

From the Offices of
SENATOR BIRCH BAYH (D-Ind.)
SENATOR THOMAS DODD (D-Conn.)
SENATOR KENNETH KEATING (R-N.Y.), and
SENATOR HIRAM FONG (R-Hawaii)

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AGREEMENT REACHED ON INABILITY
AND
VICE PRESIDENTIAL VACANCY AMENDMENT

WASHINGTON, D. C., May 23---The chairman and three members of the Senate Subcommittee on Constitutional Amendments announced today agreement in principle on a proposal to solve the problems of presidential inability and filling vacancies in the Vice Presidency.

Senators Birch Bayh (D-Ind.), chairman, Thomas Dodd (D-Conn.), Kenneth Keating (R-N.Y.), and Hiram Fong (R-Hawaii) agreed to support a subcommittee proposal similar to one backed by the American Bar Association.

Bayh said he will call the six-member subcommittee together next week, probably on Wednesday, to formally act on the proposal. The two other subcommittee members are Senators James Eastland (D-Miss.), and Everett Dirksen (R-Ill.).

"These members are currently studying the proposal we have agreed upon," Bayh, Dodd, Keating and Fong said in a joint statement. "At this point," they said, "we are assured that a majority of the subcommittee will approve the proposal and there are indications that it will be approved unanimously."

Favorable subcommittee action on the proposal will mark the first time since 1956, when full-scale Congressional study of the problems began, that a consensus has been reached on the related questions of how to fill a vacancy in the Vice Presidency and what to do in the event a President is unable to perform the duties of his office.

The proposal agreed to by Bayh, Dodd, Keating and Fong would amend the Constitution to enable the following.

1. Whenever a vacancy occurred in the office of Vice President, the President would nominate a Vice President subject to the approval of both Houses of Congress.
2. Whenever the President declared in writing that he was unable to discharge the powers and duties of his office, the Vice President would become Acting President until the President declared that his inability had terminated.

3. If the President did not make known his inability, the Vice President, with the concurrence of a majority of the Cabinet, could declare the President disabled and assume the powers and duties--but not the office -- of President.

4. If the President disputed the action of the Vice President and the Cabinet majority, the Congress would decide the issue. A two-thirds vote of both Houses of Congress would be required to enable the Vice President to continue as Acting President. Otherwise, the President would resume his powers and duties.

Keating joined in the agreement on a single condition: When the proposal reaches the Senate floor, he will seek a modification to authorize the Congress to determine by statute the procedures by which a President would be declared unable to discharge his duties and the method by which he would regain the powers and duties of his office. This, rather than spelling out inability procedures in the Constitution itself, is the approach favored by Keating and the late Senator Estes Kefauver (D-Tenn.) in S. J. Res. 35. If the modification is approved on the Senate floor, Bayh, Dodd and Fong have agreed to support it. If it is defeated, Keating has agreed to support the proposal as it presently stands.

The present proposal is a revision of S. J. Res. 139 introduced by Bayh and co-sponsored by Dodd, Fong and Senators Alan Bible (D-Nev.), Quentin N. Burdick (D-N. Dak.), Edward V. Long (D-Mo.), Frank E. Moss (D-Utah), James B. Pearson (R-Kan.), Claiborne Pell (D-R.I.) and Jennings Randolph (D-W. Va.).

Earlier, Keating had favored a constitutional amendment to provide for two vice presidents. He agreed, however, to support the formula embodied in S. J. Res. 139 for filling a vacancy in the Vice Presidency. Keating said: "If we continue to strive for what each feels is the best solution, we will never get anywhere. To reach a solution is more important than to attempt perfection. Therefore, everyone interested in this problem over the years must be ready to make some concessions in the interest of arriving at a consensus.

On Monday, Bayh, representing the subcommittee, will explain the proposal at a National Forum on Presidential Inability and Vice Presidential Vacancies. The forum, sponsored by the American Bar Association, will feature a luncheon speech by former President Dwight D. Eisenhower and presentations by former Florida Governor LeRoy Collins, former Attorney General Herbert Brownell, House Judiciary Committee Chairman Emanuel Celler of New York, and Edward L. Wright of Little Rock, chairman of the ABA's House of Delegates. Some 500 representatives of business, industry, labor and agriculture are expected to attend.

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IN THE SENATE OF THE UNITED STATES

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relating to cases where the President is unable to discharge the powers and duties of his office.

1 Resolved by the Senate and House of Representatives of the United States
2 of America in Congress assembled (two-thirds of each House concurring
3 therein), that the following article is proposed as an amendment to the
4 Constitution of the United States, which shall be valid to all intents and
5 purposes as part of the Constitution only if ratified by the legislatures
6 of three-fourths of the several States within seven years from the date of
7 its submission by the Congress:

"Article —

8 "SECTION 1. In case of the removal of the President from office or of his
9 death or resignation, the Vice President shall become President.
10. "SEC. 2. Whenever there is a vacancy in the office of Vice President, the
11. President shall nominate a Vice President who shall take office upon
12. confirmation by a majority vote of both Houses of Congress.
13. "SEC. 3. If the President declares in writing that he is unable to discharge
14. the powers and duties of his office, such powers and duties shall be
15. discharged by the Vice President as Acting President.
16. "SEC. 4. If the President does not so declare, and the Vice President with the
17. written concurrence of a majority of the heads of the executive departments
18. or such other body as Congress may by law provide, transmits to the Congress
19. his written declaration that the President is unable to discharge the powers
20. and duties of his office, the Vice President shall immediately assume the
21. powers and duties of the office as Acting President.

1 "SEC. 5. Whenever the President transmits to the Congress his written
2 declaration that no inability exists, he shall resume the powers and duties
3 of his office unless the Vice President, with the written concurrence of a
4 majority of the heads of the executive departments or such other body as
5 Congress may by law provide, transmits within two days to the Congress his
6 written declaration that the President is unable to discharge the powers and
7 duties of his office. Thereupon Congress shall immediately decide the issue.
8 If the Congress determines by two-thirds vote of both Houses that the
9 President is unable to discharge the powers and duties of the office, the
10 Vice President shall continue to discharge the same as Acting President;
11 otherwise the President shall resume the powers and duties of his office."