

Filling the Vacancy

-- How Law Works

Washington

The problem now facing President Nixon and Congress — how to fill a vice presidential vacancy — has been a recurrent one in United States history; but for the first time, a procedure exists for filling this vacancy.

This procedure is outlined — and only outlined, leaving complex questions to be answered by Congress — in the 25th Amendment to the Constitution, which became law with its ratification by the required 38 states in February, 1967, almost two years after its approval by Congress in the summer of 1965.

The amendment's provisions are designed to deal with both the matter of presidential disability and of a possible "vacancy in the office of the vice president," a situation that has existed for a total of 37 years as the result of death, succession to the presidency or, on one previous occasion, a vice president's resignation.

CLAUSES

The sections of the amendment considered to be crucial were those that closely defined presidential disability and the procedures to be followed in the event of presidential incapacity to fulfill the duties of the office.

The original constitutional

clause, Clause 6 of Article II, did not define "disability" clearly, nor did it establish how it would be judged or by whom; it called on Congress to decide on the successor to the presidency if both the president and the vice president died, resigned or were disabled.

Later legislation established, and changed, the order of succession, but did not consider the possibility that the vice presidency might become vacant.

MOTIVATION

President Eisenhower's precarious health, followed by a new recognition of the importance of a vice president as successor — prompted in large part by the 1963 assassination of President Kennedy — was the spur to congressional action on the 25th amendment.

The major difficulty in drawing up the amendment was a two-month hassle between the senate and house conferees on the question of whether to set a time limit for congress to challenge a presidential assertion that his "inability" no longer existed.

As for the vice presidential question, Section 2 of the amendment reads simply:

"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."

QUESTIONS

Just how Congress would go about this was unsaid.



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SPEAKER OF THE HOUSE CARL ALBERT
He's now first in line for the presidency

Among the unresolved questions are: whether the vote should be taken in joint session or separately in each house of Congress, and in what order the house and senate would act on the vice presidential nomination; and whether there should be confirmation hearings by a joint "select" committee — one set up for a specific purpose — or by standing committees such as the rules or judiciary committees. Congressional leaders have thus far refused to talk publicly about such questions, although they are known to have discussed them among themselves.

Representative John B. Anderson (Rep-Ill.), who is a member of the House Rules Committee, made a

suggestion that the committee has adopted: that the Select Committee on Committees draw up possible rules for house action on vice presidential nominations.

Beyond the disagreements as to procedure — some congressmen are known to favor a select committee, while others believe that a special committee is not needed — lie the sticky questions of politics. Many Democrats, including Democratic National chairman Robert Strauss, are known to be concerned about the possibility of voting on the confirmation of a new vice president who might become the Republican presidential candidate in 1976.

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