House of Representatives Floor Debates: Presidential Inability and Vacancies in the Office of the Vice President

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Mr. O'HARA of Michigan (interrupting the reading of the statement of managers on part of House). Mr. Speaker, the conference report and the statement on the part of the managers of the House has been printed in the Record and I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. O'HARA of Michigan. Mr. Speaker, the conference report which we bring back to the House is unanimous. It makes only two really significant changes from the House bill. The first is that authorization figures are inserted for the coming fiscal year as provided in the Senate bill rather than the House authorization of such sums as may be necessary for the coming fiscal year.

The second important difference was that the Senate bill provided for an extension of the authority under title II until 1970, while the House bill provided for such extension only until 1968. The committees agreed upon an extension until 1969.

Mr. Speaker, I would like to cover one other point. Some question has arisen with regard to the language on page 22 of the House committee report with respect to safeguarding against Manpower Development and Training Act substitution for private training efforts. The language therein refers to institution of Manpower Development and Training Act programs in units to improve and maintain skilled occupations for which prior training or possession of a specific skill has not traditionally been a prerequisite to employment. It is the belief of the committee that Manpower Development and Training Act training in such situations would substitute for threshold training normally undertaken at the expense of the employer and would not add to achieving the manpower goals which are the objectives of the Manpower Development and Training Act. The committee did not intend to imply that Manpower Development and Training Act programs would not be available for training persons in technical and skilled occupations in the garment, or any other industry for which prior training or possession of specific skills has traditionally been a prerequisite to employment. For example, it might be appropriate under the proper circumstances for Manpower Development and Training Act training to be utilized to provide skilled personnel for employment repairing, adjusting, maintaining, and rebuilding machinery used in the apparel industry.

Mr. Speaker, if there are any further questions with regard to the conference report, I would be happy to attempt to respond. In the meantime, I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I thank the gentleman for yielding. I will say that the gentleman from Michigan (Mr. O'HARA) has accurately as to what I believe is the congressional intent with respect to safeguarding against MDTA assistance for private training centers and its application to the apparel industry.

I might point out, Mr. Speaker, that I am in support of the conference report. I believe we reached a good compromise with the other body and it should be acceptable to all who supported this bill previously.

Mr. O'HARA of Michigan. I thank the gentleman from Minnesota.

Mr. Speaker, I now yield to the gentleman from Illinois (Mr. Pucinski).

Mr. PUCINSKI. Mr. Speaker, I would like to join in recommending the adoption of this conference report. It is my opinion that the conferees have done a good job. Most of the House provisions have been retained. I further believe that we have substantially strengthened this bill.

However, Mr. Speaker, there is one question which I would like to ask the manager of the bill, the gentleman from Michigan (Mr. O'HARA) so that we can establish some legislative intent.

We have provided in this bill now a greater flexibility for the use of private school facilities as a part of the manpower training program.

Now, in some areas of the country the public schools have taken the position that where there is a need for a training program and even though there is a private school that has such facilities available, the public schools must be given priority to develop a program before the Director of the MDTA can enter into an agreement with the private school.

It is my understanding that the intent of the language of this bill is that if a private school is available and can provide the programs which would be available if a public school were to develop a similar program, the local director may enter into an agreement with the private school rather than wait until the public school tries to develop and put together a program to satisfy that need.

Is my understanding of this provision correct?

Mr. O'HARA of Michigan. I would advise the gentleman from Illinois (Mr. Pucinski) that his understanding is correct. As a matter of fact the conference report as the gentleman knows authorizes the use of private training facilities where they can expand the use of the individual referral method, a method we have found efficient in getting individuals into training quickly and at a substantially reduced cost. This represents one of the advantages of the conference report.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. O'HARA of Michigan. I yield to the gentleman from Minnesota.
Mr. Speaker, House Resolution 314 provides for consideration of House Joint Resolution 1, a joint resolution proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office. The resolution provides an open rule with 4 hours of general debate, after which a vote on the adoption of the resolution is required. I do not oppose the rule. I am opposed to the House Joint Resolution because I believe it is unnecessary and unwise to enact legislation that should not be enacted.

I notice, as we look at the report concerning House Joint Resolution No. 1, there has been some divergence of view and the original author of the bill, or some one on the committee saw fit to strike out a great deal of the original House Joint Resolution and rewrite it, bringing in a new resolution. There must have been some disagreement among those very able lawyers, 35 I believe, who make up the House Judiciary Committee. The report also has some minority or divergent views expressed. If this joint resolution is approved by a two-to-one vote in both the House and Senate, the question of amending the Constitution will be submitted to the States, and will require a three-fourths vote, or 38 States, to ratify the amendment. I hope there will be enough judgment, sound judgment, in a sufficient number of legislatures in the several States of our Union to ensure that this amendment will never become a part of the Constitution.

I am not setting myself up as a constitutional lawyer, more able and wise than those who sit on the distinguished Judiciary Committee. Yet, I am not unmindful of the fact that the Constitution itself—and it is a constitutional lawyer, more able and wise than I am—has said, "The President shall act accordingly, until the disability is removed, or a President shall be elected." The Congress, by statute, has provided that those who may exist in the office of the Presidency rests entirely with the Congress of the United States.

I direct your attention to article II, in case of the removal from office, or at his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer may act until the disability is removed, or a President shall be elected.

The Congress, by statute, has provided for a line of succession in the office of the President. That statute still is in existence. In my opinion, it is a grave mistake to freeze into the Constitution an amendment prepared on millions of dollars of constitutional debate. It is a grave mistake to authorize another provision and not meet our own responsibility in fixing a line of succession by statutory enactment.

Let me remind you that this resolution also provides that the President shall, in case of a vacancy in the office of Vice President, appoint a Vice President subject to the approval of the Congress. In other words, we could make a mistake when this bill was before the Committee on Rules, and I stand on that statement today. Under certain conditions and certain circumstances, a President will be unable to discharge the Presidency and a President could name a billy goat as Vice President and some Congresses would approve of that nomination and that selection.

I think that inasmuch as the Constitution itself provides that the House of Representatives shall have the responsibility of electing a President, in case an electoral college cannot select a President, that it might be wiser to provide by statute or constitutional amendment, that in case the office of a President becomes unable to exercise the powers and duties of his office, the President shall act accordingly, until the disability is removed, or a President shall be elected. Mr. Speaker, I urge the adoption of House Joint Resolution 1 as amended, my appreciation from Iowa.
thing we may regret in future years. Too often we have to try to interpret, either ourselves or through the courts, exactly what the provisions mean. Some of the testimony heard before the Rules Committee indicates that under certain circumstances even the members of the committee who sponsored this resolution are not sure of the answers to the problems which could arise.

Why shackle ourselves? Why say that we, as the representatives of the people, will vote away our own responsibilities and write into basic law something that cannot be corrected easily if we make a mistake?

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. DEVINE. When the committee appeared before the Rules Committee on this legislation, does the gentleman know whether any consideration was given to a possible constitutional amendment to permit the people to select a first Vice President to succeed the President, rather than to leave the choice up to the President in case of a vacancy?

There was some talk at one time that the President, rather than to leave the choice up to the President in case of a vacancy?

Mr. DEVINE. Mr. Speaker, what goes on in case of a vacancy?

Mr. BROWN of Ohio. Certainly. It takes away from the House a constitutional right it now has to select a President. How can anyone justify the idea that the House of Representatives can be too small to be trusted to select a President? Now I want to answer the gentleman from Missouri [Mr. Johnson], further about this disability situation. Our Founding Fathers had pretty good foresight about this. The Constitution itself says that:

The Congress may by law provide for the case of removal, death, resignation, or inability of the President or a President shall be elected. Such officer shall act as President, and such officer shall act accordingly, until the disability be removed or a President shall be elected.

We have the complete constitutional right and authority, in my opinion, and I believe in the interests of the country, to fix by statute the line of succession and to provide for filling any vacancies that may occur because of disability, temporary or otherwise, of the President and the Vice President of the United States. I say to you it is simply foolish to consider, enact, and approve legislation like this.

I hope that if we do not realize now how foolish it is, that before 38 States will ratify such a constitutional amendment some of you will say, "No, no. This is not good commonsense and ought not to be done."

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield further?

Mr. BROWN of Ohio. I yield.

Mr. PUCINSKI. The point is this. We are a young country. The question in my mind is this—perhaps the gentleman may want to comment on it—assuming, for some reason or other, the Congress does not respond to the President's recommendation. There is a great deal of debate and furor in the Congress. What have we resolved? We have a built-in delay in the succession of our Government that is not there now, when the Speaker would automatically succeed to the Presidency when the need arises.

Mr. BROWN of Ohio. The committee is trying to meet that by provisions of this resolution. That will have to be answered by the committee. Under certain circumstances, if the Congress does not act within a certain time, certain results will follow. If anyone will ask these distinguished constitutional lawyers, perhaps some of them can explain. There seems to be some difference of opinion on how this would work in the case of the very situation the gentleman from Illinois has described. I do not know, but it is dangerous. It can be corrected by statute. It cannot be corrected quickly by constitutional amendment. For that reason I am opposed to writing into the Constitution all of these complicated provisions.

This resolution has been amended, and what comes from it has been stricken out and rewritten so that even lawyers sometimes may agree among themselves that they may have made a mistake. Let us hope it will all turn out well if there were any in connection with this committee. I have been in writing the resolution, and not in what goes into the Constitution of the United States.

Mr. YOUNG. Mr. Speaker, I yield 15 minutes to the distinguished gentleman from Virginia [Mr. Smithe].

Mr. SMITHE of Virginia. Mr. Speaker, I ask unanimous consent to revise and
extend my remarks, to include extraneous matter, and to speak out of order.

The SPEAKER. Is there objection to the use of the gentleman from Virginia?

There was no objection.

Mr. SMITH of Virginia. Mr. Speaker, for the past decade the Congress and the country have been kept in a constant political turmoil. Legislation and judicial decisions of the Federal courts concerning the question of civil rights, culminating in the demonstrations, riots and disorders in Selma and other parts of Alabama. We have seen thousands of people from all over the country flocking to Alabama to indulge in demonstrations to pressure the Congress into passing another so-called voting rights bill. We have seen invasion by persons posing as tourists, enacting a sit-down strike in the White House itself and permitted to remain there for hours before they had to be forcibly ejected.

We have seen similar invasion of the Capitol by the United States by demonstrators who remained until they were dragged down the Capitol steps and placed under arrest. We have seen picketing and demonstrations day after day at the White House, and sitdown demonstrations preceding Pennsylvania Avenue in front of the White House, at the very time when the administration had acceded to their demands and was actually and feverishly preparing the legislation which they demanded.

Such organized demonstrations have not occurred in the past and do not occur spontaneously. There must be some deep-seated plan, well organized and well financed behind the movement. In the beginning it may have been well meaning, well intended, with a righteous purpose of seeing that all American citizens enjoy their civil rights.

But when it reaches the crescendo of this movement, which is even called by some of its leaders a revolution, it is time to look to the future, to demobilize and to review what has gone before and what remedies have been taken to correct the alleged evils.

Now that the hysteria has partially subsided and the mob spirit of Selma has temporarily abated, and the captains and the king of the mob have departed from the scene, it would seem timely for people in a calmer mood to begin to inquire and think about what, if any, ulterior motives may be building up behind this campaign.

Many good, well-meaning, Christian people have been drawn into the movement with the best of motives and thus have served to clothe the mobs with an air of respectability. It is time for these good people to consider whether they are maybe playing with fire. There can be no doubt that many Communists, subversives, fellow travelers, and others of doubtful loyalty to their country, have attached themselves to the movement. Many of them, whose past subversive activities are known in Government circles, were present at Selma during the demonstrations. It is time for well-meaning Christians and loyal citizens to calm down and take stock of whether they are being led, and what is the ultimate objective of their leader.

They have adopted the slogan, "We shall overcome," and I pose the question, "Whom and what do they aim to overcome?"

How many of the mob that traveled hundreds and thousands of miles to Selma and other parts of the country company they were keeping and how many subversive and disloyal persons were there to incite violence and law violations?

I am the author of the Smith Act of 1938 that became so effective in the Truman legislative program of hunting, prosecuting, and convicting leading Communists. The constitutionality of that act, when the late, great Chief Justice Vinson presided, was tested and sustained in the famous Dennis case.

Thereafter, during the Truman administration, many Communists, subversives, and disloyal people were prosecuted, convicted, and sent to jail.

As a Member of Congress in the middle thirties, I was a Member of the Dies committee that did a magnificent job of exposing communism, and was succeeded by the present permanent Un-American Activities Committee. During those years I have learned much of the methods of subversion.

Where there is strife and organized disorder, there is the seedbed for subversive activity. There a few disloyal agitators, well planted and concealed, sow their poisonous doctrines. The more respectable the movement and the more prominent the participants, the more eager are their efforts.

I am sure that a great many well-meaning people who went to Selma would be humiliated and distressed to learn during the sort of company administration, many Communists, subversives, and disloyal people were taken to indulge in subversive activity.

Let us review what has been done by the courts and the Congress in the past 12 years for the cause of civil rights.

Let us recall that in 1954 the present Supreme Court changed the constitutional meaning of the 14th amendment that had been in effect for 50 years and thus has brought about integration in the public schools.

Remember that in 1957 the Congress passed by a large majority, and the President signed, the Civil Rights Act of 1957. That act established a Commission on Civil Rights as an executive branch of Federal Government with elaborate powers to investigate, hold hearings at any place, at any time, with the power to subpoena witnesses and report to the President any violations of the civil rights of any person.

That act of 1957 further provided full Federal protection of the right of citizens to vote to be enforced upon the application of the Attorney General by the Federal District Courts of the United States by permanent or temporary injunction or by criminal proceeding for contempt for any disobedience. This act, which established the Civil Rights Commission, gave that Commission the power to investigate and report any violation of the constitutional right to vote, after which the Attorney General was authorized to go into the district court, and seek an injunction to prevent interference with any voter's rights. The courts have issued orders to enforce those rights and send the State officials to jail for contempt of court if they did not obey.

That is what the agitators asked for, that is what they had on their lips still on the books. If there were any wrongs, why did they not correct them through legal processes instead of stirring up more mobs? But following the act of 1957, they immediately began to agitate for the Civil Rights Act of 1960, seeking what they had asked for. And 3 years later, the same groups of civil rights agitators urged the Congress to pass another Civil Rights Act, and Congress passed, and the President on May 6 signed, the Civil Rights Act of 1960, and in that act, among other things, at the instance of the same groups of agitators in the atmosphere of an approaching national election and using all of the pressure of their threats and threats they could command, induced the Congress to pass a second Federal voting law.

The Civil Rights Voting Act of 1960, under the political pressure of the civil rights groups, enacted provision for the appointment by the Attorney General of voting referees in event of violation of any constitutional voting rights of any citizen. I quote the act:

The court may appoint one or more persons who are qualified voters in the judicial district to be known as voting referees, to serve for such period as the court shall determine, to receive such applications and to exercise and perform such powers and duties as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law.

That is what they asked for; that is what they got.

Under that act, Federal registrars were appointed in certain places. The agitators got what they asked for with full Federal protection of registration and voting through the Federal referees at the behest of the Attorney General. Although the machinery was set up at that time, so few people applied for Federal registration that it has been rarely used.

I ask you again, what do the "we shall overcome" really seek to accomplish? Is it the vote, or the constant effort to create strife and turmoil and revolution? The agitators, demonstrators, and rioters, not from the Congress the law they asked for in 1957. They got from Congress what they asked for in the law of 1960. They got the Federal voting referees that they asked for in 1960.

They got what they asked for and they have taken every step of the way. Full cooperation and all the powers of the Federal Government to see that the law was enforced and no effort was spared.

Were they satisfied? What happened next?

They immediately started building up other demonstrations, other mobs, other
agitations, other political pressures, until the Congress passed and the President signed on July 2, 1964, the Civil Rights Act of 1964.

Political threats are more potent and political pressures are more effective in a presidential election year, and so the latter part of 1963 and the early part of 1964, the demonstrators began to constitute, the mobs began to mobilize, and the furor was renewed with a vehemence culminating in the march on the Capital just as if no Civil Rights Act had ever been passed by the Congress before.

Again there was a big chapter in the bill entitled, “Voting Rights.” That provision gave the Attorney General the authority to ask the courts to establish what was termed a “pattern or practice of discrimination.” It also deprived the States of their constitutional duty and power to establish qualifications of voters and substituted a Federal provision making anyone competent who had completed the sixth grade in the public schools.

Just last year the Congress passed the third Civil Rights Act in 7 years, and the President signed it, and it became the law of the land with the President’s signature on July 2, 1964.

Still complaining, agitating, and rioting, the ink was barely dry on the Civil Rights Act of 1964, before the country was thrown into the present turmoil of demonstrations, sit-downs, riots, law violation, and petitions. To oblige us to force the Congress to pass the “we shall overcome” Civil Rights Act of 1965.

This bill, if passed, will completely abolish the constitutional power and duty of the States to fix the qualifications of voters.

And the Congress, yielding again to the menace of the howling mobs, are preparing to pass the Civil Rights Act of 1965, in the framing of which the Attorney General has apparently thrown all restraint and decorum. Luther King, in his agitation, has convinced the Congress that more than legislation is sought. They had no sooner been assured by the administration in no uncertain terms of the passage of the fourth drastic Civil Rights Act in 7 years, than the Act for the Constitution, in order to keep alive the agitation, disorder, and promote his revolution, has already announced his next program with an arrogance that smacks of outright rebellion.

First, he has publicly announced that he will defy and violate any law of the land that he disagrees with. This is the language of rebellion and anarchy. He has even admonished all citizens to violate laws which they consider “morally wrong.” Is this the kind of leadership that loyal American citizens are ready to follow?

Second, he has publicly announced that he is conspiring with his leaders to incite the mobs to mob, to intimidate, to mob, and the furor was renewed with a vehemence culminating in the march on the Capital just as if no Civil Rights Act had ever been passed by the Congress before.

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And when Martin Luther King was asked would he call off his proposed boycott of Alabama, if appealed to do so by the President of the United States, his reply was an unequivocal “No.”

We must, he maintained, “We shall overcome” voting laws. I ask again, what is the ultimate object of the “we shall overcomes” who even now, before their proposed fifth civil rights law is passed, are laying the foundation and making their tracks of what they will do to the country. Even since King has been assured by the President and the Congress of the passage of the thoroughly unconstitutional legislation now pending, he is sending out throughout the country letters soliciting funds for the support and continuation of his movement, whatever its objects may be. So widespread are these solicitations mailed out in March 1965 that they are being received by people well known to oppose the King revolution.

In conclusion, I insert a thoughtful warning published in the Washington Sunday Star on the date of March 28, by a wise, courageous clergyman who has had an unusually close and intimate opportunity to observe public affairs, Dr. Frederick Brown Harris, Chaplain of the U.S. Senate.

[From the Washington Star, Mar. 28, 1965]

WHO SPEAKS FOR THE CHURCH?

(By Dr. Frederick Brown Harris, Chaplain, U.S. Senate)

A fear-haunted question is raised in a recent letter from a highly intelligent life-long friend, prominent in the affairs of a great eastern city. He poses an agonizing and immediate question. "What shall we do to keep alive the agitation, disorder, and promote his revolution, has already announced his next program with an arrogance that smacks of outright rebellion.

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land that he disagrees with. This is the language of rebellion and anarchy. He has even admonished all citizens to violate laws which they consider “morally wrong.” Is this the kind of leadership that loyal American citizens are ready to follow?

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First, he has publicly announced that he will defy and violate any law of the
admitted that so far as communism is concerned, there is, to use a scriptural phrase, "a silence that could be heard in heaven."

One of these leaders has said, "Let us quit moralizing about communism and to communism itself. The parts of this Godless force were being poured into the minds of the young—and, of the older. Would that every church, as its bounden duty, would have its entire membership familiar with every chapter of J. Edgar Hoover's "Masters of Covert Action.""

There could be no more effective antidote to the new, insidious institution to destroy church leaders as they encourage the coming generation to strike the ferocious leopard (which has not changed its spots) and to murmur, "pretty pussy."

It is high time for religious people of every name or sign to raise the question in this time of dire crisis, "Who speaks for the church?"

Mr. YOUNG. Mr. Speaker, I have no further requests for time. I yield back the balance of my time and move the previous question.

The previous question was ordered. The SPEAKER. The question is on agreeing to the resolution. The motion was agreed to.

