did you do to me?" And Moyers says, "Mr. President, we're not going to run it again. Only once. We're not going to run it again." Johnson says, "Okay, okay." Moyers has to leave. As he walks out, Johnson walks around to the White House elevator. As he's about to get in the elevator, Johnson says, "You don't think we should run it again, Bill?" He knew it was a brilliantly effective ad. They never ran it again, but they didn't have to. So Johnson won, of course, this landslide victory. And he carried into the Congress with him two-thirds Democratic, liberal majorities in both the House and the Senate, which gave him the opportunity in the first, roughly, 18 months of his term to pass a host of legislation before Vietnam set in and really crippled his Great Society.

Final point about this: one can look back at these programs, and one can say, "Reagan said we fought a war on poverty, and poverty won." I think it's unfair. When Johnson took office, 22 percent of the population was making, families were making under \$3,000 a year. By the end of his presidency, it had dropped to about 12 percent. Now there's a lot of argument about this. There are many people who say it was because of all the spending on the Vietnam War that generated jobs and opportunity. But, however you cut it, poverty was cut down substantially. And to this day, of course, it's still I think about 14 percent. Now, 14 percent of the current population is much greater than the 12 percent and 22 percent that Johnson faced in the 1960s. Medicare became a program that is embraced by all. Nobody argues about Medicare anymore. It's like Social Security. It's a program that reaches into every corner of the society.

And dare I tell you one more anecdote about that. Johnson is worried, after he gets that bill passed, that the AMA is going to give him grief. So he calls the leaders of the AMA to Washington and has the men ostensibly talk about the fact that he needs more doctors going to Vietnam. And he talks to them, and they say, "Yes, Mr. President. We certainly will try and recruit doctors to go to Vietnam." And Johnson says to Moyers, "Call in the press!" The press comes in, and Johnson says, "These fine gentlemen from the American Medical Association have agreed to try and recruit doctors to go to Vietnam." Johnson had planted a question in one of the journalists, who then says, "Well, what do they say about Medicare, Mr. President?" And Johnson says, "What do they think? They're patriots. My god, man, they are for it! Aren't they?! Tell them, tell them!" And these doctors are shrinking

back and saying, "Oh yes, Mr. President, oh yes. . ." So it gets them on record before the press that this is what they are committed to.

Final point here. Civil rights. Johnson understood that when he got that civil rights bill passed, it was going to change not only relations between the races in the South, but it was going to have a dramatic impact on the South itself. You know, in the '50s, early '60s, many people in this country looked upon the South as sort of the crazy aunt you hid in the attic because it was so bizarre, this system of apartheid, you see. Johnson understood that once you ended racial segregation, you were also going to integrate the South into the rest of the country. Look what's happened. Before Johnson did this, Southerners could not run for president. Since Johnson, not only did you have Johnson, you've had Bill Clinton, you've had the two Bushes, you've had Jimmy Carter, Al Gore from a border state. It changed the economy of the South. There is a new book out by a Stanford economic historian, Gavin Wright<sup>9</sup> laying out the economic consequences of the changes in the South as a consequence of civil rights and voting rights. They would become a much more prosperous area of the country, and of course the irony is, as Johnson understood, that the South was going to go Republican. He said that to Moyers. "Bill," he said, "I think we've given away the South for as far into the future as any of us can see."

So, final question. Why shouldn't I talk of Johnson to Obama? Why shouldn't I say to him, "Mr. President, look at this extraordinary record. Here is a model for how you go ahead and get your progressive agenda passed."? I'll tell you why I won't do it. First of all, I want to be invited back to more dinners. But Johnson, first of all, remains in pretty bad standing in this country. In 2010 there was a poll asking American to assess the last nine presidents from John Kennedy to George W. Bush. 10 Kennedy came out on top with 85-percent approval. The only one close to him was Reagan with 74 percent. Nixon at the bottom with 29 percent. George W., 47. And Johnson 49 percent. In another recent poll, Johnson is now down to 42 percent. Another poll, in which 68 percent of Americans say that they think of Johnson as only an ordinary or only an average or below-average president. He just doesn't have this hold on the public's imagination.

<sup>9.</sup> GAVIN WRIGHT, SHARING THE PRIZE: THE ECONOMICS OF THE CIVIL RIGHTS REVOLUTION IN THE AMERICAN SOUTH (2013).

