

The Importance of the Presidential Records Act to the National Archives

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2022

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Abstract

The Presidential Records Act (PRA) was designed to save important historical documents that were created during a president's term. The National Archives, a governmental independent agency, holds the United States' historical records and is responsible for preserving them and allowing the public to access them. This research was done to investigate the link between the PRA and the National Archives and to establish if one is dependent on and important to the other. This research is important to provide a base of knowledge to anyone wanting to understand how and why Presidential records are saved and preserved.

Keywords: *Presidential Records Act, National Archives, Archivist, Nixon, President Bush, President Obama, President Trump.*

Introduction

Regardless of one's political affiliation, what occurs during a president's term is part of the United States' history. Every document, email, communication, photo, film reel, etc. will be collected at the end of the president's term and be handed over to the National Archives to preserve, catalog and make available to the public. The National Archives houses millions of historical documents relating back to 1775. These significant and important documents tell the story of the United States and can hold lessons for future generations.

Collecting and preserving documents was not always the case in American history and the mandate to do so is fairly young. Presidents through the middle of the 20th Century did as they wished with their documents including willing them to heirs or even destroying them. From the early 1900s, historian J. Franklin Jameson fought to establish an institution to house historical records.

Even though the Public Buildings Act was passed in 1926, it wasn't until 1935 that the National Archives opened. In 1940, President Roosevelt established the Libraries Act that encouraged presidents to pass their administration's documentation to their own Presidential library. However, even with the National Archives and the Libraries Act established, it was not mandatory to give up records at the end of a term and presidents were still free to take them with them as personal property when they left the White House. It wasn't until President Richard Nixon's Watergate scandal unfolded and the government became desperate to save the documents associated with his administration that Congress established an Act that would preserve Presidential documents forever.

This Act was called the Presidential Records Act (PRA) and would mandate presidents to turn over all materials from their administration to the National Archives at the end of their term. This paper looks to find a connection between the importance of the PRA to the National Archives and provide an understanding of the history that led up to the relationship of the two.

Literature Review

The National Archives and its subsidiaries hold the history of the United States. The public can access its records for the use of personal information, research or just to get a glimpse into the past. The National Archives holds historical documents dating back to 1775 including proclamations, manifests, documents, photographs, film, audio recordings, etc. (National Archives, 2022). The Archivist is the person in charge of maintaining and preserving the documentation and in acting as an intermediary to Congress over the concern of a president's wish to withhold documents (Turley, 2003). Without the National Archives, important historical documentation would be lost as it was prior to the Nixon Administration and the enactment of the Presidential Records Act (PRA) in 1981 (Karin, 2002). The PRA is essential in getting documents to the National Archives because it requires a president to hand over their administration's documents at the end of their term and prohibits the destruction of documents (National Archives, 2022). Essentially, the PRA is an Act to save history.

History of the National Archives

National government records were not all kept safe, accessible or in good condition due to the fact that there was not a single place to house them. J. Franklin Jameson is deemed responsible for the creation of the National Archives Records Administration (NARA). He led the American Historical Association (AHA) which was made up of parties interested in advancing the history of the United States and included teachers, professors, and other specialists. In 1907, Jameson was able to convince President Taft to sign an Executive order to audit agencies and their space for record keeping.

Between 1910 and 1918 Jameson worked to gain support for a National Archives Building getting so far as having papers and plans drawn up and submitted to Congress. One major driver behind the push for a National Archives building was the reoccurring destruction of records in building fires. In 1926, Congress finally passed the Public Buildings Act which was aimed to construct new buildings to support the growing government as well as enhance the center of Washington D.C. (Kratz, 2016).

John Russell Pope was the chosen architect for the National Archives building and the construction began in 1931. With the support of Presidents Hoover and Roosevelt, legislation was signed allowing the National Archives to begin the collection and care of governmental records. In 1935, a staff of 80 led by the first Archivist, Robert D.W. Connor began locating and preserving records.

