Society or the keyhole through which the Federal Government will assume control of the Nation's public schools?

Conceivably it could be either. But those who fear the evil of Federal control may be reacting too strongly too soon. The weight of evidence suggests that State and local authorities can make good use of the new benefits without diminishing their present roles.

For one thing, Federal funds will not be entirely new to many local hands. Springfield, for example, has had a generally favorable experience with money supplied to federally impacted areas.

Nevertheless, the act is a breakthrough to new ground. It will provide $1.3 billion to 94 percent of the country's public school districts in the year starting July 1, with subsequent authorizations to be measured against needs. Massachusetts is eligible for nearly $20 million, and Springfield for a portion of that.

The dominant philosophy of this measure—to improve the public education offered youngsters in poor neighborhoods—presents an unprecedented challenge to local administrators and policymaking boards. If lack of money has been an obstacle to spreading the quality of education around evenly in the past, this obstacle, at least, is being lessened.

The task will be to direct the funds where the most good will be done the underprivileged children, rather than on improvements where education already is good. Communities may have to face hard choices between elaborate new buildings, on the one hand, and additional teachers—perhaps with a bonus for special skills at inspiring slum inhabitants—on the other.

The national civil rights awakening and the war on poverty are very much involved. In fact, the antipoverty effort may overlap the educational effort at some points. That is one of the hazards of falling back on the admittedly cumbersome Federal machinery to finance local programs.

But it is hard to see how the hard-taxed States and localities can make the necessary advances in these areas without reclaiming a greater share of the Federal tax dollar. That is what is happening now, and it will be advantageous to the next generation of Americans if the present generation of administrators measures up to the challenge and opportunity.

[From the Boston Globe, Apr. 13, 1965]

MILESTONE IN EDUCATION

The signing by President Johnson of the $1.3 billion aid-to-education bill is a milestone. It was preceded by decades of deadlock and bitter fighting, and in almost all the earlier struggles the sticking point was Federal aid to parochial schools.

The overwhelming Senate vote on the measure Friday night, in just the form the administration wanted it, was Mr. Johnson's greatest legislative victory. He was obviously deeply moved when he affixed his signature to it at the old Texas country school where he had his first lessons, and gave the pen he used to his first teacher.

He said then he deeply believed that "no law I have signed or will ever sign means more to the future of our Nation."

Of the $1.3 billion aid package for this year, Massachusetts is slated to get a relatively small portion, about $19.6 million. The reason lies in the distribution formula, which primarily aids schools in areas of poverty. The Bay State's percentage of children from low-income families (under $2,000) is among the lowest of the States—namely 4 percent. The upshot is that the bulk of the "educational poverty" dollars will go to the rural Southern States. It may help their attitude in education for Negroes.

A more equitable formula may be worked out in years to come. But most Massachusetts residents will be content for now that a major general aid-to-education measure has at last been passed. They will recall the acrid row in 1949 over aid to parochial schools in the late Senator Robert A. Taft's bill. The bitterness reached its height in a public spat between Francis Cardinal Spellman and the late Mrs. Eleanor Roosevelt. The cardinal later quarreled publicly with the late President Kennedy—who believed that direct Federal aid to parochial schools is unconstitutional.

The new measure will provide aid to private and church schools—but indirectly. For pupils in all schools it will provide textbooks, library facilities and a wide assortment of educational services they do not now have.

The main point of the administration is that the Federal aid will go to parochial pupils—not parochial schools. In this way it is hoped that the divisive issue will have been skirted, and that the law will survive a constitutional challenge.

That such a challenge will come is a certainty. There are sincere persons and groups who are all for Federal aid to education—but feel that the new law simply does not meet the constitutional test of the separation of church and State. But even if the high court should knock out this indirect aid to parochial schools, it does not mean that Federal funds would stop flowing into public schools. The two can be separated.

Even with the relatively small size of Massachusetts' allotment, its receipt here will be most welcome. The big lift, of course, would come with legislative passage of the Willis report recommendations, and a new tax program to relieve property owners.

The Federal Constitution is silent, specifically, on aid to religious schools, as well as to parochial pupils. The sooner the Supreme Court makes a definitive ruling, the sooner there will be an end to second-guessing and anxiety.

SETTING THE RECORD STRAIGHT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. DE LA GARZA] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, there is an organization headquartered near the city of Mercedes, in the 15th Congressional District of Texas, known as the Confederate Air Force.

This is not a warlike organization. It is not a political organization. I suppose one might properly call it a sentimental and patriotic organization. It has one purpose, and only one: to preserve and enshrine the World War II aircraft and to honor the pilots who flew these planes and helped to defeat the tyrannical forces that threatened to overrun the world.

I know personally many of the fine men making up this organization, and I join them in deploring the fallacious news accounts which appeared recently to the effect that incendiary leaflets had been dropped over Selma, Ala., from a Confederate Air Force plane.

Nothing of the kind happened.

The Confederate Air Force has no affiliation whatsoever with any of the white supremist groups, or with any civil rights group. It does not have even one member in the Alabama area, nor does it have any aircraft within 1,500 miles of Selma, Ala.

Immediately upon hearing of the false charge, I asked the Federal Aviation Agency to make every possible effort to learn the identity of the pilot responsible for dropping the leaflets. The FAA sent two inspectors to the Selma area from its southern regional office in Atlanta, Ga., and they worked throughout the night running down leads.

The FAA has reported to me:

Our inspectors talked to U.S. marshals, border patrol, National Guard, and FBI people; however, none was able to tell us from which aircraft the drop was made since there were several aircraft in the vicinity.

If the pilot can ever be identified, the Confederate Air Force is prepared to file charges against him for falsely representing himself as a member of that organization.

Mr. Speaker, I deem it highly proper to make this known to you and to the Members of this House, that there is no finer group of men, and no more dedicated Americans, who cherish and love this country and the principles on which it was founded, than the men who compose the Confederate Air Force.

CONTINUITY OF THE PRESIDENT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. WOLFF] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WOLFF. Mr. Speaker, in accordance with my vote to pass the President's succession bill, I wish to make my views on this subject clearly written in the RECORD.

For more than 1¾ centuries this Nation has played a dangerous form of brinkmanship with the highest office in our land, the office which today is without a doubt the most powerful and influential in the democratic world.

This bill, we have passed, will rectify previous inconsistencies and lack of concise planning in the following important processes: discharging the powers and duties of the President in the event of his disability or incapacity; and assuring the continuity in office of the Vice President.

It can readily be seen that hesitation and lack of direction in the above areas lead to potential paralysis of our form of government. Surely none can deny the seriousness of these voids in conjunction with the position our country assumes in the free world. That we have escaped the possible tragic repercussions of these omissions have, as the President has said, "been more the result of providence than any prudence on our part."

I am happy that we have acted with diligence and speed to pass this bill. This was a bill which cut across party lines; partisan politics must and were relegated to extinction so that we could concentrate on the most sacred of legis-

lative pronouncements—the amendment of our Constitution.

The importance of the office of President need not be dwelled on; the importance of the office of Vice President has been indelibly written by the tragic events in November 1963. The Vice President, outside of his increased authority, participation, and responsibility as an elected official, must be a position which allows instantaneous transition to the powers of the Presidency. Under this bill we have a significant departure from previous law on the subject. It declares that when the Vice-Presidency becomes vacant, the President shall nominate a candidate who shall take office after confirmation by a majority vote of both Houses of Congress. One of the principal reasons for filling the office of Vice President when it becomes vacant is to permit the person next in line to become familiar with the problems he will face should he be called upon to act as President: If we are to achieve this end, we must assure that the position will be filled by a person who is compatible to the President. Cognizance of this principle has led the major political parties to allow the presidential candidate to choose his own candidate for Vice President. In this way, the country would be assured of a Vice President of the same political party as the President, someone who would presumably work in harmony with the basic policies of the President.

The incapacity or disability of the President has also been resolved by this bill. The Constitution while offering procedure to fill the vacancy of Presidency, in case of death or our Chief Executive, is silent on the procedure when the President is incapacitated by injury, illness, senility, or other infliction. The country's security and movement must not be entrusted to the immobilized hands or incomprehending mind of a Commander in Chief, unable to command.

We have passed a bill which will allow the transitions of power to move to the Vice President and back to the President in case of the latter's disability. The finalizing of this plan will lend continuity of power and leadership to the office of the Presidency. The past history of our country has illuminated sequences in which this country was stagnated due to a President's disability. I implored this House to act, and they have, to prevent the possibility that this Nation will be encumbered with an Executive who cannot act.

FARLEY ON VIETNAM

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. PEPPER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. PEPPER. Mr. Speaker, undoubtedly members of both parties have been fondly aware of a great American and patriot, Mr. James A. Farley, former Democratic National Committee chairman and Postmaster General, whom we affectionately call "Jim." Mr. Farley was in my district last week and was interviewed by an outstanding reporter, Mr. Jack Kofoed of the Miami Herald on April 7. On April 6, Mr. Farley's wisdom appeared in the Miami Herald strongly supporting the present administration's current policy toward Vietnam. I am happy to have this appear in the body of the RECORD for my colleagues' information:

[From the Miami (Fla.) Herald, Apr. 6, 1965]

FARLEY LAUDS VIET POLICY

Jim Farley, former Postmaster General and Democratic National Committee chairman, declared here Monday he wholeheartedly endorses the Johnson administration policies in Vietnam adding that "we have no other choice in the matter."

"We're in there and it's our fight whether we like it or not," Farley told reporters during a brief stopover in Miami. "The thing I'm sorry about is that other nations are not giving us more assistance.

"I thoroughly approve of what President Johnson and the administration are doing in Vietnam and I think this is the attitude of a vast majority of the American people," Farley said.

He said he sees no danger of Vietnam accelerating into World War III "because of the potential nuclear strength we have."

The 76-year-old Farley, who just completed a 2-week business trip to the Caribbean area as board chairman of the Coca Cola Export Corp., said he believes "Lyndon B. Johnson will undoubtedly go down as one of the truly great Presidents of our country."

[From the Miami (Fla.) Herald, Apr. 7, 1965]

JACK KOFOED SAYS "THANKS" IS A WORD NOT TOO OFTEN USED

The phone jangled. I answered. The voice was strong, vigorous. It said: "Hello, Jack. This is Jim Farley."

Jim was chairman of the New York Athletic Commission when I went to work in Big Town. He was a man of Irish charm, keen intelligence, an unsurpassed knowledge of politics, and an amazing memory. Farley went on to maneuver Franklin Delano Roosevelt into the Presidency, and get him reelected by the greatest landside of votes ever known in our history until Lyndon Johnson's election last year. For years Jim has headed Coca Cola's export division.

We liked each other in the old days, but our paths were widely divergent. I saw him a few times during the Roosevelt days, and occasionally thereafter. But James Aloysius Farley's memory reaches far into the past. He isn't one to forget someone he liked when we were all younger and the world was not so tense.

When he passes through Miami on his way to South America, he calls, and we chat a bit. It is the kind of thoughtfulness that makes the world a warmer place in which to live.

My day was brighter because of his call. A small thing in itself, perhaps, but it is a continuation of small things that bring a lift to the heart.

Before Jim's call, the day had started well. I had written a piece about Debbie Reynolds when she was here. A note came from her in Beverly Hills, thanking me for being nice to her.

Thanks is a word not often used, particularly to columnists, so Debbie Reynolds' thoughtfulness, and Jim Farley's, gave me a great lift.

Courtesy is the most neglected of all attributes to a happy life. Lack of it causes thousands of deaths by automobiles, breaks up marriages, makes enemies of those who should be friends. People like Jim Farley and Debbie Reynolds are instinctively courteous because they are nice people, way deep down nice people. Everyone cannot only help make the days of others pleasanter because of thoughtfulness, but their own much happier, too.

NEW YORK CITY IN CRISIS—PART XLVIII

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MULTER. Mr. Speaker, I commend to the attention of our colleagues the following articles from the New York Herald Tribune of March 5, 1965 on the continuing crime crisis in New York.

