

FOR RELEASE ON DELIVERY TO THE SENATE OR TO  
THE HOUSE OF REPRESENTATIVES, January 28, 1965

Office of the White House Press Secretary

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THE WHITE HOUSE

TO THE CONGRESS OF THE UNITED STATES:

In 1787, Benjamin Franklin remarked near the conclusion of the Constitutional Convention at Philadelphia, "It...astonishes me, Sir, to find this system approaching so near to perfection as it does..."

One-hundred-seventy-eight years later the relevance of that Constitution of 1789 to our society of 1965 is remarkable. Yet it is truly astonishing that, over this span, we have neither perfected the provisions for orderly continuity in the Executive direction of our system nor, as yet, paid the price our continuing inaction so clearly invites and so recklessly risks.

I refer, of course, to three conspicuous and long-recognized defects in the constitution relating to the Office of the Presidency:

1. The lack of a constitutional provision assuring the orderly discharge of the powers and duties of the President -- Commander-in-Chief -- in the event of the disability or incapacity of the incumbent.

2. The lack of a constitutional provision assuring continuity in the Office of the Vice President, an Office which itself is provided within our system for the primary purpose of assuring continuity.

3. The lack of a constitutional provision assuring that the votes of electors in the Electoral College shall without question reflect the expressed will of the people in the actual election of their President and Vice President.

Over the years, as I have noted, we have escaped the mischief these obvious omissions invite and permit. Our escape has been more the result of Providence than of any prudence on our part. For it is not necessary to conjure the nightmare of nuclear holocaust or other national catastrophe to identify these omissions as chasms of chaos into which normal human frailties might plunge us at any time.

On at least two occasions in our history, and perhaps others, American presidents -- James Garfield and Woodrow Wilson -- have for prolonged periods been rendered incapable of discharging their Presidential duties. On sixteen occasions in our thirty-six Administrations, the Office of Vice President has been vacant -- and over the two perilous decades since the end of the Second World War, that vital office has been vacant the equivalent of one year out of four. Finally, over recent years, complex but concerted campaigns have been openly undertaken -- fortunately without success, as yet -- to subvert the Electoral College so that it would register not the will of the people of individual states but, rather, the wishes of the electors themselves.

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The potential of paralysis implicit in these conditions constitutes an indefensible folly for our responsible society in these times. Common sense impels, duty requires us to act -- and to act now, without further delay.

Action is in the tradition of our forebears. Since adoption of "The Bill of Rights" -- the first ten Amendments to our Constitution -- nine of the fourteen subsequent Amendments have related directly either to the Offices of the Presidency and Vice Presidency or to assuring the responsiveness of our voting processes to the will of the people. As long ago as 1804 and as recently as 1964, Americans have amended their Constitution in striving for its greater perfection in these most sensitive and critical areas.

I believe it is the strong and overriding will of the people today that we should act now to eliminate these unhappy possibilities inherent in our system as it now exists. Likewise, I believe it is the consensus of an overwhelming majority of the Congress -- without thought of partisanship -- that effective action be taken promptly. I am, accordingly, addressing this communication to both Houses to ask that this prevailing will be translated into action which would permit the people, through the process of constitutional amendment, to overcome these omissions so clearly evident in our system.

#### I. Presidential Inability

Our Constitution clearly prescribes the order of procedure for assuring continuity in the Office of the Presidency in the event of the death of the incumbent. These provisions have met their tragic tests successfully. Our system, unlike many others, has never experienced the catastrophe of disputed succession or the chaos of uncertain command.

Our stability is, nonetheless, more superficial than sure. While we are prepared for the possibility of a President's death, we are all but defenseless against the probability of a President's incapacity by injury, illness, senility or other affliction. A nation bearing the responsibilities we are privileged to bear for our own security -- and the security of the Free World -- cannot justify the appalling gamble of entrusting its security to the immobilized hands or uncomprehending mind of a Commander-in-Chief unable to command.