Due to the growth of records found and obtained the National Archives expanded many times, including establishing Federal Record Centers (FRCs) in various spots around the country (National Archives, 2022). NARA's current mission is "to provide public access to Federal Government records in its custody and control. Public access to government records strengthens

democracy by allowing Americans to claim their rights of citizenship, hold their government accountable, and understand their history so they can participate more effectively in their government” (National Archives, 2022).

Holdings

Some of the holdings of the National Archives date back as far as 1775. The diverse collection of the National Archives includes slave ship manifests, the Emancipation Proclamation, World War II documents, Indian treaties, the Louisiana Purchase Treaty, the Bill of Rights, and the Declaration of Independence. Even though NARA only keeps 2-5% of Federal records that are produced in a year, the statistics of records within the collection is astounding. “There are approximately 13.28 billion pages of textual records; 10 million maps, charts and architectural and engineering drawings; 44.4 million still photographs, digital images, filmstrips, and graphics; 40 million aerial photographs; 563,000 reels of motion picture film; and 992,000 video and sound recordings” (National Archives, 2022).

Electronic Holdings

NARA started collecting electronic data in the 1960s, but since the turn of the century there has been an incredible growth in the number of records that are electronic; currently there are 1,323 terabytes of electronic data. This growth has forced the development of an archive system called the Electronic Records Archives (ERA). Many of the governmental electronic holdings are in the form of email, and more recently communication from social media, especially Twitter (National Archives, 2022; Chegia & Malgaldi, 2019).

Since 1923, presidents such as Coolidge, Roosevelt, Truman, Eisenhower, Kennedy, and Nixon have been able to spread their messages reaching people in real time through radio and television. The Clinton Administration saw the invention of the Internet in the early 90’s changing the course of record keeping forever.

The Clinton Administration launched the first White House website in October 1994, but President Clinton himself was not a fan of using technology to communicate. Contrary to many decades of the 20th Century, Americans no longer get their news from television or radio, forcing a President and other government officials to stay relevant by communicating to the public using social media (Chegia & Malgaldi, 2019).

Importance of the Documents

There is a great importance to holding a country’s records. According to the National Archives Foundation (2022), “records help us to claim our rights as citizens, to hold our elected officials accountable for their actions, and to document our history as a nation. By preserving our most important records, the Archives ensures that future generations of Americans will be able to explore our shared history at the home of the official [Declaration of Independence, Constitution, and Bill of Rights.](#)”

Independent Agencies

Within the U.S. Government, there are executive agencies and independent agencies. An executive agency is under the supervision of the president while an independent agency is not. Even though many independent agencies seem synonymous with the government, it is separate from other branches of the U.S. Government and receives its funding through private fundraising or from outside organizations. Most independent agencies focus on administrative law. However, some of these agencies are tasked with working together with government to ensure that the government is operating accordingly (LAWS, 2019). The National Archives is an independent agency of the U.S. Federal Government.

Presidential Records

It is no question that the presidents of the United States had records, especially since early presidents had less staff and communicated more directly with other governmental entities. It was under the assumption of Congress that Presidential papers belonged to that president, and they were free to take them when they departed office. Most presidents left their papers to heirs either informally or formally through their will. After being inherited, some of the papers were kept as heirlooms, others distributed or sold to outsiders and some even burned (Turley, 2003).

The idea of the Presidential papers belonging to the outgoing president did not change until President Franklin D. Roosevelt came up with the idea of a Presidential library in 1940. Subsequent presidents followed Roosevelt in the tradition of unofficial record keeping in their own Presidential libraries, but families and heirs still were able to decide what information went into the libraries and what information did not. Congress and courts did not get involved in deciding what records should be public and which should not be due to claims of separation of powers and executive privilege (Roberts, 2019).

Separation of Powers and Executive Privilege

The United States government is divided into three branches: the Legislative Branch, the Executive Branch, and the Judicial Branch. The U.S. system is built off the 18th century philosopher, Montesquieu's, theories, and model of Separation of Powers in which a government should be divided into separate branches with each branch holding its own powers. Separation of Powers is often linked to the system of Checks and Balances. While the Checks and Balances system allows each branch their own independent powers, it also provides each branch the power to stop the other branches from becoming too powerful by keeping them in check (Legal Information Institute, 2022).