Mr. Celler. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.R. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Joint Resolution 1, with Mr. Fasell in the chair.

Mr. Celler. Mr. Speaker, I yield my time to the Chair.

Mr. Chairman, this resolution, House Joint Resolution 1, has bipartisan support. I particularly offer praise to the gentleman from Ohio [Mr. Brownell] and the gentleman from Virginia [Mr. Poff], who participated in the fashioning of the joint resolution.

This is by no means, ladies and gentlemen, a perfect bill. No bill can be perfect. Even the sun has its spots. The world of actuality permits us to attain no perfection. Admiraible as is our own Constitution, it had to be amended 24 times. But nonetheless, this bill has a minimum of drawbacks. It is well-rounded, sensible, and efficient approach toward a solution of a perplexing problem—a bill that has baffled us for over 100 years.

As to attaining perfection, let me call your attention to a bill introduced by Mr. Lindsay and Mr. Cramer for the American Bar Association:

Certainty and prompt action are... built into this proposal—namely, House Joint Resolution 1. * * * During the 10-year debate on Presidential disability * * * many plans have been advanced to have the existence of disability decided by different types of commissions or medical experts, by the Supreme Court, or by other complicated ad hoc procedures. But upon analysis, * * * they all have the same fatal flaw, * * * they would be time consuming and divisive.

We tried to avoid fragmenting down this amendment with too much detail. We leave that to supplementing, implementing legislation. We make the provisions as simple yet as comprehensive as possible.

This is certain: we have trifled with fate long enough on this question of Presidential inability. We in the United States have been lucky, but luck does not last forever. The one sure thing about luck is that it is bound to change.

Sir Thomas Brown once said: "Certainty is a constitutional legal question. If I were perplexed and baffled over what Mr. Brownell did Mr. Brownell have said: "What is the need to say on this subject, as to the need for a constitutional amendment and the fact that it would be dangerous to offer a mere statute? Mr. Brownell said:

"The number of respected constitutional authorities have argued that there can be no temporary devolution of Presidential power on the Vice President during periods of Presidential inability.

And whatever we may think of that argument, I think a statute would not protect the Nation adequately with the doubts that have been raised, which have been raised too persistently. As long as there is doubt, lingering doubt, concerning the constitutionality of the statute, as long as there is an attenuation of Presidential disability, it is too precarious. As long as there is doubt, the President's influence is still powerful in Congress. And you at this moment with his words, "Let him suffer the penalty of his acts," you should note that devolution of the Presidential power on the Vice President would be somewhat of a crisis itself.

Beyond that, the present Attorney General, a very erudite scholar and a practical Attorney General, similarly before the Committee on the Judiciary of the House and the Committee on the Judiciary of the Senate gave eloquent testimony as to the need for a constitutional amendment. I shall not burden you at this moment with his words but shall insert them in the RECORD.

A host of city bar associations all over the country have asked for this bill. The U.S. Chamber of Commerce and chambers of commerce throughout the Nation have likewise asked for this bill in the form of a constitutional amendment and not a statute. When this body is asked to adopt a constitutional amendment, the recommending committee must establish an imperative need for such action.

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Mr. Celler. Mr. Speaker, I yield my time to the Chair.
plecty of the domestic and foreign pol-

grows.

Article II, section 1, clause 5, of the U.S. Constitution reads:

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 be performed by the Vice President; and if he fail to qualify as the same may be by law provided for his Case of Removal, Death, Resignation, or Inability, the President pro Tempore of the Senate shall act as President.

The United States Constitution reads:

If you try to meet the practical human prob-

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ought to envisage every conceivable contingency. We cannot

t meeting every conceivable contingency.

Now, even a cursory reading reveals that it raises a host of questions. How do we distinguish between temporary and permanent vacancies? Who determines the inability? In what capacity does the Vice President act in the event of a temporary inability? No distinction is made on the inability from

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t meeting every conceivable contingency.
Second. Section 3 deals with a situation where the President voluntarily declares his inability. When the President transmits his written declaration to the President pro tempore of the Senate and the Speaker of the House of Representatives that he is unable to discharge the powers and duties of his office, such powers and duties are to be discharged by the Vice President. If no such determination is made, the Vice President continues in office as Acting President.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I thank the chairman for yielding.

Although the term used in the amendment is "principal officers of the Executive departments," it is intended that reference is made to a specific number of Cabinet officers. The Cabinet positions which presently exist as well as future Cabinet positions which might be created, is it not?

Mr. CELLER. That is correct.

Mr. WAGGONNER. I thank the gentleman.

Mr. CELLER. Again, I emphasize the words "Acting President." I should remark that this is action in concert—the Vice President plus a majority of the Cabinet. However, should such inability, though undeclared by the President, be of temporary nature, hospitalization, perhaps a sudden illness leading to temporary unconsciousness or temporary paralysis, leaving the President bereft of speech and motor power for two or more days—and the President then recovers in his judgment to the extent to where he can carry on the powers and duties of his office, the President sends a written declaration to the President pro tempore of the Senate and the Speaker of the House of Representatives that he is no longer unable to carry on. He then resumes the powers and duties of his office without further ado. So it remains, unless the President, under a two-thirds vote with a majority of the Cabinet, transmits within 2 days to the President pro tempore of the Senate and the Speaker of the House their written declaration that the President is unable to discharge the powers and duties of his office. Hereof, of course, we have the nature of a dispute. Such being the case, it is necessary for the Congress to act quickly so that stability of Government may be assured. Once the Vice President along with a major part of the Cabinet declares that the President is incapacitated. If no such determination is made, then the President resumes the powers and duties of his office. Throughout all these sections are thrown in that if there is any doubt the President is factually wrong, the Vice President shall always be in favor of the President because he is the elected representative of the people, the first officer of the land, and he shall be favored without doubt. In other words, if there is a dispute, as I repeat, it is necessary that the executive power and stability, the Vice President takes over and remains in the office as Acting President until Congress acts. If Congress does not act and a two-thirds vote is not obtained in both Houses within 2 days, then the President resumes the powers and duties of his office as President. Thus we escape the danger of a disabled President carrying on for even a short while.

Thus we would remove the danger of a disabled President carrying on for even a short while.

The time limit is necessary to resolve the question. It must be remembered that in this revolutionary and atomic age, time is always of the essence. It is interesting to note that the other body passed this resolution, or this constitutional amendment by a vote of 72 to 0—not a single vote was registered in the other body against the amendment.

Finally, and I probably have spoken under a long period, therefore, urge the Members of this House to accept this proposal lest a catastrophe find us unprepared once again.

The responsibility to act in this area has always leaned heavily on the Congress, but until now we have had no consensus on that approach which would answer almost all of the questions. Now a consensus has been reached. Evasion will no longer be permitted.

The Senate and House versions are very close together except for the matter of the time limit. We of the committee believe that the time limitation is necessary for reasons which I have already stated. I, for one, would not want to be held accountable should the country face a period of crisis with no Executive firmly in charge.

I have every confidence that this Committee will act as responsibly as did the other body.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. HALL. Mr. Chairman, I appreciate your amendment. I am one of those who are anxious to see correct and proper legislation enacted in order to fill this void. I notice in the hearings and in the committee report that the distinguished committee which the gentleman chairs has thoroughly canvassed the subject and has called on many people from many walks of life. I am addressing myself particularly to the question of Presidential inability or disability. I would say, sir, that in direct proportion to the complexity of the question that you have so aptly referred to today, there is also the difficulty of determining inability or disability of the human being to function. This strikes me as something, as a man who has practiced medicine, that is incredibly difficult in this complicated age to determine. I see no evidence in the hearings of any statement by either any White House physician, past or present, or any of Surgeons General of our Armed Forces, or civilian consultants available to the Government, such as the American Medical Association; some or all of whom are usually called on in such extremes for determination of these questions. I wonder, although fully aware of the fact that medical certification is also the judicial determination—or a legislative determination—of the fact, if such opinion was sought. I am not able to find it here. I wonder if those who ordinarily determine inability or disability were consulted or called for hearings; or if they were excluded purposely, or if it is simply presumed by the chairman that this type of advice will be sought in time of such exigency.

Mr. CELLER. For the very reason that the gentleman explained, which indicated the difficulty of definition, we did not specifically speak of medical experts or of a commission of those with expertise on subjects of this sort. But we did point out that, in that event, such other body as Congress may by law provide. In other words, Congress may, by passing legislation implementing this, set up, if it wishes, some other body or some group of experts who would give advice and counsel instead of the members of the Cabinet. The members of the Cabinet are, the members of the President's executive family, usually are the ones who are intimate with the President. They know his idiosyncrasies. They know a
good deal about his health and they probably could tell a great deal concerning his physical condition. But, if we in the committees of this body do not have that opportunity, we could appoint another body.

Mr. HALL. I thank the chairman. I understand, and have no particular flaw to pick on the question of the President of the United States. I am making the determination or seeking two-thirds of the votes of Congress in determining lack of ability. I am not quite sure that this Congress would ever, as a matter of practical procedure, set up the Vice President and other groups to determine ability. At the same time, I am certainly not convinced that, wise as the members of the Cabinet may be about the President’s personality traits and about deviation away from the norm thereof, that they could physically determine when association pathways of the human brain and mind, or even the emotions, were bereft of ordinary and expected continuity on the part of the President to the point of constituting disability.

This disability and inability as determined nowadays for even such simple things as employment or disability compensation and rights thereunto, has become extremely complex. I am not saying that we should write such a provision into this law. It is to be implemented further, I understand. It seems to me we might well, in the future implementing by law of the amendment, consider whether such a procedure or a consultant to a Cabinet group or the Vice President—then acting or installed as the President.

Mr. POFF. Mr. Chairman, will my chairman yield so that I may respond to the gentleman’s question?

Mr. CELLER. I yield to the gentleman from Virginia.

Mr. POFF. I appreciate the concern the gentleman expresses and I am in sympathy, but that is not what I believe I can throw some light on his question by quoting from an opinion of Attorney General Kennedy, August 2, 1961, in which he undertakes to describe what transpired when President Eisenhower had a heart attack.

The problem of succession to the Presidency was considered immediately after former President Eisenhower’s heart attack in September 1955. Congress was not in session, and there was no immediate international crisis. On the basis of medical opinions and a survey of the urgent problems demanding Presidential action immediately or in the near future, Attorney General Brownell orally advised the Cabinet and the Vice President that the existing situation did not require the Acting President to exercise the powers and duties of the President under Article II of the Constitution.

I suggest that a similar thing could normally and reasonably be expected in the event this constitutional amendment is ever necessary. Surely, the decisionmakers, whoever they may be, would not undertake so critical a decision without first consulting the experts in the field, namely the gentlemen of the medical profession.

Mr. HALL. I certainly believe it is important, not necessarily that it be spelled out in this resolution we are considering today, but that a legislative record be made here today with respect to such a complex and difficult-determination area. In the enabling legislation, which I understand will subsequently follow this amendment to the Constitution, we might indeed spell out what is to be involved.

If I speak of a white group—some White House physicians, not for the Surgeons General in convention assembled, and not for the highest medical organization which happens to be extant in the land at this or that time; the Surgeons General in the expert knowledge in the determination of this very difficult area of inability and disability.

Mr. MACGREGOR. Mr. Chairman, will the chairman yield further for an additional comment in connection with the question of the distinguished gentleman from Missouri?

Mr. CELLER. I yield to the gentleman from Minnesota.

Mr. MACGREGOR. May I add to the vegetable portion given by the gentleman from Virginia, an historical note which may give further comfort to the gentleman from Missouri.

At the time of the severe stroke which occurred to Woodrow Wilson, the Secretary of the Navy, in his own words, said the President’s personality was never in doubt, that the Vice President step in and exercise the powers and duties of the Presidency. This was not taken with good grace by the President, and when he recovered his ability, he signed his written declaration of State soon found himself without a job. I believe that historical precedent facing the Members of the Cabinet they would not take the step jointly with the Vice President to certify, in their judgment, the President’s inability to the appropriate officers of the Congress without a consultation with the very finest medical brains which were available to them here in the Nation’s Capital.

Mr. HALL. Mr. Chairman, will the gentleman yield further?

Mr. CELLER. I yield to the gentleman.

Mr. HALL. I appreciate that remark, and I think it is historically interesting. Then the gentleman is adding to the legislative record which I am trying to establish to that ultimate end, but what we are trying to do here is to prevent historical incidents such as that from recurring. It is to that end that I rise and I think the point has been well made.

Mr. Chairman, I thank the gentleman from New York for yielding.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. DUNCAN of Oregon. I have asked the chairman to yield in order to direct your attention to page 4, section 4, and ask a question about what seems to me to be a potentiality that shall not be cleared up, I think, in a colloquy here on the floor of the House. The second paragraph of section 4 provides that if the President shall recover and he sends to the Congress a written declaration of that fact, it shall resume the powers and duties of his office unless the Vice President and a majority of the principal officers of the executive departments, or such other body as Congress may by law provide, within 12 days 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.

My question, sir, is, is there not a 2-day period when we may be in a state of ambiguity, not knowing whether the President, having recovered, has the powers and duties of the office or whether the Vice President is the Acting President of the United States?

Mr. CELLER. It is the Acting President, that is, the Vice President, who is Acting President. He is in control unless the President, and so forth, does something else. The event is, it is the Vice President that is in the saddle, but to make assurance doubly sure I will read you a communication that I received from the Attorney General, dated April 13, 1965, which letter reads as follows:

DEAR MR. CHAIRMAN: The question has been raised as to whether, under section 5 of House Joint Resolution 1, as amended by House Amendment 18 of April 16 and 17, 1965, the Acting President would continue to discharge the powers and duties of the Office of President during the 2-day period within which the Vice President and a majority of the principal officers of the executive departments may 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.

As I have previously indicated to you, it seems to me entirely clear that the Acting President would continue to exercise the powers and duties of the President of the United States during that period. The same is true of the period of up to 10 days thereafter during which, under section 5 as it now stands, the Congress would be required to resolve the issue.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield for another question?

Mr. CELLER. Yes; I will.

Mr. DUNCAN of Oregon. In the event that the letter is not written by the Vice President, and if the principal officers of the executive departments, then who actually has the powers of the President during the 48-hour period following the transmittal by the President of his declaration to reassume the office?

Mr. CELLER. The Acting President would—and I use that term again—in the saddle unless he agrees the President is fully restored.

Mr. DUNCAN of Oregon. So the intent of this section of this resolution is that the Acting President—and let us assume it is the Vice President—will continue to discharge the duties of that office until the expiration of all necessary time for the Congress to concur. Does the President take such action as may be necessary?

Mr. CELLER. The Vice President during that period could agree that the President is no longer disabled and the President will resume his powers. He can then take affirmative action?

Mr. CELLER. Even within the period.
During the entire course of the hearings and deliberations, the committee itself has conducted its business in a manner which reflects great credit upon the American system of lawmaking. Not one partisan consideration was advanced. Not one word of bitterness was uttered. Debate was vigorous, but always constructive. The whole performance makes me proud to be a member of the Committee on the Judiciary.

We are considering a constitutional amendment. Why not a statute? Some consider a statute sufficient. In recent years, the legal body of legal opinion has held that so far as the case of Presidential inability is concerned, a constitutional amendment is not only the proper legal course but the wise course. The difference of opinion arises from the language of article II, section 1, clause 5, which reads as follows:

In case of the Removal of the President from Office, or at his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

That language was first brought into focus in 1841 when President William Henry Harrison died in office. Because it was uncertain whether the “powers and duties” would “devolve” or the “office” would devolve, the question immediately arose, “Will Vice President Tyler become Acting President or President of the United States?” Tyler answered the question by taking the oath of office of President. Since then, the “Tyler precedent” has been confirmed seven times.

But Tyler’s answer concerning succession following death did nothing to clarify the question of succession following inability. Indeed, it complicated that question. Death and inability both are instances of inability. Yet the Constitution thus provided that whatever should “devolve on the Vice President” on account of the President’s death would also devolve upon the Vice President on account of the President’s inability. If it devolves in one case is the office itself, then it must be the office in the other case. The conclusion of this argument was that if the Vice President should assume the Office immediately, the President’s death or the President’s inability; the displaced President could not thereafter, even if he recovered, reclaim his office. Such constitutional scholars as Daniel Webster so declared.

But the face of such an argument, it is little wonder that Vice Presidents have been reluctant to assume the mantle which heretofore has been thought impossible. This consensus, like all others, represents some degree of compromise. But it represents no compromise to expediency. It accommodates a variety of schools of legal thought, none of which is to be called wrong or unworthy, and all of which unite in the conclusion that action is not only necessary but urgent.

Tribute is due, too, to the chairman of the Committee on the Judiciary. First, he has been an eloquent, effective advocate. Second, he has been an impartial, fair-minded arbiter. Always intellectually honest, he has stood firm when firmness was necessary but has yielded when logic dictated. The bill before us properly bears his name, but because he has been just, it contains many amendments which all together represent the composite judgment of the committee at large.

In these two crises, surely Congress would have passed a statute on Presidential inability if Congress felt it had the constitutional power and the need. There were those who felt that Congress had such authority. They pointed to the “necessary and proper” clause and to the language in article II which read: “The Congress may vest the Power to declare the Case of Removal, Death, Resignation, or Inability.” But the remainder of that clause gave the Congress pause; it gives the Congress power to act only in case of the inability of “both the President and Vice President.” The implication is that Congress has no power to act by statute when only the President is disabled. This implication was tacitly acknowledged by the Congress in 1792 when it passed the first Presidential Succession Act. That Congress was peopled by contemporaries of the authors of the Constitution, and the statute significantly failed to provide for succession when only the President was disabled.

So far, I have dealt only with legal justification for a constitutional amendment. There is a pragmatic reason as well. So long as there is any question about the efficacy of a simple statute, the President would be subject to attack. Such an attack would come at a time when the Nation could least afford it—when the President becomes disabled or when the disabled President recovers and seeks to reclaim his office.

Yet, I have been asked, why could not we pass by some other means? Why could we not have a brief constitutional amendment which simply empowers the Congress to pass a statute dealing with Presidential Inability? The answer is, we cannot. Our judgment, we should not. I have two reasons. First, in a matter as vital to our national interests as the continuity of Presidential powers, stability and durability are important; only a constitutional amendment can guarantee this. Second, the doctrine of separation of powers, which has served us so well for so long, would be blurred by the dual approach. Presidents and Vice Presidents are not always popular with Congress, and at a time when one may be subject to attack by the other. Sometimes, the political party which controls the Congress is not the same political party which controls the White House. If a simple majority of the legislative branch is to have the power to make these rules one day and to change them the next, the executive branch will be subordinate instead of coequal and the head that wears the crown will indeed be uneasy.

Then there are those who ask why we cannot just write or rewrite the constitutional amendments and statutes and deal with the problem as we have in the past by written agreement between the President and Vice President. There are several answers to that question. A private agreement can not have the effect of law, and it is questionable whether the President can in such an informal, bilateral fashion lawfully delegate powers conferred upon him by the Constitution, by treaties and
by congressional statutes, to another person. The question is serious enough to invite legal challenges to every domestic act of the President, for a field of foreign relations would be under a cloud. Moreover, these bilateral agreements have never provided, and in the nature of things could never provide, for an enforceable settlement in event of death or removal of the President. When the President is disabled, the only real question these agreements serve is to dramatize the urgency of having a definitive mechanism built into the basic law of the land, a mechanism adaptable to all and where it will remain constant from one administration to the next.

When we speak of the problem of Presidential inability, we are speaking of two categories of cases. The first is that in which the President recognizes his inability—or the imminence of his inability—and wishes voluntarily to vacate his office for a temporary period. The classic example is when the President expects to recover his health, or to discharge his duties so long as the President feels that his inability has not terminated. When he chooses to do so, he may reclaim and reoccupy his office by sending another written declaration to Congress. Unlike the second category, his declaration of restoration is not subject to challenge by the Vice President and Cabinet. The reason for this distinction is obvious. A President would always hesitate to utilize this mechanism of his own accord, because he knew that a challenge could be lodged when he sought to recapture his office.

Section 3 of the bill provides for the first category. Simply by sending a written declaration of inability to the heads of the two Houses of Congress, he makes it possible for the Vice President, as Acting President, to discharge his duties so long as the President feels that his inability has not terminated. When he chooses to do so, he may reclaim and reoccupy his office by sending another written declaration to Congress. Unlike the second category, his declaration of restoration is not subject to challenge by the Vice President and Cabinet. The reason for this distinction is obvious. A President would always hesitate to utilize this mechanism of his own accord, because he knew that a challenge could be lodged when he sought to recapture his office.