The articles are a part of the series on "New York City in Crisis," and follow:

NEW YORK CITY IN CRISIS: COURTS, PUBLIC CRITICIZED BY MURPHY

(NOTE.—In yesterday's "New York City in Crisis," the Herald Tribune documented the growing fear of violence in the streets and even the homes of New York as viewed through the eyes of its citizens. Today, Police Commissioner Murphy, three district attorneys, and the head of the Patrolmen's Benevolent Association give their views as to what should be done.)

(By Barry Gottehrer, of the Herald Tribune staff)

Charging that judicial decisions and public indifference have handicapped the police department's efforts to protect the city's 8 million people, Police Commissioner Michael J. Murphy called yesterday for an urgent reexamination of the "delicate balance between individual liberties and the welfare of society as a whole."

"The weapons, which we have used with success in the defense of our communities, are being blunted by judicial decisions and rusted by public indifference," he said at the monthly luncheon of the New York Chamber of Commerce.

"We ask with increasing urgency for a new look, a new deal, a new frontier. We ask that you consider the road ahead and decide for yourselves whether this overprotection of the individual at the expense of the community will lead to Utopia or to a hell on earth."

The commissioner said he spoke of this not in bitterness or criticism but as a statement of fact.

He added that "when efforts are made, as they have been in the State of New York, to enact legislation formalizing basic concepts (of police authority), they are met with accusations of 'police state' and invasions of individual rights.

"These objections," he said, "come in large measure from well-meaning groups and individuals who pride themselves on their zealous safeguarding of individual rights. What they fail to realize, and what the community as a whole tends to overlook, is that the history of democratic society is a constant reevaluation of the delicate balance between individual liberties and the welfare of society."

New York's growing awareness of violence in the streets was heightened with the release of the crime statistics several weeks ago.

The shocking figures showed that in only 1 year major crimes of violence had risen 13.8 percent, assaults 13.9 percent (and, according to police, many are never reported),

the Small Business Administration set up disaster loan offices for businessmen and homeowners in all of the stricken areas. Officials of the Office of Emergency Planning established a disaster field office to facilitate that agency's role in supplementing State and local emergency efforts. The President's visit did much to hearten and encourage families who suffered great hardship as a result of the tornado.

Mr. President, upon his arrival at Toledo on April 14 and before his departure from that city on the same day, President Johnson made two brief speeches. They both express clearly our President's real and sincere concern in the welfare of all Americans. I ask unanimous consent that his remarks be printed at this point in the RECORD as part of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT ON ARRIVAL AT TOLEDO, OHIO

I am delighted to be here this afternoon with Governor Rhodes, Congressmen ASHLEY, SWEENEY, FEIGHAN, VANIK, LOVE, BOW, and MOSHER.

I have visited today in three States. I have flown across and observed from the air six States. All these States were struck by the tragedies of this past weekend.

I have come here this afternoon to Toledo to see firsthand, to look for myself at the extensive damages caused and to meet with your public officials to plan with them the support and the action that the Federal Government can take in assisting your city and your citizens to meet the challenge which has been inflicted so cruelly and so unexpectedly.

No words of ours would be adequate to express the sympathy and compassion of the entire Nation for those who have suffered the loss of loved ones or injuries to members of their families. So I want each of you to know that we share with you the heavyheartedness that I know weighs upon you now.

It is an American characteristic to be concerned not about self alone but about the fate and the fortune of your neighbors and your friends under circumstances such as these. It is also an American characteristic for those who have suffered hardship and tragedies to turn quickly and hopefully to the task of reconstruction.

Wherever we have gone throughout this long, long day I have seen that spirit and I have seen it in Americans and it is strong and it is sure.

I would like to express to you my personal concern as evidenced by my presence here and my condolences. I would also, as your President, like to pledge to you the full cooperation and support of your Government in working with your State and with your local officials to help overcome the losses that so many of you have suffered.

Governor Rhodes was in contact with us yesterday. We told him then that the full facilities and power of the Federal Government were at your disposal. We will be here today to take a firsthand look. We hope by the time we get back to Washington tonight we can have plans in the offing to relieve as much misery as possible and to begin our task of rebuilding.

Unfortunately throughout the years we suffer from these disasters, and we can't help that, but once we have them we can do something about it. That is what I have come here to do.

Thank you very much.

REMARKS OF THE PRESIDENT ON DEPARTURE FROM TOLEDO, OHIO

Governor Rhodes, Members of Congress, public officials, my dear friends in Ohio, for many years I have been coming to this wonderful State and meeting its fine citizens. I always enjoy learning that I am scheduled to be here, and I always hate to leave. But for myself and all the people that traveled with me from Washington, this has been a day of both heartsickness and hopefulness.

We have much to be thankful for. Each of us don't know how lucky we are until we see what has happened to our neighbors through no fault of their own.

From the air and on the ground today we have seen destruction and desolation the kind of which I have never seen before in all of my life. It is of the very worst degree. When you think of the lives that are lost, the lives that have been changed, the lives which will forever bear the memory of this sad Sunday, when you look at the little boys with the holes in the top of their head, the mothers' homes that were there yesterday and now are gone they know not where, it is enough to bring tears to the eyes of anyone.

Yet, we have seen very few tears in these six States that we have visited today. At the very worst of the stricken neighborhoods we have seen the young, we have seen the old standing there shoulder-to-shoulder planning hopefully for tomorrow.

Well, that is the purpose of our mission—to come here to personally extend our sympathy and our condolence, to try to learn and understand about what has happened, and then try to do something.

There are talkers and there are doers, and there are people who believe in action, and there are people who put it on the back burner. But we want to be certain that everything is done as rapidly and as effectively as it can be done. We want to rebuild for tomorrow.

In a situation such as this, it is the role of the Federal Government to assist the States; for the President to work with the Governor; for the Governor to work with the mayors, and all of us to work together. While there are limits to what we can do, I want to pledge this afternoon to every citizen, to every community afflicted by the tornadoes or the floods, that your Government, and your President, will do everything conceivably possible to be of assistance under our laws.

Before I leave, I want to congratulate especially the Governors, the mayors, and the local officials that we have talked to in these areas. Each of them are tremendously concerned and want to do all they can. You have one of the finest delegations in the Congress, and each of those men are here with me today and are going back to roll up their sleeves and try to redo what was undone only yesterday and the day before.

I am pleased by the ready, willing understanding, and the cooperation which exists between the Federal Government and the State of Ohio, between the Federal Government and the local governments. Everywhere I have gone I have heard the very highest praise for the performance of the National Guard, and the highway patrol, the State police, the local law-enforcement officers, as well as the Red Cross. I want to express my personal appreciation to each citizen who is giving much of himself to be helpful and useful to his neighbors and his community in these times of need. This is really America at its finest and at its best.

I remember back when I was a youngster growing up. When adversity would overtake my family we would all pull a little bit closer together and try to be sorry for the things we said just the day before about each other—our brothers and our sisters, and maybe our fathers and our mothers. So, in this hour of adversity we are not concerned with titles or positions, we are not concerned with parties or politics. We are concerned with the country that we all love so much.

As I speak here men are manning their stations 10,000 miles from here in order to protect the freedom that we enjoy here. And I hope that when we get ready to turn out the light tonight each of us will say a prayer for them, and also for these poor people who have suffered these great losses, suffered them with their chins up and their chests out, and who are ready to roll up their sleeves tomorrow when we build what has been taken from them.

This has been a sad experience for me today. It has been a long one that began at 5:30 this morning. I am due to report to 33 Senators at 6 o'clock in Washington this evening. And I am going to report to them on what is happening in Vietnam and what is happening out here in the heartland of America. I am so proud that I am privileged to live in a country and to lead a country like the United States, and one of the really best parts of that country is the State of Ohio and you people that live here.

Thank you so much.

AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATING TO THE SUCCESSION OF THE PRESIDENCY AND VICE PRESIDENCY

Mr. BAYH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives amending Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States relating to the succession of the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the joint resolution (S.J. Res. 1) 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 which was, to strike out all after the resolving clause and insert:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President will become President.

"SEC. 2. Wherever 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.

"SEC. 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 a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

"SEC. 4. Whenever the Vice President and a majority of the principal officers of the executive departments, or 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 the principal officers of the executive departments, or such other body as Congress may by law provide, transmit within two 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, assemblying within forty-eight hours for that purpose if not in session. If the Congress, within ten days after the receipt of the written declaration of the Vice President and a majority of the principal officers of the executive departments, or such other body as Congress may by law provide, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of the 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."

Mr. BAYH. Mr. President, on April 13, 1965, the House of Representatives passed the above-mentioned joint resolution with amendments. Because of the substantial changes made, I move that the Senate disagree to the amendments of the House of Representatives, that a conference be requested, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAYH, Mr. EASTLAND, Mr. ERVIN, Mr. DIRKSEN, and Mr. HRUSKA conferees on the part of the Senate.

RESOLUTION OF THE DALLAS GUN CLUB CONCERNING PROPOSED AMENDMENTS TO THE FEDERAL FIREARMS ACT

Mr. TOWER. Mr. President, the board of directors of the Dallas Gun Club recently adopted a resolution concerning proposed amendments to the Federal Firearms Act. In order that other Senators may share the views of this distinguished club, I ask that the resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Whereas Senate bill 1592 has been presented to Congress containing proposed amendments to the Federal Firearms Act; and

Whereas Senate bill 1592 can in no way accomplish its purpose of the suppression of crime in the United States, but contains provisions which will abridge and encumber the right of law-abiding free people to own and bear arms; and

Whereas such attempted legislation can lead to a further attempt to disarm the law-abiding gun-owning public and hamper their ability of self protection: Now, therefore, be it

Resolved, That the Dallas Gun Club be recorded as opposed to the passage of Senate bill 1592 and be further recorded as demanding a public hearing on said bill.

RESOLUTION OF THE SAN ANTONIO HOMEBUILDERS ASSOCIATION CONCERNING H.R. 6363

Mr. TOWER. Mr. President, the San Antonio Homebuilders Association recently passed a strong and thoughtful resolution concerning H.R. 6363. I commend to the Senate the views of the association upon the most pressing matter involved in this bill, and I ask that the association's resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Whereas the board of directors of the San Antonio Homebuilders Association supports the principal purpose of the National Labor Relations Act, as amended, namely, to foster peaceful relationships between labor and management throughout the Nation, including the homebuilding and construction industry; and

Whereas legislation (H.R. 6363) has been introduced for consideration by the 89th Congress which would change this law to permit a union within the industry to apply coercive picket and strike pressures against neutral employees and employers performing work at a construction site where such union has a primary labor dispute with another employer; and

Whereas secondary strike or boycott pressure against neutral and innocent employees and employers by such unions in the industry was outlawed by the Congress under this law in 1947, and reaffirmed in 1959 by passage of the Landrum-Griffin labor reform law, to protect and insulate such neutral parties from being injured through irresponsible and damaging acts of such unions; and

Whereas picketing and strike coercion by construction unions against such neutral and innocent employees and employers not involved in the primary labor disputes will result in loss of employment by such employees and direct harm to the business of the neutral employer and cause increased home building and construction costs to the American home buyer and the Federal Government: Now, therefore, be it

Resolved, That the board of directors of the San Antonio Homebuilders Association urges Hon. RALPH W. YARBOROUGH and Hon. JOHN TOWER, U.S. Senators, and Hon. HENRY B. GONZALEZ, House of Representatives, 20th District, Texas, to oppose vigorously H.R. 6363 and similar bills which would make any change in the National Labor Relations Act's ban against secondary boycott strike and picketing by unions in the construction industry as destructive to the basic purpose of this law, contrary to the general public welfare and as harmful special interest legislation.

Adopted this 6th day of April 1965, by the board of directors of the San Antonio Homebuilders Association.

LLOYD W. BOOTH,
President.

Attest:

CARL E. NIEMEYER,
Secretary.

RESOLUTION OF RETIREES OF THE MONSANTO CO. CONCERNING MEDICAL CARE LEGISLATION

Mr. TOWER. Mr. President, retirees of the Monsanto Co. at Texas City, Tex., recently unanimously adopted a succinct and thoughtful resolution concerning medical care legislation. In order that other Senators may share the convictions of these Monsanto Texas City alumni, I ask that the resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Be it resolved, That we, the retirees of Monsanto Co. at Texas City, Tex., are unalterably opposed to the medicare bill as presently written or any other bill that provides for:

1. Financing through increased social security tax of a compulsory nature.

2. Benefits limited primarily to hospital costs to the exclusion of other major medical expenses, such as—doctor's fees, drug fees (outside of hospitals), etc.