One of the independent powers within the Executive Branch is executive privilege. The phrase executive privilege was not created until 1958 within the Eisenhower Administration, however, every president has assumed some form of executive privilege. The closest thing in the Constitution to the executive privilege of a president is within Article I, Section 5 granting Congress the ability to act in secret. However, many believe the executive privilege should not be granted seeing how the Founders never included that in the Constitution, probably for good reason. Executive privilege would seem to override the Checks and Balances system (Karin, 2002).

History of the Presidential Records Act

The Presidential Records Act (PRA) was passed by Congress in 1978 making Presidential papers government property with the mandate that the papers are transferred to the National Archives at the termination of the administration. The first president to comply with the PRA was Ronald Reagan (National Archives, 2022).

Pursuant to the Presidential Records Act (44 U.S.C. §§2201-2207), the National Archives and Records Administration collects most records of former Presidents and former Vice Presidents at the end of each Administration. They are then disclosed to the public—unless the Archivist of the United States, the incumbent President, or the appropriate former President requests the records be kept private. The PRA defines a Presidential record as documentary materials created by the President or his immediate staff. In turn, the term documentary materials include all books, correspondence, memorandums, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, and motion pictures, including, but not limited to, audio, audiovisual, or other electronic or mechanical recordings. (Ginsberg, 2014, p. 1).

John Locke's Theories

John Locke was a political philosopher in the 1600s and his theories had influence on some of the Amendments to the U.S. Constitution. One of his theories presented in his book, *Two Treatises of Government*, was Property Theory (Tuckness, 2020). As noted by Tuckness (2020), Locke's Property Theory states, "One can only have property in what one has personally labored on when he makes labor the source of property rights. He argued that people have rights, such as the right to life, liberty, and property, that have a foundation independent of the laws of any particular society". It would seem right by Locke's theories that early presidents did what they wanted with their records after leaving office, especially as most of their personal correspondence was in their own handwriting and was directly to cabinet members, ambassadors, and foreign leaders (Turley, 2003).

The Librarians Act

Prior to the PRA, the Libraries Act was the first Act of Congress to address Presidential records. According to the Act, presidents could create their own guidelines for access to and preservation of their administration's papers if they decided to donate those papers to libraries. Even though donating under the Libraries Act was voluntary, Presidents Carter, Eisenhower, Ford, Hoover, Johnson, Kennedy, and Truman all participated in donating portions of their records to the government to distribute to Presidential libraries. If a president chose not to donate his papers to the government, all of that administration's records would remain in control of the president when he left office (Karin, 2002).

President Richard Nixon and the Presidential Records and Materials Preservation Act (PRMPA)

Since the Librarians Act was voluntary, the Presidential Records Act hadn't been established yet, and there was no statute developed by Congress trying to reverse the current state, the Nixon Administration wouldn't have a reason to give up their documents and could potentially destroy records (Karin, 2002). Congress did not want to lose access to Nixon's records believing they were too historically important, so they immediately passed the Presidential Records and Materials Preservation Act (PRMPA) which mandated that a president could not destroy records. President Nixon sued claiming that the PRMPA was unconstitutional, but in 1977 the Court decided all claims against Nixon, upholding the PRMPA.

Even though the case was decided in favor of the PRMPA, and the Administrator of General Services would take over the Presidential papers, there was still an opinion that it was not settled as to whether the materials remained the property of the Government or the president (Karin, 2002). Seeing that this could be a problem, "the Court invited Congress to pass a statute that codified the historic custom of transferring Presidential papers to the libraries through the Archivist" (Karin, 2002).

The birth of The Presidential Records Act of 1978 was a combination of the work of the Commission and a reply to the continued congressional fear that the public would not be granted access to the records of former President Nixon (Karin, 2002). The PRA was officially enacted on January 20, 1981, and all Presidential records created after that date belong to the United States citing complete ownership, possession, and control over those records.