Section 4, which now includes what was originally section 5, provides for the second category of cases. There are two illustrative enactments. One is the case when the President, by reason of some physical ailment or some sudden accident, is unconscious or paralyzed and therefore unable to make or to communicate the decision to relinquish the powers of his Office. The other is the case when the President, by reason of mental debility, is unable or unwilling to make any rational decision, including particularly the decision to stand aside.

It is the second category of cases which has given so much concern. The problem is best defined by a series of questions. Who first raises the question and who makes the decision concerning inability? Should the word "inability" be defined? What procedure should be followed in the event of doubt as to his office after he has recovered? These questions and questions subsidiary to each of them have been answered in section 4.

The original draft required the Vice President to initiate the action and required only the subsequent concurrence of the Cabinet that the President was disabled. The Vice President historical- ly has been reluctant to take the first step for unwise reasons. The present version of section 4 is in the conjunctive and places the power and responsibility jointly upon the Vice President and a majority of the Cabinet or Joint Committee of the two Houses of Congress as "the other body" to provide." In the second step, these same people make the decision about inability and transmit that decision in writing to Congress, upon the receipt of which "the Vice President shall immediately inform the President that he is in the office as Acting President." While others have been proposed, these are the people who should have this power and who should make the decision. The Vice President, a man of the same political party, a man originally chosen by the President, a man familiar with the President's health, a man who knows what great decisions of state are waiting to be made, and a man intended by the authority which placed the President's heir at death or upon disability, surely should participate in a decision involving the transfer of presidential powers. The same is true of the Cabinet whose members are appointed by the President and are closest to him physically and most loyal to him politically.

While the Vice President and Cabinet seem to be the ideal people to be entrusted with the power of decision, section 4 recognizes the ideal procedure. The President can designate the naming of "some other body" by the Congress to act with the Vice President. Presently, the Cabinet as defined in title 5, United States Code, section 1 consists of 10 members. It is possible that an even-numbered Cabinet might divide evenly, thus effectively nullifying the system erected in section 4. For this reason, or some other good reason, Congress may sometime find it necessary to name some other body which of necessity would be composed by adding to the Cabinet as the decision-making body one non-Cabinet member. The American Bar Association and your committee struggled with the question of defining the word "inability." It was decided that it would be unwise to attempt such a definition within the framework of the Constitution. To do so would give the definition adopted a rigidity which, in application, might sometimes be unrealistic. In my judgment, it also would be unwise to attempt such a definition by statute. The slightest imprecision in such a definition would be the target of legal attack if and when it should become necessary to exercise it, and it is highly unlikely that the responsible Government officials entrusted with this great power would abuse it by declaring a President elected by the people of this country disabled when in fact he was not. Besides Congress has given the ultimate voice in this determination.

The procedures to be used in restoring a disabled President to his office following his recovery constitute one of the critical phases of the problem. The procedures specified in section 4 deal with the problem in a careful, deliberate manner. Herein lies the principal difference between the House bill and the bill enacted by the other body. Under the Senate bill, the President could resume his office after his written declaration of restoration to the Congress unless within 2 days the Vice President and a majority of the Cabinet or Joint Committee of the two Houses of Congress assert that he is unable to act. Under the Senate version, the Vice President continues to hold the office after the receipt of the written declaration to the Congress challenging his restoration. If under the Senate bill the Congress by a two-thirds vote upholds the Vice President's challenge, the Vice President would continue to hold the office as Acting President; otherwise, the President would resume his office. The difficulty with the Senate version was that the Congress, which might not even be in session, could delay by filibuster or deliberate inaction, an indefinite period of time, during which the Vice President would remain in office. This difficulty is especially great if a majority of the Members of Congress—but less than two-thirds—are hostile to the President.

The House committee felt that any delay on the part of Congress should inure to the benefit of the President rather than the Vice President. Accordingly, the House committee adopted the following amendment: "upon the first, the Congress, if not in session when it receives the Vice President's challenge, is required to assemble immediately. This mandate is self-executing, requiring no formal call by the Acting President. Under the second amendment, the Congress is required to act within 10 days after receipt of the Vice President's challenge. This, too, is self-executing; if the Congress fails to act, the Acting President will resume his office after the lapse of 10 days. In effect, the procedure as outlined under the House version gives the Congress three options:

First. The Congress can act and by a two-thirds vote uphold the Vice President's challenge.

Second. The Congress can act and by one more than a one-third negative vote in either House, reject the Vice President's challenge.

Third. The Congress can allow the 10-day period to expire without acting at all.

The net effect of the second and third options is the same; the President is restored to his office. The chief merit of the House version is obvious. Circumstances may be such that the Congress by tacit agreement may want to uphold the President in some manner which will not amount to a public rebuke of the Vice President who is then Acting President. The third option furnishes the graceful vehicle. And this system renders impossible the awful stalemate which would result from a filibuster or deliberate inaction under the Senate version.

It will be observed that the procedure specified in section 4 gives the Congress no voice in the decision for the initial involuntary removal of the disabled President. As soon as Congress receives the written declaration of inability from the Vice President and a majority of the members of the Cabinet, the President is
removed and the Vice President becomes Acting President. However, the President who regards himself capable and objects to the Vice President's action is not left without recourse. He has the right as soon as he is removed to send Congress his written declaration of restoration, and at that point, the procedure for congressional review becomes operative.

The committee makes no claims that this bill is foolproof or that it covers every hypothetical case which might present itself to the inventive mind. If one assumes that the Vice President and most of the members of the Cabinet were charlatans, revolutionaries and traitors, we are foolish to attempt any solution. Rationally, we make no such assumption. Rather, we assume that the American form of government with its system of checks and balances is so structured, that the freedom of the American press is so secure, and that the conscience of the American electorate is so sensitive and its power so effective that any such attempt to destroy an office would be doomed to exposure and swift retribution. Certainly, we want a government of laws and not of men, but somewhere in the process of administration of the laws, we must commit our fate to the basic honesty of the administrators. Somewhere, sometime, somehow, we must trust somebody.

Mr. HORTON. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. McCulloch) may extend his remarks at this point in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. McCulloch. Mr. Chairman, the House is now discharging one of its greatest responsibilities in proposing an amendment to our Constitution. The proposal before us, House Joint Resolution 1, is one of the most important and challenging issues of our time. An issue that we cannot ignore or postpone.

One of the most important procedures in our Republic is the orderly transition of executive power. With our country's global responsibilities and present world turmoil and upheaval, and with ever-increasing domestic problems, our country must always have continuity of capable, dynamic, and certain leadership. Our system of government could be susceptible to a period of disruption during a period of executive transition before we can afford a breakdown, or a slowdown, during such transition.

Despite this critical need for a swift, sure, orderly procedure to insure continuity in executive leadership, the Constitution provides only for the President's a vacancy in the office of Vice President.

The Constitution does not define presidential inability. It does not set forth the conditions under which an acting President shall assume the duties of the office, and it does not set forth the procedure for recovery of the office by the President upon termination of his disability.

Our country recently suffered a tragedy of shocking proportions that resulted in an abrupt change in our executive leadership. The fact that our country was without a Vice President for more than a year. At other times in our history, periods of temporary—yes, even permanent—presidential disability have raised serious questions as to the proper procedure for recovery of the office.

In this space age we cannot afford the uncertainties, the risks of reliance upon pious hope and chance that things will work out all right. Now is the time to face the problems and to act—before the next crisis is upon us.

To cope with the problems of presidential inability and vacancies in the office of Vice President. We must provide the means for an orderly transition of executive power in a manner that respects the separation of powers doctrine, and maintains the safeguards of our traditional checks and balances. I believe that House Joint Resolution 1, as amended by the judiciary Committee, answers these needs, and will undoubtedly correct the shortcomings of the Constitution with respect to presidential inability and succession.

The resolution has three basic purposes:

First. It provides that upon the occurrence of a vacancy in the Office of the President by death, resignation, or removal, the Vice President shall become President. This provision will settle once and for all any questions raised by the present language in the Constitution: When a President dies, does the Vice President become acting President or President? Does he assume the "powers and duties" but not the "Office" of the President?

Second. The resolution provides for the selection of a Vice President in the event of a vacancy in that office.

Third. It provides a method of determining when the Vice President shall assume the "powers and duties" of the President, and also a method of determining when the President is able to resume the duties of his office following a period of disability.

In reference both to the question of presidential ability for filling a vacancy in the Office of Vice President, one of the major considerations has been whether Congress could constitutionally proceed to resolve the problems by statute, or if an enabling constitutional amendment would be necessary. Through the years, this controversy has increased in intensity among Congressmen and constitutional scholars.

In recent years, there seems to have been a shift of opinion in favor of the proposition that a constitutional amendment is necessary and that a mere statute would be inadequate to solve the problem. The last three Attorneys General who have testified on the matter have agreed an amendment is necessary, in the case where he becomes too ill.

The proposed constitutional amendment provides that the Vice President, by the Vice President, the President may resume the powers and duties of his office by issuing a declaration that his disability has terminated.

If it is believed, however, that the President's disability cannot be determined, the amendment provides that the Vice President, by the Vice President, the President may resume the powers and duties of his office by issuing a declaration that his disability has terminated.

Congress has now a constitutional amendment ready for its consideration and approval. With the American people, with every citizen, and with every member of Congress, it concerns the President's responsibility and duty. I further believe that the Congress which has made that a commission be created which might be composed of Supreme Court Justices, elected leaders of Congress, and members of the Cabinet.

I believe that the Vice President must, of necessity, be granted a primary responsibility in such matters. I also believe that members of the Cabinet, because of their intimate contact with the President, are best qualified to indicate this responsibility and duty. I further believe that such men in the past have been, and in the future will be, dedicated to the country's welfare and will act accordingly.

In order to provide a certain amount of leeway, however, the amendment provides that Congress shall have the authority, if it so chooses, to designate some other body than the Cabinet to pass upon a Vice President's declaration of the President's inability.

The proposed amendment also provides that after a declaration of the President's inability by whatever means, and the assumption of the Office of Acting President by the Vice President, the President may resume the powers and duties of his office by issuing a declaration that his disability has terminated.

If it is believed, however, that the President's disability cannot be determined, the amendment provides that the Vice President, by the Vice President, the President may resume the powers and duties of his office by issuing a declaration that his disability has terminated.
whether the President's disability does, in fact, continue.

If Congress fails to act within that period or if Congress does not make a determination of continuing disability by a two-thirds vote, the President shall assume his office. The burden, it will be seen, is placed upon the Vice President and the Cabinet to prove the continuance of the disability and not on the President who has the primary claim to the office. The Congress is designated as the ultimate arbitrator because it is believed that, as the elected representative of the people, they share the greatest trust of the people.

Turning to the other basic problem of maintaining Executive leadership, the proposed constitutional amendment provides that when a vacancy occurs in the office of the Vice Presidency, the President shall nominate a Vice President, with the confirmation by a majority of both Houses of Congress.

Today, far more than in earlier times, the Vice President participates in the leadership of the Nation. He is made a part of the Cabinet. He has been designated a statutory member of the National Security Council. He is Chairman of the President's Committee on Equal Employment Opportunity. He has been designated as the Coordinator of civil rights programs of the whole branch of government. He is Chairman of the National Aeronautics and Space Council. He is frequently designated as the President's representative in foreign and domestic matters. He is assigned to other duties also. And, perhaps, most important of all, he is but one heartbeat from becoming President.

The importance of the Office of the Vice President means, then, that the country must always have a Vice President who is well informed and well schooled in the important issues that face the Nation.

The age we live in and the great sorrows and near-sorrows that have befallen our Nation in the past make it all too clear that our Nation can no longer afford the luxury of constitutional machinery which permits a vacancy in the Office of Vice President or which does not provide for the contingency of presidential inability.

Mr. Chairman, I urge the adoption of the resolution.

Mr. HORTON. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record and include a legend.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HORTON. Mr. Chairman, I rise in support of the pending resolution, House Joint Resolution 1, a proposed amendment to the Constitution dealing with presidential inability and vacancies in the office of the Vice President.

An important step in our national history will be marked here today by the passage of this measure, and I urge my colleagues to give this joint resolution the two-thirds passage required for such amendments to the Constitution.

Further, I want to express my pleasure at the outstanding work done by the Committee on the Judiciary in bringing this amendment to the floor. Its chairman, Mr. Horton, has been truly pleased to note the committee amendments which now are part of the measure, as they parallel provisions I asked the committee to consider in my testimony on February 17.

In my remarks today, I call attention to the two aspects of this legislation which have concerned me most and which I now feel have been corrected by the amendments reported with the resolution.

The first of these is making a clear distinction between disability of the President declared by himself and a disability involuntarily established as provided for in section 4 of House Joint Resolution 1. In the case of the President's own declaration, as provided in section 3, I firmly feel that he alone should judge when that disability is over. In other words, where the President declares a disability of his own volition, there should not be the slightest question of his power to declare it at an end.

If such clear and precise language as this is not a part of the amendment, I fear that we would lose the possible use of the mechanism sought by the amendment. It is not likely that a President who felt he might encounter difficulty in regaining powers and duties he had voluntarily relinquished would be persuaded easily to make the voluntary declaration.

The other aspect is the committee amendment clarifying the necessity for convening an out-of-session Congress to decide a contradicting declaration of inability termination when that inability was established under the terms of section 4, that is, by the action of the Vice President with the concurrence of a Cabinet majority or such other body as Congress may have provided for this purpose. This 10-day rule, as it were, should satisfactorily answer any questions that a recalcitrant Congress could withhold restoration of the President's powers by a kind of pocket veto.

Mr. Chairman, my general feelings on the need and desirability of amending our Constitution along the lines of the pending resolution grow from the gaps which I believe exist in our present constitutional and statutory provisions.

In the case of a vice-presidential vacancy, no more time should elapse in filling that post than now prevails when it is necessary for the Vice President to act in the President's place. Furthermore, we need procedures that are immediate, uncomplicated, and self-implementing. In that regard, I find House Joint Resolution 1 does the job and, in fact, provides the same procedures which I introduced in House Joint Resolution 274 for this purpose.

On the question of inability, I believe the contents of House Joint Resolution 1, particularly as amended in the two respects I discussed earlier, will give the President and his Cabinet a suitable system to protect and preserve the viability of his highest office.

Mr. Chairman, the Monroe County Bar Association, through its board of trustees and its legislative committee, has done a great deal of work in studying the many proposals advanced in this area and in formulating certain clairvoyant amendments that members feel would strengthen the proposed amendment.

I believe my colleagues should have the benefit of this work, and I take pleasure in sharing with the House at this time the advice of Mr. Dennis J. Livadas, Esq., chairman of the Monroe County Bar Association's legislative committee:


Hon. FRANK HORTON,
Member of the Congress, House Office Building, Washington, D.C.

Dear Frank:

I am pleased to report that the Monroe County Bar Association has approved a set of recommendations concerning the presidential succession. This action by the board of trustees is based on the work of our legislative committee over the past 2 years and has met with unanimous approval in both bodies.

I hope the following suggestions concerning the provisions of the Senate and House Joint Resolution 1: Section 1 being self-implementing and section 3 allowing the President to declare his own inability are approved as proposed in the joint resolution.

Section 2 we believe would be strengthened in the following fashion: Two-thirds of all the House of Representatives, by a roll call vote, would have to spell out in advance rather than left to the choice of the President. As successors, we suggest the Secretaries of State, Defense, Treasury and Justice, the Speaker, and the President pro tempore, persons obviously of outstanding ability and already experienced in the problems and the policies of the current administration, high enough in a constitutional office as that of the Vice-Presidency of the United States should never be open to Presidential appointment as a matter of course.

In section 4, we differ with the joint resolution by eliminating a Cabinet cabal and providing an alternative of a congressional body in order to guard against any possibility of a palace revolution. Furthermore, the Congress being the elected repository of the people's will, we believe that this body, and an appointed group of administrators should have the first innate look-see in so delicate an area as the disputed question of the President's rights and duties to discharge his duties. And, in addition, following the traditional concept of the Senate and House of Representatives as the advisory and consent to the appointment of high Federal officers, we believe that the Senate by a two-thirds vote should determine the issue of the President's disability to function.

Section 5 of the joint resolution we consider cumbrous, badly drawn, and difficult of application. In its place we suggest a simple set of alternatives that avoid the possibility of a conflict between the President and the Vice President by empowering the Congress to declare when the President is unable to discharge his duties and to resolve the issue of the President's ability to resume his powers. We believe this would be a straightforward avoidance of any hiatus in power and confusion of prerogatives.

We assume, of course, that once this constitutional amendment is enacted that the President will pass it into law.

In this connection, we recommend that the congressional committee refer to in section 1 to the Speaker, the President pro tempore and the majority and minority leaders in both Houses. This automatically will insure some bipartisan representation of the 17 presidential leaders who are not at all personally involved in the line of succession.
Your interest and your favorable consideration of our recommendations are earnestly solicited. Thank you for your courtesy and cooperation.

Respectfully yours,

DENNIS J. LITABAR
Chairman, Legislative Committee.

Mr. CELLER. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina [Mr. WHITENER], who has promised not to use it all.

Mr. WHITENER. Mr. Chairman, this legislation is important to the Nation because it involves a writing of a constitutional amendment. It would be a mistake, I believe, for the chairman of our committee to have the matter considered by the full Judiciary Committee, thus giving all of us on that committee an opportunity to hear the testimony and to participate in writing language which will remove as much doubt as possible as to what is meant by the authors of this proposed amendment.

As has been said by others, the chairman of the Judiciary Committee has been the distinguished gentleman from Virginia [Mr. Poff], just stated with a great degree of authority that he felt there was no adequate authority vested in the Congress by the Constitution at present to deal with this proposition of presidential inability. I would not for one minute array myself against the distinguished gentleman from Virginia [Mr. Poff], but since I find that one of the great legal scholars, Thomas Cooley, felt differently from the gentleman from Virginia on this matter, I am going to alien myself with Mr. Cooley and say that I do not believe that the exception of filling the vacancy of Vice President, the present provisions of the Constitution are completely adequate. The language of article II, section 1, clause 5, which appears on page 4 of the report is very clear to me, and it says:

In case of the removal of the President from office, or at his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by Law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, in which case the President shall act as President, and such officer shall act accordingly until the disability be removed, or a President shall be elected.

I take the position which was taken by the distinguished Senator from Minnesota, Senator McCarrthy, that we could accomplish the same purpose by statute which we seek to accomplish by this proposed constitutional amendment, with less danger that the Senate Committee in 1965, which was considering the Vice President when a vacancy occurs in that office by reason of death, disability, et cetera, of the Vice President or by reason of the succession of the Vice President to the office of President.

There is another matter in connection with this legislation that I think the gentleman from Kansas [Mr. Hruska], a member of the committee, has brought out which deserves consideration. That is the language which is used twice in the bill, once in section 2 where it is provided that the President nominates the Vice President and the Vice President makes the confirmation or takes office upon confirmation by a majority vote of both Houses of Congress; and the same language, which is used in section 4, except that there it says where it is determined by a two-thirds vote of both Houses that the President is unable to discharge his duties, then he shall not be reinvigorated with his powers.

This language does not make it clear whether we are talking about a joint session of Congress or whether there shall be a majority vote of the total membership of both Houses under section 2 or whether under section 4 it will be two-thirds of the combined membership of the two bodies in joint session, or a two-thirds vote of both Houses as mentioned in section 4. Does that contemplate, Mr. Chairman, that the two Houses, the Senate and the House, would meet in joint session, or does it mean that there would be a separate vote in the House and another vote in the Senate, and if the provisions of section 2 were to apply with both Houses voting independently of each other?

Mr. CELLER. There is no joint session. It is a separate vote of each body, and it is the requirement that in House Joint Resolution 1, it has been interpreted by the Supreme Court to mean a separate body. I refer to the case of Missouri Pacific Railway v. Kansas, 249 U.S., page 376.

Mr. WHITENER. So I assume as far as the chairman of the committee is concerned, that we would expect in the event of a vote becoming necessary under either section 2 or section 4 of House Joint Resolution 1, that it would be done by a two-thirds vote of both Houses as mentioned in section 4. Does that contemplate, Mr. Chairman, that the two Houses, the Senate and the House, would meet in joint session, or does it mean that there would be a separate vote in the House and another vote in the Senate, and if the provisions of section 2 were to apply with both Houses voting independently of each other?