3. Coverage of everyone 65 and over regardless of their financial status.

Furthermore, that Texas Congressmen be urgently requested to vote against the medicare bill or any other bills which includes the provisions of this resolution.

Respectfully submitted.

M. D. VARNADORE,
President,
Monsanto Texas City Alumni.

TEXAS CITY, TEX.

RESOLUTION OF THE McLENNAN COUNTY, TEX., CENTRAL LABOR COUNCIL CONCERNING VOTING RIGHTS

Mr. TOWER. Mr. President, the McLennan County, Tex., Central Labor Council recently passed a most succinct and thoughtful resolution concerning the protection of voting rights. I support the council's determination that no American be denied the right to vote because of discrimination, and I ask unanimous consent that the resolution be printed at this point in the RECORD so that other Senators may review it.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION TO PROTECT CONSTITUTIONAL RIGHTS

Whereas organized labor's struggle for freedom was much like the present day struggle of Negroes for freedom; and

Whereas by the events these past few days we have seen a basic freedom denied; and

Whereas if the right to vote can be denied, the right to picket an employer while on strike can also be denied; and

Whereas the President of the United States made a speech Monday night and introduced legislation that would protect the right to register to vote: Therefore be it

Resolved, That the McLennan County COPE, AFL–CIO, let it be known that we favor legislation that would protect this freedom; and be it further

Resolved, That we favor quick passage of this legislation.

(Passed Wednesday night, March 17, 1965.)

THE CRISIS IN SOUTH VIETNAM

Mr. CLARK. Mr. President, every day accelerates the crisis in South Vietnam. The problems that confront the President are indeed difficult of solution. The advice that he is receiving from various sources is conflicting.

We must all give the President our support in the most difficult decisions which confront him. My personal view is in accord with that expressed by my distinguished colleague and seatmate, the senior Senator from Idaho [Mr. CHURCH].

I. (55)

that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4493. An act to continue until the close of June 30, 1967, the existing suspension of duties for metal scrap; and

H.R. 8131. An act to extend the Juvenile Delinquency and Youth Offenses Control Act of 1961.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2984. An act to amend the Public Health Service Act provisions for construction of health research facilities by extending the expiration date thereof and providing increased support for the program, to authorize additional Assistant Secretaries in the Department of Health, Education, and Welfare, and for other purposes; and

H.R. 2985. An act to authorize assistance in meeting the initial cost of professional and technical personnel for comprehensive community mental health centers.

The message also announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8439. An act to authorize certain construction at military installations, and for other purposes.

The message also announced that the Senate insists upon its amendment to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. SYMINGTON, Mr. JACKSON, Mr. CANNON, Mr. SALTONSTALL, and Mrs. SMITH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 596. An act to amend the Public Health Service Act to assist in combating heart disease, cancer, and stroke, and other major diseases; and

S. 2154. An act to amend the act establishing the United States-Puerto Rico Commission on the status of Puerto Rico.

THE LATE SAMUEL LAFORT COLLINS

Mr. UTT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. UTT. Mr. Speaker, I have the sad task this morning of announcing to the Members of the House the passing of a former Member of this body, Mr. Samuel L. Collins, who served here from 1933 to 1937. Mr. Collins then was elected to the Assembly of the State of California where he served as speaker.

Mr. Collins passed away last Saturday, June 26.

I express to his family the regrets of myself and my family at the passing of Mr. Collins, and I hope that Mrs. Collins and the children will carry on with the same faith with which they have always carried on.

The biography of Mr. Collins follows:

BIOGRAPHY

Samuel LaFort Collins, a Representative from California; born in Fortville, Hancock County, Ind., on August 6, 1895; attended the public schools of Indiana and California and was graduated from Chaffey Union High School of Ontario, Calif. in 1915; enlisted as a private in the Hospital Corps, 75th Infantry, California National Guard, on June 21, 1916, served on the Mexican border, and was discharged on November 11, 1916; during the First World War served in the U.S. Army from September 18, 1917, until discharged on April 29, 1919, being overseas as a sergeant in Company C, 364th Infantry, 91st Division; studied law, was admitted to the bar in 1921 and commenced practice in Fullerton, Calif.; assistant district attorney of Orange County, Calif., 1926–30, and district attorney 1930–32; elected as a Republican to the 73d and 74th Congresses (March 4, 1933–January 3, 1937); unsuccessful candidate for reelection in 1936 to the 75th Congress; member of the State assembly 1940–52, serving as speaker 1947–52; resumed the practice of law; was a resident of Fullerton, Calif.

Mr. UTT. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include a biography of the life of Sam L. Collins.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HANNA. Mr. Speaker, will the gentleman yield?

Mr. UTT. I yield to the gentleman from California.

Mr. HANNA. Mr. Speaker, I thank the gentleman for yielding. I should like to take this opportunity to express my deep feeling of regret and to extend my condolences to the family of the late Samuel L. Collins.

It was surprising news to me to learn of his untimely passing.

I, too, have known Sam L. Collins very well. He was a fellow resident of the city of Fullerton, Calif. Although I did not serve in the State legislature with Sam, I did follow him very closely in service in that body and have been very well acquainted with him over the years.

Sam was a lawyer of long practice; a legislator of notability having served as speaker of the house in the State legislature as well as a Member of Congress; a citizen of his community in a very active and meaningful respect; a church man of practice and a father of a fine family. He will be missed by many.

FILING OF CONFERENCE REPORT ON H.R. 6453, DISTRICT OF COLUMBIA APPROPRIATIONS, FISCAL YEAR 1966

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight tomorrow night to file a conference report on the bill, H.R. 6453, making appropriations for the government of the District of Columbia for the fiscal year ending June 30, 1966, and for other purposes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

COMMITTEE ON WAYS AND MEANS

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Wednesday, July 7, 1965, to file a report on the bill H.R. 4750, to provide a 2-year extension of the interest equalization tax and for other purposes, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PRESIDENTIAL DISABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT

Mr. CELLER submitted the following conference report and statement on the joint resolution (S.J. Res. 1) 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:

CONFERENCE REPORT (H. REPT. No. 554)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"ARTICLE —

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

"SEC. 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.

"SEC. 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.

"SEC. 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, trans-

mit 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."

And the House agree to the same.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

BIRCH E. BAYH, JR.,
JAMES O. EASTLAND,
SAM J. ERVIN, JR.,
EVERETT M. DIRKSEN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S.J. Res. 1) 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, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House passed House Joint Resolution 1 and then substituted the provisions it had adopted by striking out all after the enacting clause and inserting all of its provisions in Senate Joint Resolution 1. The Senate insisted upon its version and requested a conference; the House then agreed to the conference. The conference report recommends that the Senate recede from its disagreement to the House amendment and agree to the same with an amendment, the amendment being to insert in lieu of the matter inserted by the House amendment the matter agreed to by the conferees and that the House agree thereto.

In substance, the conference report contains substantially the language of the House amendment with a few exceptions.

Sections 1 and 2 of the proposed constitutional amendment were not in disagreement. However, in sections 3 and 4, the Senate provided that the transmittal of the notification of a President's inability be to the President of the Senate and the Speaker of the House of Representatives. The House version provided that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives. The conference report provides that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives.

In section 3, the Senate provided that after receipt of the President's written declaration of his inability that such powers and duties would then be discharged by the Vice President as Acting President. The House version provided the same provision except it added the clause "and until he transmits a written declaration to the contrary." The conference report adopts the House language with one minor change for purposes of clarification by adding the phrase "to them," meaning the President pro tempore of the Senate and the Speaker of the House.

The first paragraph of section 4, outside of adopting the language of the House designating the recipient of the letter of transmittal be the President pro tempore of the Senate and the Speaker of the House of Representatives, minor change in language was made for purposes of clarification.

In the Senate version there was a specific section—namely, section 5—dealing with the procedure that, when the President sent to the Congress his written declaration that he was no longer disabled, he could resume the powers and duties of his office unless the Vice President and a majority of the principal officers of the executive departments, or such other body as the Congress might by law provide, transmit within 7 days to the designated officers of the Congress their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon, the Congress would immediately proceed to decide the issue. It further provided that, if the Congress 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 would continue to discharge the same as Acting President; otherwise, the President would resume the powers and duties of his office.

The House version combined sections 4 and 5 into one section, now section 4. Under the House version, the Vice President had 2 days in which to decide whether or not to send a letter stating that he and a majority of the officers of the executive departments, or such other body as Congress may by law provide, that the President is unable to discharge the powers and duties of his office. The conference report provides that the period of time for the transmittal of the letter must be within 4 days.

The Senate provision did not provide for the convening of the Congress to decide this issue if it was not in session; the House provided that the Congress must convene for this specific purpose of deciding the issue within 48 hours after the receipt of the written declaration that the President is still disabled. The conference report adopts the language of the House.

The Senate provision placed no time limitation on the Congress for determining whether or not the President was still disabled. The House version provided that determination by the Congress must be made within 10 days after the receipt of the written declaration of the Vice President and a majority of the principal officers of the executive departments, or such other body as Congress may by law provide. The conference report adopts the principle of limiting the period of time within which the Congress must determine the issue, and while the House original version was 10 days and the Senate version an unlimited period of time, the report requires a final determination within 21 days. The 21-day period, if the Congress is in session, runs from the date of receipt of the letter. It further provides that if the Congress is not in session the 21-day period runs from the time that the Congress convenes.

A vote of less than two-thirds by either House would immediately authorize the President to assume the powers and duties of his office.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

SUBCOMMITTEE ON LABOR, COMMITTEE ON EDUCATION AND LABOR

Mr. ALBERT. Mr. Speaker, I have three unanimous-consent requests. First I ask unanimous consent that the Subcommittee on Labor of the Committee on Education and Labor may sit while the House is in session today during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, has this been cleared with the subcommittee ranking minority member?

Mr. ALBERT. I have been advised that it has been cleared with the gentleman from Ohio [Mr. AYRES] and the gentleman from California [Mr. LEGGETT].

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

SUBCOMMITTEE ON IMMIGRATION, COMMITTEE ON THE JUDICIARY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration of the Committee on the Judiciary may sit while the House is in session today during general debate. I have been advised it has been cleared with the gentleman from Ohio [Mr. MCCULLOCH].

Mr. HALL. Mr. Speaker, I object.

SUBCOMMITTEE NO. 3 ON COPYRIGHTS, COMMITTEE ON THE JUDICIARY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that Subcommittee No. 3 on Copyrights of the Committee on the Judiciary may sit while the House is in session during general debate on Wednesday, June 30, I understand this has been cleared.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TRANSFERRING CALL OF CONSENT CALENDAR, MOTIONS TO SUSPEND RULES AND CALL OF PRIVATE CALENDAR

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar and the authority for the Speaker to recognize for motions to suspend the rules, in order on July 5, 1965, may be transferred to Monday, July 12, 1965; and that the call of the Private Calendar, in order on Tuesday, July 6, 1965, may be transferred to Tuesday, July 13, 1965.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

I will not dwell upon the details of the very simple proposal which would provide an incentive for railroad management to build freight cars essential to the Nation's needs. It would grant authority to the Interstate Commerce Commission to fix rental rates which would provide just and reasonable compensation to freight car owners and it would encourage the acquisition and maintenance of a car supply sufficient to meet the needs of both commerce and the national defense.

I wholeheartedly endorse this proposal, and I urge its passage to offer relief to an important segment of our economy.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the amendments of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the United States Constitution 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.

[redacted] AND VACANCIES IN THE OFFICE OF VICE [redacted] CONFERENCE REPORT

Mr. BAYH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) 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. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. BAYH. Mr. President, we have before us for final passage Senate Joint Resolution 1, which is a proposal to amend the Constitution to assure Presidential succession and authority in our Government.