To balance the public's access to Presidential documents and the president's privacy, former presidents and vice presidents are given up to twelve years after their term ends to try to prevent certain documents from being disclosed. These documents would have to fall within six categories: national security, appointments to federal office, specifically exempt from disclosure by statute, trade secrets, clear invasion of his personal privacy, and confidential communications requesting or submitting advice to a president by his advisors (Karin, 2002). "After the twelve years expires, all records become available for public access requests under the Freedom of Information Act (FOIA), just like the unrestricted records, unless a constitutionally based privilege exists" (Karin, 2002).

Freedom of Information Act (FOIA)

The Freedom of Information Act (FOIA) was passed by Congress and signed by the President in 1966. The desire for the government to disclose information to the public was not a new idea in 1966; as documentation to the idea goes back to the beginnings of the United States Government and James Madison (Popper, et. al, 2021). The FOIA gives the public the right to request records of executive branch agencies and can reproduce information that they receive such as reports or data. Exceptions to the FOIA include requesting records from Congress, federal courts, private corporations, federally funded state agencies, or records pre-Reagan Administration (Popper, et. al., 2021; DeLuca, 2020).

There are nine exemptions and three statutory exclusions in which requested information does not have to be released. The FOIA does not apply to the President, their immediate or personal staff, or the Vice President. Presidential records that are subject to the FOIA are those in which were created by Executive branch agencies and the White House and are of legal custody to the National Archives, including those records subject to the PRA (DeLuca, 2020). The main requirement of the FOIA relates to releasing documents and data that is already in the government's possession and does not oblige the government to find and secure documents.

There has also been much discussion regarding how the destruction of documents plays into the FOIA. The FOIA "does not obligate agencies to create or retain documents, it only obligates them to provide access to those which it in fact has created and retained" (Popper, et. al, 2021). To simplify the declassification process, the National Declassification Center (NDC) was created in 2009 and in 2009 the Office of Government Information Services (OGIS) was created to offer mediation in the hopes to resolve disputes between agencies and those who are requesting documents based on the FOIA (National Archives, 2022).

Importance of the PRA to the National Archives

The Role of the Archivist

The Archivist holds a vital role in the preservation of American history. Not only does the Archivist oversee the collections in the National Archives, they also are central to the PRA. The Archivist does not have the authority over the president's decisions regarding classified materials but has the power to alert Congress to act on the threat of the loss or destruction of material (Turley, 2003). According to Roberts (2019):

- If the President wishes during the term of office, he or she may dispose of those Presidential records . . . that no longer have administrative, historical, informational, or evidentiary value. However, first the President must consult the National Archivist and get his or her views on the proposed disposal in writing. After the President seeks advice, the Archivist may decide whether to turn to Congress and request the advice of the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight and the Committee on Government Operations of the House of Representatives. The Archivist would take this step if he or she felt that particular records may be of special interest to the Congress, or if the Archivist decides that it is in the best interest of the public for Congress to be consulted about the disposal. (pp. 494-495)

Preservation of materials received by the National Archives is done so because they are seen as having research value, informational value to citizens and provide the details of the important workings of the Government (National Archives, 2022).

Presidential Changes of the PRA

The PRA hasn't changed too much since its inception, however, there have been some executive orders creating change based on the administration's interpretation of the law.

Currently there are issues with electronic records, and it is unclear whether the PRA accounts for Presidential recordkeeping issues associated with increasing and heavy use of internet technologies like email, Facebook, Twitter, and YouTube, by the President and his immediate staff (Ginsberg, 2014).

President Ronald Reagan

After Nixon, President Reagan was the next to try to sidestep the PRA by creating a regulatory framework to prevent the release of Nixon's documents but delaying their release three times. Reagan again tried withholding documents, this time his own, on the eve of the release of Presidential records twelve years after his presidency (Roberts, 2019).