Mr. CELLER. That is correct.

Mr. WHITENER. Mr. Chairman and Members of the Committee, another question which I raised in the hearings when we had Senator BARDS testifying was the use of the language in section 4 of the bill which reads, "the principal officers of the executive departments." The witnesses testified that the proponents contemplated that the heads of the President's Cabinet would be the persons referred to as "principal officers of the executive departments." I believe that the Senate proposal used the words "heads of the executive departments." As I understand it from reading what Professor Corwin has to say about it, it is not provison anywhere in the law for what we call Cabinet; that is, the President's Cabinet. That was a practice which sprang up and there is no statutory or constitutional authority for what we refer to as a Cabinet. So this raised the question as to whether we mean by the principal officers of the executive departments of the Government.

From a casual check of the statutes at the time we were having these hearings, within 2 or 3 minutes' time it appeared to me, if you look on page 50 of the hearings, that the United States Federal statutes we find title V, section 1, of the United States Code refers to executive departments as State, Defense, Treasury, Justice, Post Office, Interior, Agriculture, Commerce, Labor, Health, Education, and Welfare. But when we look at title 10, section 101, relating to the Defense Department we find this in subsection (6):

"Executive part of the department" means the executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States.

And then in title 42, section 201, subsection (e) the Congress defined "Executive Department," as follows:

The term "Executive Department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States.

Mr. Chairman, I have mentioned this in order that we might make the record clear. Does the chairman of the committee and the ranking member, the gentleman from Ohio [Mr. McCulloch], contemplate that if at any time in the future there should be any interpretation that would give weight to title 42, section 201, subsection (e), in deciding who are the principal officers of the executive departments it would be contrary to the United States Constitution.

Mr. CELLER. Mr. Chairman, I refer the gentleman to the report which makes legislative history; and I refer to page 3 of the report which reads in part as follows:

The substituted language follows more closely article II, section 2, of the Constitution, which provides that the President may require the opinion in writing of the principal officers of the executive departments * * *.

The intent of the committee is that the President appointees who direct the 10 executive departments named in 5 United States Code 1, or any executive department established in the future, generally considered to comprise the President's Cabinet, would participate in the Vice President, in determining inability.

Mr. WHITENER. Then we are to understand that it is the intent of the authors of this proposed constitutional amendment—

Mr. CELLER. Or any additional members of the Cabinet that might be created as heads of establishments in the future.

Mr. WHITENER. Then we are to understand that it is the intention of the framers of this proposed constitutional amendment, we are to make it
CONGRESSIONAL RECORD—HOUSE

April 13, 1965

Mr. WHITENER. I yield to the gentleman from New York [Mr. McCULLOCH].

Mr. McCULLOCH. Mr. Chairman, if it is my privilege, I introduce a resolution for a constitutional amendment.

The resolution is introduced to bring about a situation where the President, or of his death or resignation, the Vice President shall become President.

The resolution is for the nomination of a Vice President, by the President, when there is vacancy in that office, such nomination to be confirmed by a vote of a majority of both Houses of Congress.

It takes care of the situation where the President suffers disability, is unable to conduct the affairs of his office, and the procedure under which he may resume his powers.

Mr. Chairman, I have heard from many people in Vermont who support this legislation. Such support comes from people in every walk of life.

It is true that the Bar Association and the Junior Bar Association of Vermont support this resolution.

I was pleased in January of this year to introduce a bill—House Joint Resolution 298—identical was House Joint Resolution 1 prior to committe amendments. I compliment the distinguished members of the Committee on the Judiciary for the consideration afforded this bill and the constructive changes they have proposed for it.

I urge the adoption of the resolution. Mr. McCULLOCH. Mr. Chairman, I now yield 10 minutes to the gentleman from Michigan (Mr. HUTCHISON).

Mr. HUTCHISON. Mr. Chairman, when we propose to amend the basic law of the land, the Constitution, this Congress exercises a much greater responsibility in my opinion than is the case when we simply write statutory law. Because once this proposal passes this House and survives a conference with the other body, if such be necessary, and is then submitted to the States, it is thereafter impossible to make any changes in it. The States' function of ratification, if you will, is limited to simply saying "yes" or "no" to what this Congress proposes.

So, Mr. Chairman, I have been greatly concerned about the wording and the effect of the language that this proposal might encompass.

I would like to observe, as the gentleman from North Carolina (Mr. WHITENER) observed, lawyers are not in agreement that a constitutional amendment is necessary to accomplish the purposes of the bill and the constructive changes they have made in the office of the President, nor to determine the problem of disability.

Article II, section 1, clause 5 of the Constitution as it is worded, admittedly has caused some dispute through history. But it is the burden of this gentleman that this authority in Congress to deal with this problem through statute based upon the wording of the provisions of clause 1, article II of the Constitution.

Mr. Chairman, the gentleman from Vermont (Mr. McCULLOCH) has presented us with a most persuasive argument that it would be a terrible thing to have to test in the courts this question of constitutional power of
Congress to deal with the subject of disability, because the test would come at a very inopportune and unfortunate time. Of the difficulty of this, Mr. Chairman, I am convinced in my own mind—and I believe that other Members have a right to be convinced in their minds—that based upon the manner in which the Constitution is being interpreted these days, it is hard to understand—it certainly would follow that the courts would uphold a statute passed by this Congress and approved by the President of the United States providing for the procedures for determining disability. All of the detail which this proposal before us will write into the Constitution would then be left in statutory form. If it did not work it could be much more easily remedied than will be the situation if the machinery provided under the Constitution for this proposal fails to work. If this Congress should write a statute which would be approved by the President of the United States, it is hard for me to believe that the Supreme Court of the United States would fail to find a constitutional power for that legislative act.

Now, with regard to some of the provisions of this proposal which disturb me, the gentleman from North Carolina [Mr. Warren] mentioned, and in my additional views opinion printed in the committee report I call attention to, the wording on line 23, page 3, where in connection with the action by the Congress in confirming the nominee for Vice President, a confirmation by a majority of both Houses of Congress would be required. The chairman of the committee has in the Record today clarified this language according to his understanding, that this is not intended to authorize action of the Congress in joint session. Nevertheless, Mr. Chairman, there are proponents of this measure, organizations, which have strongly advocated that any confirmation by the Congress in filing the Vice President vacancy should be by joint session of the Congress, thereby diluting the strength of the Senate. In my opinion, I think the language would be much clearer if that language “of both Houses” were stricken, and the words “in each House” were written in. I would like to ask the chairman of the committee, if such an amendment were offered would he object to the change in wording in that respect?

Mr. CELLER. I may say to the gentleman from West Virginia [Mr. Moynihan] mentioned, and in my additional views opinion printed in the committee report I call attention to, the wording on line 23, page 3, where in connection with the action by the Congress in confirming the nominee for Vice President, a confirmation by a majority of both Houses of Congress would be required. The chairman of the committee has in the Record today clarified this language according to his understanding, that this is not intended to authorize action of the Congress in joint session. Nevertheless, Mr. Chairman, there are proponents of this measure, organizations, which have strongly advocated that any confirmation by the Congress in filing the Vice President vacancy should be by joint session of the Congress, thereby diluting the strength of the Senate. In my opinion, I think the language would be much clearer if that language “of both Houses” were stricken, and the words “in each House” were written in. I would like to ask the chairman of the committee, if such an amendment were offered would he object to the change in wording in that respect?

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Mr. HUTCHINSON. I thank the gentleman. We are making legislative history, but I am reminded of the way the Supreme Court has been recently interpreting some sections of the Constitution completely disregarding the clear legislative history, some of which was written even a century ago. It seems to me it would be better to have clear language in the Constitution itself than to attempt to clarify it by legislative history.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Virginia.

Mr. POFF. I wholly agree with the gentleman that an action should be taken separately in each House. I suggest such an intent is amply borne out in the language of the Constitution.

Mr. Mr. Chairman, there are proponents of the view that a position of major importance was left out of the Constitution. I refer first to the testimony of Senator Bayh appearing on page 45, second, to the testimony of Attorney General Katzenbach, which appears on page 95, and finally to the testimony of former Attorney General Brownell which appears on page 243. All three agree that the action would be taken separately in each House. I also suggest to the gentleman the point he makes in reference to section 2 would be equally applicable to section 4 of the proposed constitutional amendment. Mr. CELLER. I want to refer to the gentleman to the statement of Mr. Katzenbach appearing on page 106 of the record, as follows:

First, I assume that in using the phrase “majority of both Houses” in section 2, and “two-thirds vote of both Houses” in section 5, what is meant is a majority and two-thirds vote, respectively, of those Members in each House present and voting, a quorum being present. This interpretation is consistent with longstanding precedent of the Supreme Court in Co. v. Kansas, 248 U.S. 276 (1919)."

Mr. HUTCHINSON. I thank the Chairman.

I would like next to make an observation with which I am sure the majority of the committee does not agree. To my mind a better solution to the matter of filling the vacancy in the office of Vice President would be to provide for the automatic assumption of the office by some other officer of the Government to fill the vacancy, rather than calling on the new President of the United States, the office which has recently elevated because of the death of a President, in addition to everything else, to be put in the position of filling the new Vice President of the United States. The new President will not be able to put this matter to the delay would not relieve the pressure on him. It would probably build it up further. As soon as the new President enters the Presidential stage, he will see vice-presidential candidates and their supporters in the wings.

There is a case for simply writing into the Constitution that the Speaker of the House of the Representatives should become Vice President and the House would then choose a new Speaker. I am aware of the argument that under such circumstances the Speaker of the House, who would then become Vice President, might be of different parties. I recognize that there might be some difficulty there. I go back to the constitutional principle that as far as the Constitution is concerned, the only constitutional function of a Vice President is to preside over the Senate. Every one of the additional duties the Vice President is performing today is cast upon him by statute. If there were a President and the Vice President could not get along together, perhaps even if they were of the same party, and this has been true in the past and it may be true in the future, I daresay that changes in the statutory functions of the Vice President would be made. The Vice President would be taken of these functions and he might be relegated to simply presiding over the Senate.

But within the purview of the Constitution that is the only function he has anyway. I submit we would have a better proposal here if the Speaker were to become Vice President.

I am sorry that this proposal does not provide for such automatic, easy, and, I think, very logical method of filling the office of Vice President when that office is vacant.

I submit, too, that at the present time there are no constitutional powers in the members of the Cabinet. They are now advisory and advisory powers.

All of the constitutional executive power vest in the President. By this proposal we are for the first time writing into the Constitution powers vested in the members of the Cabinet.

Mr. POFF. The time of the gentleman has expired.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may require to the gentleman from Illinois [Mr. McClory].

Mr. McCORY. Mr. Chairman, the need for a constitutional amendment as evidenced in House Joint Resolution 1 appears to be recognized generally by the American public. The need arises primarily because of two circumstances with which this Nation has had experiences of a most critical nature.

In the first place, whenever a vacancy in the office of the President occurs—such as has occurred on eight different occasions in our history—and the Vice President succeeds to the powers and duties of the President, a void results in the office of Vice President. Accordingly, constitutional provision is needed for authorizing the selection of a Vice President.

This need is met in a direct manner in section 2 of the constitutional proposal. Although there has been long debate and extensive testimony on this subject, there appears to be general agreement with section 2 of the proposed constitutional amendment that the President shall nominate a Vice President under such circumstances after taking office only upon confirmation by a majority vote of both Houses of Congress.

The second need is this: Authority for a President to be relieved temporarily, or even permanently, of his duties and responsibilities under circumstances where he is unable to continue in his capacity as Chief Executive of the Nation.

Again, this need may be satisfied by immediate constitutional language in those instances where the President is without any mental or physical incapacity and where he wishes to be relieved of his duties and responsibilities on a tem-
CONGRESSIONAL RECORD — HOUSE

April 13, 1965

7947

Temporary basis. I am thinking, for instance, of a case where the President proclaims the country for a period of time or where he finds it necessary to voluntarily be relieved of his duties for any other reason.

In such cases the President may transmit a written declaration to that effect to the Vice President and the Members of the Senate and House, in which event the Vice President may serve as Acting President during such period as the President may declare. In such cases, the President would resume his duties immediately after the receipt of the written declaration in the same manner indicating the resumption of his constitutional powers and duties.

The more difficult aspect of this problem is where the President, although physically or mentally disabled, is unwilling or unable to relieve himself of the powers and duties of the office to which he was elected. It was my original view that constitutional provisions speaking by which a President might be deprived of his powers and duties, as well as the method by which these powers and duties might be regained—wherever the original disability should be ended—were too complex and confusing to appear even as a constitutional amendment originally. I favored a simple statement to the effect that a determination of the inability of the President to continue to act as well as any resumption of his powers and duties might be regained whenever the original disability should end.

In the Constitution authority to establish by law such body—other than the principal officers of the executive department—who must concur with the Vice President in declaring the President unable to perform the powers and duties of his office is vested in the Congress authority to establish by law such body. In the Constitution authority to establish by law such body—other than the principal officers of the executive department—who must concur with the Vice President in declaring the President unable to perform the powers and duties of his office is vested in the Congress authority to establish by law such body. The Congress has acted forth these methods in clear and unambiguous language which a President should be left to the Congress to provide by way of legislation.

However, the committee has adopted language designed to establish a method whereby the President may be relieved of his powers and duties involuntarily as well as a further method whereby these powers and duties may be regained when any such disability is removed. Section 4 of the proposed Constitutional amendment sets forth these methods in clear and unambiguous language. This provision sets forth in section 4 of House Joint Resolution 1—establish a workable and entirely satisfactory method for meeting this difficult and extremely critical problem.

This problem is far more complex and difficult than any person other than the President to assume the powers and duties of that office should be contained in the Constitution itself. In other words, whoever is serving in the office as chief executive or exercising the powers and duties of that office should be acting under constitutional authority and not mere legislative authority. House Joint Resolution 1 adequately meets this need.

On behalf of the members of the American Bar Association as well as many individual lawyers specializing in constitutional law and the members of the House and Senate Judiciary Committees, all of whom are distinguished lawyers in their own right, have given full and careful consideration to this proposal. Undoubtedly, and without doubt, there are some differences of opinion with regard to provisions of this proposal. However, I am satisfied that the overwhelming support which this measure has received in the Senate, in the House, in the American Bar Association, as well as the great weight of the testimony in behalf of the proposal in substantially its present form, commends this proposed constitutional amendment to the Congress and to the people of the United States. It is clear that in the legislative bodies proposed to the proposal the method which the proposal must be left to the Congress to provide by way of legislation.

I am confident that the necessary three-fourths of those States legislative bodies will act favorably on the subject of ratification following favorable action by the Congress.

This was a sensitive period in United States and world history, but nothing compared to the sensitivity of the modern world.

So the question is—and this bears on the ultimate question as to why we need a carefully worded constitutional amendment—which shall make the decision as to the disability of the President, in the case of death or resignation of the President, or in the case of presidential, or should it be a congressional decision, or should it be a congressional decision, or a Court decision. There is a good deal of history on this. The question really first arose when President William Henry Harrison died of pneumonia in office. There were those who objected to President Tyler's succession during the President's period of illness, and there were many more who objected to Tyler's succession to the Presidency even after President Harrison's death. The question was whether the Vice President really became President to fill out the unexpired term, or whether he just continued as Vice President and performed the duties of President.

Tyler first held the view that he would only act as President during the unexpired term. Then later, he apparently changed his mind and decided to assume the office in its entirety.

Seven other Vice Presidents have followed suit since then. In other words, all of them have decided that they were the President, they were not Acting Presidents; they had not just the name, but the powers and duties. They were Fillmore, Andrew Johnson, Arthur, Theodore Roosevelt, Coolidge, Harry Truman, and Lyndon Johnson. This has a bearing on the question of disability, it seems to me. We are told that an examination of the original articles agreed upon by the Constitutional Convention showed that the delegates at that time agreed that upon the inability of the President to discharge the powers and duties of his office, the same shall devolve upon the Vice President.

The original thought of the framers of the Constitution was that the Vice President would be President in the case of the President's disability. This view finds support in the debates of the Constitutional Convention indicating that the Vice-Presidency was originally created to provide for an alternate Chief Executive who might function from time to time should the President be unable to exercise the powers and duties of his office. When this provision was stated in so many words and was written into the text of the Constitution, it was revised and reduced to the simplified statement that we have now: "In the case of removal, death, resignation, or inability to discharge the powers and duties of the office, the same shall devolve upon the Vice President," and that is the way it has remained ever since.

What this really means is that we are talking about an Executive decision rather than a congressional or a court decision. In this last instance, President Wilson's disability was longer, over a year, and although the extent of his disability was a matter of debate, the fact of the matter was that his disability prevented his participation in the debates over the Versailles Treaty and the League of Nations.
in his opinion the Constitution invested in the Vice President initial determination as to the existence of an inability with respect to this important issue.

The same view was expressed earlier by Attorney General Herbert Brownell, who incidentally was the first governmental officer to draft and submit to the Congress legislation along these lines; indeed, the Bayh-Celler proposal is an almost exact restatement of the original Brownell proposal made to the Congress, the 85th Congress, I believe, on the occasion of the period of President Eisenhower's illness.

Attorney General Brownell at that time summed up what has been the legal opinion of all of his predecessors in this area in modern history. He said as follows:

At the time of President Garfield's illness in 1881, the great weight of opinion favored the interpretation that Vice President Arthur, and he alone, could determine if the President was disabled. At that time most students of the Constitution said that the Vice President was obligated to exercise the powers of the Presidency during Garfield's illness, just as much as he was obligated to preside over the Senate or perform any other constitutional function. Therefore, if action by the courts or Congress could be effectively delayed, the power was claimed. The same view was expressed earlier in 1881 of the 85th Congress, and Attorney General Herbert Brownell, succeeded by Attorney General Rogers, repeatedly asked the Congress to enact it in order to come to a decision as to the existence of an inability as he was incapacitated by the courts or Congress or the Cabinet was necessary.

...As Vice President had the duty of exercising his discretion, as it was argued, in certain contingencies his official discretion extends to the determination of whether such a contingency actually existed; in other words, whether they were applying a well-known rule that in contingent grants of power, the one to whom the power is granted is to decide when the emergency has arisen.

Thus, there is solid basis in law here to argue that the initial decision must be made by the person who is to succeed in power. In this instance it would be the Vice President. This power to act is very great. Therefore, it must be guarded and very carefully written.

Mr. Chairman, the Eisenhower administration and its Attorneys General were the first to come to grips with this question of disability. Together they actually exercised the powers of the Presidency during Garfield's illness, just as much as he was obligated to preside over the Senate or perform any other constitutional function. Therefore, if action by the courts or Congress could be effectively delayed, the power was claimed. The same view was expressed earlier in 1881 of the 85th Congress, and Attorney General Herbert Brownell, succeeded by Attorney General Rogers, repeatedly asked the Congress to enact it in order to come to a decision as to the existence of an inability as he was incapacitated by the courts or Congress or the Cabinet was necessary.

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Mr. Chairman, I believe that if we amend this resolution providing that once the President having been removed by the action of the Vice President and a majority of the principal officers of the executive departments, the President designate is not able to be a candidate for the Presidency to simple state he is capable of reassuming his office, that he shall then reassume the office of Presidency to which he was elected by the people of this country. Then if his inability still exists, we have within this proposed constitutional amendment I believe the language and mechanism which the Vice President and the principal officers of the executive departments can use to challenge the President with respect to whether or not he is actually capable of reassuming his office. But it gets us out of this gray area as to who is President of the United States for a period of 10 days or 30 days. I believe the Vice President has to assume power over the elected President of the United States having to fight the office of President of the United States from some very high, lofty place here in the Nation's Capital rather than in the office of the Presidency itself.

Mr. Chairman, I believe that it is not unreasonable to assume that if we do not permit the President to again succeed to the office he has been elected to, that we are not in the minds of the individuals that are here listening to the debate in this Congress to simply put the elected President of the United States having to fight for the office of President of the United States from some very high, lofty place here in the Nation's Capital rather than in the office of the Presidency itself.

Mr. MOORE. Mr. Chairman, I yield 5 minutes to the gentleman from West Virginia (Mr. Moore).

Mr. McCULLOCH. Mr. Chairman, I yield 5 additional minutes to the gentleman from West Virginia.
resolution this is not done. The elected President is out of office. Pressures to keep the elected President out of office can be expected to reign on the Congress of the United States.