On September 29, 1964, the Senate passed Senate Joint Resolution 139, proposing a constitutional amendment to deal with this perplexing question of Presidential disability -- as well as the question, which I shall discuss below, of filling vacancies in the Office of Vice President. The same measure has been introduced in this Congress as S. J. Res. 1 and H. J. Res. 1. The provisions of these measures have been carefully considered and are the product of many of our finest constitutional and legal minds. Believing, as I do, that S. J. Res. 1 and H. J. Res. 1 would responsibly meet the pressing need I have outlined, I urge the Congress to approve them forthwith for submission to ratification by the states.

#### II. Vacancy in the Office of the Vice President

Indelible personal experience has impressed upon me the indisputable logic and imperative necessity of assuring that the Second Office of our system shall, like the First Office, be at all times occupied by an incumbent who is able and who is ready to assume the powers and duties of the Chief Executive and Commander-in-Chief.

In our history, to this point, the Office of the Presidency has never devolved below the first clearly-prescribed step of constitutional succession. In moments of need, there has always been a Vice President, yet Vice Presidents are no less mortal than Presidents. Seven men have died in the Office and one has resigned -- in addition to the eight who left the Office vacant to succeed to the Presidency.

We recognized long ago the necessity of assuring automatic succession in the absence of a Vice President. Various statutes have been enacted at various times prescribing orders of succession from among either the presiding officers of the Houses of Congress or the heads of Executive Departments who, together, comprise the traditional Cabinet of the President. In these times, such orders of succession are no substitute for an office of succession.

Since the last order of succession was prescribed by the Congress in 1947, the Office of the Vice Presidency has undergone the most significant transformation and enlargement of duties in its history.

Presidents Truman, Eisenhower and Kennedy have successively expanded the role of the Vice President, even as I expect to do in this Administration.

Once only an appendage, the Office of Vice President is an integral part of the chain of command and its occupancy on a full-time basis is imperative.

For this reason, I most strongly endorse the objective of both S. J. Res. 1 and H. J. Res. 1 in providing that whenever there is a vacancy in the Office of Vice President, provision shall exist for that Office to be filled with a person qualified to succeed to the Presidency.

### III. Reform of the Electoral College System

We believe that the people should elect their President and Vice President. One of the earliest amendments to our Constitution was submitted and ratified in response to the unhappy experience of an Electoral College stalemate which jeopardized this principle. Today there lurks in the Electoral College system the ever-present possibility that electors may substitute their own will for the will of the people. I believe that possibility should be foreclosed.

Our present system of computing and awarding electoral votes by states is an essential counterpart of our Federal system and the provisions of our Constitution which recognize and maintain our nation as a union of states. It supports the two party system which has served our nation well. I believe this system should be retained. But it is imperative that the electoral votes of a state be cast for those persons who receive the greatest number of votes for President and Vice President -- and for no one else.

At the same time, I believe we should eliminate the omission in our present system which leaves the continuity of the offices of President and Vice President unprotected if the persons receiving a majority of the electoral votes for either or both of these offices should die after the election in November and before the Inauguration of the President. Electors are now legally free to choose the President without regard to the outcome of the election. I believe that if the President-Elect dies under these circumstances, our laws should provide that the Vice President-Elect should become President when the new term begins.

Conversely, if death should come to the Vice President-Elect during this interim, I believe the President-Elect should, upon taking office, be required to follow the procedures otherwise prescribed for filling the unexpired term of the Vice President. If both should die or become unable to serve in this interim, I believe the Congress should be made responsible for providing the method of selecting officials for both positions. I am transmitting herewith a draft Amendment to the Constitution to resolve these problems.

Favorable action by the Congress on the measures here recommended will, I believe, assure the orderly continuity in the Presidency that is imperative to the success and stability of our system. Action on these measures now will allay future anxiety among our own people -- and among the peoples of the world -- in the event senseless tragedy or unforeseeable disability should strike again at either or both of the principal offices of our constitutional system. If we act now, without undue delay, we shall have moved closer to achieving perfection of the great constitutional document on which the strength and success of our system have rested for nearly two centuries.

LYNDON B. JOHNSON

THE WHITE HOUSE,

January 28, 1965.

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