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Procedure Now Exists to Fill Vacancy

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WASHINGTON, Oct. 10—With the resignation of Spiro T. Agnew, the United States is without a Vice President for the 17th time in its history. But for the first time, a procedure exists for filling the 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 the 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.

The Crucial Sections

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.

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 assassination in 1963 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 dispute 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.

Congressional Approval

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."

Just how Congress would go

AMENDMENT XXV.

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

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

SECTION 3. Whenever the President transmits to the President pro tempore of the Senate and the

Excerpt from the 25th Amendment to the Constitution, which was ratified in 1967.

about this was unsaid; 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. Should there be confirmation hearings by a joint "select" committee—that is one such as the Watergate committee, set up for a specific purpose—or by standing committees such as Rules or Judiciary.

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, an Illinois Republican who is a member of the House Rules Committee, made a suggestion that the committee has adopted; namely, that the Select Committee on Committees draw up possible rules for House Action on Vice-Presidential nominations.

Beyond the disagreements as to procedure lie the far trickier questions of politics. Many Democrats, including Robert Strauss, the Democratic National Chairman, are known to be concerned about the possibility of confirming a Vice President who might turn out to be the Republicans' Presidential candidate in 1976.

THE 25TH AMENDMENT.

Section 1

Succession of Vice President to Presidency. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2

Vacancy in office of Vice President. 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.

Section 3

Vice President as Acting President. Whenever the President transmit to the President pro tempore 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 of-

office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4

Vice President as Acting President. Whenever the Vice President and a majority of either the principal officers of the executive departments or of 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 his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four 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 and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, 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.