

Fiddling With the 25th

WASHINGTON

By James Reston

WASHINGTON, Oct. 31—In his news conference here the other day, President Ford suggested that the Congress might be wise to consider revising the 25th Amendment to the Constitution under which he became the 38th President of the United States.

He was not suggesting that President Nixon had nominated and the Congress had confirmed the wrong man, but he noted that the 25th did not foresee the present situation—that both a President and a Vice President might serve without ever having been elected by the people—and he was concerned particularly about the long Congressional delay in confirming Nelson Rockefeller as Vice President.

Accordingly, Mr. Ford proposed specifically that Congress consider a revision of the 25th, so that Congress would either have to approve or reject a Vice-Presidential nominee within a definite but limited period of time.

This is a serious question that has received increasing attention since the resignation of President Nixon, but while the 25th Amendment has some obvious shortcomings and even dangers, all other alternatives proposed so far also have their defects, and a strong case, therefore, can be made for a little judicious leaving alone.

The present discussion about amending the 25th is not directed at President Ford or intended as criticism of former President Nixon for appointing him to the Vice-Presidency and thus choosing his own successor. Rather, the main objection is to the principle here: that the 25th Amendment violates the clear stipulation of Article II, Section I of the Constitution, which states that the President and Vice President of the United States shall "be elected."

One man who did foresee this conflict was Senator John Pastore, Democrat of Rhode Island, who proposed before Mr. Ford became Vice President that the 25th be amended to provide for a special election for the offices of President and Vice President of an appointed Vice President becomes President with more than a year to go in the President's term of office.

"As tragic events of the past have proved," Mr. Pastore said in the Senate on Nov. 15, 1973, "we cannot foretell what lies ahead for this country. The appointed Vice President may himself succeed to the Presidency and then appoint a new Vice President.

"Should this set of circumstances evolve [as they did, of course], a constitutional crisis will occur. And what will happen to us then? For the first

time in the history of this great nation, the President and Vice President will both be appointed, not elected by the people, and not responsive to any mandate from the citizens. The nation will no longer be democratically governed."

It is hard to challenge the facts of the Senator from Rhode Island, who is now pressing hard for his special-election amendment, but in actual fact, there is no "constitutional crisis" in the nation today. There was a "constitutional crisis" and a paralyzed Government during the Nixon impeachment proceedings, but it was relieved precisely because the 25th Amendment worked fairly well.

In the case of President Ford, who has not yet been in office three months, the chances are that, under Senator Pastore's proposed amendment, we would be having not only Congressional and state elections next Tuesday but an election for President and Vice President as well. Before the new President could settle into his job, or the Congress could adjust to him, both parties would be involved unavoidably in a partisan tussle over who was going to be on the tickets.

No doubt Senator Pastore's proposal would be more logical and democratic, but as H. L. Mencken once remarked, for every human problem there is a solution that is "simple, neat, and wrong." This is especially true when one thunderclap of history suddenly carries away a President, either by death or forced resignation. It is a time for reflection, calm and unity—three qualities seldom present in Presidential elections.

Even President Ford's more modest proposal has its drawbacks. The delay in voting Nelson Rockefeller in or out may be excessive. Also, it risks the succession of Speaker Carl Albert to the Presidency, not a particularly joyful thought, but the alternative is to impose a limit on investigating the nominee's record and qualifications, and the complaint about most Vice Presidents lately is that they were not chosen too slowly but too fast.

On the brief record of the 25th Amendment, it has served the nation well under extraordinary and unforeseen circumstances. The people did not choose Mr. Ford or Mr. Rockefeller. In fact, Mr. Ford never thought of being President, and Mr. Rockefeller thought about it, without much public support. Still, nobody has suggested that they were inferior to Spiro Agnew or Tom Eagleton, whose nominations for the Vice-Presidency were no great recommendation for democracy.

So maybe the 25th should stand as is for a while. It takes time to amend the Constitution, and that's not a bad idea either.