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Report: Providing for the Performance of the Duties of the Office of President in Case of the Removal, Resignation, or Inability Both of the President and Vice President

Committee on Rules and Administration. Senate. United States.

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PROVIDING FOR THE PERFORMANCE OF THE DUTIES OF THE OFFICE OF PRESIDENT IN CASE OF THE REMOVAL, RESIGNATION, OR INABILITY BOTH OF THE PRESIDENT AND VICE PRESIDENT

MARCH 28 (legislative day, MARCH 24), 1947.—Ordered to be printed

Mr. Brooks, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. 564]

Together with the

MINORITY VIEWS

The Committee on Rules and Administration, to whom was referred the bill (S. 564) to provide for the performance of the duties of the office of President in case of removal, resignation, or inability both of the President and Vice President, having had the same under consideration, report said bill back to the Senate with an amendment in the nature of a substitute and recommend that the bill, as amended, do pass.

The amendment offered as a substitute differs from S. 564 as introduced in the Senate in the following respects:

1. S. 564 originally provided that in cases where the President pro tempore shall act as President, he should so act *upon his resignation from the office of President pro tempore and as Senator*; however, it did not require the resignation of the Speaker in cases where he is to act.

The amendment provides that the Speaker shall also resign both as Speaker and as Representative in Congress before acting as President.

2. S. 564 provided that in cases where the President pro tempore acts as President he shall not continue to act after a Speaker becomes able to act.

Under the amendment, when a President pro tempore acts as President he will continue to act until the expiration of the then current Presidential term, unless in the meantime a President or Vice President qualifies.

3. The original bill provided that where a Speaker is acting as President and becomes disabled, and a new Speaker then acts as President in his place, the new Speaker would continue so to act only until the first Speaker recovered from his disability.

Under the amendment, the new Speaker would continue to act as President notwithstanding the recovery of the first Speaker.

4. The original bill as introduced provided with reference to Cabinet officers that where a Cabinet officer is acting as President by reason of there being no Speaker or President pro tempore and a Speaker subsequently qualifies, then the Cabinet officer is displaced by the Speaker.

The amendment in the nature of a substitute provides that the Cabinet officer shall be displaced either by a Speaker or a President pro tempore of the Senate in that order upon their qualifying.

5. Under S. 564 as originally introduced, a Speaker, acting as President would, with certain exceptions, act "*until a President shall be elected in the manner prescribed by law*, and until the expiration of the then current Presidential term."

The amendment provides that he shall with certain exceptions act only until the expiration of the then current Presidential term, thus simplifying the language and avoiding the possibility of a particular Speaker continuing to act beyond the then current Presidential term.

6. A corresponding change is made to cover the case of a Cabinet member acting as President.

7. A number of minor changes in language have been made for purposes of consistency and clarification. For example, the original bill as introduced provided that the Speaker would "act as President" but that the President pro tempore and Cabinet members would "discharge the powers and duties of the office of President." Wherever the latter phraseology appears in the original bill, the amendment substitutes the word "act" throughout.

MINORITY VIEWS

This bill as reported by the majority members of the Senate Committee on Rules and Administration is, in the opinion of the minority members, piecemeal legislation which should not be enacted.

On the 12th instant the Senate passed House Joint Resolution 27, a proposed amendment to the Constitution relating to the term of office of the President, and now the Senate has before it S. 564, a measure relating to Presidential succession and reported by the Senate Committee on Rules and Administration. These are 2 of approximately 20 bills and resolutions relating in one form or another to Presidential succession which have been introduced in this Congress and referred to various Senate and House committees.

In the Seventy-ninth Congress, Senators Green and Smith introduced Senate Concurrent Resolution 50, which provided for a joint congressional committee to make a thorough study and investigation of all matters relating to Presidential succession. This resolution was unanimously reported by the former Senate Committee on Privileges and Elections and passed the Senate on March 14, 1946. The resolution was referred in the House to the Committee on Rules, where no action was taken upon it.

On January 6, 1947, Senator Green, for himself and Senator Smith, introduced Senate Concurrent Resolution 1, which was referred to the Senate Committee on Rules and Administration. This resolution is in the main the same resolution which passed the Senate during the Seventy-ninth Congress. The resolution provides for a joint congressional committee to study and investigate all matters relating to Presidential succession. These matters include, but are not to be limited to, the following:

(1) Whether or not the President and Vice President should be elected by the Electoral College, as at present; and if so, whether or not the members should be legally bound to vote in accordance with their instructions.

(2) Whether or not provisions should be made for the case where before the election of Presidential electors, or after such time but before the election of President and Vice President, a candidate for the Presidency or for the Vice Presidency dies, declines to run, or is found ineligible to take office if elected.

(3) Whether or not provision should be made for the case of the death of any of the individuals from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

(4) Whether or not provision should be made for the case where, after election, the President-elect or Vice-President-elect, or both, die, decline to serve, or fail to qualify.

(5) How it shall be determined whether the President, or individual acting as President, is unable to execute the powers and duties of the office, and how the duration of such inability shall be determined.

(6) Whether or not provision should be made for an individual to execute the office of President in case of removal, death, resignation, or inability, both of the President and Vice President, including provision for selecting an individual to execute such office in cases where by reason of removal, death, resignation, or inability there is no individual upon whom the powers and duties of such office would otherwise automatically devolve.

(7) Whether there are, or should be, any differences between the status, powers, duties, and privileges of an elected President and any other individual executing the office of President.

The Committee on Rules and Administration has held hearings on Senate Concurrent Resolution 1, S. 139, S. 536, S. 564, all relating to the Presidential succession. However, the committee has not made a full and thorough study of all matters relating to this subject such as is proposed in this Senate Concurrent Resolution 1.

The minority members of the Committee on Rules and Administration realize that this subject has aroused much speculation and discussion through 150 years. They believe that an intelligent discussion of the subject is certain to involve grave legal and constitutional questions and that, because of the many issues involved, no one phase of the subject can be given adequate consideration without a thorough examination of the whole subject. A thorough study will show that there are far-reaching and fundamental questions which need to be answered. These questions are interrelated and should be answered by one comprehensive plan such as is provided for in Senate Concurrent Resolution 1. To what extent existing laws are adequate, and to what extent the problems involved may be solved by legislation, and to what extent it may be necessary to resort to constitutional amendment have not been thoroughly canvassed or studied.

Our country has become the greatest and most important in the world. It would be tragic if at a crisis in our history, or even at any time, questions such as those enumerated above should arise and the answers be conflicting. It would be tragic not only for this country but for the world.

S. 564, as recommended by the majority, provides for a change in existing law and is only one item in what should be a complete plan. It may prove inconsistent with that plan if and when adopted.

It is the recommendation of the minority members that action on S. 564 be postponed until final action is taken on Senate Concurrent Resolution 1.

CARL HAYDEN.
THEODORE FRANCIS GREEN.
BRIEN McMAHON.
FRANCIS J. MYERS.
SPESSARD L. HOLLAND.

