

S. J. RES. 139

[Report No. 1382]

IN THE SENATE OF THE UNITED STATES

DECEMBER 12 (legislative day, DECEMBER 11), 1963

Mr. BAYH (for himself, Mr. BARTLETT, Mr. BIBLE, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. COOPER, Mr. DODD, Mr. DOMINICK, Mr. DOUGLAS, Mr. EDMONDSON, Mr. ERVIN, Mr. FONG, Mr. HARTKE, Mr. INOUE, Mr. JAVITS, Mr. KUCHEL, Mr. LONG of Missouri, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MOSS, Mr. NELSON, Mr. PEARSON, Mr. PELL, Mr. RANDOLPH, Mr. SALTONSTALL, Mr. SCOTT, Mr. SIMPSON, and Mr. YOUNG of Ohio) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

AUGUST 13, 1964

Reported by Mr. BAYH, with amendments

[Omit the part struck through and insert the part printed in italic]

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and 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*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the following*
4 article is proposed as an amendment to the Constitution of
5 the United States, which shall be valid to all intents and
6 purposes as part of the Constitution when ratified by the
7 legislatures of three-fourths of the several ~~States:~~ *States within*
8 *seven years from the date of its submission by the Congress:*

1 "ARTICLE —

2 "SECTION 1. In case of the removal of the President
3 from office, or of his death or resignation, the Vice President
4 shall become President for the unexpired portion of the
5 then current term. Within a period of thirty days there-
6 after, the new President shall nominate a Vice President
7 who shall take office upon confirmation by both Houses of
8 Congress by a majority of those present and voting.

9 "SEC. 2. In case of the removal of the Vice President
10 from office, or of his death or resignation, the President,
11 within a period of thirty days thereafter, shall nominate a
12 Vice President who shall take office upon confirmation by
13 both Houses of Congress by a majority vote of those present
14 and voting.

15 "SEC. 3. If the President shall declare in writing that
16 he is unable to discharge the powers and duties of his office,
17 such powers and duties shall be discharged by the Vice
18 President as Acting President.

19 "SEC. 4. If the President does not so declare, the Vice
20 President, if satisfied that such inability exists, shall, upon
21 the written approval of a majority of the heads of the execu-
22 tive departments in office, assume the discharge of the powers
23 and duties of the office of Acting President.

24 "SEC. 5. Whenever the President makes public an-
25 nouncement in writing that his inability has terminated, he

1 shall resume the discharge of the powers and duties of his
2 office on the seventh day after making such announcement,
3 or at such earlier time after such announcement as he and
4 the Vice President may determine. But if the Vice Presi-
5 dent, with the written approval of a majority of the heads of
6 executive departments in office at the time of such announce-
7 ment, transmits to the Congress his written declaration that
8 in his opinion the President's inability has not terminated,
9 the Congress shall thereupon consider the issue. If the Con-
10 gress is not then in session, it shall assemble in special session
11 on the call of the Vice President. If the Congress determines
12 by concurrent resolution, adopted with the approval of two-
13 thirds of the Members present in each House, that the inabil-
14 ity of the President has not terminated, thereupon, notwith-
15 standing and further announcement by the President, the
16 Vice President shall discharge such powers and duties as
17 Acting President until the occurrence of the earliest of the
18 following events: (1) the Acting President proclaims that
19 the President's inability has ended, (2) the Congress de-
20 termines by concurrent resolution, adopted with the approval
21 of a majority of the Members present in each House, that
22 the President's inability has ended, or (3) the President's
23 term ends.

24 SEC. 6. (a) (1) If, by reason of death, resignation,
25 removal from office, inability, or failure to qualify, there is

1 neither a President nor Vice President to discharge the
2 powers and duties of the office of President, then the officer
3 of the United States who is highest on the following list, and
4 who is not under disability to discharge the powers and duties
5 of the office of President, shall act as President: Secretary of
6 State, Secretary of Treasury, Secretary of Defense, Attorney
7 General, Postmaster General, Secretary of Interior, Secretary
8 of Agriculture, Secretary of Commerce, Secretary of Labor,
9 Secretary of Health, Education, and Welfare, and such other
10 heads of executive departments as may be established here-
11 after and in order of their establishment.

12 “(2) The same rule shall apply in the case of the death,
13 resignation, removal from office, or inability of an individual
14 acting as President under this section.

15 “(3) To qualify under this section, an individual must
16 have been appointed, by and with the advice and consent of
17 the Senate, prior to the time of the death, resignation, re-
18 moval from office, or inability of the President and Vice
19 President, and must not be under impeachment by the House
20 of Representatives at the time the powers and duties of the
21 office of President devolve upon him.

22 “(b) In case of the death, resignation, or removal of
23 both the President and Vice President, his successor shall be
24 President until the expiration of the then current presidential
25 term. In case of the inability of the President and Vice-

1 President to discharge the powers and duties of the office
2 of President, his successor, as designated in this section, shall
3 be subject to the provisions of sections 3, 4, and 5 of this
4 article as if he were a Vice President acting in case of dis-
5 ability of the President.

6 “(c) The taking of the oath of office by an individual
7 specified in the list of paragraph (1) of subsection (a) shall
8 be held to constitute his resignation from the office by virtue
9 of the holding of which he qualifies to act as President.

10 “(d) During the period that any individual acts as
11 President under this section, his compensation shall be at the
12 rate then provided by law in the case of the President.

13 “SEC. 7. This article shall be inoperative unless it shall
14 have been ratified as an amendment to the Constitution by
15 the legislatures of three-fourths of the several States within
16 seven years from the date of its submission.”

17 “ARTICLE —

18 “SECTION 1. *In case of the removal of the President*
19 *from office or of his death or resignation, the Vice President*
20 *shall become President.*

21 “SEC. 2. *Whenever there is a vacancy in the office of*
22 *the Vice President, the President shall nominate a Vice*
23 *President who shall take office upon confirmation by a ma-*
24 *jority vote of both Houses of Congress.*

25 “SEC. 3. *If the President declares in writing that he*

1 *is unable to discharge the powers and duties of his office,*
2 *such powers and duties shall be discharged by the Vice*
3 *President as Acting President.*

4 “*SEC. 4. If the President does not so declare, and the*
5 *Vice President with the written concurrence of a majority*
6 *of the heads of the executive departments or such other body*
7 *as Congress may by law provide, transmits to the Congress*
8 *his written declaration that the President is unable to dis-*
9 *charge the powers and duties of his office, the Vice President*
10 *shall immediately assume the powers and duties of the office*
11 *as Acting President.*”

12 “*SEC. 5. Whenever the President transmits to the Con-*
13 *gress his written declaration that no inability exists, he shall*
14 *resume the powers and duties of his office unless the Vice*
15 *President, with the written concurrence of a majority of the*
16 *heads of the executive departments or such other body as*
17 *Congress may by law provide, transmits within two days*
18 *to the Congress his written declaration that the President*
19 *is unable to discharge the powers and duties of his office.*
20 *Thereupon Congress shall immediately decide the issue. If*
21 *the Congress determines by two-thirds vote of both Houses*
22 *that the President is unable to discharge the powers and*
23 *duties of the office, the Vice President shall continue to dis-*
24 *charge the same as Acting President; otherwise the President*
25 *shall resume the powers and duties of his office.*”