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Chapter 1: History of the Twenty-fifth Amendment

Presidential Disability Should Be Dealt with by Law, Not Amendment of the Constitution

Harry S. Truman
Writing in 1957, four years after leaving office, former president Truman argues that amending the Constitution to deal with presidential disability would not be flexible enough. He believes that a law should be passed appointing a committee to judge whether a president is incapacitated and giving Congress the right to declare the vice president as president upon the committee’s recommendation.

It Is Not Necessary to Amend the Constitution to Resolve Presidential Disability Questions

David Fellman
A professor argues in 1958 that it is uncertain whether in a case of presidential disability that the vice president would become president or merely acting president and that this should be resolved by legislation. It is Fellman’s opinion that a constitutional amendment is not necessary.

A Constitutional Amendment Is Needed to Clarify the Vice President’s Status in Case of Presidential Disability

George Cochran Doub
An assistant U.S. attorney general argues in 1959 that although in the past prolonged uncertainty about what powers the vice president could exercise in case of presidential disability was tolerable, in the age of nuclear weapons it is not, and a constitutional amendment to clarify this issue is needed.

The Nation Must Not Be Left Without a Vice President

Richard M. Nixon

In 1964, shortly after Lyndon Johnson became president upon the death of John F. Kennedy, former vice president Nixon argues that a vice president is needed and that a permanent solution to the problem of succession must be found. He proposes a constitutional amendment under which the electoral college would choose a vice president.

Congress Should Act to Amend the Constitution Regarding Executive Succession

Lyndon B. Johnson

In a 1965 message to Congress, President Johnson urges action on bills before Congress proposing a constitutional amendment to resolve a number of open questions concerning presidential disability and succession.

The Twenty-fifth Amendment Closes a Crucial Gap in Governmental Structure

John P. MacKenzie

At the time the Twenty-fifth Amendment was submitted to the states for ratification, a newspaper report describes its provisions and speculates about what would have happened if it had been in force during past presidential disability situations.

Chapter 2: The Twenty-fifth Amendment in Action

The Twenty-fifth Amendment

Was First Used When Gerald Ford Became Vice President

John D. Feerick
The Twenty-fifth Amendment was used for the first time in 1973 when Vice President Spiro Agnew resigned in the face of criminal charges of tax fraud and President Richard Nixon appointed Gerald Ford to replace him.

The Twenty-fifth Amendment Led to a Smooth Transfer of Power After President Nixon’s Resignation

_John F. Lawrence_

When President Nixon resigned in 1974 because of his involvement in the Watergate scandal, Vice President Gerald Ford automatically became president under the provisions of the Twenty-fifth Amendment. The transfer of power was smooth and restored the public’s respect for the presidency.

Nelson Rockefeller Was the Second Vice President Appointed Under the Twenty-fifth Amendment

_Alvin S. Felzenburg_

When Gerald Ford became president under the Twenty-fifth Amendment, he appointed Nelson Rockefeller as vice president. Congress held long hearings before Rockefeller was confirmed.

The Twenty-fifth Amendment Was Not Invoked When President Ronald Reagan Was Shot

_The Los Angeles Times_

In 1981 President Ronald Reagan was shot by a would-be assassin. Although he was in critical condition at first and his recovery was slow, the Twenty-fifth Amendment was not invoked, and later some believed that it should have been.

President Ronald Reagan Temporarily Transferred Power to the Vice President Before Undergoing Anesthesia

_Fred F. Fielding_

In 1985, prior to surgery during which he would be under anesthesia, President Ronald Reagan signed a letter temporarily transferring the powers of his office to vice president George H.W. Bush using the procedure required by the Twenty-fifth Amendment, but he did not explicitly invoke the amendment.
President George W. Bush Invoked the Twenty-fifth Amendment Before Undergoing Anesthesia

Associated Press
In 2007 (and previously in 2002) President Bush temporarily transferred the powers of his office to Vice President Dick Cheney before a routine medical procedure that required anesthesia. These were the first official invocations of the disability clause of the Twenty-fifth Amendment.

Chapter 3: Limitations of the Twenty-fifth Amendment

The Twenty-fifth Amendment Needs Clarification in Regard to Presidential Succession

Antonin Scalia
Antonin Scalia (then assistant U.S. attorney general and now a Supreme Court justice) argues that the Twenty-fifth Amendment does not provide for a case in which both the president and vice president are killed in a single catastrophe, or if the president dies without a vice president in office.

The Twenty-fifth Amendment's Provision for Dealing with Presidential Illness Is Inadequate

Kenneth R. Crispell and Carlos F. Gomez
A physician and a medical student argue that the Twenty-fifth Amendment is not adequate to ensure that a president will not resume duties too soon after disability, they also assert that its procedure for removing a disabled president against his will is too slow.

The Twenty-fifth Amendment Does Not Cover Possible Disability of the Vice President

Akhil Reed Amar and Vikram David Amar
Law professors point out that the Twenty-fifth Amendment does not address a situation in which the vice president is disabled or there is no vice president at the time the president becomes disabled. The amendment also does not cover the possibility of the death or disability of either of them after election but before inauguration.

**It Is Not Clear Who Could Authorize Nuclear Weapons Use If the President and Vice President Were Unavailable**

*William M. Arkin*

A columnist points out that it is unclear who would have the authority to use nuclear weapons if the president and vice president were disabled or unavailable immediately after a nuclear attack.

**The Presidential Succession Law Would Not Be Adequate After a Catastrophic Terrorist Act**

*John Cornyn*

A U.S. senator discusses situations following a terrorist attack during which it would not be clear who was president, leading to conflict about who could give orders to the armed forces and to law enforcement agencies.

**Under the Twenty-fifth Amendment a President Could Be Supplanted for Political Reasons**

*Adam R.F. Gustafson*

A law student argues that the wording of the Twenty-fifth Amendment could allow an ambitious vice president and misguided cabinet to oust the president during a critical period or even—with the cooperation of Congress—permanently.

### Chapter 4: Solutions to Potential Problems of Presidential Succession and Disability

**Congressional Leaders May Not Belong in the Line of Succession to the Presidency**

*Thomas H. Neale*
A report prepared for members of Congress points out that there is controversy about what the Constitution means by the word officer, and therefore about whether members of Congress can legally be in the line of succession to the presidency.

Recommended Changes to the Line of Succession to the Presidency

*Continuity of Government Commission*

In a June 2009 report the Continuity of Government Commission recommends that the present law be changed to remove congressional leaders from the line of succession and to replace all but the four top cabinet officials with newly created federal officers who live outside Washington, D.C.

The Line of Succession to the Presidency Should Include People Based Outside Washington

*M. Miller Baker*

An attorney suggests new ideas for presidential succession in the event of an attack on Washington, one of which would require a constitutional amendment allowing the president to appoint qualified individuals such as former presidents who live elsewhere.

Presidential Disability Problems Can Be Resolved Without a New Constitutional Amendment

*Robert E. Gilbert*

A political science professor describes the recommendations of the Working Group on Presidential Disability and argues that they would be the best solution to the presidential disability questions left open by the Twenty-fifth Amendment because they would retain flexibility.

The Proposal to Create a Medical Advisory Commission to Determine Presidential Disability Is Fatally Flawed

*Robert E. Gilbert*
A political science professor argues that determination of
disability, especially mental disability, requires sustained
observation and that periodic examination by a medical
advisory commission would increase the likelihood of ar-bitrary medical judgments and would also undermine
the presidential image of strength, thus harming the
president’s ability to lead.

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