As I have said, this can be accomplished, in my opinion, Mr. Chairman, by a series of amendments. If I may draw the committee's attention to section 4 on page 4 of the proposed constitutional amendment, line 18. After inserting a period at the end of line 17, remove the word "unless" and have the language read then beginning on line 18:

In the event the Vice President and the majority of the principal officers of the executive departments or such other body as Congress may establish within 2 days 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—

And then, I go on to page 5, line 6, and at the end change the language which states:

The Vice President shall—

I omit the words "shall continue to"—that is, in the event the Congress determines by a two-thirds vote of both Houses, in the case of the President—

is then unable to discharge the powers and duties of his office, the Vice President shall immediately discharge the same as acting President.

It gets us out of the gray area as to who controls the mechanism of government in this country during the period of time that the Congress must decide the issue of capabilities of the President of the United States in the event they are again challenged by the Vice President.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Iowa.

Mr. GROSS. In the event of a disability of the President and the elevation of the Vice President, does he take an oath of office as President of the United States, and if so, what happens to the oath of office that he has taken? How is that rescinded?

Mr. MOORE. I would assume that there would be a provision that the individual would take an oath as Acting President of the United States and that the Vice President would wear two hats, so to speak, that of Acting President of the United States and that of Vice President of the United States.

Mr. Chairman, I certainly recognize that there are a number of men in this Chamber here today and in this Congress who perhaps can suggest language and perhaps can suggest changes that should take place in this legislation, but I sincerely suggest at this time that it is necessary for us here this afternoon to see to it that we protect the President of the United States against any sort of manipulation which might take place as a result of the adoption of this proposed constitutional amendment in its present form. I, at the appropriate time, intend to offer an amendment that will permit the President, who has been declared incapable of handling the duties of his office, by his written signature to reassert the powers and duties of his office. It shall then end the term of the Vice President and the principal officers of the executive department, to bring the issue to the Congress, and then it shall be up to the Congress to decide who is the President of the United States and elected to the office of President of the United States is incapable of handling the duties of that office. I think that amendment should be settled at this session and settle a lot of the gray area that has been discussed here this afternoon.

Mr. McCulloch. Mr. Chairman, I yield 7 minutes to the gentleman from Maryland (Mr. MARRINER).

Mr. MATHIAS. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time to address myself to some of the constitutional questions which are raised in this proposal.

I have some serious reservations about this constitutional amendment, and they go to the heart of the proposals that are made with respect to presidential succession. I also share some of the reservations that the House Document 189 has expressed in regard to the disability section of this proposal, such as have been suggested by the gentleman from West Virginia (Mr. MOORE) and the gentleman from New York (Mr. Lavan) who have just spoken.

But primarily I should like to address myself to the constitutional provision here proposed that the President shall nominate a Vice President, who shall be in office confirmation by a majority of both Houses.

I question whether a proposal of this sort is in harmony with principles which have guided the Republic for almost two centuries. From its very inception, the presidency has been considered to be an elective office. If you go to the Journal of the Constitutional Convention, which was kept by James Madison, you will find a great deal of discussion as to how a Vice President should be chosen and what the various methods were proposed. They were all elective methods. If we go to a new procedure under which the Vice President will be appointed by the President, it may or may not be the President's wishes of a presidential nominee are considered, perhaps. The same may not be true of the man who is permanently at 1600 Pennsylvania Avenue; and he may have other motivations and other thoughts in choosing the man who might not only be his Vice President but will be his heir apparent, and who under the provisions of this constitutional amendment will have certain powers to depose him.

I am very sure these arguments would have been considered very carefully in the constitutional convention. We have the duty of considering them very carefully here in this legislative body.

The fact is that a presidential nominee choosing his running mate is merely presenting a running mate to the people in the summer of an election year. If he is running for President he will choose a man who the electors will be choosing the Vice President, who will represent the interests of both parties who is temporarily in a conventional candidacy. The same may not be true of the President who is out of office. Pressures to get elected and will choose a man who will have the strength to complement his own policies. I think that congressional confirmation is a sort of check on the appointment of the Vice President, I would suggest that in many cases it would be a formality only. Those of us who sit in this House, I hope, do not know that in the selection of that period which gripped the Congress as well as the country, we would have not questioned closely the confirmation of an appointed Vice President in the considerable period of time after November 22, 1963.

Mr. CORMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. MATHIAS. Certainly, I yield to the gentleman.

Mr. CORMAN. Would the gentleman consider perhaps that it would be no less a formality than the selection of Mr. Miller and Mr. Humphrey in the summer of 1964?

Mr. MATHIAS. I thank the gentleman for his observation. Perhaps it merely proves what I have attempted to do. The gentleman will recall that the selection of Mr. Miller and Mr. Humphrey was merely for the purpose of presenting their names to the country.

Mr. Rumsfeld. Mr. Chairman, will the gentleman yield?

Mr. MATHIAS. I yield to the gentleman.
Mr. RUMSFELD. In this same connection, we look at page 3 of the resolution, line 24, paragraph 3, and where it points out that the House and Senate will by a vote approve these actions, in one case the selection of a Vice President and in the other the disability question.

It is obvious that under this constitutional amendment these decisions could be made by the Congress by a nonrecord vote.

Mr. MATHIAS. I believe that is clearly true. Certainly there is no proportionate amendment these decisions could entail. We look at page 3 of the resolution. I point out to the gentlemen that Mr. POFF. The gentleman is correct. Stated differently, the adoption of this constitutional amendment would not repeal in any sense the present law on successional issues. Mr. MATHIAS. I thank the gentleman from Virginia.

Mr. MccULLoCH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. CAHILL). Mr. CAHILL. Mr. Chairman, I rise in support of House Joint Resolution 1. Recognizing the need for some legislation in this field, I sponsored House Joint Resolution 1 based on February 8, 1964, and which proposed an amendment to the Constitution relating to vacancies in the office of Vice President. The present legislation proposes to correct not only the situation that exists upon the death of a President and his succession by the Vice President, but likewise to correct that situation which results from presidential inability. The history of our country is replete with examples of presidential disability which required some action in order to continue the every day life of the Republic. In this day and age with immediate decisions required on a myriad of subjects, it is inconceivable that this country should continue without the full service of a chief executive.

Because of the precedent, known as the Tyler precedent, it seems clear that it was in fact the President, in this case the gentleman from New Jersey [Mr. HALPERN]. Mr. HALPERN. Mr. Chairman, I rise in support of the pending measure, believing that it represents a responsible answer to a difficult constitutional and political dilemma. I want to compliment the committee for its superb work on this legislation and for bringing before us a most commendable measure. I was privileged to testify in behalf of House Joint Resolution 1 on February 10 before the committee. The amended version presently under debate is not materially different from the original proposal, and I believe the committee has contributed some valuable clarification and change.

The measure provides an unambiguous means of filling the office of the Vice President when the then President has the higher office upon death or resignation of the President. Second, House Joint Resolution 1 establishes a method for the determination of presidential disability and procedures open to assure a continuity of leadership when such disability occurs. When the President disqualifies himself, or is otherwise disqualified by the Constitution, the Vice President assumes the powers and duties shall devolve upon the then Vice President who becomes Acting President. Provisions are set down whereby this period of disability can be terminated.

The committee believed that in a case where the President declares himself disabled, he should be able to resume discharge of his powers immediately through simple notification to Congress. The committee report notes that it permits the Vice President and Cabinet to challenge such an assertion of recovery might discourage a President from voluntarily relinquishing his powers in case of illness.
This is a wise and reasonable amendment.

We have two important clarifications to the original House Joint Resolution 1. The words "heads of the executive departments" are changed to "principal officers of the executive departments" to insure that only those of Cabinet rank can participate in a determination of presidential disability. The amendment to section 3 specifies that the President's written declaration of inability shall be transmitted to the President pro tempore of the Senate and to the Speaker of the House of Representatives, and additionally made clear that if Congress is not in session when the Vice President and a majority of the Cabinet contradict a presidential assertion that no inability exists, Congress shall immediately assemble to decide the issue, as provided.

It would be impossible, Mr. Chairman, to imagine all the varying cases which may arise touching upon presidential succession and inability. Historical experience is instructive, but it also indicates that similar predicaments will vary in important details. We should leave room for human judgment.

House Joint Resolution 1 provides a framework through which the Nation can legally assure itself of executive leadership when incapacity strikes. This assurance has become crucial in the 20th century.

While there exists no mathematical device to prescribe the detailed conduct of Government officers in every hypothetical situation, we must protect ourselves by establishing procedures relatively consistent across the country. House Joint Resolution 1 represents a sufficiently flexible approach.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. HALPERN. I will be happy to yield to the gentleman from Connecticut.

Mr. MONAGAN. Mr. Chairman, I compliment the gentleman from New York on the amendment that he has introduced and subscribe to the sentiments which he has expressed.

I strongly favor the passage of House Joint Resolution 1. This legislation is substantially in accord with House Joint Resolution 158, which I introduced in this Congress, and is similar to House Joint Resolution 990, which I introduced in the 88th Congress.

I am proud of the manner in which the Congress is meeting its responsibility in this important area of Presidential succession and Presidential inability. The history of the country is replete with instances where the Government of the United States has been hobbled by the absence of a provision such as we are considering today. If more evidence were required of the necessity of such a revision of our law, the situation attendant upon the recent death of President Kennedy forcibly brought this need to our attention. Frequent mention has been made of the problems faced by President Andrew Johnson and President Truman because of the vacancy in the Cabinet and positions of the Wilson era will be familiar with the hiatus of Government which occurred after Wilson was stricken because of the absence of any provision governing presidential incapacity.

The amendment which we consider today will fill the legal void that has too long existed. In taking the action which I am confident we will take today, the Congress is acting in the best tradition of our Nation in accordance with the highest standards of democratic government.

Mr. ROGERS of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of House Joint Resolution 1 and urge its adoption. The reason for this proposal arises from the fact that we have, throughout history, had instances of the President's inability to perform the functions of his office. That is the only reason why we are considering this legislation today. As has been pointed out heretofore, during the term of office of Woodrow Wilson and even under the past administration of President Eisenhower, the inability of the President to perform the functions assigned to him became highly important. We, as Members of Congress, who have preceded us here, have not exercised all of the authority that we could have exercised under the Constitution. That is the only reason why we are considering this legislation today. It has been pointed out heretofore, during the term of office of Woodrow Wilson and even under the past administration of President Eisenhower, the inability of the President to perform the functions assigned to him became highly important. We, as Members of Congress, who have preceded us here, have not exercised all of the authority that we could have exercised under the Constitution.

In 1947 Congress changed the line of succession and inability. The only step Congress took was to provide for succession in the event of a vacancy in the office. Prior to 1947 the succession was the Secretary of State and so on down the line in the Cabinet. In 1947 Congress changed the line of succession to provide for succession in the event of a vacancy and there were not a Vice President, the Speaker of the House would become the President. In the event of a vacancy of President and Vice President, and even if this amendment were adopted by four-fifths of the States, then the succession would still continue. What we are trying to do here is to meet the problem of the inability of the President to perform the functions of his office.

This matter has been discussed by many Members of Congress and particularly in the Committee on the Judiciary for a number of years. It was spotlighted at the time of the sickness of President Eisenhower. But no action was taken and finally it was thought that such a position should be taken by the Congress of the United States.

The resolution we have before us, after many years of thinking and study comes nearer to solving the problem than anything that has been suggested up to date. We recognize that there are bound to be individuals who may disagree as to the proper method in meeting this problem. We also recognize that the members of the Cabinet who are appointed by the President are bound to arrive at a conclusion that he has not the ability to perform the functions of his office, are going to be hesitant in making that determination. They, themselves, are the ones who would have the opportunity to observe the President and his actions.

Therefore I suggest that we adopt this resolution and refer it to the respective committees for study and at last fill the void that has existed from the founding of the Constitution down to date.

Mr. ROGERS. Mr. Chairman, I rise in support of House Joint Resolution 1. The action that the House is considering today is overdue and I commend the House Committee on the Judiciary for doing its job in a constitutional and in accordance with the highest standards of democratic government.
extended consultation with recognized experts, an equitable and practical mech-
nism by which a President can be removed in case of the vacancy of his of-
c fice from any cause.

A section of this amended resolution also provides an orderly process of en-
abling the President to be temporarily relieved from the duties of his of-
c office of Vice President, and office which proposes an amendment to the
Constitution of the United States relating to the occurrence of a vacancy in
the Vice-Presidency and to cases where the President is unable to discharge
the powers and duties of his office.

As a member of the Judiciary Com-
m ittee, I have followed and participated in
the hearings on this proposal. We have been concerned with two prob-
lems: first, the lack of a constitutional provision assuring the orderly discharge
of the powers and duties of the President in the event of President's
inability; second, the lack of constitutional provision assuring the continuity
of the office of Vice President, and office which itself is provided for the primary purpose
of assuring continuity.

Problems have existed in this country
for almost two centuries so far as con-
tinuity of the executive branch of our
Government is concerned. President
Johnson said in his message to Congress:
It is truly astonishing that over this span
of time we have neither perfected the provisions for
orderly continuity in the executive branch, nor have we
granted the generally accepted preroga-
tives, and that the President be
for harmonious relations and mutual con-
derstanding. Vacancies in the office
of President have occurred on 16 dif-
ferent occasions for periods totaling more
than 37 years. Seven Vice Presidents
have died in office and one resigned;
eight Vice Presidents have taken over
the office of President upon the death of
the incumbent President since 1841. It
is essential that there always be a
presidential successor fully conversant
with its responsibilities. It is for this
reason that the President can resume his
duties by making a simple declaration
that the inability no longer exists; and second,
ability declared without the President's
written declaration is clarified and amended to de-
fine procedures for a successor to assume
the powers and duties of the Presidency.

The American people have not hesitated
to amend their Constitution when com-
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come one of great importance. It is no
longer simply an honorary position. It
carries specific and far-reaching respon-
sibilities in the executive branch of the
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of Vice President have occurred on 16 dif-
ferent occasions for periods totaling more
than 37 years. Seven Vice Presidents
have died in office and one resigned;
eight Vice Presidents have taken over
the office of President upon the death of
the incumbent President since 1841. It
is essential that there always be a
presidential successor fully conversant
with its responsibilities. It is for this
reason that the President can resume his
duties by making a simple declaration
that the inability no longer exists; and second,
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written declaration is clarified and amended to de-
fine procedures for a successor to assume
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Most recently the heart attacks of
President Eisenhower, and the assassi-
nation of President Kennedy, should
reminded us of the paramount and urgent need for Congress to provide for
the orderly and prompt determination of a President's disability, and on the
death or disability of the Vice President for the selection of an immediate suc-
cessor.

Since 1953 I have in every Congress
introduced legislation calling for a solu-
tion to the problem of Presidential dis-
ability. It was in 1953 when I joined with the distinguished Senator from Rhode Island, the vener-
able Theodore Green, to establish a Com-
mision to look into the problem of presidential incapacity and succession. Today we have an opportunity to enact
legislation which would provide a solu-
tion to the problem. I have worked and
supported my own legislation in this field.

House Joint Resolution 35, and I am pleased to tell the Members of Represen-
tatives today, the Committee on
the Judiciary's bill, House Joint Reso-
dution 1, a much-needed and good bill
in support of House Joint Resolution 1,
which proposes an amendment to the
Constitution of the United States relat-
ing to the occurrence of a vacancy in
the Vice-Presidency and to cases where
the President is unable to discharge the
powers and duties of his office.

I am of the opinion that the best way
to fill the office of Vice President in
the event of a vacancy is as proposed in
this resolution. Vice President and Vice President enjoy
harmonious relations and mutual con-
dering. Vacancies in the office
of Vice President have occurred on 16 dif-
ferent occasions for periods totaling more
than 37 years. Seven Vice Presidents
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Congress. To permit the Vice President and Cabinet to challenge such an assertion of recovery might discourage a President from voluntarily relinquishing his powers in case of illness. The right to challenge would be reserved for cases in which the Vice President and the Cabinet, without the President’s consent, had found it impossible to discharge his powers and duties.

Section 4 deals with the factual determination of whether or not the insubility exists. It provides that whenever the President and a majority of the principal officers of the executive departments, or 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.

The term “principal officers of the executive departments” has been substituted for the term “heads of the executive departments” as originally used in House Joint Resolution 1, to make it clearer that only officials of Cabinet rank shall participate in the decision as to whether presidential insubility exists. The present section provides that combination of the judgment of the Vice President and a majority of the Cabinet members would be the most feasible formula. It would enable prompt action by the persons closest to the President, and would indicate that such a decision would be made only after adequate consultation with medical experts.

Another change made in former sections 4 and 5 is to specify the President pro tempore of the Senate and the Speaker of the House as the constitutional officials to whom the declaration concerning presidential insubility shall be transmitted, as is done in section 3.

Former section 5 of House Joint Resolution 1 now provides, first, that it is made clear that Congress is not in session at the time of receipt by the President pro tempore of the Senate and the Speaker of the House of a written declaration that the President is unable to discharge the powers and duties of his office, and a majority of the principal officers of the executive departments contradicting a Presidential declaration that no insubility exists, Congress shall immediately assemble for the purpose of deciding the issue; and second, to provide that in such event the President shall resume the powers and duties of his office unless the Congress within 10 days after receipt of such declaration of presidential inssubility determines by two-thirds vote of both Houses that the President is in fact unable to discharge the powers and duties of his office, and the Vice President shall continue to discharge the duties of the office as Acting President.

To clarify this a little more, House Joint Resolution 1 provides that, following a Presidential declaration that a disability previously declared by others no longer exists, a challenge to such a declaration must be made within 2 days of its receipt by the heads of the House and Senate and must be finally determined within the following 10 days. Otherwise, the President having declared himself able, will resume his powers and duties.

Mr. Chairman, I urge prompt approval of House Joint Resolution 1 to amend the Constitution, so that the States might proceed with the long process of ratification. I am firmly of the opinion that the only satisfactory method of resolving the problem of presidential insubility and the filling of the vacancies in the Office of Vice President is by the constitutional amendment as proposed in House Joint Resolution 1 before us today and in my identical resolution, House Joint Resolution 250.

Of course, in the event of the death of a President there is not the point in question as much as in the case of his being incapacitated. If the original President has been accepted and used in seven other instances. In this case, historical practice has been the answer to the present constitutional provisions in such an eventuality. On the other hand, there is no such practice which can be used as a criterion for presidential insubility. The informal understandings which our Presidents and Vice Presidents of recent administrations have had were left unanswered questions which might arise in the event the President and Vice President disagreed on the question of insubility. The ambiguous language of the Constitution indicates there is clearly the need of a permanent and complete solution to the subject of thought. I find the committee report has the language perfectly summarized into one sentence by stating:

The language of the clause is unclear, its application uncertain.

More important than ever before is the continuity of the powers of the Executive Office and it is imperative that this continuity be maintained with the least possible delay at the time of a President’s disability.

The urgency at the time of the death of a President is very great, but it could very well be just as pressing in the event of a President’s incapacity to execute the powers and duties of his office. Our country has been most fortunate to have never had experience national chaos caused by the uncertainty and anxiety of the President being without responsible and capable leadership. Not that I would ever anticipate there ever being such a situation. However, there is a need for constitutional clarification which would act as a preventive to such apprehensiveness. I feel this is most apparent in our day when time is of the essence. A President is offered to a degree greater than ever before since only the pressing of a mere button can result in hostile conflict that took days to come about in years gone by.

Our Nation has a unique concentration of powers and responsibilities in the Office of the President since in most nations these are shared by two or even three officials. The President’s active leadership is most essential to the effective operation of the Government in every respect—domestic affairs, military leadership, foreign affairs and even a leadership for Congress to perform its own role properly. Therefore, in this light, every effort toward bringing about the smoothest type of transition with as little uninterrupted exercise as possible of presidential powers and duties is most desirable and necessary.

In giving my support to such an amendment to our Constitution, I feel it is most important to emphasize my strong belief in that portion of the resolution requiring congressional approval to serve as a check and balance in particular participation and for establishment of legitimacy where the Vice President would have to carry out the provisions of this legislation. This country has been lucky, not having seen such a case when we have seen in other nations who usurp the rightful leadership of their governments. However, it is always our desire to protect our Nation and its citizens from any actions which would result in a deterioration of the excellent and fine Government established by the forefathers of the Nation.