The progress of the bill has been the result of the labors of many persons, particularly the President of the United States, the leadership of this body, the leadership of the House of Representatives, the executives of the American Bar Association, and my colleagues on the Judiciary Committee, with particular emphasis upon those who labored on the Subcommittee on Constitutional Amendments.

The measure was introduced by myself on behalf of myself and many other Senators. It has been slightly modified from the form in which it was introduced in December 1963. Since then it has been the subject of two sets of hearing before the Senate Subcommittee on Constitutional Amendments. It has been studied by the full Committees on the Judiciary of both the House and the Senate. It was twice passed in the Senate by unanimous yea and nay votes, and it was overwhelmingly approved by the other body.

Earlier this year the proposed amendment received the full support of the President of the United States. Earlier it had been endorsed, as was brought out in some detail in the debate which ensued in this body, by such distinguished nongovernmental groups as the American Bar Association.

At long last the Senate and House conferees have completed their studies of the proposed amendment. A short while ago the conference report was approved by the House of Representatives. All that remains is for this body to approve the conference report, and then the measure will be sent to the States for ratification.

If the Senate acts affirmatively, it will be the 11th time in the past 90 years that Congress has submitted a proposed amendment to the Constitution to the several States. Of the last 10 that have been submitted, 9 have been ratified.

We have every reason to believe that the States will look with favor upon the proposed amendment, which is not designed really to alter the Constitution, but rather to fill a void in that great document which has existed for 178 years. As all of us know, the amendment is designed to do three specific things. I should like hastily to review the three purposes:

First, the proposed amendment would make forever clear that when the office of President becomes vacant, the Vice President shall become President, not merely Acting President. We would clearly state in the Constitution what has become precedent through the actions of Vice President Tyler following the death of the then President Harrison.

Second, if the office of Vice President should become vacant, the proposed amendment would provide a means to fill that office so that we would at all times have a Vice President of the United States.

Third, the proposed amendment would provide a means by which the Vice President may assume the powers and duties of the Chief Executive when the President is unable to do so himself.

The conference report, which has now been approved by the House of Representatives, contains certain changes from the proposal which the Senate approved earlier this year by a vote of 72 to 0. I should like to describe those changes and then urge approval of the conference report by this body.

In the Senate version of the measure we prescribed that all declarations concerning the inability of the President or of his ability to perform the powers and duties of that office, particularly a declaration concerning his readiness to resume the powers and duties of his office made by the President of the United States himself, be transmitted to the Speaker of the House and to the President of the Senate.

The conference committee report proposes that those declarations go to the Speaker and to the President pro tempore of the Senate. The reason for the change is, of course, that the Vice President, who is also the President of the Senate, would be participating in making a declaration of presidential inability, and therefore would be unable to transmit his own declaration to himself. In addition, I believe that we would be on better legal ground not to send the declaration to a party in interest. The Vice President, who would be shortly assuming or seeking to assume the powers and duties of the office, would indeed be a party in interest.

In the Senate version of the bill we did not specify that if the President were to surrender his powers and duties voluntarily—and I emphasize the word "voluntarily"—he could resume them immediately upon declaring that his inability no longer existed. We believe that our language clearly implied this. Certainly the intention was made clear in the debate on the question on the floor of the Senate and in the record of our committee hearings, but the Attorney General of the United States requested that we be more specific on this point so as to encourage a President to make a voluntary declaration to the effect that he was unable to perform the powers and duties of the office, if it was necessary for him to do so.

We made that point clear in the conference committee report.

We added specific language enabling the President to resume his powers and duties immediately, with no waiting period, if he had given up his powers and duties by voluntary declaration.

That had been the intention of the Senate all along, as I recall the colloquy which took place on the floor of the Senate; and we had no objection to making that intention crystal clear in the wording of the proposed constitutional amendment itself.

In the Senate version we prescribed that the President, having been divested of his powers and duties by declaration of the Vice President and a majority of the Cabinet, or such other body as Congress by law may provide, could resume the powers and duties of the office of President upon his declaration that no inability existed, unless within 7 days the Vice President and a majority of the Cabinet or the other body issued a declaration challenging the President's intention. The House version prescribed that the waiting period be 2 days. The conference compromised on 4 days, and I urge the Senate to accept that as a

reasonable compromise between the time limits imposed by the two bodies.

Furthermore, we have clarified language, at the request of the Senate conferees, to make crystal clear that the Vice President must be a party to any action declaring the President unable to perform his powers and duties.

I remember well the words of President Eisenhower before the American Bar Association conference, when he said that it is a constitutional obligation of the Vice President to help make these decisions. We in the Senate felt that to be the case, and thus changed the language a bit to make it specifically clear.

That, I am sure, had been the intention of both the Senate and the House, but we felt that the language was not specific enough, so we clarified it on that point.

The Senate conferees accepted a House amendment requiring the Congress to convene within 48 hours, if they were not then in session, and if the Vice President and a majority of the Cabinet or the other body were to challenge the President's declaration that he, the Chief Executive, were not disabled or, once again, able to perform the powers and duties of his office.

We feel that the requirement would encourage speedy disposition of the question by the Congress, and I urge its acceptance by the Senate.

Finally, the Senate version imposed longtime limitations upon the Congress to settle a dispute as to whether the President or the Vice President could perform the powers and duties of the office of President. Senators know the question would come to the Congress only if the Vice President, who would then be acting as President, were to challenge, in conjunction with a majority of the Cabinet, the President's declaration that no inability existed. The House version imposed a 10-day time limitation. The Senate conferees were willing to have a time limitation as a further safeguard to the President, but we were unanimous in agreeing that 10 days was too short a period in which to decide on that grave a question.

The conferees finally agreed to a 21-day time limitation after which, if the Vice President had failed to win the support of two-thirds of both the Houses of Congress, the President would automatically return to the powers and duties of his office. I urge the Senate to accept that change.

I should like to specify one thing further about this particular point since I feel it is the main point of contention between the House and the Senate, and one upon which I was happy to see we could find some agreement.

First, including a time limitation in the Constitution of the United States would impose upon those who come after us in this great body a limitation on their discussion and deliberation when surrounded by contingencies which we cannot foresee. The Senate conferees felt that a 10-day time limitation was too short a period.

Our feeling in the Senate, as represented by the views of the conferees, was that we should go slowly in imposing a maximum time limitation if we could not foresee the contingencies that might confront those who were forced to make their determination as to who would be the President of the United States. I believe 21 days is a reasonable time. I emphasize that it is our feeling that this is not necessarily an absolute period. The 21 days need not always be used. In my estimation, most decisions would be made in a shorter time. But if the Nation were involved in a war or other international crisis, and the President had suffered an illness whose diagnosis might be difficult, a longer time might be needed, and the maximum of 21 days that was agreed upon might be required.

It should be made clear that if during the 21-day limit one House of Congress, either the Senate or the House of Representatives, voted on the issue as to whether the President was unable to perform his powers and duties, but failed to obtain the necessary two-thirds majority to sustain the position of the Vice President and the Cabinet, or whatever other body Congress in its wisdom might prescribe at some future date, the issue would be decided in favor of the President. In other words, if one House voted but failed to get the necessary two-thirds majority, the other House would be precluded from using the 21 days and the President would immediately reassume the powers and duties of his office.

I feel that further remarks are unnecessary. I thank all who have made it possible for us to bring the amendment to this stage, especially the distinguished Senator from Nebraska [Mr. HRUSKA].

I observe in the Chamber the father of the last constitutional amendment to be adopted, the distinguished Senator from Florida [Mr. HOLLAND], whose advice I shall be seeking with respect to the method of approaching State legislatures.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HOLLAND. I compliment the Senator from Indiana warmly on the fine service he has rendered to the Senate and the Nation. I hope he will have early success in obtaining action by the 43 State legislatures whose ratification of the amendment is necessary before it becomes a part of the Constitution. I believe he will receive that kind of action, because the Nation realizes that in these perilous times this difficult question, which has been pending for so long, should have this method of solution available at all times, and as speedily as possible.

I wish I could help the Senator from Indiana in relation to his contacts with Governors and State legislatures. But judging by the fine ability that he has shown in consulting others up to this time, he certainly needs no suggestions from me or from anyone else.

May I ask the distinguished Senator a question?

Mr. BAYH. Yes.

Mr. HOLLAND. Is it the Senator's intention to ask for a quorum call and then to ask for the yeas and nays?

Mr. BAYH. That is not my intention. Inasmuch as the Senate has voted on much the same proposal by a substantial margin on two occasions; inasmuch as the House, when it concurred in the conference report, did not take a yea-and-nay vote; and inasmuch as some Senators are not present at this time, I believe it is really unnecessary to have a yea-and-nay vote.

Mr. HOLLAND. I shall defer, of course, to the views of the distinguished Senator, who is the principal author and cosponsor of the measure, and to the views of the majority leader and the acting minority leader, who are in the Chamber.

I believe it would be impressive—and this is the only comment I shall have to make—when action is taken by the States if more than one or two Senators had affirmatively espoused a particular version of an amendment which had reached State legislatures. But I shall gladly defer to the judgment of the Senator from Indiana and the majority leader and acting minority leader.

Mr. HRUSKA. Mr. President, I join the Senator from Indiana in urging the adoption of the conference report.

The proposed constitutional amendment is a correction of a long-exposed defect in the organization of our National Government. The amendment provides for a solution of the disastrous but inevitable situation that would confront the Nation in the event of a fallen leader of the Nation, either because of violence, illness, or disability. It has been a troublesome problem, one which has provided many uneasy moments to the people of the Nation from time to time during our history.

In the course of examining the problem, we have found that there is an infinity of contingencies which could be raised in any number of hypothetical situations. If we ever tried to provide for all of them or for any substantial number of them, it would require an infinite number of days or months, or perhaps years, to continue the debate on this subject. So we had to fill the vacuum by agreeing upon the joint resolution which is before us as the resolute action of this body and the other body and of the conference committee.

I believe the solution is sound. It would restrict the role of Congress considerably. Under the amendment Congress would act only as an appellate body in the event there were a difference of opinion between the President, on the one hand, as to his ability to return to his office, and the judgment of the Vice President and a majority of the Cabinet, or some other body that might be constituted by law, which might have an opinion to the contrary.

Congress by itself would have no power to initiate a challenge of the President's ability or inability in this regard.

I wish to comment upon the role of the junior Senator from Indiana in the preparation of the joint resolution, not only with respect to sponsoring it, but also in so consistently pursuing the background and foundational material.

That material was gathered in conferences with, for example, representatives of the House of Delegates of the American Bar Association and with the house of delegates itself. That effort was followed by many discussions with professors and scholars learned in the law, in addition to the committee hearings themselves.

An effort was made to follow the established procedures of Congress in both bodies for the implementation of the amendment. That was not found to be possible with respect to the time limitation in section 3 which provides for the event of the issue of disability being joined between the President, on the one hand, and the Vice President and a majority of the Cabinet, on the other.

In deciding upon a period of 21 days, I believe we have provided a reasonable time in which the issue can be canvassed and acted upon intelligently.

A new duty has been placed upon Congress. It is a duty that lies upon men and women of good purpose in responding to the needs of their Nation in a time of crisis. It is my hope that the amendment will be consistently unneeded. Nevertheless, such an agreement, as provided in this fashion, is wise, indeed.

So I join the Senator from Indiana in urging the Senate to adopt the conference report and to do whatever any of us can do toward urging the legislatures of the several States to ratify the amendment to our organic law, so that it may be duly promulgated and given force and effect.

Mr. BAYH. I thank the Senator from Nebraska for his thoughtful words, but more particularly for the dedicated effort, the long, tiresome hours of hearings and conference work, and the constant writing and rewriting that were necessary to reach the end of the tortuous journey we have been making.

Mr. KENNEDY of New York. Mr. President, I congratulate the junior Senator from Indiana [Mr. BAYH] on the outstanding job he has done in shepherding Senate Joint Resolution 1 from the realm of abstract proposal to its realization today. Along the way he consulted with a great number of people about this problem, and he heard a considerable variety of ideas on how it should be solved. It is to his credit that he was able, with patience and diplomacy, to resolve these differences.