President George Bush

President George Bush was the next President to try to circumvent the PRA by signing Executive Order 13233 on November 2, 2001, giving the sitting president the power and oversight to keep the former presidents' papers secret with or without the consent and perhaps against the will of those former presidents. The Bush Administration claimed that the executive order's purpose was to provide a review for the 68,000 pages of Reagan Administration records, but historians and public interest lawyers found that claim ridiculous. Towards the end of President Bush's term, Congress took steps to remove his executive order (Roberts, 2019).

President Barack Obama

President Obama cited too much secrecy in Washington as the basis for Executive Order 13489 and pledged to run his presidency with transparency (Roberts, 2019). President Obama issued Executive Order 13489 on his first day in office which revoked Executive Order 13233. Executive Order 13489 provided incumbent and former Presidents 30 days after the twelve-year restriction period to review Presidential records for release (Ginsberg, 2014). Also stated, "if an incumbent President claims executive privilege for the records of a former President, the Counsel to the President is required to notify the Archivist, the appropriate former President, and the Attorney General of the action. The Archivist then prohibited from releasing those records unless instructed to do so by a court order" (Ginsberg, 2014).

President Obama was the first president to establish a Twitter account (@POTUS) to be able to directly communicate to the American people. This way of communication opened the door to a whole different area of record keeping (Chegia & Magaldi, 2019). In keeping up with the changing times and the way records are kept, President Obama created a model for his library in which the National Archives will not be creating a museum or traditional Presidential Library, rather focusing on preserving his Presidential records digitally and making them accessible (National Archives, 2022).

President Donald Trump

Electronic communications within a Presidential administration have caused some questions as how to preserve Presidential records. President Obama created a Twitter account for the use of

communicating directly with the public. However, when President Trump came into office, Twitter took a whole different turn (Chegia & Magaldi, 2019). As Chegia and Magaldi (2019) state, “the problem with the PRA’s definition of electronic messaging, especially in relation to presidents on social media, is that it is confined to electronic messaging between individuals, as opposed to electronic communications between an individual and a large, interactive audience.” The PRA seemed to have covered communication through email because that provides a one-on-one mode of communication whereas social media is broadcast to many, in the case of the @POTUS account, millions (Chegia & Magaldi, 2019).

Tweets are seen as Presidential records and therefore they should have the same level of importance of preservation as paper documents. One of the differences is that Tweets can be deleted, which in turn, can be dangerous and ultimately delete history or historical records. Because Trump used Tweets to communicate directly to the American people, the PRA recognized the communication as official (Chegia & Magaldi, 2019; Roberts, 2019). According to Roberts (2019), “the source, nature, and impact of the tweets are key to determining which act they and other social media posts should be preserved under, and these criteria indicate that the most appropriate action would be to designate tweets coming from the President as documentary materials and subject to the PRA.”

One of the problems with discerning the official Tweets of Trump as president was that he often used his personal Twitter account to communicate to the American public as well. Even though records from the President and his immediate staff are not federal records under the FRA, the PRA clearly states that Presidential and Presidential staff materials are to adhere to the PRA guidelines (Roberts, 2019).

Within the presidency of Donald Trump, not only did his Tweets come into question, but also the way in which he handled documents both while in office and after his term had ended. There were reports that he had a habit of destroying documents by ripping them up and even flushing them down the toilet (Shelton, 2022). Trump also believed that the documents belonged to him both in and out of office and Executive Privilege would kick in to protect him from taking documents from the White House (Parker, et. al., 2022).

Currently, there is an investigation into the many documents, including classified, that were taken from the White House upon the end of the Presidency and brought to Trump’s private residence (Goldsmith, 2022). According to Attorney Goldsmith (2022), the Presidential Records Act is very clear in defining that the documents of the presidency should be preserved within the National Archives upon conclusion of the presidential term.