Of equal importance to Presidential insubility, and sometimes related to it, is the problem of vacancies in the Office of Vice President. I believe it is actually little known that our Nation has been without a Vice President 16 times—in almost half of the history of the country. The gap which such a vacancy leaves in our executive branch badly needs remedial action at these times when the working relationship between the two offices has become increasingly important and desirable.

I support this resolution and feel its provisions are needed and will place our executive branch in a position to better cope with crises which could mar the effective operation, leadership, and administering of the Offices of President and Vice President.

Mr. RODINO. Mr. Chairman, the 89th Congress now has under consideration the best solution ever offered the American people to one of the oldest and most perplexing problems of our constitutional system.

In House Joint Resolution 1, a proposed amendment to the Constitution, we have before us a comprehensive, workable, and democratic plan to cover
the possibility of presidential inability and succession.

Approval of this resolution by Congress and the State legislatures will assure the people of this country uninter rupted leadership in our highest office. It will guarantee stability in the Government in vital areas that for almost two centuries have remained a source of apprehension and uncertainty.

The fifth paragraph under section 1 of article II in the Constitution reads, in part:

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.

This paragraph goes on to give Congress the power to provide by law what officer shall act as President should both the President and Vice President be unavailable for any of the above reasons.

The term "inability" as used in this paragraph has resisted all efforts to give it precise definition from the time the Constitution was drafted in 1787 to this very day. Obviously, inasmuch as we have so far failed to define inability, we have also failed to establish a procedure to be followed in the event of its occurrence.

As regards presidential succession, Congress has in the lifetime of this Republic enacted three different laws.

Under the first of these laws, the Succession Act of 1792, the Vice President was followed in the line of succession by the President pro tempore of the Senate and then the Speaker of the House. This law remained in effect until 1886, when the members of the Cabinet, headed by the Secretary of State, were put in the line of succession after the Vice President.

The law now in effect, passed in 1947, reverts to the basic idea of the 1792 act. After the Vice President, the line of succession goes first to the Speaker of the House, then to the President pro tempore, and, finally, to the Cabinet members.

None of these succession laws has ever been regarded as completely satisfactory by everybody, and indeed it is not difficult to direct strong arguments against, as well as in favor of, each of them.

The great virtue of House Joint Resolution 1 is that it will not only clarify the meaning of inability and establish methods for dealing with it, but will also provide an eminently sound and practical answer to the succession issue.

Let us examine in nontechnical language the substance of this proposed amendment.

Section 1 merely affirms what has always been implied under the Constitution—that if the President is removed from office, dies, or resigns, he is succeeded by the Vice President.

The next section, however, constitutes a very marked departure from anything that has ever been done before. It provides that if the President is unable to discharge the powers and duties of the office, the Vice President, by written declaration to the President pro tempore of the Senate and the Speaker of the House, declares his own disability, the powers and the duties of the President shall be discharged by the Vice President as Acting President. The President would then resume his powers and duties whenever he, again in writing, informed these same congressional officers that he was able to do so.

Sections 3 and 4 deal with presidential inability—what it is, when it exists, and what to do about it. The second section states quite simply that whenever the President, in writing to the President pro tempore of the Senate and the Speaker of the House, declares his own disability, the powers and duties of the President shall be discharged by the Vice President as Acting President.

This section permits the Vice President, when joined by a majority of the Cabinet members, to present a written declaration to the congressional officers already mentioned stating that the President is unable to perform the powers and duties of his office. Under these circumstances the Vice President immediately becomes Acting President. The President may decline in writing to these same leaders of Congress that his inability is at an end and resume his office.

If, however, this presidential statement of his capacity to serve is challenged within 2 days by the Vice President and a Cabinet majority, the issues goes before Congress which will immediately decide the issue. If out of session, Congress will immediately assemble for this purpose. If, within 10 days after receiving the written challenge from the Vice President, the President does not decline the written declaration by a two-thirds vote of both Houses of Congress, the President will continue as Acting President.

If Congress does so decide, the President resumes his regular role.

We must be impressed by the many contingencies covered in this section. We must also be impressed by the way the Office of the President, with all its real and symbolic significance, is protected while at the same time the national welfare remains the foremost consideration.

The pressing need for incorporating this provision into our fundamental law with all possible speed seems to me to be overwhelming.

In our political history we have had Presidents disabled for long periods by assassins' bullets or illness. It is true that we have also encountered these crises in one way or another, but if the Constitution is allowed to remain vague and ambiguous concerning inability as it now is, we may not always be so fortunate.

It is also a fact that because eight Presidents and seven Vice Presidents have died in office and one of the latter resigned, this Nation has on 18 occasions been without a Vice President. For more than a third of our 176 years as a nation, our second highest office has been unoccupied.

We have relied too long on luck and wishful hopes that presidential inability would take office of its unoccupied state. The need for a truly satisfactory answer to the related problem.

Now, this House has under consideration in House Joint Resolution 1 the most thoughtful, comprehensive, and democratic solution to both of these great issues that has ever been presented to the American people.

Under this plan a vacancy in the line of Vice President would always be filled by the President. This would be possible because the President would be authorized to appoint a Vice President when, for any reason, the second highest officer in the land is unoccupied. The President's appointee would take office only upon confirmation by a majority vote of both Houses of Congress.

Thus, in a thoroughly logical and easily understandable way, this resolution solves two of our most difficult and enduring problems. It assures us that the Vice-Presidency will always be filled, and it provides for a smooth and untroubled succession to the Presidency.

The other sections of House Joint Resolution 1, as amended by the Judiciary Committee, provide for greater stability. Inability in its simplest form would be determined by the President himself through a written declaration to the President pro tempore of the Senate and the Speaker of the House. The President would also state when his inability is at an end by writing to these same congressional officers. In the interim, the Vice President would act as President.

If the President were unable to determine his own inability, or if there were doubt or controversy about it, the matter would then be settled by the Vice President, the Cabinet, and Congress. In this eventuality, there would be adequate fully democratic procedures and safeguards to protect both the President and the welfare and best interests of the country.

I am proud of the fact that I was one of the sponsors of this resolution in its amended form. I believe now that the amended version we are considering is an even better proposal.
I regard this proposed amendment as essential to the strengthening of constitutional principles and the structure of the Federal Government.

I urge an immediate passage so that it may be sent on to the States for their approval.

Mr. RANDALL. Mr. Chairman, there is no such thing as an indispensable man. When we are approached by an amendment to an indispensable man, it is the President of the United States. Over the past several decades we have witnessed an expansion in his office and its powers and expanded dimensions. We have come to expect its powers and witnessed its mission to man.

Mr. Chairman, there is such a thing as a truly indispensable man, and it is the author of this amendment. In 16 instances lasting a total of 37 years, this country has been without a President. Only an accident of history and perhaps the intervention of Providence have protected us from the severe crisis that could have resulted if a President had died in office or been otherwise incapacitated during such a period.

The first two sections of this amendment seek to minimize the likelihood of such a tragedy in the future. Henceforth, whenever there is no President the Vice President shall immediately assume the powers and duties of the President. Whenever a vacancy in the office of Vice President occurs, the President will nominate a new Vice President who will take office upon confirmation by a majority vote of both Houses of Congress.

We have listened very carefully to debate in which it is suggested that section 2, permitting the President to name his own Vice President subject only to confirmation of both Houses, would lead to a dynasty. That the amendment contained this section at the time of drafting, we had no such thing in mind, and we have no such thing in mind today. The only reluctance we have at all to this section is the assumption of succession and might give the appearance— as some Members pointed out—that it downgrades the House of Representatives and was an affront to the Speaker. Certainly no one intended or does intend now that this section should have that connotation.

On the other side of the issue, however, is the possibility that under the present line of succession a President might find that the next in line of succession would be of a different political faith. Of course, that is one of the strong arguments in favor of section 2 as it stands. The section would permit the President to designate one whose views are similar to his own and who will be working toward the same objectives.

In addition to these provisions relating to succession to office, the proposed amendment provides two general methods to prevent incapacity or incapacity to act. From the point of view of the President, one of these methods is voluntary and the other is involuntary.

First, section 3 of the amendment permits and encourages the President to declare himself unable to discharge his duties and to pass his powers over to the Vice President, temporarily acting in the capacity of Acting President. For in any emergency a President might be hospitalized for some reason, he might ask the Vice President to shoulder his burdens for the duration of the illness.

I am pleased to note that the committee concurred in an argument that were there another way to prevent incapacity, the President might declare himself unable to discharge his duties and to pass his powers over to the Vice President, temporarily acting in the capacity of Acting President.

I urge an immediate passage so that it may be sent on to the States for their approval.
which a bill or a resolution must over-

come before being passed into law.

An examination of the legislative his-
tory of House Joint Resolution 1 will show that these cumbersome procedures actually serve a useful purpose. If it had not been for these archaic pro-
dcedures, this body would today be voting on a constitutional amendment. Indeed, I assume that some of my colleagues would have pre-
ferred the amendment to have been scrutinized even longer by the gentle-
man from New York and his judicious back-bench colleagues.

If the Congress had acted hastily last

session to pass the so-called Bayh amend-
ment, it would never have had the benefit of the language changes made this session by the Senator from Indiana himself. These changes were not easily

arrived at, and yet I think that both friends and foes of this amendment will agree that the technical language im-

provements alone make its provisions more acceptable and defensible.

If there were not a necessity for con-

currence of both Houses of Congress, the changes in section 4 of the amendment might never have been seen the light of day. Yet the House has clarified the ambiguities previously buried in the language as passed by the other body. The easy course would have been to adopt the language as sent across the Hill, but the Judiciary Committee was willing to take a fresh look at the entire proposal and as a result they came up with some con-

crete improvements.

Mr. Chairman, I commend the com-

mittee for its labors, and I urge the House to adopt this constitutional amendment by the overwhelming vote it deserves.

Mr. TENZER. I rise in support of House Joint Resolution 1. I compliment the distinguished chairman of the Judi-

ciary Committee and the ranking mem-

bers of the minority who are managing this bill, for the excellence of the debate and the answers to the ques-
tions posed on this difficult and complex proposed amendment which fills a void left by the framers of our Constitution.

The problem has legal, political, and constitutional facets—all of which were considered by the House Judiciary Com-

mittee when hearings were held on the 33 separate proposals which were offered in the House during the opening days of this Congress.

But why is this so important and why is this legislation so urgently needed?

Because 8 of our 35 Presidents have died in office. On 16 different occasions, for a total of more than 37 years, the office of Vice President has been vacant. Eight of our Vice Presidents succeeded to the Presidency, seven died during their terms of office, and one resigned. We have been singularly fortunate in that the offices of President and Vice Presi-
dent have not been vacant simulta-
nously during a single 4-year elective span.

Let us consider for a moment the four Presidents who preceded President John-

son. President Roosevelt and President Kennedy never had an opportunity to live out their terms; President Eisenhower suffered a serious

heart attack; and President Truman was the object of an attempted assassination. These events show the importance of the constitutional amendment which a President could declare himself unable to discharge the powers and duties of the office; that the Vice President, with the concurrence of the Cabinet or such other body as the Congress may designate by law, shall assume authority as the President designate itself.
to the States promptly if it is to be ratified this year or by early 1966. Each delay increases the chances of early ratification. If the requisite number of States do not have an opportunity to act this year, it cannot be ratified until 1967.

A genuine service which the Members of the House can render to the Nation is to persuade the legislatures of their respective States to give approval to this proposed amendment to the Constitution that will provide for a more sure and certain assurance of continuity in our Government.

Mr. WHITE of Texas. Mr. Chairman, in the fall of 1964 160 million Americans were represented at the polls by many millions voting for a new President. For at least 3 hard months millions of dollars were spent carrying their message of the candidates to the American public. And now in the presidential succession constitutional amendment as now drawn, with a few strokes of a pen and within a few hours, even without the public ever knowing of the transition, you are providing for 7 men to change our Presidency.

With this amendment let us project ourselves 100 years from now, to a time with people none of us now know. One of these 7 men would be the Vice President, who countless times probably had dreamed of being President, and on this occasion would sit in judgment of the man he would replace. The other 6 are probably Cabinet officers, none elected by the people. I only assume they are Cabinet officers, because the constitutionality is not a question of the principal officers of the executive department, and in that alone is imperfectly drawn.

The House assumes that all men who would occupy the respective positions of responsibility will act infallibly and in the best interests of the United States of America.

When we passed a proposed constitutional amendment to be sculptured immutably into our Constitution we are saying to the American public that we have considered every conceivable contingency and have found this measure safe.

In order to test its safety we are obliged to consider the worst that can happen in some future time, even beyond our own lines.

In this constitutional amendment in the name of good and with good motives we are perpetrating on some future generation a loophole that could allow a usurpation of power by seven men without the sanction of the American people. Suppose we had a foreign enemy threatening our country. Suppose further the majority of the Cabinet believe the President of that time is too pusillanimous and that his policies endanger the survival of our country. With perfectly patriotic motives they might use the unelect Cabinet officers to remove the President. To accomplish this, I provided in my resolution that the President shall retain the Presidency if there has been no procedure for filling it.

In support of the Senator from Indiana (Mr. Bayh), the gentleman from New York (Mr. Collin), the American Bar Association, the National Legal Forum, I submitted a bill of my own, House Joint Resolution 236, for not only does my bill support House Joint Resolution 1, it calls attention to the problem of how to handle the situation where a disabled President should resume the powers and duties of his office.

I know the people of my district would want me to speak out in favor of such an amendment to the Constitution because they are very aware of the problems created by the tragic death of President Kennedy. I was encouraged by the fact that my remarks—made at the many meetings throughout my district prior to my election—on the Senate resolution passed during the 88th Congress, generated much public interest and support.

In my testimony before the House Judiciary Committee I made no reference to the Bill. This was done purposely. The record is fully documented and repetition is unnecessary. I merely wanted to emphasize that prudence requires this representative body to act now to submit to the State legislatures an amendment to correct a defect known to us for many, many years.

In addition to supporting the overall effort, I wanted to point out to the committee what I considered to be a danger. I wanted to prevent a President from taking to the State legislatures an amendment to correct a defect known to us for many, many years. I wanted to emphasize that the President in no way has the power and duties of his office unless the Vice President, with the written concurrence of a majority of the heads of the executive department, or such other body as Congress may by law provide, transmits within 2 days to the Congress his written declaration that no inability exists. The aforementioned resolution originally provided that the President shall resume the powers and duties of his office unless the Vice President, with the written declaration of a majority of the heads of the executive department, or such other body as Congress may by law provide, transmits within 2 days to the Congress his written declaration that the President is unable to discharge the powers and duties of his office.

My question was: What could happen within that 2-day period in the event an incompetent President resumed the duties of his office and issued orders affecting the security of the Nation? While I agreed that the President should be able to regain the powers and duties of his office easily when his inability ceases to exist, nevertheless, the Vice President should have time to file a written declaration with the Congress before the presumption in favor of the President's ability is restored.

To accomplish this, I provided in my resolution that the President shall resume the powers and duties of his office on the third day following the transmission of such declaration to the Congress. Prior to the end of the third day, the Vice President, with the appropriate consent of executive department heads, transmits to the Congress his written declaration that the President is unable to discharge the powers and duties of his office. I used 3 days on the theory that the President's written declaration...
could be submitted on Friday and Congress might not be in session over the weekend.

However, during the committee deliberations the majority adopted language, as set forth in section 4 of House Joint Resolution 1, which I find to be satisfactory and will correct for the most part which my resolution points out as needing clarification.

I support this resolution and urge its passage.

Mr. SCHMIDHAUSER. Mr. Chairman, I would like to add my voice in support of House Joint Resolution 1. In my opinion, this proposal is the soundest means for providing for the orderly and democratic succession to the Presidency and Vice Presidency of the United States in case of the death or disability of the President of the United States.

Further, this proposal would define within the framework of the Constitution, the powers and the duties of the Vice President upon the death or disability of a President. I also feel that this proposal adequately safeguards the return of the powers and duties of the President to the President who has seen in his written declaration to relinquish these powers and duties due to a disability.

Finally, Mr. Chairman, I feel that this proposal would maintain the fine and traditional concept of our American system of government by providing for the recommendation of the Vice President by the President, and the approval of both Houses of the Congress if a vacancy were to occur in the Vice-Presidency.

Mr. Chairman, I yield back the balance of my time.

Mr. POFF. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

**ARTICLE**

"Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

"Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

"Sec. 3. If the President declares in writing that he is unable to discharge the powers and duties of his office, such powers and duties shall be discharged upon the Vice President as Acting President.

"Sec. 4. If the President does not so declare, he shall immediately declare with the written concurrence of a majority of the heads of the executive departments or such other body as Congress may by law provide, within two days to the Congress his written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall immediately determine whether the President is unable to discharge the powers and duties of his office. If the Congress determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise the President shall resume the powers and duties of his office."

Mr. LENNON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Ninety Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll and the following Members failed to answer to their names:

[Roll No. 73]

Mr. Chairman, I support this resolution and urge its passage.

Mr. Chairman, I yield back the balance of my time.

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"Sec. 3. If the President declares in writing that he is unable to discharge the powers and duties of his office, such powers and duties shall be discharged upon the Vice President as Acting President.

"Sec. 4. Whenever the Vice President and a majority of the principal officers of the executive departments, or 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.

"Sec. 5. Whenever the President transmits to the Congress his written declaration that he is unable to discharge the powers and duties of his office unless the Vice President and a majority of the principal officers of the executive departments, or 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.

"Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that no inability exists, the Vice President shall resume the powers and duties of his office unless the Vice President and a majority of the principal officers of the executive departments, or 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. Thereupon Congress shall decide the issue, immediately assembling for that purpose if not in session. If the Congress, within ten days after the receipt of the written declaration of the Vice President and a majority of the principal officers of the executive departments, or such other body as Congress may by law provide, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office."

AMENDMENT OFFERED BY MR. PUCINSKI

Mr. PUCINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pucinski to the Committee of the Whole. On page 3, line 50, strike out section 2 on line 20 through line 23 and renumber the subsequent sections accordingly.

Mr. PUCINSKI. Mr. Chairman, I regret the need for offering this amendment, because of my profound respect and admiration for the committee that is reporting out this bill. I think the bill is a good one and is one which we need in this country very urgently. It is my fear that the experience which we have had with the post of Vice President in the past would make it difficult to get the ratification of the 38 States which is necessary. Certainly there has been enough discussion here and elsewhere on this subject so as to how urgently we need the inability provisions of this proposal. Our history is replete with examples of the dilemma that the country finds itself in when a President is disabled. However, any amendment would strike from this proposed constitutional amendment that provision which would permit the Vice President, when he becomes President, to nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Mr. Chairman, I yield back the balance of my time to offer this amendment. It is my hope that the Congress is going to strike this language out of the bill.

This is a young country, as time goes. We are less than 200 years old. When we look at all of the other nations of the world and see the problems they have
had and the violent changes in their govern-ments, the junta and the overthrow of government, certainly has a right to reflect on this proposal. If I have highest confidence in the man who will occupy the Presidency, regardless of the party that he belongs to, in the future, but I think the proposal in this bill does open the door at some future time—perhaps 50 years from now or 100 years from now—to a phenomenon which has not bothered or plagued our country hereto-fore; namely, the problem of palace in-terference. The system we now have has the Speaker of the House succeeding to the Presidency. This succession is a good one. It was recommended in 1947, supported in 1947 by President Truman. I know for many, many years, the next in succession was the Secretary of State. The Congress quite properly changed this in 1947. I think we ought to stay with this. The committee explains that this retains the principle of succession for the Speaker of the House. I do not see it that way. As I read this language if the Vice President becomes President, he will be the Vice President, his nomination for a Vice President, and the Congress is going to vote it up or down. As was mentioned here before by the gentleman from Maryland some day, in the same way that I throw a great tragedy when a President dies in office, there will not be very much discussion or debate. So it would appear to me that Congress would most probably, without too much debate, ratify the appointment made by the President. It seems to me, as was mentioned earlier, that that invites all sorts of problems. I would strongly recommend that we proceed now with the inability provisions of this bill because this is extremely important and that we leave the succession as it has been up to now. So far as I am concerned, I felt no great worry last year when the possibility of a Vice-Presidency, we want that va-cancy filled. No longer is a Vice Presi-dent a mere figurehead. He works in close cooperation with the President. He is a member of the National Security Council. He is Chairman of the President's Advisory Committee on Equal Opportunity in Em-ployment. He represents the President abroad. He has many other functions which are highly important and I am sure that you would all agree that we must and should have a Vice President. We would not if the amendment which has been offered by the gentleman from Illinois [Mr. Pucinski] prevails, and God forbid something happening to a Vice President. For that reason, Mr. Chairman, I do earnestly hope that the amendment will not prevail.