I call to the Senate's attention a most important aspect of Senate Joint Resolution 1 which has not received as much notice as it should have. That is the provision, in section 4, which gives Congress authority to provide by law for a body other than the Cabinet to determine the inability of the President to exercise the powers and duties of his office when he is unwilling to make the declaration of inability himself.

This provision was wisely added by the framers of Senate Joint Resolution 1 because of the doubts which some people voiced as to the workability of using the Cabinet as the body to determine the President's inability. Now that we are finally enacting Senate Joint Resolution 1, we must not cease thinking about this aspect of the inability problem. We must keep in mind that we have given Congress the power to provide a different body to determine Presidential inability, and we should engage in a continuing study of whether there is some better way to handle this very difficult matter.

The need to engage in continuing reexamination of whether the Cabinet is the best available body to determine Presidential inability is demonstrated by certain historical evidence which I call to the Senate's attention today.

I refer to the facts surrounding the resignation of Robert Lansing as President Wilson's Secretary of State. These facts were brought to my attention by Mr. Allen Dulles, who has served the Government for many years in many capacities. Secretary Lansing was his uncle, and Mr. Dulles has made available certain relevant correspondence and memorandums, which are now on deposit at Princeton University and are not yet available to the public.

Together with Secretary Lansing's correspondence with President Wilson at the time of the resignation—which is a matter of public record—these documents are interesting and revealing.

President Wilson fell ill during the latter months of 1919. Mr. Lansing, after consultation with other members of the Cabinet, decided that it was necessary for the Cabinet to meet and carry on the affairs of Government as best it could. About 25 meetings had taken place, over a period of some 4 months, when Wilson wrote to Lansing, charged him with usurpation of Presidential powers because of the Cabinet meetings, and asked for his resignation. After an exchange of letters, Lansing did resign.

There were other reasons for friction between Lansing and Wilson. They were at odds over the negotiation of the Treaty of Versailles and subsequent congressional consideration of the treaty. Nevertheless, Wilson's inference that the Presidential Cabinet had usurped power demonstrates the wisdom of the framers of this amendment in leaving open to further consideration the question of who should decide when the President is disabled.

For the point of the Wilson incident is that, even though no procedure there existed for declaring a President to be disabled and even though there was no evidence of any overt attempt to usurp the powers of the President, the ailing President nevertheless decided to dispose of any Cabinet member who seemed to present a threat. More serious conflict might follow, in a comparable situation, now that a procedure for determining disability is established. Indeed, a President might fire his entire Cabinet.

This is a matter concerning which I have had numerous conversations with the Senator from Indiana.

It is true that the committee reports and other legislative history make it quite clear that, for purposes of Senate Joint Resolution 1, the Deputies or Under Secretaries in the various departments would, when there clearly are vacancies in the Cabinet, become acting heads of the departments until new principal officers were confirmed, or, if Congress were not in session, until recess appointments were made. I believe this legislative history is extremely important, but if the President did become involved in this kind of dispute with his Cabinet the situation would nonetheless be most difficult and disruptive, especially in a period of crisis for the United States either domestically or with other countries around the world.

What could ensue is a conflict as to who is actually acting as President at a particular time.

The question that might arise is whether the President had, in fact, fired the Cabinet at the time they had met and decided to put in a new President. What we could end up with, in effect, would be the spectacle of having two Presidents both claiming the right to exercise the powers and duties of the Presidency, and perhaps two sets of Cabinet officers both claiming the right to act.

Thus there are dangers in the amendment, with all due respect to the Senator from Indiana. Nevertheless, I believe we should go forward, since the dangers involved in not enacting Senate Joint Resolution 1 are greater still and we do not know whether a procedure better than Cabinet determination can be found. Certainly if one were now possible, I believe the Senator from Indiana would have found it.

The Senator has wisely left open the way to further improvement. I urge that the Congress follow his lead, and move directly to continued examination of alternate procedures, to be enacted by the Congress, for determining when a President is unable to discharge the duties of his office.

Mr. BAYH. Mr. President, first of all, I am indebted to the Senator from New York, and so is the Senate, not only for his present statement, but also for the discussion which he stimulated on the floor when we were considering the measure for passage earlier this year. The Senator points out very correctly that there is a degree of flexibility in this measure.

I am not so bold as to suggest that this is a perfect amendment. I believe that its perfection is based upon the ability of the men living at the time when the measure must be used to cope successfully with the problems and contingencies with which they are confronted. For that reason, we believed that the Cabinet, as we see it now, is the best body to serve as a check. However, we might be wrong. Why close the door? Why not leave us a degree of leeway so that when Congress is confronted with different circumstances than we presently foresee, it could designate a different body and give it authority to act.

Mr. KENNEDY of New York. Mr. President, as I said to the Senator from Indiana, I have strong reservations about the use of the Cabinet in this matter. I believe that the Senator from Indiana has considered my suggestions and every other suggestion and recommendation which he has received.

I praise the Senator for coming forward with this legislation, for which he is more responsible than anyone else. I should like to ask a series of questions of

the Senator from Indiana on another aspect of the proposed constitutional amendment. I think this would help in clarifying another important issue.

I go back to the colloquy which took place on the floor of the Senate when the matter was considered a month or so ago. Is it not true that the inability to which we are referring in the proposed amendment is total inability to exercise the powers and duties of the office?

Mr. BAYH. The inability that we deal with here is described several times in the amendment itself as the inability of the President to perform the powers and duties of his office.

It is conceivable that a President might be able to walk, for example, and thus, by the definition of some people, might be physically able, but at the same time he might not possess the mental capacity to make a decision and perform the powers and duties of his office. We are talking about inability to perform the constitutional duties of the office of President.

Mr. KENNEDY of New York. And that has to be total disability to perform the powers and duties of office.

Mr. BAYH. The Senator is correct. We are not getting into a position, through the pending measure, in which, when a President makes an unpopular decision, he would immediately be rendered unable to perform the duties of his office.

Mr. KENNEDY of New York. Is it limited to mental inability to make or communicate his decision regarding his capacity and mental inability to perform the powers and duties prescribed by law?

Mr. BAYH. I do not believe that we should limit it to mental disability. It is conceivable that the President might fall into the hands of the enemy, for example.

Mr. KENNEDY of New York. It involves physical or mental inability to make or communicate his decision regarding his capacity and physical or mental inability to exercise the powers and duties of his office.

Mr. BAYH. The Senator is correct. That is very important. I would refer the Senator back to the definition which I read into the RECORD at the time the Senate passed this measure earlier this year.

Mr. KENNEDY of New York. It was that definition which I was seeking to reemphasize. May I ask one other question? Is it not true that the inability referred to must be expected to be of long duration, or at least one whose duration is uncertain and might persist?

Mr. BAYH. Here again I think one of the advantages of this particular amendment is the leeway it gives us. We are not talking about the kind of inability in which the President went to the dentist and was under anesthesia. It is not that type of inability we are talking about, but the Cabinet, as well as the Vice President and Congress, are going to have to judge the severity of the disability and the problems that face our country.

Perhaps the Senator from New York would like to rephrase the question.

Mr. KENNEDY of New York. Is it not true that what we are talking about here, as far as inability is concerned, is not a brief or temporary inability?

Mr. BAYH. We are talking about one that would seriously impair the President's ability to perform the powers and duties of his office.

Mr. KENNEDY of New York. Could a President have such inability for a short period of time?

Mr. BAYH. A President who was unconscious for 30 minutes when missiles were flying toward this country might only be disabled temporarily, but it would be of severe consequence when viewed in the light of the problems facing the country.

So at that time, even for that short duration, someone would have to make a decision. But a disability which has persisted for only a short time would ordinarily be excluded. If a President were unable to make an Executive decision which might have severe consequences for the country, I think we would be better off under the conditions of the amendment.

Mr. KENNEDY of New York. The Senator realizes the complications for the people of this country and the world under those circumstances.

Mr. BAYH. I do, indeed. I also recognize our difficulty if we had no amendment at all. The Senator from New York realizes the consequences in that case. The Senator is aware of the time limitations which give the President a certain amount of leeway now. If he recovers from the illness within the time limitations, he would have protection under the amendment.

Mr. KENNEDY of New York. As I said at the beginning, I believe there should be a continuing study of the problem. Based on my own personal experience and on what was brought out in the hearings, I believe that members of the Cabinet could be subjected to political strains of one kind or another under certain circumstances of danger which might arise for the United States. They might be impelled to challenge the President's ability and capacity for the wrong reasons. And when we think of the great crisis in 1919 with President Wilson and Mr. Lansing, it is apparent that under the procedure set out in section 4 of Senate Joint Resolution 1 there could actually be a question as to who was acting as President of the United States at a particular time. That is why this subject should receive continuing study by this body to determine whether an alternative to the Cabinet's acting could be evolved.

What if the President of the United States made a decision which was very unpopular with members of his Cabinet?

I think back to the time of Abraham Lincoln in 1863. I think back to the time of President Andrew Johnson, and recall how unpopular he was with all the members of his Cabinet. They could have taken action, under the slightest pretext, to have him removed. Even with all the protections provided, I say the situation is dangerous. We would be deluding ourselves in thinking that by adopting the amendment the danger to our people and the people around the world would disappear, because a danger would still exist. The subject deserves our continuing effort and attention.

Mr. BAYH. I agree. There is leeway with respect to Congress and the committees and the Cabinet.

In discussing dangers to the people, think of the danger after President Garfield had been felled by a bullet and we had no President for 80 days. The danger of such a situation in this day and age is considerably more than the danger that could arise if the provisions of this amendment were invoked.

Mr. KENNEDY of New York. That is why I intend to support this amendment.

Mr. BAYH. I appreciate the Senator's comments.

CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

Mr. MANSFIELD. Mr. President, will the Senator yield without losing the floor?

Mr. BAYH. I yield.

Mr. MANSFIELD. I ask unanimous consent, for the purpose of providing regular procedure, that the consideration of Calendar No. 352, H.R. 7105, follow consideration of the present conference report.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 7105) to provide for continuation of authority for regulation of exports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) 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.

Mr. BAYH and Mr. McCARTHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. McCARTHY. If it were not for the fact that the amendment provides that the Congress of the United States has a right to designate some body other than the Cabinet to pass upon the question of Presidential disability, I could not support the amendment. The Senator from New York has pointed out the necessity, and I hope that the appropriate committees of the Congress and the Congress will give consideration to some other body's passing upon the question of Presidential disability. If that provision were not in the amendment, I could not support the proposed amendment, and I would urge its rejection.

History shows that it is better to have one sane king rather than two who are not, each one of them claiming to be the

ght king. There is the possibility of situation in which one man, having en elected President, claims he was pable of exercising the duties of his fice, and the other person, the Vice resident, engages in a letter-writing ntest as to which is the appropriate an. There could be a body other than ie Cabinet which should have the abil- y to make a decision which would have ie effect of giving the American public nfidence in the person they had ap- roved and a disposition not to accept ie authority of someone who would be isapproved.

It is my judgment that it would have een better to follow the recommenda- ons made by the Senator from Illinois Mr. DIRKSEN] and not try to be so spe- ific as provided in the present amend- ent.

Mr. KENNEDY of New York. Mr. resident, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. KENNEDY of New York. Let us o back to another situation, which I m sure the Senator from Indiana rec- gnizes. A Cabinet decides that a Pres- dent was disabled. The President fires he Cabinet. The members of the Cab- net say they did not receive notice that hey were fired until after they had de- lared the President disabled. The Pres- dent says he fired them first. If the Congress is in recess, the President ap- points another Cabinet, or else he says the Deputies and Under Secretaries are now the Cabinet. There would be two Presidents and two Cabinets. There would be a conflict as to which ones were the members of the Cabinet and as to whether the members of the first Cabinet had made the decision before or after they were fired by the President.

It is recognized by the proposed leg- islation that this is a problem. I do not believe the danger disappears by the adoption of the amendment. I do not think, when we adopt the measure, that the problems of our Executive are gone and that we do not have to worry about it any more. We have to continue to worry about it. Although the legislation is better than the situation at the pres- ent time, there will be situations which might cause difficulty.

Mr. McCARTHY. Generally speak- ing, it is better, but there could be worse situations arising under the amendment than there would have been under the indeterminate and vague way in which we could have moved.

