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George M. Cain to Subcommittee on Constitutional Amendments, New York City Bar Association

George H. Cain

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CERRO CORPORATION

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December 27, 1963

TO: Members, Subcommittee on Constitutional Amendments
Committee on Federal Legislation
Association of the Bar of the City of New York

FROM: George H. Cain, Subcommittee Chairman


You will recall that Congressman Celler at his recent appearance before the full committee suggested that one of the problems that the Committee on Federal Legislation might consider would be the question of Presidential Inability and Succession. This is a very large subject and difficult for busy people to handle.

I suggest that our subcommittee start by a careful reading of the recent and excellent law review article written by John D. Ferrick, Esq., an associate of Skadden, Arps, Slate, Meagher & Flom. Barry Garfinkel of our committee is a partner in that firm. Mr. Ferrick's article is entitled, "The Problem of Presidential Inability -- Will Congress Ever Solve it?" and appears in the October 1963 issue of the Fordham Law Review at Pages 73 to 128. I have only one copy of this article but will be glad to lend it to other members of the committee on a first come, first serve, basis, provided I am promised prompt return. However, I would hope that each of you could borrow a copy of the October 1963 issue of the Fordham Law Review from your library or from one of your colleagues who may subscribe. I assure you that the article is sparkling and not a bit dull!

As soon as all of the committee have read the article for proper "indoctrination," I will call a meeting (say, within the next two to three weeks) at which Mr. Ferrick has indicated he will be available for "cross examination." This might help to narrow the problem into two or three principal aspects, and our subcommittee might then be able to divide its work along such lines. I should point out that the Committee on Federal Legislation considered the question of Presidential Inability in 1962 and prepared a report which was adopted by the Association. See: 17 Record of NYCBA 185 and 282; Reports of Committees of The Association of the Bar Concerned with Federal Legislation, Volume I, No. 2, May 1962, Page 51 et seq.

It has occurred to me that the recommendation as to Constitutional change, if any be made, perhaps should have coupled with it a specific recommendation as to language for implementing federal legislation. Such legislation could become effective upon ratification of the amendment. Thus, a "complete package" could be considered at one time by the Congress and the organized bar. You might give some thought to this.

If any member of the subcommittee has any further suggestions as to required reading, I would be pleased to pass the information on to the others.



George H. Cain
Chairman

GHC:hc
Enc.

NOTE: For convenience, I am attaching a list of the Subcommittee on Constitutional Amendments complete with addresses and telephone numbers.

- G.H.C.

Copy to Fred N. Fishman, Esq.
Barry H. Garfinkel, Esq.

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of the City of New York
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