Mr. POFF. Mr. Chairman, will the gentleman yield? Mr. CELLER. I yield to the gentleman from Virginia. Mr. POFF. Mr. Chairman, the an-swer to the question is that the Constitu-tion itself, namely, article II, section 1, clause 5, states that the Congress can——

Mr. PUCINSKI. Mr. Chairman, what he just said is correct, then why do we need this section 2?

Mr. POFF. That is the law today and that would still be the law after the adoption of the constitutional amendment.

Mr. MATHIAS. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the gentleman from Michigan.

Mr. MATHIAS. I agree completely with what the gentleman from Virginia said about the constitutional effect of this amendment, if adopted. I think the rules on constitutional interpre-tation would make it clear. However, I am going to offer an amendment shortly which I think will spell it out so that the ordinary layman can understand it as well as the constitutional lawyer.

Mr. DINGELL. Mr. Chairman, I rise in support of the pending amendment. Mr. Chairman, I had not intended to speak on this piece of legislation, but I rise to strongly support the amendment offered by the gentleman from Illinois.
For a number of years, Mr. Chairman, we have had legislation on the books which properly and effectively succession to the high Office of the President of the United States.

Let me point out that the legislation we have before us today is in the form of a constitutional amendment. It is in effect a device by which the Members of the House of Representatives, a slap at our elected leadership, and it in effect says that the Membership of the House of Representatives and our elected leadership are not capable of succeeding to the high Office of the Presidency.

Let me rise to strongly point out to the Members of this body that this is not so. From the House of Representatives has come the most effective and able leadership that this Nation has ever had, and from the House of Representatives have come the kind of men who are well capable of assuming the reins of government in time of crisis.

I want to say to all the members of the Committee on the Judiciary who have brought this legislation to the floor that they brought a good bill in all particulars except one, and that is section 2. Let me point out that men like Sam Rayburn, the gentleman from Indiana, CHARLIE HALLECK, the gentleman from Massachusetts, Joe Martin, the gentleman from Michigan, GERRY Ford, and men like our present beloved Speaker, the gentleman from Massachusetts, JIM McCORMACK, are far more able to assume the high Office of the Presidency than were many of the people who had been selected by the electors of this Nation. These men have the requisite determination and the ability to give effective leadership to this Nation than are many who can be selected by the hurdy-gurdy processes, and the hurly-burly processes of a convention and campaign. These are men who have proven their worth by long service to our country, by their experience, by wise decisions in time of stress. These are the men who are best suited most capable by training and temperament, and who have the respect of their peers, to give to the Government and to the Nation a good government.

MCCORMACK. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Illinois.

Mr. PUCHINSKI. Mr. Chairman, will you allow the gentleman to have the floor?

Mr. PUCHINSKI. Mr. Chairman, will you allow the gentleman to have the floor?

Mr. DINGELL. Let me tell the gentleman this: We now have this right, we have this constitutional provision and the successor to the Vice-Presidency. This is done under a law which has existed in this Nation since the time of President TRUMAN. It is one which has worked with the complete satisfaction of everyone. And, lastly, let me tell the gentleman not only has it worked well, but let me assure the gentleman it avoids the device of making the choice of President in times of stress under circumstances which present pressures of politics and political pressures would come into play. We elect the Speaker in time of calm deliberation. He is the successor under present law.

Mr. ROGERS of Colorado. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I think it would be unwise if this amendment were adopted. I do not think it is necessary for this constitutional device to be so politically irregular that we should adopt an amendment out of subjective considerations that have no bearing or relevance whatsoever, under the guise of the pride of the Congress.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Illinois.

Mr. PUCHINSKI. Mr. Chairman, will you allow the gentleman to have the floor?

Mr. PUCHINSKI. Mr. Chairman, will you allow the gentleman to have the floor?

Mr. DINGELL. This is the second point I want to treat with.

The most precious qualification and test of democracy is the ability of the people to participate in the selection of their rulers. It is on this basis that we in the House of Representatives have for the representatives high shortly to have before us legislation which is intended to protect the rights of all our citizens to vote.

Let me point out to you that to permit anyone to vote to appoint someone else to an elective office, particularly the high Office of the President of the United States, is to deny the country, deny the electors of this Nation the right and power to choose their President and to choose the highest officeholder in this land.

Let me tell you, this is the reason section 2 is bad legislation. This is a device to permit a President to begin an orderly chain of successors through an appointive device, and to effectively deny the citizens of the Nation to decide who will serve in the highest office in the land.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. The gentleman realizes that before the President can pick a Vice President he must be confirmed by the Congress of the United States. It says when they are given that authority he does not become Vice President until he is confirmed by the House and Senate. That is the authority that you as a Member of the Congress can exercise.

Mr. DINGELL. Mr. Chairman, I think it would be unwise if this amendment were adopted. I do not think it is necessary for this constitutional device to be so politically irregular that we should adopt an amendment out of subjective considerations that have no bearing or relevance whatsoever, under the guise of the pride of the Congress.
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April 13, 1965

cion consistent with the dangers and speed of the 20th century. The bill recognizes the separation of powers. It un-

Mr. Celler. Mr. Chairman, will the gentleman yield?

Mr. Jonas. I yield to the gentleman from New York.

Mr. Celler. Did the gentleman make reference to a special election for a Vice President?

Mr. Jonas. I asked if the commit-

tee gave any consideration to permitting a Vice President who was appointed to serve on an interim basis until there could be a special election.

Mr. Celler. We considered a special election along the lines the gentleman suggested, and it was turned down by the committee.

Mr. Jonas. Was it turned down on its merits, or because of difficulty in spelling out the time, place, and procedures for the election?

Mr. Celler. Yes. I wonder if the gentleman realizes, following along the line of the suggestion, that there are other provisions of the Constitution which likewise would have to be amended? This would not apply only to the amendment, but would affect the whole process of my objection to the election of a President and a Vice President. For example, the 12th amendment and many other amendments of the Constitution concern the election of the President, and the gentleman says that was consid-
ered and rejected because of the practi-
cal difficulties, I have nothing more to say. I will consider the merits of the amendment of the gentleman from Illi-

Mr. Jonas. I assume, from what the chairman says, that the difficulties involved in amending several sections of the Constitution caused the rejection of the suggestion. I believe that would be meritorious if we could do that. I should like for the people to have the right to elect the Presi-
dent and Vice President, instead of hav-
ing either one of them appointed, even if confirmed by both Houses of Congress. If the gentleman says that was consid-
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cal difficulties, I have nothing more to say. I will consider the merits of the amendment of the gentleman from Illi-

Mr. Jonas. I yield to the gentleman from New York. Mr. Celler. Mr. Chairman, will the gentleman yield?

Mr. Celler. I believe the gentleman is mistaken. I did not use the word “isolationist.” My very distinguished colleague from New York, Mr. Lindsay, used it.

Mr. Gross. I am well aware of the fact that the gentleman from New York [Mr. Celler] did not so describe his col-

Mr. Chairman, as I have said, I see no reason for section 2 in the resolution, and I hope it is being debated with those who have spoken in behalf of the amendment to strike it out.

Mr. Lindsay. Mr. Chairman, will the gentleman yield?

Mr. Celler. I referred to the gentleman. I am glad to yield.

Mr. Lindsay. The burden of my comments was that the line of approach taken by the distinguished gentlemen was politically inapposite.

Mr. Gross. You also used the word “isolationists.”

Mr. Chairman, I yield back my time.

Mr. McCulloch. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have not spoken before in order to save the time of the committee. I rise in opposition to the amend-

Mr. Lindsay. I rise in part to take the name of three gentlemen—Mr. Pucinski from Illinois, Mr. O’Hara from Illinois, and Mr. Dingell from Michigan—who the gentleman from New York inappropriately referred to as iso-

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Mr. EDWARDS of Alabama. I yield to the gentleman from New York.

Mr. CELLER. I do not think it would make any difference, but I want to say if, for example, we have no Vice President and the President would die, then the succession law would come into play. The succession law applies when there are no Vice President and the President no longer is in office. There is no Vice President.

Mr. EDWARDS of Alabama. I think the distinguished chairman misses my point. I was saying that the Vice President of the United States, under the Constitution as it today is it possible for the Congress to deal with that situation by statute, because in that situation, if I understood the question the gentleman from Maryland posed, both the President and the Vice President would be in a state of inability.

Mr. EDWARDS of Alabama. Who would bring into play the provisions of sections 3 and 4?

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman.

Mr. POFF. Mr. Chairman, I may say that I agree with my distinguished chairman that it is desirable in order to carry out the many functions of the Government today we should always have a Vice President. Under the provisions of my amendment the Congress could, by law, provide for the method of selecting a Vice President in anticipation of the possibility that the office ever become vacant.

Third, this proposed amendment restates the existing language of the Constitution as it is today it is very difficult to envisage what the situation when both the President or the Vice President have died or have been removed from office or are disabled. It gives to the Congress the power to provide a continuing succession, by specifically reapplying the existing language on this subject.

Mr. Chairman, I agree completely with the distinguished gentleman from Virginia [Mr. Poff], that it is desirable in order to carry out the many functions of the Government today we should always have a Vice President. All Americans can then be clear in their own minds what the Constitution means with reference to the election of a Vice President. All Americans can then be clear in their own minds with reference to the course of Presidential succession by a simple reading of the basic document. Every citizen can then know exactly what is meant and intended and what will happen.

Mr. Chairman, I urge the adoption of this amendment because it does away with the appointed Vice President. It provides for a vacancy in the office of the President and the Vice President, it makes clear in one section of the Constitution exactly what our laws of succession and disability will be.

Mr. CELLER. Mr. Chairman, it is very difficult to envisage what the gentleman is trying to do.

Mr. MOORE. Mr. Chairman, it is very difficult to envisage what the gentleman from Maryland wants with reference to the election of a Vice President? Beyond that, are we going to have an election of a Vice President by a special election? We answered that matter before the question was addressed to me about a special election. The gentleman from Ohio [Mr. McCulloch] spoke of the enormous cost of a general election. I take it, therefore, because of the utter uncertainties involved in this amendment that we should vote it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. Mathias].

The amendment was rejected.

AMENDMENT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moore of Maryland: Strike out section 2 and substitute a new section:

"Sec. 2. The Congress may by law provide for the case of a vacancy in the office of Vice President and for the case of removal, death, resignation, or disability of the President and the Vice President, declare what official shall then act as President and such official shall act accordingly until disability be removed or President would be elected."

Mr. MATHIAS. Mr. Chairman, this amendment would do three things. It would do all that the amendment of the gentleman from Illinois would do in removing the possibility of an appointive Vice President if I were to propose to an appointive Vice President. The Presidency since the history of this Republic began has been an elective office and I think it should continue to be an elective office. I believe that we should have an appointive Vice President who would become the heir apparent of the Presidency and potentially the President.

Second, this amendment would have one advantage over the amendment just disposed of by the House. It would not allow a vacancy in the office of the Vice-Presidency.

Mr. Chairman, I feel that in the 20th century there should not be a vacancy in that office. I believe it is highly desirable in order to carry out the many functions of the Government today we should always have a Vice President. Under the provisions of my amendment the Congress could, by law, provide for the method of selecting a Vice President in anticipation of the possibility that the office ever become vacant.

Third, this proposed amendment restates the existing language of the Constitution as it is today it is very difficult to envisage what the situation when both the President or the Vice President have died or have been removed from office or are disabled. It gives to the Congress the power to provide a continuing succession, by specifically reapplying the existing language on this subject.

Mr. Chairman, I agree completely with the distinguished gentleman from Virginia [Mr. Poff], that it is desirable in order to carry out the many functions of the Government today we should always have a Vice President. All Americans can then be clear in their own minds with reference to the election of a Vice President. All Americans can then be clear in their own minds with reference to the course of Presidential succession by a simple reading of the basic document. Every citizen can then know exactly what is meant and intended and what will happen.

Mr. Chairman, I urge the adoption of this amendment because it does away with the appointed Vice President. It provides for a vacancy in the office of the Vice-President and it makes clear in one section of the Constitution exactly what our laws of succession and disability will be.

"Mr. CELLER. Mr. Chairman, it is very difficult to envisage what the gentleman from Maryland wants with reference to the election of a Vice President. Beyond that, are we going to have an election of a Vice President by a special election? We answered that matter before the question was addressed to me about a special election. The gentleman from Ohio [Mr. McCulloch] spoke of the enormous cost of a general election. I take it, therefore, because of the utter uncertainties involved in this amendment that we should vote it down.

The Amendment is rejected. The question is on the amendment offered by the gentleman from Maryland [Mr. Mathias].

The amendment was rejected.

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The Clerk read as follows:

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Mr. MATHIAS. Mr. Chairman, this amendment would do three things. It was very difficult to envisage what the gentleman from Maryland wants with reference to the election of a Vice President. Beyond that, are we going to have an election of a Vice President by a special election? We answered that matter before the question was addressed to me about a special election. The gentleman from Ohio [Mr. McCulloch] spoke of the enormous cost of a general election. I take it, therefore, because of the utter uncertainties involved in this amendment that we should vote it down.

The Amendment is rejected. The question is on the amendment offered by the gentleman from Maryland [Mr. Mathias].

The amendment was rejected.
Mr. MOORE. Mr. Chairman, I have asked for the additional time for the reason I believe this to be an extremely important amendment and it is not so many Members on the floor during discussion of this particular amendment during general debate.

The proposed constitutional amendment would, in my judgment, completely isolate a man who has been elected to the Office of President of the United States.

My amendment would provide simply that once the President of the United States has been removed from office by virtue of the written declaration of the Vice President and a majority of the principal officers in the executive department he cannot again get into the office to which he has been elected unless the Congress makes a decision that he is capable of resuming his duties.

My amendment seeks to place in this proposed constitutional amendment language which simply says that when the President transmits—that is, the one who has been removed from office—to the President pro tempore of the Senate and the Speaker of the House his written declaration of inability exists, he shall immediately resume the powers and duties of his office. And I repeat the office to which he was elected by the people.

We have placed in section 4 of this proposed constitutional amendment the mechanism that the written declaration of a Vice President, which is concurred in by a majority of the principal officers of the executive department, is sufficient to remove the elected President of the United States from office on the alleged grounds that he is incapable.

My amendment seeks to give him the opportunity by written declaration to declare that he is capable of assuming the duties and responsibilities of his office. He then is again the President of the United States. My amendment preserves the right of the Vice President and the majority of the principal officers of the executive departments to challenge his declaration of ability. In other words, after the President has transmitted to the Congress—so the Speaker of the House and the Vice President are together—that he is capable of assuming his duties, the Vice President can challenge that, but the individual who has been elected to the Office of President is in the Office of President.

I suggest that if we permit this particular constitutional amendment to remain as it is presently written, it is what will happen: The individual that has been elected President of the United States could come a time when a man who has been declared incapable by virtue of the written declaration of the Vice President and the principal members of the executive department, will have no office from which to even plead his case that he is again capable of handling the duties of his elected office. It would not be an uncommon event to see a man who is President of the United States lobbying here in the Congress of the United States to get back the position to which the people elected him.

My amendment is very clear. It says that if you have taken the job away from him by written declaration he shall have the right by written declaration to get it back, that is, the President could, in writing the letter to the Congress, if he feels the President is still incapable, by using the provisions that are within the framework of section 4 of this proposed constitutional amendment.

I happen to believe we should be very jealous of the Office of the President. I suggest the Acting President could bring about a complete transition of government at a time when the President of the United States has been declared to be incapable. It is not difficult to imagine that the Acting President could change the complete complexion of the executive branch and the President never could get his foot back into the office to which he was elected.

So I suggest that since we have taken this job away from him by virtue of this written declaration, I believe the President of the United States, once he feels he is capable of the duties of that office, should have the office by simply making a written declaration that he is capable of taking care of the duties of that office. It seems to me all precautions should be in favor of the President of the United States, that all doubts about his capability to serve should be resolved by the Congress, with the elected President of the United States.

I believe it is the duty of the Congress looking into the eyes of the man who has been elected as President of the United States, to declare that, for one reason or another, he is incapable of holding the office. In other words, I conceive that once the Vice President is made the Acting President, there is a possibility he could resort to many manipulations that would never permit the President of the United States, no matter what the people of this country, to present his case to the Congress of the United States. So I want it built in—I want the provision for putting the President back in his job in the constitutional amendment. If we in the Congress want to throw him out or declare that he is incapable, then I think it is our responsibility to do it here in the Congress when the elected President and Vice President are in their respective positions in the executive branch of the Government, positions to which each was elected by the people.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I am happy to yield to the gentleman from California.

Mr. HOLIFIELD. The gentleman has stated that he could imagine certain conditions. Can the gentleman carry this imagination just a little further and imagine a President who has had a nervous breakdown and who had been declared under the provisions in section 4 mentally incapable of performing the duties of the office, writing a letter nevertheless saying, ’If am well, I am cured, I am sane.’ And immediately under the gentleman’s amendment, as I understand it, he would, regardless of his mental condition, resume his office (imagine the great uproar)? It is an uncontested opinion of his mental condition to be the only controlling factor as to his resuming the duties of President?

Mr. MOORE. I agree with the gentleman that this could happen. I do not see any more danger, if I may respond to the gentleman, than that which we have at the present in case a President becomes incapable. I have stretched my imagination—not to the extreme, because I do not think the gentleman’s suggestion is extreme; it could very well happen. I just happen to think that this Congress can act expeditiously if that were the case. If the President under his signature says he is capable, at noon on a given day, the Vice President with a majority of the principal members of the executive branch of the Government can transmit that declaration to the respective bodies and that issue can be decided by the Congress of the United States immediately. I think the balance in such a situation—the provisions should remain with the man who was elected President of the United States. It could very well happen today that any man elected could at some future time be mentally incapable. Today we live with this prospect always, that the matter is locked. That is why we are here today. As presented, the language before us lets the Acting President become mentally incapable and no one can act on the matter until after the Acting President is locked in the office. So I cannot see the great concern as expressed by the gentleman from California.

I do not think the gentleman’s suggestion is at all an extreme suggestion. I think it could happen, but I do not find myself too frightened by the fact. What we do here, we could immediately put to the congressional test.

Mr. MOORE. Mr. Chairman, that to do otherwise is to invite the suggestion of perhaps—and I hesitate to use the word—a coup among individuals in the executive branch of the Government to remove a President who has been elected by the people. This could be a very indirect way to impeach a President of the United States if you did not want to try him here in the Congress of the United States. I say this again, if we in the Congress are going to have to say “No” to a man who has been elected as President of the United States, I think that we should do it when he occupies that office and not have some constitutional provision in the event that there should be some unexplained reason for the suggestion of his incapacity. I urge the adoption of my amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CORMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first of all, let us clarify what the committee proposal does. We are talking about the constitutional amendment which is proposed. The gentleman suggested that once the Vice President and a majority of the Cabinet
Mr. CORMAN. The gentleman suggested that this might be a scheme for the Vice President to remove the President and then never bring this issue to the Congress. That is not correct. The President would be restored without congressional action, 2 days after his own declaration of renewed ability, unless his declaration was challenged by the Vice President and Cabinet.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from New Jersey.

Mr. MOORE. The gentleman used the term, I might suggest, that we are going to start this process over and over and over again.

Mr. CORMAN. I would ask the gentleman what period of time would have to transpire before the Vice President might start over again?

Mr. MOORE. There is not a starting over again. That is where I would suggest the gentleman is misleading the committee.

Mr. CORMAN. A day later? A year later? At some time the Vice President makes an announcement, brings in his records, and the President makes a new one?

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from West Virginia.

Mr. MOORE. The gentleman used the term, I might suggest, that we are going to start this process over and over and over again.

The language of the proposed constitutional amendment is very clear in that respect. It would be necessary to make the determination under the language of the proposed constitutional amendment.

I am just proposing to put in the hands of the appointed President a means to get his job back during the period of the trial. There is no gap or abyss at all. This issue would be immediately resolved by the Congress of the United States.

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Mr. MOORE. If we are to provide that he can get the power back by the simple writing of a letter, and then to start the process over again to remove that power, it seems to me there is a real hazard for a long period of time. It may be a long period of time when we consider the possibilities of rather substantial actions by the President without there being any check on those actions. In this instance it seems to me to be very hazardous.