The amendment has nothing to say about whether the executive officers who pass on the disability have been confirmed by the Senate. This is a point which might well be included in the amendment. I believe that they have to be executive officers confirmed by the Senate. We would have to work out the making of temporary appoint- ments. The Senator from New York said that we could have two Cabinets. This would be something like the old days in Avignon, when there were two Popes, which created a great deal of trouble, the same kind of trouble which was created for many, many years in England when two Kings claimed the crown. It has meant nothing but trouble.

I do not know whether, under this amendment, the executive officers would have to be confirmed by the Senate. They could be temporary appointees, which could be passed upon by the Sen- ate.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. HAR- RIS in the chair). Does the Senator from Minnesota yield to the Senator from Tennessee?

Mr. McCARTHY. I yield.

Mr. GORE. The Senator from Min- nesota finds some consolation in the fact that, if I have understood him correctly, the amendment provides that Congress could designate another body by law. I invite his attention to the possibility that this could compound the question, because the amendment reads:

> Whenever the Vice President and a ma- jority of either officers of the executive de- partments or of such other body as Congress may by law provide.

I should like to inquire of the Senator if, in addition——

Mr. McCARTHY. Ask the Senator from Indiana.

Mr. GORE. There would be a pos- sibility of a contest or controversy be- tween the Cabinet that may or may not have been dismissed, and one which may or may not have been confirmed by the Senate. Might there not be the prob- ability of a contest between the two groups which, by the conjunction or, are permitted to perform the same function?

Mr. McCARTHY. I believe that there is great uncertainty as to whether Con- gress could act and designate some other group, or define the executive officers who were to pass upon this question— officers who would be approved by Con- gress. But this is an open question. I should like to ask the Senator from Indi- ana whether this is an open question, or whether there is some uncertainty.

Mr. BAYH. First, let me go into a brief explanation of why this provision was included. This was the result of the consensus meeting with scholars and ex- Attorneys General whom I shall not bother to enumerate, trying for the first time in congressional history to weld to- gether the 42 different proposals which previously came before Congress. This has always been historically a problem, in trying to reach agreement and to rec- oncile the differences in order to obtain a two-thirds majority.

It was felt that if there was an arbi- trary Cabinet that completely refused to go along with the fact that the Presi- dent, who was obviously disabled, was disabled—the condition referred to by the Senator from New York—the Presi- dent might get wind of it and, although he might be in extremely bad condition, he might manage to have issued a docu- ment firing the Cabinet. This would not preclude Congress, in its wisdom, from establishing another panel, perhaps, of the majority and minority leaders of both Houses, the Chief Justice of the Supreme Court. We in our wisdom as Members of Congress, would do so be- cause it is wise. This body, in conjunc- tion with the Vice President, could make its determination.

Mr. McCARTHY. In the meantime, who would control the Army, Navy, and Air Force?

Mr. BAYH. The President of the United States.

Mr. McCARTHY. Whoever he might be.

Mr. BAYH. Whoever he might be.

Mr. McCARTHY. Which one might be?

Mr. BAYH. He would be the Presi- dent until a declaration from the Vice President and a majority of the Cabinet or the other body had been made and received by the Speaker——

Mr. McCARTHY. We do not accept the determination of this body. We are going to set up another body.

Mr. BAYH. That is correct.

Mr. McCARTHY. Congress would have to act quickly to set up another body which might act in such a case.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. GORE. The answer of the Sen- ator from Indiana indicates that he is thinking of the possibility of action by Congress at such time, and after such time as there may be an obstinate, non- existent, or otherwise inactive Cabinet.

As I read the proposed amendment, Congress could, by law, provide now, sub- sequent to approval of this amendment—

Mr. BAYH. The Senator is correct.

Mr. GORE. For such a body. Or, to add still further to the uncertainty, it could await such time as the Senator has foreseen when, because of uncer- tainties, or because of uncertainties which are not now unforeseen. Con- gress could act at that time.

Mr. McCARTHY. I am not sure whether this body could not be a body within the Congress itself.

Mr. GORE. Will the Senator yield once more?

Mr. McCARTHY. I am glad to yield to the Senator from Tennessee.

Mr. GORE. This is done specifically for the purpose of giving Congress a cer- tain amount of leeway which the Sen- ator from Minnesota feels it should have?

Mr. BAYH. I should be glad to re- spond to that. Any time Congress in its wisdom thought it necessary, if further discussion and deliberation on this issue by Congress led it to believe that another body should be established, it could es- tablish it.

Mr. GORE. Do I correctly understand the able Senator to say that Congress could, immediately upon adoption of this constitutional amendment, provide by law for such a body as herein specified and that, then, either a majority of this body created by law or a majority of the Cabinet could perform this function?

Mr. BAYH. No. The Cabinet has the primary responsibility. If it is replaced by Congress with another body, the Cabinet loses the responsibility, and it rests solely in the other body.

Mr. GORE. But the amendment does not so provide.

Mr. BAYH. Yes, it does. It states—

Mr. GORE. The word is "or."

Mr. BAYH. It says "or." It does not say "both." "Or such other body as Congress may by law prescribe."

I wish the RECORD to be abundantly clear that that is the case. I am glad the Senator brought up that point. I believe that this colloquy on that point is important and should be added to that already in the RECORD.

The Cabinet, upon enactment of ratification, has the responsibility, unless Congress chooses another body, at which time that other body, and that other body alone, working in conjunction with the Vice President, has the responsibility. Indeed, Congress may choose a third body.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. GORE. I suppose it might be possible to read legislative intent into this conjunction, but——

Mr. BAYH. If I may interrupt here-let me read the exact wording: "and a majority of either the principal officers of the executive departments or—"

Either/or "of such other body as Congress may by law provide."

So when there is an "either/or" solution, it nails it down to one or the other.

Mr. GORE. It seems to me that if it is "either/or" it places the two on a par——

Mr. BAYH. I do not see how that would be the case at all. The Cabinet has the responsibility. What if Congress by law should provide for another body that it feels should have the responsibility?

Mr. GORE. Then it has such a responsibility, too.

Mr. BAYH. Then it has such a responsibility, too.

Mr. McCARTHY. Could we not have both?

Mr. BAYH. If we have one or the other, we do not have both. If I have apples or pears, I do not have both.

Mr. McCARTHY. Under the language of the amendment we could keep the Cabinet and set up another body. We could run it through two or three bodies, and have the Cabinet act and then have the other body act.

Mr. BAYH. Whatever body acts should act quickly.

Mr. McCARTHY. The Vice President would have to act with either body. We might have a Vice President who would be reluctant to take office, and the Government would be paralyzed, unless the Vice President were willing to say, "I believe the President is not able to act."

Mr. BAYH. It would be possible to impeach the President and the Vice President.

Mr. McCARTHY. It would not be possible to impeach the Vice President unless he were not willing to preside over the Senate or to vote in the case of a tie.

Mr. BAYH. We cannot put the Vice President in office if he is unwilling to assume the office.

Mr. McCARTHY. He might be suffering from inability himself, even before the President. I believe the amendment should provide that the elected officers of the Government, of the House and Senate, should decide that the President is unable to fulfill the duties of his office, and we ought to be able to move directly.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. COOPER. Mr. President, I should like to direct questions to the distinguished Senator from Indiana, who is managing the conference report. I join with all my colleagues in paying tribute to the Senator for sponsoring the proposed constitutional amendment and for his persistent effort to bring it to final action. I raise these questions with respect to particular phraseology of the amendment. I quote this language:

> 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 so forth. The language is repeated in the next paragraph.

Is it the intention of Congress, as interpreted by the Senator from Indiana, who is in charge of the conference report, that the Vice President and a majority of the principal officers of the executive departments would transmit the information of the President's inability to perform his duties to Congress, unless Congress had by legislative action provided for the establishment of another body to perform this function?

Mr. BAYH. I should like to answer the Senator's question by setting up a hypothetical example. If the President became disabled, the Vice President would get the Cabinet together and say, "Gentlemen, I think the best interests of the country would be served if I, reluctant as I am, assumed the powers and duties of President."

The Cabinet, let us assume, would refuse to agree.

Congress, in its wisdom, upon studying the situation, and the obvious physical condition of the President, might judge that the Vice President was correct.

At that particular time Congress might by law set up another body. This body, upon agreeing with the Vice President, again might declare that the President was unable to perform his duties. At this time the Vice President would assume the office of Acting President.

Mr. COOPER. Then it is the intention, that this function and duty shall be that of the Vice President and the Cabinet unless the Congress provides that it shall be performed by another body. Is that correct?

Mr. BAYH. The Senator is correct.

Mr. COOPER. The duty, would fall on the Vice President and the Cabinet, unless Congress by law provided that it should be the function of some other body created by Congress. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. COOPER. It is intended that the words "principal officers of the executive departments" mean all the members of the Cabinet?

Mr. BAYH. The Senator is correct. It means the official members of the Cabinet.

Mr. COOPER. In case the Cabinet acted and performed this function, the assent of the Vice President would be required, even though a majority of the Cabinet members were willing to transmit information to the Congress that the President suffered from an inability.

Mr. BAYH. The Vice President must be a party to the decision.

Mr. COOPER. I believe it is well to have an answer to another question. In the event Congress decided to enact legislation to provide that another body, a body other than the Cabinet and the Vice President, should perform this function, would the Vice President be required to concur in the recommendation of such other body?

Mr. BAYH. Yes, he would.

Mr. COOPER. Not unless Congress so provided in legislation that it might enact?

Mr. BAYH. The wording of the amendment would permit two separate agencies, either the Vice President and the Executive Cabinet, or the Vice President and the other body.

Mr. COOPER. As I understood the question raised by the Senator from Tennessee and the Senator from Minnesota, it was their fear that both the Cabinet and the Vice President, and another body which Congress might establish, might claim the authority to perform this function. The question of the Senator from Tennessee [Mr. GORE] expressed concern that the words "either" and "or" might give rise to a situation in which the Vice President and a majority of the Cabinet, and a body which Congress might establish, would both claim the authority to exercise the function. Is there any problem about the use of those words that troubles the Senator from Indiana?

Mr. BAYH. That is a good point to clarify for the RECORD. However, in my mind it is perfectly clear that if I said I would go to the office of either the Senator from Kentucky or the Senator from Tennessee, my statement would not reasonably be interpreted to indicate that I would go to both. It would be either one or the other.

Mr. COOPER. Then the intent of the conference committee was that the language meant that unless another body were established by law, the Vice President and the Cabinet would perform the function; but in the event that Congress should establish another body by law, that body alone would have the authority to exercise the function, and in that event, the Vice President and the Cabinet would be without authority to exercise the function.

Mr. BAYH. It would then be exercised by the Vice President and the other body. The Cabinet would be out of the picture at that time.

Mr. COOPER. I raise another question. Would the Vice President have any part to play in the decision in the event that another body were established?

Mr. BAYH. The answer is "Yes." The Vice President must make a separate determination with either the Cabinet or another body.

Mr. COOPER. In either event the Vice President must participate?

Mr. BAYH. I think it is wise to bring out this point. I wish the RECORD to show that we do not desire two bodies to make the decision with the Vice President. If in its wisdom the Congress should decide that another body should make the determination, in the public interest of the country, as the Senator from New York and the Senator from Minnesota feel would be the case, and the Congress should go to the trouble of passing proposed legislation appointing such another body, at that time the newly created body and not the Cabinet would act with the Vice President.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. GORE. I should like to submit a question to the distinguished senior Senator from Kentucky, who has been a distinguished judge. Suppose in consequence of the amendment, Congress should proceed by law to create such a body as has been referred to. Then suppose at some foreseeable period a Vice President should appear before such a body, or with such a body, and that body should decline to act. Would there be any reason why, under the constitutional amendment, the Vice President and a majority of the principal officers of the executive departments could not then act?

Mr. COOPER. That is one of the questions which the Senator from Tennessee originally posed, and it is a question to which I have directed questions to the Senator from Indiana, [Mr. BAYH]. It is easy for one who was not a member of the conference committee and one who is not on the Subcommittee on Constitutional Amendments and did not participate in its work, and one who has not worked on the question as has the distinguished Senator from Indiana and the distinguished Senator from Nebraska [Mr. HRUSKA], to raise questions. I admit it, but I think it important that questions be asked on such an important matter. It is easy also, with hindsight, to think of better language. But I must say, that I believe the language could be clearer. The answers of the Senator from Indiana have been directed to the intent of the committee respecting the language. The courts pay attention, but not all, to such declarations of intent.

