

Twenty-fifth Amendment

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(1965)

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“When a stunned nation mourned the tragedy of President Kennedy’s assassination in 1963, questions were again raised about presidential succession and national stability. What if the Vice President had also been struck down?”

— Senator Birch Bayh, chair of the Senate subcommittee that drafted the amendment, in *American Roulette: The History and Dilemma of the Vice*

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WHAT IT SAYS

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

WHAT IT MEANS

Following the assassination of President John F. Kennedy in November 1963, Vice President Lyndon B. Johnson became President, and the office of Vice President sat vacant for more than a year until the next election. The Twenty-fifth Amendment was then passed to allow the President to appoint a Vice President if that office becomes vacant, subject to a vote of approval by the House and Senate. The Twenty-fifth Amendment also clarifies what happens upon the death, resignation, or temporary incapacity of the President.

The Twenty-fifth Amendment went into effect in 1967 and was first applied in 1973 upon the resignation of Vice President Spiro Agnew, who was facing charges of bribery and corruption. President Richard Nixon then appointed House Republican minority leader Gerald R. Ford as the new Vice President. Less than a year later, Nixon resigned the Presidency as a result of the Watergate scandal. Ford became President and appointed former New York governor Nelson Rockefeller as Vice President. Ford and Rockefeller thus became the nation's first unelected team of President and Vice President.

If a President should fall seriously ill or for some other reason must temporarily step down, the amendment provides that the President give notice of the disability to the president pro tempore of the Senate (the presiding officer of the Senate) and the Speaker of the House. The Vice President is then authorized to serve as acting President to carry on the President's duties. The President can resume the duties of office upon giving appropriate notice to the congressional leadership. The Vice President and the cabinet can ask for a vote of Congress should they doubt the President's fitness to resume office. A vote of two-thirds of each house is required to prevent a President's return.

The "acting President" provision of the Twenty-fifth Amendment was first invoked on July 13, 1985, when President Ronald Reagan underwent cancer surgery. He signed a letter transferring power to Vice President George H.W. Bush and sent another letter to the Speaker of the House and president pro tempore of the Senate, as the amendment required. Following his surgery, Reagan notified them that he was fit to resume his Presidential duties. In 2002, President George W. Bush signed similar letters to transfer power temporarily to Vice President Dick Cheney, while Bush was sedated briefly during a medical procedure known as a colonoscopy.

THE NATION'S FIRST UNELECTED PRESIDENT

In October 1973, Spiro Agnew resigned as Vice President after pleading no contest to charges of having taken bribes. President Richard Nixon recognized that under the Twenty-fifth Amendment his choice to replace Agnew would require confirmation by both the Senate and House. The Republican congressional leaders favored former governors Nelson Rockefeller and Ronald Reagan (who tied), Treasury Secretary John Connally, and House Republican leader Gerald Ford, in that order. When Nixon discussed the candidates with the Democratic leaders in Congress, Ford topped their list. Ford accepted Nixon's offer to become Vice President, and both houses easily confirmed him. At the time, President Nixon was being investigated for his role in the break-in at the Democratic Party headquarters in the Watergate building, and tapes he had secretly made of his conversations in the White House provided evidence of his participation in a cover-up of the crime. As the House moved toward impeaching him, he resigned in August 1974. The vacancy made Ford the nation's first unelected President, and demonstrated the value of the Twenty-fifth Amendment. The Presidency changed hands, but not party. Although unelected, Ford had risen to the office through legitimate constitutional means and his assumption of Presidential power went unquestioned. One of Ford's first acts as President was to appoint former New York governor Nelson Rockefeller as Vice President, so that by the end of 1974 both of the top executive posts had been filled.

Twenty-fifth Amendment

Vice President John Tyler becomes President

→ 1841

On the morning of April 5, 1841, Vice President John Tyler is informed that President William Henry Harrison had died of pneumonia the previous day. Some members of Harrison's cabinet view Tyler as "Vice President, acting as President," but Tyler is determined to be President in his own right. He rejects calls for a Presidential election, and serves for the remainder of Harrison's term. Although Tyler asserts the full powers of the Presidency, there are many who continue to call him "His Accidency."

A plot against the President and Vice President

→ 1865

When John Wilkes Booth shoots President Abraham Lincoln on April 14, 1865, other conspirators working with him are sent to kill the Vice President and Secretary of State, who are next in line to succeed to the Presidency. The conspirators believe that this will destabilize the Union government. Although President Lincoln died, conspirator George Atzerodt lost his nerve and fled without assailing Vice President Andrew Johnson, and Lewis Powell is able only to wound Secretary of State William Seward. Johnson takes the oath of office as President and the federal government continues to function despite the tragedy.

President Ford chooses his own Vice President

→ 1974

President Ford nominates former New York governor Nelson A. Rockefeller to become Vice President, filling the vacancy his own elevation to the Presidency has created. Congress conducts lengthy hearings on Rockefeller but eventually confirms him several months later. For the first time, the voters have elected neither the President nor the Vice President in a national election.

The Twenty-fifth Amendment is considered after the President is

→ 1981

A deranged man shoots President Ronald Reagan outside a hotel in Washington, D.C. While the President is undergoing surgery, his advisers discuss invoking the Twenty-fifth Amendment, but reject the idea. Secretary of State Alexander Haig claims, contrary to the constitutional line of succession, that he was "in charge" until Vice President George H.W. Bush returns to Washington.

TIMELINE

President Kennedy is assassinated

1963

While riding in a motorcade in Dallas, Texas, President John F. Kennedy is shot and killed. Vice President Lyndon Johnson takes the oath as President, but the Vice Presidency then remains vacant for more than a year until the next election. Johnson had suffered a heart attack several years earlier, and the Speaker of the House and president pro tempore of the Senate, next in line of succession, are both elderly men. Congress acts to rectify this situation by sending to the states the Twenty-fifth Amendment.

Vice President Agnew resigns

1973

Charged with tax fraud and bribery, Vice President Spiro Agnew resigns from office. Two months later, President Richard Nixon nominates the House Republican minority leader, Gerald R. Ford, to become Vice President, the first time that the Twenty-fifth Amendment is invoked. Ford is confirmed by the Senate and House.

Vice President Ford becomes President

1974

In 1972, five burglars are arrested while breaking into the offices of the National Democratic Committee located at the Watergate building in Washington, D.C. Newspaper accounts soon link President Richard Nixon to the incident. The Senate holds a lengthy investigation that uncovers evidence that links Nixon to the burglary and subsequent cover-up. As the House Judiciary Committee moves toward recommending Nixon's impeachment, he resigns the Presidency. Vice President Gerald Ford is then sworn in as President.

The Vice President serves as "Acting President"

1985

President Ronald Reagan undergoes an operation to remove cancerous tissue from his colon. Before undergoing the procedure, Reagan sends a letter to the House and Senate, indicating that Vice President Bush will serve as acting President during the eight hours that Reagan is under anesthesia. However, the President does not expressly invoke the Twenty-fifth Amendment.

President Bush makes plans to turn over power

1991

Upon learning that he has an irregular heartbeat, President George H.W. Bush announces that Vice President Dan Quayle will be acting President if the President requires electric shock therapy. As the treatment is never required, power is never transferred. Like President Bush, President Bill Clinton plans for the possibility of a disabling illness, including how and when power will be turned over to the Vice President. These plans are never needed.

First formal use of disability clause

2002

When President George W. Bush undergoes a medical treatment that requires anesthesia, he transfers power to Vice President Dick Cheney for the hour that he will be sedated. This is the first formal use of the disability clause.