<sup>10.</sup> Lydia Saad, *Kennedy Still Highest-Rated Modern President, Nixon Lowest*, GALLUP POLITICS (Dec. 6, 2010), http://www.gallup.com/poll/145064/Kennedy-Highest-Rated-Modern-President-Nixon-Lowest.aspx.

Why? First and foremost: Vietnam. This shadow of Vietnam continues to dog him—in particular, the fact that people felt he deceived the country. He lied to them about what was happening there. Now Johnson couldn't believe that, as he put it, these little guys running around the jungle in black pajamas could stand up to the American military. And he kept saying, "Light at the end of the tunnel. Light at the end of the tunnel." And some wit finally said, "Yeah, sometimes the light at the end of the tunnel is from the onrushing train." It was a disaster. And what really hurt Johnson was that he now had what was called the credibility gap. You've heard of this? The credibility gap. How do you know when LBJ is telling the truth? When he pulls his earlobe or rubs his chin, he's telling the truth. When he moves his lips, you know he's lying. He didn't think it was funny. But it was so telling as to how he had lost the public's trust. He no longer had credibility with the country. Then there's also the fact that people just don't like him. They see him as a rather cruel, vulgar personality. And of course he had the misfortune to come after John Kennedy. Kennedy, who was so admired, who has become a kind of iconic figure. And Johnson, compared to him, is remembered as crude, vulgar, and of course, the famous David Levine cartoon. Remember that cartoon of Johnson picking up his shirt holding, showing off his abdominal scar which was in the form of Vietnam? And so, people are really put off by him personally.

Last I would say, the changed circumstances. It's such a different world from the one Lyndon Johnson occupied. And most of all, people have lost faith and trust in government. John Kennedy's assassination to this day, something like 55 percent of Americans believe there is an undisclosed conspiracy and that the people behind the killing of Kennedy, a number of them were either in the CIA or in the military because they were so worried that Kennedy was moving in the direction of détente with the Soviet Union. And they also, many people, subscribed to the notion that Johnson had a hand in killing him, which is nonsense. Absolute nonsense. But there is a certain belief in this.

In addition to Kennedy's assassination, the loss of trust in government. Nixon and Watergate. Nixon holding a press conference in which he said, "I am not a crook." A President who has to go before the country and say, "I am not a crook." This is the end of his presidency. It's ruination. The Church Committee hearings in 1975, which revealed so much skullduggery by the CIA; assassination plots in the Congo; against Castro in Cuba; Bill Clinton, waving his finger, "I did not have sexual relations with that woman," undercuts people's trust in leadership and government. The Iraq war; no

weapons of mass destruction; Snowden now with these revelations about the CIA and the tapping of phones, the listening in on phones; and yesterday, *The New York Times* carried this story about what doctors receive from Medicare<sup>11</sup> and this ophthalmologist who got like \$21 million. What the hell does he do? I mean, does he cure blindness? But people then, you see, it undercuts faith in government. So let me end with two very brief anecdotes about Franklin Roosevelt, which strike to me a note of difference.

After FDR died on April 12—this is the 69th anniversary today of his death. After he died, they transported the body on a train to take it back to Hyde Park, New York. A man stood sobbing by the railway tracks, and somebody next to him said, "Did you know the president?" And he said, "No, but he knew me. He knew me." After Roosevelt died, somebody stopped Mrs. Roosevelt on the street and said to her, "I miss the way your husband used to speak to me about my government." Just think of it. Speak to me about my government. You just can't imagine that now. So, in a sense, what I'm saying to you is: Johnson deserves to be remembered for phenomenal achievements in the domestic arena. He still deserves to be condemned, I think, for the misjudgment on Vietnam, but I've got to come up with some other lessons if I want to have any influence on Obama, I guess. So if any of you've got ideas, I won't give you credit, but I'll steal them. Thanks for being so kind.

<sup>11.</sup> Francis Robles & Eric Lipton, *Political Ties of Top Billers for Medicare*, N.Y. TIMES (Apr. 9, 2014), *available at* http://www.nytimes.com/2014/04/10/business/doctor-with-big-medicare-billings-is-no-stranger-to-scrutiny.html.