Mr. GORE. If that is what the conferees mean, I suggest that the amendment should so provide. We are not passing on conversations held between the conferees. The Congress is asked to adopt language which provides that—

> 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.

That is what is before the Senate. Undoubtedly there have been many conferences and colloquies, but the language should be explicit when it becomes a part of the U.S. Constitution.

Mr. COOPER. The reason I directed questions to the Senator from Indiana [Mr. BAYH], was that his answers as the Senator in charge of the bill are important in the interpretation of the amendment.

Mr. BAYH. The language to which the Senator has referred has not been changed one iota from the specific language which was passed by this body. The conference report does not alter that language. Any interpretation of the Constitution, as the Senator knows, includes reference to the record of the debate, the record of the hearings, and specific interpretations placed upon the measure by the Senator in charge of the bill. Those who have been in particular intimate touch with it are those whose statements are considered in an interpretation of the measure. The Senator has made a considerable contribution to the debate by raising that point at the present time.

Mr. COOPER. The statements of the Senator from Indiana are more important than our statements.

Mr. BAYH. I would not go along with the Senator from Kentucky on that.

Mr. COOPER. From a legal standpoint, that is correct, for the Senator from Indiana is the Senator in charge of the bill. The Senator's statements bear upon the intent of the Senate to a greater degree than our statements would.

Mr. BAYH. I have made as crystal clear as I know how that the Vice President must make a determination, and he would make that determination with the Cabinet unless the Congress——

Mr. GORE. But the word "unless" is not in the amendment.

Mr. BAYH. If the Senator from Tennessee would like to listen to my thoughts on the point, I should be glad to state them for the RECORD.

Mr. GORE. But the Senator has used a word that is not in the proposed amendment.

Mr. BAYH. I should be glad to change the word I have used if that would help the Senator. I have not been able to make the interpretation clear by using another word; I thought I would try a little different approach.

Mr. GORE. I can understand the difficulty of making the point clear by using the language of the amendment, because the language of the amendment, in my opinion, does not support the interpretation which the able Senator has given to it. I would be glad, however, to listen to his interpretation.

Mr. BAYH. I really have nothing to offer that I have not already offered—perhaps insufficiently—to the Senator from Tennessee. The Vice President would make the determination with one of two bodies or three bodies. The choice would not necessarily be limited to one other body. The Congress might, in its wisdom 100 years from now, decide to choose the third body. One of those bodies would be the body with which the Vice President would act. Let the RECORD so state. That is what the committee feels. That is what I, as the original sponsor of the measure, feel. That is what the conferees believe. I do not know how we can get into the RECORD a stronger interpretation than that which has been brought out by the penetrating questioning of the Senator from Tennessee.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BAYH. I am happy to yield.

Mr. GORE. If that is the clear intent of the authors of the amendment and the conferees, why cannot the conferees return to their labors and prepare language that is explicit?

Mr. BAYH. The Senator from Tennessee has been in the halls of this great body much longer than has the junior Senator from Indiana. I do not believe that it is necessary for his extremely junior colleague to point out that we have been 178 years getting a measure on this subject even voted upon in either House of Congress. I do not need to point out that it has been 18 months and more the subject of deliberation by both Houses of Congress to get it thus far. It took us almost 2 months in the conference committee alone. I would seriously doubt the wisdom of going back to the conferees to risk undoing everything that has been done—the House already adopted the conference report this afternoon at a quarter after twelve—on the premise that we cannot understand what is in the measure. The Senator from Indiana, with all respect, feels that we have written a very good record as to what that language means, if, indeed, there is any doubt of its proper interpretation. The Senator from Tennessee is a student of law and has expressed doubt. For that reason, we have gone to some length to explain what the interpretation of the language is.

Mr. GORE. If I understand the rule of construction as to legislative intent and the interpretation of that intent is looked to only when there is doubt as to the exact and precise meaning of a statute or constitutional provision.

The able Senator has given us what he regards as the legislative intent. I do not doubt that what he has stated is the legislative intent. But why will the legislative intent be searched out and interpreted to ascertain the meaning of language which states clearly that the Vice President, acting either with a majority of the Cabinet or with a majority of a body created by Congress can certify the disability of the President? Can this mean that Congress could by statute eliminate the function of the Cabinet though it could strip such power from a majority of the Cabinet even though such powers would have been vested by the proposed constitutional amendment?

It seems to me that that is an unreasonable assumption. It is regrettable that for so long a time this constitutional need has not been met. It is to be regretted that 18 months have passed in which this problem has not been dealt with satisfactorily. But I doubt whether that is any excuse to proceed in one afternoon, on the floor of the Senate, to adopt a conference report containing an ambiguous provision, when the author of the amendment himself and the conferees themselves say it does not mean what it says.

Mr. BAYH. The Senator from Indiana does not agree with the Senator from Tennessee that the amendment does not mean what it says. I differ with the interpretation of the Senator from Tennessee. The RECORD will show that the Senate spent almost 7 hours debating the subject earlier in this session, and that

the Senator from Tennessee participated in the debate.

I am not saying that reasonable men cannot disagree, but I am saying that, in my estimation, the interpretation is clear. I am further saying that if I am any judge of what Congress might do when confronted with situations provided for in this measure—and the Senator from Tennessee is probably a better judge than I of what this body might do, because he has served considerably longer and with much greater distinction—I presume that our successors on a later scene in this body, if confronted with a situation that they believed the Cabinet could deal with—it might be tomorrow—would, in the enactment of a law specifying another body, be astute enough to use enough words to satisfy themselves that such a body would in fact replace the Cabinet, pursuant to constitutional authority.

The Senator from Tennessee knows that it is much easier to be specific and to provide much greater detail in a statute than in a constitutional amendment. I believe we would have been in error to have written all this language into the Constitution. I believe we have been specific enough to have covered the intent.

Mr. GORE. Is it the Senator's interpretation that the language should read somewhat as follows:

Whenever the Vice President and a majority of either the principal officers of the executive departments or, in the event Congress creates another body pursuant to law, then the Vice President and a majority of such other body as Congress by law shall create—

Mr. BAYH. I see no objection to that interpretation of what is written in the amendment.

Mr. GORE. If that is what is intended, why could not the conferees write it into the amendment? I do not believe the amendment is subject to that kind of interpretation, though, as the Senator says, that is the legislative intent.

Mr. BAYH. I feel, with all due respect to the Senator from Tennessee, that the interpretation is clear that if Congress specifies another body, it will not do so as a lark; it will do so because it wants another body to replace the Cabinet, which would have the primary responsibility until Congress precribed another body.

The Senator from Tennessee knows that if there were to be a conference for every little misinterpretation that might be involved among 100 Senators, we would never obtain a conference report. The Senator from Tennessee is more aware of this than I, because he was serving on conference committees before I was out of knee pants.

Mr. GORE. I appreciate all the nice compliments, but I doubt if that is a compliment.

Mr. BAYH. The Senator from Indiana intended it to be a compliment, because the Senator from Tennessee knows how much respect the Senator from Indiana has for him.

Mr. GORE. I appreciate the respect; but do not put too much longevity on me.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. JAVITS. I have joined the distinguished Senator from Indiana for a long time in the endeavor to solve the problem and am a cosponsor of Senate Joint Resolution 1. I should now like to propound a series of questions to him, in an endeavor to pinpoint what he has said in the answers he has given to other Senators.

First, would the Vice President, under section 4, have to act with a majority of the principal officers of the executive departments or of the other body that Congress would provide by law, or would he act in and of himself, sending to Congress whatever notices he wished?

Mr. BAYH. It has to be joint action.

Mr. JAVITS. Both have to act; but it does not have to be joint action in the sense that he is presiding over any body.

Mr. BAYH. No.

Mr. JAVITS. He sends his notice and the executive body sends its notice.

Mr. BAYH. Either way; or they could act together.

Mr. JAVITS. But they could act separately.

Mr. BAYH. Yes.

Mr. JAVITS. If they were hostile, they could act separately.

Mr. BAYH. Yes.

Mr. JAVITS. The action must be taken by a majority vote?

Mr. BAYH. Majority vote.

Mr. JAVITS. Suppose they did not like each other. If they separately notified Congress, would that satisfy the amendment?

Mr. BAYH. I think that would satisfy the qualification.

Mr. JAVITS. Congress may, by law, provide for another body. May it provide that that other body shall be the Cabinet?

Mr. BAYH. Yes.

Mr. JAVITS. It may provide at the same time that it shall be the Cabinet only if it is composed of officers whose nominations have been confirmed by the Senate, not temporary appointees.

Mr. BAYH. The Senator from New York brings out a good point.

Mr. JAVITS. So we could do that ourselves by law?

Mr. BAYH. That is correct.

Mr. JAVITS. We could make them the body.

Mr. BAYH. Yes.

Mr. JAVITS. Could we also, by law, say that when we create the body, we settle the question of "either"; that is, that only one can take action; that whatever body we create, it is exclusive?

Mr. BAYH. That is what I was trying to point out.

Mr. JAVITS. Let us point it out now and nail it down.

Mr. BAYH. Congress in its wisdom could, in the enactment of the law, specify that the body should take the place of the Cabinet, and a new Cabinet could be created.

Mr. JAVITS. The body created by Congress is exclusive?

Mr. BAYH. Yes.

Mr. JAVITS. Whether Congress would or would not specify that the body should take the place of the Cabinet neither the Senator from Indiana nor I know. But the point is that Congress could.

Mr. BAYH. That would depend upon the wisdom of those who follow us.

Mr. JAVITS. Congress could make the body it created exclusive?

Mr. BAYH. Yes.

Mr. JAVITS. Twenty-one days are provided in which the Congress must act on determination of Presidential disability. Congress has provided, implicitly under the 21-day limitation, restrictions on a filibuster, a precedent for which is contained in the Reorganization Act.

Mr. BAYH. At the end of the 21-day period, nothing would prevent Congress from continuing to discuss the situation; but at the end of 21 days, the President would resume his office.

Mr. JAVITS. Nonetheless, Congress could protect itself against filibusters by writing an antifilibuster rule into the statute that would be passed to implement the amendment, could it not?

Mr. BAYH. That is correct.

Mr. JAVITS. Congress has done that under the Reorganization Act. The Senator may take my word for that.

Mr. BAYH. Of course. I was trying to tie it in with this particular issue. There would be nothing to preclude Congress from establishing rules as to how to use the 21 days. Congress could incorporate any rule it desired.

Mr. JAVITS. Sc inaction would restore the President to office.

Mr. BAYH. Yes. We are trying to place a safeguard around the President.

Mr. JAVITS. Why is there not a generic clause providing that Congress shall have power to pass legislation to implement the amendment, as, for example, was done with respect to section 2 of the 14th amendment? I have tried, by the questions and answers that have been propounded and given, to show that there is ample opportunity and ample authority for Congress to act. Will the Senator now tell us whether there was any reason for not having a boilerplate implementing clause with respect to Congress?

Mr. BAYH. Yes; that is a good point. The Senator may recall that we discussed it at some length. When the distinguished Senator from Illinois and the distinguished Senator from Minnesota attempted to remove most, if not all, of the provisions from the bill, sections 3, 4, 5, and 6, as they were before, were incorporated. They do not constitute merely permissive legislation on the part of Congress.

There is considerable discussion among constitutional scholars, the present Attorney General, Attorney General Brownell, and three or four previous Attorneys General who feel doubt as to whether a statute would be constitutional. They say, "Let us not wait until we are confronted with a crisis concerning the disability of the President to have it tested. Let us put it in the bedrock law of the land and eliminate doubt as to whether it is constitutional."

Second—and I believe it is more significant—is the fact that we have tried to

provide the President of the United States with the kind of safeguards that he needs when he must make unpopular decisions which are necessary for the safety of our country. For that reason, we have required that the approval of two-thirds of the Senate shall be necessary before the President can be removed from office by impeachment. Thus, a hostile Congress cannot remove a President who is unpopular at the time because of decisions which he has made. Once he is elected President, he serves for 4 years.

