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Naming an Interim President

If there is a reasonably nonpartisan, nonmessy way of dealing with the presidential succession problem in the event that Richard Nixon fails to complete his term, the legislation introduced last Friday by Sen. William D. Hathaway (D-Maine) may be it.

The bill is based on the proposal of Boston Mayor Kevin White that, in the event of a double vacancy of the presidency and vice presidency, the offices be filled through special elections.

But it avoids most of the shortcomings of the White proposal. Even Kevin White would prefer the Hathaway version.

Essentially, the bill calls for a special election in the case of a double vacancy with, *the highest ranking officer*

of the House of Representatives of the same party as the outgoing President serving as acting President until after the election.

In the present case, that means Minority Leader Gerald Ford.

Hathaway's bill steers a course between two conflicting notions. The first is that a President under the kind of cloud that President Nixon is under—and who quite possibly may be impeached, or at least resign under pressure and suspicion—has no moral right to appoint his successor. Thus the argument is that the Congress ought to reject any Nixon nomination for vice president, whether Ford or anyone else.

The other notion, widely held by Republicans, is that any move to reject

the Ford nomination would be a cheap-shot attempt on the part of a Democratic controlled Congress to undo the Republican landslide in the presidential election last year. Without some sort of special election legislation, the nonconfirmation of Ford as vice president would mean, in the event of Mr. Nixon's removal, the elevation of House Speaker Carl Albert, a Democrat, to the presidency.

Under the Hathaway measure, the Republicans would keep their victory until the electorate ruled otherwise. A similar measure introduced on Nov. 1 by Rep. Bella Abzug (D-N.Y.) would leave the present succession line unchanged, making Speaker Albert acting President until the election results were certified.

One difficulty with Mayor White's original proposal was the prospect that the special election of a new President would destroy the regular leap year cycle of presidential elections, there being no provision for shorter terms in the Constitution.

Sen. Hathaway tries to meet that one by limiting the term of the specially elected President to the unexpired term of the outgoing President. There still may be some Constitutional problems with that one.

The trouble with the present procedure, according to both Sen. Hathaway and Rep. Abzug, is the question of legitimacy. As Mrs. Abzug puts it, to fill a double vacancy through provisions of the 25th Amendment would leave the country with "three years of appointed administration."

Hathaway is at pains to make clear that he is not urging a double vacancy but merely offering an orderly means for dealing with one if it should occur.

My own feeling is that there could be far worse things than a double vacancy, particularly if the Hathaway bill were enacted. Some of those who have been urging quick approval of the Ford nomination have done so on the basis that refusal to confirm Ford would lead either to chaos or to the elevation of Albert, a member of the wrong party.

There is no question that rejection of Ford would create some confusion. But for so long as it is possible to avoid the kind of chaos that would threaten the national security, some confusion might be a good thing. As a matter of fact, if we get out of this too cheaply, we just might miss the point of the kind of mess we're already in.

As to the assumption of the presidency by a member of the "wrong" party, Hathaway makes a good deal of sense when he says:

"The mandate of last November's election belongs to Richard Nixon and Spiro Agnew, not their political party. While winning the White House, Republicans actually lost strength in the Senate and among the nation's governors. Given this fact, who is to say with any assurance what the mandate of 1972 was? . . .

"If the President leaves office, the mandate of last year is negated; it seems logical to me to allow the people themselves to decide who shall then receive what only they can rightfully give."