In 2017, Congressman Quigley introduced the Covfefe (Communications Over Various Feeds Electronically for Engagement) Bill to Congress as an amendment to the PRA to include the term ‘social media’ as documents to ensure the preservation of information that is conveyed through Tweets and other social media within the National Archives. If the law were enacted, communications from the President’s official and personal social media accounts would be seen as ‘official’ and communications would fall under the PRA (Chegia & Magaldi, 2019; Roberts, 2019).

Conclusion of the Literature Review

The literature presented a great deal of information on the Presidential Records Act (PRA) and all the pieces surrounding it including the Libraries Act, the Presidential Records and Materials Preservation Act (PRMPA), the Freedom of Information Act (FOIA), and the role of the National Archives. There was a solid amount of history regarding the handling of documents since George Washington's Presidency and how and why the PRA was passed. The literature showed that the PRA is a powerful tool in the preservation of Presidential documents and the Archivist, and the National Archives play integral roles as well. It was noted many times across the literature that the importance of the PRA collecting Presidential documents acts as historical reference, aids in research and informs the public.

There was detailed information on how the Nixon Administration prompted the PRA and the changes that other presidents made to the PRA. While the PRA has remained well intact since its inception, there are some issues facing it regarding the influx of social media use by public figures, especially the president. The literature provided an interesting timeline of how technology had been used throughout Presidential history from radio until now with social media.

This timeline provided a good understanding of how the government handled the growth of technology and how it affected record keeping. Even though the presidency of Donald Trump was recent, there was a significant amount of literature concerning his use of Twitter and the effects that had on the presidency including the use of his personal account and deleting Tweets, which were seen as official documentation. Also, there was a lot of information surrounding the current news of Trump taking documents from the White House and storing them at his personal home, which ensues a debate of the PRA.

The literature on the National Archives and its history was a bit harder to come across outside of the information published within the webpages of the National Archives itself. The website gives a very good overview of the National Archives history and purpose.

Overall, there was a gap in the literature outside of the National Archives website on the institution itself and it would have been useful to see some more information regarding the institution. However, there was enough information to connect the PRA to the National Archives and therefore a conclusion about the importance of the PRA to the National Archives could be drawn.

Analysis

Not only is the National Archives home to documents like the Declaration of Independence and the Constitution, but it also houses the records telling the stories of Presidential administrations from President Reagan through President Trump. The National Archives has been established now for eighty-seven years, but it was not an easy road to establishment, and it did not always hold Presidential records. J. Franklin Jameson is credited for the birth of National Archives. Jameson was the leader of the American Historical Association (AHA), a group formed by various professionals who wanted to preserve history.

Members of the AHA wanted a Hall of Records and their plans were first submitted to Congress in 1898 (Kratz, 2016). Congress passed a bill for a Hall of Records in 1903, but it never moved forward. Jameson pushed further, encouraging President Taft to issue an Executive Order for the establishment of what he was now calling National Archives.

Part of the urgent push from Jameson was due to the loss of records in fires. President Taft issued the order and a committee of nine historians called the Committee on Documentary Historical Publications was formed. After a fire destroyed records at the New York State Archives, Jameson pressed Taft further and Taft asked Congress to pass a bill to authorize the archives.

Various sites were recommended between 1913 and 1918 and plans were drawn up in 1914. Congress was still dragging its feet and in 1921, the Department of Commerce caught fire destroying most documents including census reports. Jameson continue to campaign for the National Archives and Congress finally passed the Public Buildings Act of 1926 in which the National Archives would be a part of (Kratz, 2016).

In 1931, the National Archives started being built with plans designed by Architect John Russell Pope. The building opened in 1935 (National Archives, 2022). The National Archives Records Administration was not always an independent agency of the executive branch. It wasn't until October 19, 1984, that it was established as an independent agency by an Act of Congress (Federal Register, 2022).

Since the National Archives was built during President Roosevelt's term, he was able to understand the importance of federal records being preserved. Roosevelt suggested a Presidential Library that would be built with private funds but run by the National Archives and hold all the records of his administration. This was approved by Congress and the first Presidential Library to open was Roosevelt's in 1941. Following presidents did the same and in 1955 the Presidential Libraries Act was passed by Congress allowing the transfer of Presidential papers and memorabilia to the National Archives (National Archives, 2022).