Then we get to the next question. As soon as he can come back by the simple writing of a letter, a declaration, the President and the Cabinet may decide that he is not capable. We would have uncer- tainty.

One of the things the committee was much concerned about was that there never be any question at any moment about who the President is and whom we ought to obey within the realm of the presidency.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from New Jersey.

Mr. RODINO. Is it not entirely possible, under the gentleman’s proposed amendment, that a President who had been declared unable to continue the duties of his office might then make such a declaration and assume the powers of the office and fire the heads of the departments; and, therefore, there would be no majority with which the issue might ever come to a test in the Congress of the United States?

Mr. CORMAN. It would seem to me that would be the result.

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Mr. MOORE. Mr. Chairman, will the gentleman yield?
Mr. CELLER. Now I yield to my distinguished colleague.

Mr. MOORE. May I ask my chairman, sir, whether I have great affection, if it is not possible under this proposed constitutional amendment for the Acting President to fire everybody in the executive branch of the Government that the President has appointed, including the distinguished Mr. CELLER. Yes. That is possible, but the contrariwise is also possible.

Mr. FLYNT. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I support the amendment offered by the gentleman from West Virginia and I do so because, among other reasons, I feel that it gives to the elected President of the United States the presumption, whereas the language of the committee amendment would give to the Vice President who may be serving as President during the disability of the President the presumption that he is better qualified to determine the disability of the President than the President himself.

The situation might not be cause for concern except for the possibility that under conditions where the President will be incapacitated the President might successfully remove every member of the Cabinet, who was not friendly to him. That, Mr. Chairman, would provide an invitation to an ambitious, certainly to an overly ambitious Vice President, to strive for the coup d'etat to which the distinguished Mr. CELLER referred just a few minutes ago.

As between vesting the presumption of discretion and judgment in either the elected President or the elected Vice President it occurs to me, Mr. Chairman, that the presumption ought to be in favor of the President of the United States as long as he is in life. I support the amendment.

Mr. McCLOY. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I think there is a great appeal which can be made for the amendment offered by the gentleman from West Virginia, but I think if we consider this subject logically we will see that it would be extremely unwise to adopt the amendment.

In the first place the opportunity is afforded already in section 3 for the President voluntarily to give up the office of the President and let the Vice President serve as Acting President and then for the President voluntarily to resume his office at any time. That is the situation which is involved here in section 4 is simply where the President is involuntarily removed. It seems to me that we want to sustain the continuity of the office of President and the stability of government which is going to be preserved. There is an involuntary removal of the President from office. And if that does occur then the VicePresident will remain until the Congress acts contrariwise. That is exactly what this amendment does not do.

If we adopt this amendment we would have instability which would come with the presumption which follows the re-sumption in office of the the President without the Congress having acted. Since the Congress would be acting later, instability would follow from a temporary restoration of the President in office and his subsequent removal by action of the Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia.

The question was taken; and on a division (demanded by Mr. Moore) there were—aye 58, noes 122.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross to the committee amendment: On page 3, line 23, after the word “Congress” strike the period, insert a comma, and add the following: “and the votes of both Houses shall be determined by the yeas and nays and the names of the persons voting for and against shall be entered on the Journal of each House respectively.”

Mr. GROSS. Mr. Chairman, the adoption of my amendment would make section 2 read as follows:

Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress, and the votes of both Houses shall be determined by the yeas and nays and the persons voting for and against shall be entered on the Journal of each House respectively.

Mr. Chairman, I have taken the language which is added to the bill from page 37 of Jefferson’s Manual and Rules of the House. It is the language which is required to determine bills or resolutions which may be vetoed by the President of the United States.

Mr. Chairman, it seems to me that if it is mandatory to have a rollcall vote upon a vetoed bill, certainly there ought to be the requirement for a rollcall vote in Congress when it is called upon to confirm or reject a President’s selection of a Vice President of the United States. I can think of scarcely nothing more vital.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes, I yield to the gentleman from Missouri.

Mr. HALL. The gentleman suggests the same wording after the two words “both Houses” in line 5 of page 5?

Mr. GROSS. Yes. Mr. Chairman, the gentleman from Iowa is prepared, if this amendment is adopted, to offer the same amendment to page 5, line 5.

Mr. HALL. I thank the gentleman. I believe his amendment is worthy of support.

Mr. CELLER. Mr. Chairman, I rise in opposition to the pending amendment.

The creation of the Office of the Vice President was something rather extraordinary in a constitutional amendment, or a portion of a constitutional amendment. I suggest that the gentleman from Iowa seeks to amend the rules of the House.

In any event, when a proposition is presented to this House or to the Senate the House or Senate can demand a record vote. That right is always present, the right to demand a record vote, and certainly there is no need to place such a provision in a constitutional amendment. There is no need to break down this amendment with deletions of that sort, particularly since the right already exists to demand a record vote.

Mr. RUMSFELD. Mr. Chairman, I rise in support of the pending amendment.

Mr. Chairman, the distinguished chairman of the Committee on the Judiciary has indicated this amendment is clutter and excess freight. However, I strongly disagree. The Constitution indicates exactly the same words where it says “in all such cases, referring to a veto— the vote of both Houses shall be determined by the yeas and nays,” and so forth, as the amendment reads. The text of this amendment is already in the Constitution. I would suggest it is not clutter, and I would further suggest it is not clutter to demand that the public business be conducted publicly.

The Committee on Government Operations Subcommittee on Government Information has been meeting to consider legislation to require the executive branch of the Federal Government to make public more of the public business. This Committee is justifying conducting its business in private. Certainly, a vote on a matter as important as a Vice President or on this difficult question of presidential disability should be by record vote in both Houses of the U.S. Congress.

I think we can all recall instances where important pieces of legislation, such as the railroad arbitration legislation, have passed this body by something other than a record vote. I would strongly urge that the amendment offered by the gentleman from Iowa be agreed to, so that the people of this country have the opportunity to know definitely who-voted yes on an issue as important to our nation as this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Gross).

The question was taken; and on a division (demanded by Mr. Gross) there were—aye 94, noes 102.

Mr. GROSS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair- man appointed as tellers Mr. Gross and Mr. Ransom from Colorado.

The Committee again divided, and the tellers reported that there were—aye 115, noes 130.

Amendment rejected.

Amendment offered by Mr. Poff.

Mr. Poff. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Poff to the committee amendment: On page 4, line 25, strike out the word “immediately” and after the word “assembling,” insert the words “within forty-eight hours.”

The CHAIRMAN. The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. Poff).

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. Poff. I am glad to yield to the distinguished chairman of the committee, the gentleman from New York.
Mr. Celler. I would accept that amendment. It is a very good amendment.

Mr. McCulloch. Mr. Chairman, will the gentleman yield?

Mr. Poff. I yield to the gentleman from Ohio.

Mr. McCulloch. Mr. Chairman, we are pleased to accept the amendment. It has been thoroughly discussed and it is agreeable to us.

Mr. Poff. Mr. Chairman, I have been asked to give a brief explanation of the amendment, after which I will yield to the distinguished minority leader.

Mr. Chairman, the amendment simply requires that the Congress as an automatic condition, if not in session, when it receives the Vice President's challenge of the President's declaration of restoration, assemble within a 48-hour period.

Now I would assume, and I will yield to the chairman of the Committee on the Judiciary in order to make legislative history on this point, that the Vice President who is then Acting President would as a matter of procedural necessity by proclamation, directive, or otherwise indicate a time certain and a place certain where and when the Congress would assemble. Is that the understanding of the gentleman from New York?

Mr. Celler. That is exactly the understanding, that the Vice President would issue a proclamation and fix a time certain within 48 hours as to when the Congress must assemble.

Mr. Poff. May I ask the gentleman further? Is the condition for the Vice President as Acting President should not do so, then the Speaker of the House would have the apparent power, as the Congress automatically assembled, to fix the time certain when the Congress would assemble?

Mr. Celler. That is correct. In other words, if he does not summon the Congress, the Congress automatically gathers and assembles—and must assemble. In the ordinary course, the Speaker would issue a summons to the Members of the House to assemble and the President pro tempore would issue a summons to the Senators to assemble.

Mr. Poff. I thank the gentleman.

Mr. Gerald R. Ford. Mr. Chairman, will the gentleman yield?

Mr. Poff. I yield to the distinguished minority leader.

Mr. Gerald R. Ford. Mr. Chairman, during the history of our country, the Nation has been without a Vice President 16 times, totaling 37 years, creating a vacuum in the executive branch of Government in particularly important and crucial times.

The Constitutional Convention wisely looked into the future to see the need for a qualified Vice President in the event of the Chief Executive's death or incapacity. The problem of activating the line of succession has been clouded with legal and political uncertainties, controversy, and debate.

This resolution being considered by the House was the amendment to the Constitution to clarify this vitally important issue, assuring a clear-cut method of action to result in proper succession.

A large number of occasions in the country and some of the best legal minds in our Nation support this resolution, which is the result of long, indepth study by the Committee on the Judiciary. In this study, in the names of Herbert Brownell, William P. Rogers, and Nicholas deB. Katzenbach agreed that an amendment is necessary. The tragic death of John Fitzgerald Kennedy and the plight of the President, Dwight D. Eisenhower in our most recent history brought quick and urgent congressional and public attention to the need for an amendment.

Presidents Truman, Kennedy, and Johnson made informal agreements with the Vice Presidents to fill the Chief Executive's position in event of inability. I stress that these were informal agreements, without constitutional definition.

The resolution before the House at this time, in my opinion, fulfills a vital need, especially at a vital and turbulent time in our Nation's history. I support this amendment and urge my colleagues to do likewise in the national interest.

Mr. Poff. I thank the gentleman. I yield back the remainder of my time.

Mr. Chairman, I feel that I should make a few observations on this occasion because what we do here is not only a matter of importance but also could have a marked and tremendous effect in the future life of our Nation.

We have said here today will be referred to some future House of Representatives, particularly if the situation under section 4 of the pending resolution should arise.

We all know that a constitutional amendment is a very important matter involving a very sensitive question—sensitive not only to draft, but sensitive to consider, and sensitive to picture or contemplate all the human considerations which might arise in the future. I agree with the statement made in that respect by the distinguished minority leader.

I favor strongly this resolution. I favor section 2 because we must be practical. We must realize, whether we like to or not, that great changes are taking place, have taken place within the past 50 years, and changes of a greater nature are going to take place in the years which lie ahead.

I have for 14 months in the position of the man who, in the event of an unfortunate event happening to the occupant of the White House, under the law then would have assumed the office of Chief Executive of our country. I can assure you that there is a marked and tremendous effect in the future life of our Nation.

We have said here today will be referred to some future House of Representatives, particularly if the situation under section 4 of the pending resolution should arise.

I have in my safe in my office a writ by this resolution, and particularly by section 3 and section 4.

Section 3 will enable the President of the United States or an acting President or an acting Vice President to fill the line of succession. No resolution and no statute could have the knowledge that on a statement by himself or a declaration by himself he can resume the office, and the duties of the office, then this could play a very important part, in my opinion, in the future life of our country.

Section 4 is a matter of vital concern, as I see it. I will not say this is the only vacuum but a great vacuum which has been created since the administration of our Government is the fact that there has been nothing on the statute books or in the Constitutional law whereby there could be a legal determination made of the inability or the disability of the President of the United States and of the restoration of his ability. I can assure you, as the one who for 14 months was next in line for the Presidency, that I know I could never have made the decision there are so many considerations involved. For example, my motives might well be impugned. Also there could be the feeling that I might be involved in a quest for personal power. As a result of those considerations, and others, I would have great difficulty in making that decision myself, because I could appreciate the fact and picture the fact that the whole legitimacy of government if I were in the White House, would be clouded and could be affected very seriously. Therefore, I am very happy with the provisions of this resolution and particularly, as I say, with section 4 thereof. We cannot legislate for every human consideration that may or may not arise in the future. All we can do is the best that we can under the circumstances. The considerations of the committee and the deliberations of the members of both parties have resolved the problem confronting us in the best manner possible, having in mind the fact that with all our strengths we have weaknesses as human beings.

I am glad that the gentleman from Virginia [Mr. Poff] offered his amendment because I recognize that we could establish in our minds or we could create there hypothetical cases in the future which no resolution and no law could avoid and the resolution did contain a weakness in the language which states: "Thereupon Congress shall decide the issue, immediately assembling for that purpose if not in session." Now, first of all, I would assume that a Vice President, as Acting President, if the provisions of this amendment should develop and a Vice President is acting as the Chief Executive, when he is ill without being totally incapacitated, to declare his inability for a limited period of time. For example, a man might have a heart attack. He is mentally equipped and there is no marked impairment of his physical facilities, but there is a marked impairment of his physical facilities. If he has the knowledge that he can declare himself to be disabled or unable to perform the duties of his office in a broad sense and if he has the knowledge that on a statement by himself or a declaration by himself he can resume the office, and the duties of the office, then this could play a very important part, in my opinion, in the future life of our country.
the majority of the heads of the executive departments or the members of the Cabinets should disagree with the President on the question, the last resort would be the proclamation of the President that his ability to function had been restored and thereby he could resume his office—I would assume in that case that the Acting President at that time could call Congress into session within a reasonable period thereafter, by proclamation, as explained by this resolution, and as expressly provided for in other parts of the Constitution, acting might happen. The resolution provided and Congress intended that we should assemble immediately. But who is going to do the assembling? The Speaker will speak for the House of Representatives, whoever the Speaker may be at that time. The President pro tempore of the U.S. Senate will speak for that body.

One man may construe the word "immediately" differently from another. There may be a great deal of difficulty and confusion at that time. Who knows what human emotions might exist 10, 20, 30, or 40 years from now when some emotional situation has enveloped the people?

I am anxious about this. In case there were no proclamation by the then Vice President as Acting President calling Congress into session, I was anxious that there be specific language in the resolution to bring Congress into session. The amendment of the gentleman from Virginia fills that vacuum and makes it specific; that is, that if a Vice President as Acting President does not by proclamation call Congress into session, Congress shall come into session automatically, without any call, not later than 48 hours.

For whatever benefit my opinion may be at some future time to some future Speaker, if this situation should arise, may I say for the record that if this were part of the Constitution today, and this situation arose, and if the Congress were faced with a situation today where a Vice President as Acting President had disagreed with the President on the question of his ability to assume office, and the President pro tempore of the Senate and the Speaker of the House had been notified, I would provide by this legislation the 48-hour time limit in the amendment of the gentleman from Virginia were a part of the Constitution, if I were Speaker I would then consider calling the House into session within the 48-hour limit, but in any event, if the Speaker or President pro tempore failed to act Congress would have to come into session within 48 hours. If that did not happen the very purpose of this amendment to the Constitution, if adopted, could be defeated.

I wanted to make these few remarks to compliment the Members of the House who have participated in this debate which has been consistently on the high-est level. They have considered any legislation, particularly that having to do with the Constitution. This debate will be of invaluable assistance some day in the future. The debate has occurred today but it will live for the future. If such a situation arises and this becomes part of the Constitution, Members of Congress at that time and others will look back to this debate, and they will have in high level debate to show what the intent of Congress was and certainly what the intent was of the House of Representatives in consideration of this resolution.

So I congratulate the committee and the House of Representatives. As Speaker I am proud of the debate that took place today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. Poff].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. FASCALI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having under consideration House Joint Resolution 1 proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office, pursuant to House Resolution 314, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

Mr. MATHIAS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. The gentleman opposed to the joint resolution?

Mr. MATHIAS. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies. The Clerk will report the motion to recommit.

The clerk read as follows:

Mr. MATHIAS moves to recommit House Joint Resolution 1 to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection. The SPEAKER marched the question on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 366, nays 29, not voting 36, as follows:

[Roll No. 74]
President from office or of his death or resignation, the Vice President shall become President.

"Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

"Sec. 3. Whenever the President transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, such powers and duties shall be discharged by the Vice President as Acting President.

"Sec. 4. Whenever the Vice President, and a majority of the principal officers of the executive departments or such other body as Congress may by law provide, transmit to the President 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.

"Sec. 5. Whenever the President transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, Congress shall immediately proceed to decide the issue. If the Congress determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise the President shall resume the powers and duties of his office.

Mr. Celler. Mr. Speaker, I offer an amendment to strike out all after the resolving clause and insert the provisions of House Joint Resolution 1, as passed by the House of Representatives.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Celler: "Strike out all after the resolving clause of Senate Joint Resolution 1 and insert the provisions of House Joint Resolution 1, as passed by the House."

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the Senate joint resolution.

The question was taken; and (two-thirds having voted in favor thereof) the Senate Joint Resolution was passed. A motion to reconsider was laid on the table.

A similar joint resolution (H.J. Res. 1) was laid on the table.
which has developed over the past several months.

The Pennsylvania Bar Association has taken a leading role in seeking, at long last, a solution to this serious constitutional problem. We earnestly support the principles of House Joint Resolution 1. We are joined in this by a majority of State bar associations.

We hope that you will actively support House Joint Resolution 1.

Sincerely,

WILLIAM W. LYTKE
CHAMBER OF COMMERCE OF THE UNITED STATES
April 9, 1965.


Dear Mr. Celler: The Chamber of Commerce of the United States supports adoption of a constitutional amendment setting up procedures for handling cases of presidential inability and for keeping the office of the Vice President filled.

This view was submitted to members of the House and Senate Judiciary Committees in a letter dated March 1, 1965. A copy of the letter is attached.

The bill (H. J. Res. 1) as reported by the House Judiciary Committee is an improvement over the Senate version, particularly in the language now incorporated in section 4 of the reported bill. It is important to have procedures delineated precisely that will cover all contingencies, particularly language now incorporated into section 4 of the bill. The bill (H. J. Res. 1) as reported by the House Judiciary Committee is an improvement over the Senate version, particularly in the language now incorporated into section 4 of the bill. It is important to have procedures delineated precisely that will cover all contingencies, particularly.

We recognize that no such amendment to the Constitution could cover all contingencies, but adoption of this proposal will be a marked improvement over the existing situation which is fraught with danger.

We urge favorable action by the House of Representatives on the proposed constitutional amendment.

Sincerely yours,

THEON J. RICE
CHAMBER OF COMMERCE OF THE UNITED STATES
March 1, 1965.

HON. EMAUCEL Celler, Chairman, House Judiciary Committee, U.S. House of Representatives, Washington, D.C.

Dear Mr. Celler: May I express my support of House Joint Resolution 1, the proposed constitutional amendment pertaining to presidential inability and vice-presidential vacancy.

Having served as a member of the American Bar Association group which arrived at conclusions similar to your bill, I can testify to the full and careful thought that has gone into the measure.

In view of questions that have been raised, two points of clarification may be useful. The first is that the amendment does not in any way alter the present law of succession. Instead it reduces the likelihood that the House of Representatives would be called into operation, by providing for filling a vacancy in the office of Vice President.

Secondly, the amendment does not impose a rigid method for the determination of presidential inability. Instead it provides a specific method, centering on the Vice President, the President and a majority of the Cabinet, but authorizes Congress at any time to substitute another body for this purpose. Thus the amendment provides a concrete method of continuity, assuring that a method will be in force as soon as the amendment is ratified but not depriving Congress of authority to make alterations in the further progress.

I hope that you will find it possible to lend your support to House Joint Resolution 1.

With all good wishes.

Sincerely yours,

PAUL A. FREUND.
RESOLUTION BY U.S. JUNIOR CHAMBER OF COMMERCE

Resolved, That the U.S. Junior Chamber of Commerce urges the Congress of the United States to initiate an amendment to the Constitution of the United States in accordance with the following provisions of this resolution:

LEGISLATIVE PROGRAM

Mr. GERALD R. FORD, Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. GERALD R. FORD. Mr. Speaker. I have asked for this time for the purpose of asking the distinguished minority leader the program for tomorrow.

Mr. ALBERT. Mr. Speaker, will the distinguished minority leader yield?

Mr. GERALD R. FORD. I yield to the majority leader.

Mr. ALBERT. In response to the inquiry of the gentleman, as previously announced, tomorrow is Pan American Day.

We expect to consider two resolutions tomorrow, from the Committee on House Administration; one dealing with investigating funds for the Committee on Un-American Activities and the other dealing with funds for the Post Office and Civil Service. The committee will meet in the morning and it is expected that the committee will report these two resolutions.

I might advise Members that we expect a roll call vote on at least one of these resolutions.