Between the Presidential Libraries and the Presidential Libraries Act, there didn't seem to be much question about the documents being turned over and Congress stayed out of any disputes regarding documents not being turned over because there was no precedent to do so until the Nixon administration. After President Nixon resigned, Congress did not want to lose the documentation associated with his administration and Watergate, so they passed legislation called the Presidential Recording and Preservation Materials Act of 1974 (PRPMA) to seize all materials related to his administration and mandated the National Archives allow public access to those materials.

Congress then passed the Presidential Records Act (PRA) in 1978 making Presidential papers the property of the government to be held by the National Archives. Ronald Reagan was the first president to comply with the PRA, but not without a fight (National Archives, 2022; Roberts, 2019).

Currently, it is almost as if Nixon's history is repeating itself because the Department of Justice is investigating the retaining of records of the Trump Administration by Trump himself. It is claimed that Trump took boxes of documents from the White House to his private residence upon the end

of his term as President and that some of the materials taken were classified. This not only poses a threat to the security of the country, but also to the PRA which states that the records must be turned over to the National Archives. There could be pieces of the puzzle of the Trump Administration missing by his taking of the documents.

There were also reports of during his presidency the destruction of official communications by ripping them up, flushing them down the toilet or deleting Tweets (Goldsmith, 2022; Parker et. al., 2022, Shelton, 2022). By withholding or destroying documents, it would seem that Trump is in direct violation of the PRA and therefore would be withholding information from the American public if the missing information is not able to be displayed in the National Archives.

Another issue that Trump's presidency is bringing up in accordance with the PRA is his incessant use of Twitter. Roberts (2019) states that President Harding was the first to be heard on the radio and Presidents Roosevelt and Truman were the first to be seen on television and President Obama was the first to use a social media account. These were foundational moments of Presidents using technology to reach the American public directly (Roberts, 2019). But when Trump became president, he used the official Presidential Twitter account as well as his personal account to communicate multiple times per day with the public, amassing 52 million followers.

The frequent use and misuse of Twitter by Trump, such as deleting Tweets caused controversy within the government. Trump's Tweets were seen as official documentation of the President and by deleting Tweets or followers was deemed as directly violating the PRA (Roberts, 2019). There is a blur between coverage of the PRA and Twitter usage when blocking people, you don't like and the use of personal vs. official accounts. This blur has led to lawsuits against Trump, citing that when he, as President, blocked a user, he was taking away First Amendment rights for personally criticizing him. Other lawsuits brought against Trump were over the misuse of the PRA by deleting Tweets.

Presidents Bush and Obama both created Executive Orders to change the terms of the PRA, Bush wanting to preserve privacy and Obama wanting to enhance transparency. There needs to be another amendment to the PRA to address the issues of social media use within the presidency. Now, the proposed legislation, the Covfefe Act, which would pose regulations and define terms of the PRA for social media use within a presidency has not been passed (Chegia & Magaldi, 2019; Roberts, 2019).

Recommendations

Based on the literature, the PRA and the National Archives work closely together to ensure that the records of a presidency are collected, preserved, maintained, and displayed accurately. However, with the rapid growth of social media and online presence, for the PRA to collect all Presidential records to give to the National Archives, amendments need to be made to the PRA to encompass social media use within a presidency.

The National Archives established the Electronic Records Archives (ERA) to meet the needs of preserving, managing, and allowing access to the growing number of electronic records. The establishment of the ERA will certainly help the National Archives with the electronic records, but

it does not cover the issues of what electronic documents fall under the PRA and will eventually end up at the National Archives. If passed, the 2017 Covfefe Bill would amend the PRA to state that all written communication on social media fell under the terms of the PRA and wouldn't tolerate the deletion of posts or Tweets (Chegia & Magaldi, 2019; Roberts, 2019).

Because the use of social media and emailing have increased exponentially over the 21st century, in addition to written documents and other media such as television, it might be advisable that the PRA also amends to state that the current presidential administration hand over documents at the end of each calendar year in order to allow the National Archives more time to process the materials so they are not bombarded at the end of a president's term.

It is also clear that President Obama's call for transparency in his Executive Order 13489 was warranted. There seems to always have been an era of secrecy within Washington (Ginsberg, 2014). Presidents Washington, Fillmore, Hayes, and Cleveland have all claimed Executive Privilege of some sort, because the phrase had not been invented yet, in order to stop the release of records pertaining to something going on at the time within their administration (Karin, 2002).

Trump did so many times both while he was president and after his term in relation to his tax records being released, being involved with the Russian interference of the 2016 election, being involved with the insurrection of January 6, 2021, and most recently, the official Government documents that have been seized from his personal home. As stated in the literature, executive privilege isn't an official Presidential right, rather a phrase that was created in 1958 during the Eisenhower Administration.

It would be recommended that executive privilege become a law for presidential use with defined terms of when it is and is not able to be enacted. On the flipside, executive privilege can be stricken from use by presidents because a lot of what they try to use it for is already covered under the PRA. For example, if a president claims executive privilege for withholding documents related to one of the exempt categories such as foreign policy or other classified information, the PRA protects the president and those documents and materials.

For the PRA to remain effective and the National Archives to receive the records that they are meant to have, the PRA needs to be reexamined and redefined. Just as the Nixon Administration's activities prompted the inception of the PRA, the Trump Administration's activities have provided lessons to the Government as well and those lessons should be considered when reconsidering the collection and preservation of documents and how to do so.

Summary

John Locke's theories resonated with the Founders of the United States and some of those theories can be said to be the basis for certain Amendments to the Constitution. Locke's Property Theory supported presidents claiming ownership of their records and right to do with them as they wished (Turley, 2003).

However, well into the 20th Century, the Government started to realize the importance of collecting and maintaining Presidential materials for the future with the passing of the Libraries Act, the

PRMPA and the PRA. President Nixon's administration's action caused Congress to pass the PRA. President Reagan tried to fight the PRA many times without success. President Bush did not agree with the PRA and signed Executive Order 13233 giving the sitting president the power and oversight to keep the former presidents' papers secret with or without the consent and perhaps against the will of those former presidents (Roberts, 2019).

Bush's Executive Order supported Locke's Property Theory and seemed to support the practices of very early presidents of transferring or heiring documents (Turley, 2003). President Obama overturned Bush's Executive Order with his own, Executive Order 13489 which changed the statute of limitations of reviewing and revoking documents and put new rules on claiming executive privilege which involve the Archivist (Ginsberg, 2014). Executive Order 13489 set up some rules of accountability for future presidents regarding the handling of their Presidential records.

The practice of record keeping is nothing new. From caveman and Biblical times to present day, we have records of the way people lived, what they believed in and how their societies were run (Yale, 2015). These records fill museums, universities and churches and Historians and everyday citizens alike view these records as amazing pieces of history that have great value. They provide us with an opportunity to learn through research or education and give us a lens into the past.

The National Archives provides that same opportunity with regards to documents of our national history and the PRA has expanded the values of the National Archives by requiring presidents to turn over the materials from their administrations. Dating back to the 1800s, much credit for the establishment of the National Archives belongs to J. Franklin Jameson who spent much of his life tirelessly fighting for the Archives to be established (Kratz, 2016).

The PRA and the National Archives are now tasked with the collection, maintenance, and preservation of all of the electronic filings that are a central point in communication for Presidential administrations. Congress will need to make sure that the PRA encompasses the collection of all documents in future presidencies whether they are on paper or electronic.

The PRA also needs to be amended to consider preservation of documents while a president is in office so important information does not get lost, such as if something on social media is deleted (Roberts, 2019). Since the PRA is responsible for the retainment of Presidential records and the National Archives is responsible for holding, preserving, and providing access to those records, the PRA and the National Archives are interconnected and are very much important to one another.

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