If we were to take the statutory means, although it would still require two-thirds of the Senate to remove a President from office under impeachment proceedings, a majority of 51 Senators could remove a President for disability and thus get around the two-thirds safety clause contained in our present impeachment statute. Thus we feel that if we were to have a provision placed in the Constitution requiring the approval of two-thirds of both Houses of the Congress, we would have given the President much more safety than a mere act of Congress, which is the original case, providing that two-thirds of the House and Senate would be required to declare a President disabled rather than a simple majority. This could be changed at any time in our history.

I believe that this is important enough so that we should demand that the approval of two-thirds of the Congress be required before a President could be removed from office.

Mr. JAVITS. Mr. President, the Senator, however, affirms to us that Congress has full latitude to pass the necessary enabling legislation under the authority of what is meant by "such other body as Congress may by law provide."

Mr. BAYH. The Senator is correct.

Mr. JAVITS. Congress has the right to provide for the exclusivity of that body in exercising this authority, as well as the way in which the body shall exercise that authority, and other pertinent details necessary to the creation of such a body, its continuance, its way of meeting, the rules of the procedure, and the way in which it shall exercise its power.

Mr. BAYH. The Senator is correct.

Mr. GORE. Mr. President, what was the beginning of that question?

Mr. JAVITS. The Senator in charge of the bill affirms to us that Congress, under this amendment, would have full authority to enact a law, not only creating this body, but also giving it exclusivity in respect of its action under this particular amendment, and determining its procedure, how it shall be formed, and so forth.

Mr. GORE. This would not be by terms of the amendment itself, but would be by way of legislative intent?

Mr. JAVITS. No. I should say that it is by the express terms of the amendment itself, by the following words, "such other body as Congress may by law provide."

I believe that the words "by law provide" is what the Senator in charge of the bill is implementing now in his statement concerning what the law which creates this body can cover.

Mr. GORE. Congress could not enact a law which would be superior to a provision of the Constitution.

Mr. JAVITS. Certainly not.

Mr. GORE. This would then be a provision of the U.S. Constitution, let me remind the Senator, which would provide, in explicit language that "Either a majority of the principal officers of the executive department, or such body as the Congress may by law create."

I doubt that the fact that Congress is authorized to create by law another body could reasonably be interpreted as conveying authority and power to deny to a majority of the Cabinet powers that the Constitution would then by this amendment vest.

Mr. JAVITS. Mr. President, I can only give the Senator my view—and I do this with great humility—and my opinion as a lawyer.

Mr. GORE. I am not as learned as the distinguished Senator, but I believe that my interpretation is reasonable.

Mr. JAVITS. I do not believe so, and I shall explain to the Senator my view. In a situation in which the Congress has conferred, and enacted legislation providing for a new body, and it would be my judgment, if I were a judge sitting on a case involving the constitutionality of that legislation that if that power of Congress were exercised, it was exercised to give exclusivity to the other body. I believe that the court would construe this amendment to most feasibly accomplish the purpose of Congress. As the purpose of Congress is to settle this kind of issue, rather than leave it in a great area of uncertainty and controversy, would it not be completely contrary to the purpose of Congress to create two bodies which could compete with one another?

I believe that the construction which the courts would give to what we are doing is that if the Congress were to exercise the authority that the amendment would give, the courts would hold that that body has exclusivity as to its action.

That is my opinion as a lawyer, and I have submitted my reasons to the Senator.

Mr. GORE. The Senator speaks quite ably, and whether he is a judge, a citizen, a Senator, or a practicing attorney, I respect his opinion.

The points that I raise concern the justification for throwing this ambiguous question into the courts.

The time to be explicit is when we write an amendment into the Constitution. I say quite frankly to the Senator that I am unprepared to see this amendment approved in this uncertain way, with only a few Senators on the floor.

I should like to see the proposal examined further, to my own possible satisfaction, to determine the exclusivity to which the Senator refers. I am not sure that comports with the rules of construction.

Mr. JAVITS. I should welcome the Senator's researching the matter. I have no quarrel whatever with the desire of the Senator to examine into the question carefully.

I am satisfied that this is what the proposal would do. I am speaking only for myself. I have great respect and regard for the Senator. I would stand aside to enable the Senator to satisfy himself by appropriate research to determine whether this is the way in which it should be handled.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. COOPER. Mr. President, a few moments ago when I addressed questions to the Senator from Indiana, my purpose was the same as that of the Senator from New York, to ascertain that if the first procedure were followed—which concerns the Cabinet and the Vice President, whether it would possess exclusivity in its authority to act; and to ascertain if Congress were to create another body, such a body would have the exclusivity to which the Senator has referred.

I agree wholeheartedly, with the position of the Senator from New York, and also with his view that the courts would consider the purpose of the proposed amendment and not do an exercise in futility.

I believe that it would be unreasonable to follow any other position.

I ask the Senator if in his good judgment he believes that the language which proposes the alternative procedure is ambiguous of such ambiguity as to create a situation in which it would be unclear as to whether the Vice President and the Cabinet or the Vice President and the body established by the Congress would have authority to act. Such a situation would be the last thing that we would desire.

Mr. JAVITS. I do not believe it is so ambiguous as to make it unclear. It is not the optimum nor the most precise language. Every Senator and lawyer may have his opinion, and my colleague from Kentucky, in my judgment, yields to no other Senator in his distinction as a lawyer but to me it is not so ambiguous as to be unclear. It is not the optimum language that I or the Senator from Tennessee or the Senator from Kentucky or other Senators might have sought, but I feel that I could vote for it in good conscience.

I agree with what the Senator has said. I do not see any earth-shaking necessity for not having a delay of a few days to look it over; but if I had to vote this afternoon, I would feel in good conscience that I could vote "yea."

Mr. GORE. Mr. President, if the Senator will yield, is there any necessity to vote this afternoon?

Mr. JAVITS. That has not been determined. But, as I have said, if I had to, I would vote for it.

Mr. GORE. The Senator from New York has raised a serious question. The Senator from Minnesota has raised a serious question. The Senator from Kentucky and the Senator from Tennessee have expressed doubts. It seems to me we could give this matter a little more consideration than I admit I have given it. Perhaps I have been derelict in my duty in not studying it more before now, but, as I listened to questions

raised by the Senator from New York and the Senator from Minnesota and began to read and study the conference report, I detected language that seemed to me to be uncertain, if not ambiguous.

Mr. BAYH. Of course, the Senate of the United States is the world's greatest deliberative body. If my colleagues feel it should be debated more, I believe we should do so. I have tried, and will continue, to listen to every argument. However, I have studied this measure enough to know—and I say this from the bottom of my heart—that if we ever expect to have a constitutional amendment on this important question, the most complicated and intricate issue that we have ever tried to put into the Constitution, because of all the medical ramifications and power struggles that might exist—if we ever intend to get a measure with respect to which there will not be a scintilla of controversy, with very specific wording, we might as well terminate the debate and throw this year and a half's work in the ashcan, because we are not going to do it.

I have never pretended to the Senate or to my colleagues that this measure is noncontroversial or that it would cover every possible, conceivable contingency that the mind of man could contrive. I have suggested that it is the best thing we have been able to come up with, and it is so much better than anything we have ever had before—namely, nothing—that I dislike to see us, by delay, jeopardize the great protection we would get by this constitutional amendment.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. GORE. I would not expect an amendment to be drafted to meet the imagination of all. The point I raise here is that the able Senator brings to us the intent of the amendment which, in my view, is not supported by the language of the amendment.

If this is the intention of the House and Senate and the conferees representing those two bodies, surely the language can be explicit.

I have previously referred to the language as being ambiguous. I may have used the wrong term. It seems to me it is rather plainly stated that either the Cabinet or the body to be created by Congress could perform this official function.

There may be some way that the courts could find that exclusivity ran to the body created by law, but if that is the intent, why leave the decision to a court under some possibly tragic circumstance that might arise? Surely, a few days of delay and a few days of further consideration should not be interpreted as being antagonistic to an amendment. On the contrary, it is suggested as a means of permitting more careful consideration.

Mr. BAYH. I appreciate the Senator's contribution.

Mr. GORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MURPHY in the chair). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business, the conference report on presidential succession, be laid aside temporarily, pending conferences, and that the Senate resume the consideration of the Export Control Act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

The Senate resumed the consideration of the bill H.R. 7105 to provide for continuation of authority for regulation of exports, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 25 minutes on the debate on the pending business, with 15 minutes allowed to the Senator from New York [Mr. JAVITS] and 10 minutes to the Senator from Maine [Mr. MUSKIE] who is in charge of the bill on the Senate floor.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, before we settle on that question, may we have a quorum call? I should like to have the Senator from New Jersey [Mr. WILLIAMS] present. It may take a few minutes.

Mr. MANSFIELD. Mr. President, will the Senator permit the Chair to announce the agreement at the end of the quorum call?

Mr. JAVITS. Yes. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask for order in the Chamber. We are about to discuss something totally different from the presidential succession conference report.

The PRESIDING OFFICER (Mr. KENNEDY of New York in the chair). The Senate will be in order.

Is there objection to the unanimous-consent request that there be a time limitation of 25 minutes on the pending bill, that 15 minutes be allotted to the Senator from New York [Mr. JAVITS] and 10 minutes to the Senator from Maine [Mr. MUSKIE]? The Chair hears none, and it is so ordered.

Mr. MUSKIE. Mr. President, I yield myself 1 minute.

Mr. President, the Export Control Act of 1949 will expire at midnight tonight. The Banking and Currency Committee, after two sets of hearings in the general field, has reported the House bill on the subject, H.R. 7105. We urge the Senate to act at once on this bill so that it can be sent to the President for his signature before it expires.

This is essential because the Export Control Act of 1949 is the act under which exports of strategic and critical materials from the United States are kept from going behind the Iron Curtain. In the absence of an extension, American producers and shippers will be free to send commercial and industrial materials and equipment to Communist China, the U.S.S.R., and the rest of the Soviet bloc.

The Banking and Currency Committee has accepted the House bill, without change.

The bill would accomplish three purposes. First, it would extend the Export Control Act for 4 more years—to June 30, 1969. Second, it would authorize the administrative imposition of civil monetary penalties not exceeding $1,000 for violations of the act. Third, it will make a formal declaration that—

> it is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States.

It will also require the issuance of regulations to implement this policy within 90 days after the enactment of the bill. The bill leaves in the President the necessary discretion as to the type and terms and scope of these regulations. This administrative flexibility is appropriate in view of the President's constitutional role in the field of foreign policy.

The committee's report contains a full description of the Export Control Act and its administration and enforcement. It also contains a full description of the several amendments made by the bill, which need not be repeated here.

The committee in considering the bill devoted considerable time to three proposals.

The first was a proposal by Senator WILLIAMS of New Jersey, to amend the provisions of the bill relating to boycotts, along the lines of the Senator's bill S. 948, on which hearings had been previously held. The committee agreed that the general purpose of S. 948 should be included in the bill. However, a majority of the committee felt that the provisions included in the House bill constituted an appropriate statement of policy and supplied adequate legal basis for enforcement of the policy, while at the same time providing the necessary flexibility to meet the changing needs and circumstances of our foreign policies.

Another amendment, strongly supported by Senator HARTKE, of Indiana, and other Senators, and strongly opposed by others, would have required the impostion of quotas on exports of materials under certain circumstances—when

to $2.5 million, with additional increments thereafter. The President's health message, however, specifically endorsed only the first of these recommendations.

Probably one of the reasons for this conservative approach was that it is difficult to get the facts on how many technologists are going to be needed—in part because the need is going to depend upon the scope of the programs that finally result from the President's recommendations concerning heart disease, cancer, and stroke. I noticed last month an article in a national magazine which dealt with the problem of clinical laboratory testing and the lack of well-trained medical technologists. It stated that, in addition to the 35,000 employed today, some observers say 50,000 more are needed. If these are reliable figures, we have an idea of the dimensions of the problem.

Perhaps, after I have finished speaking, you can give me some advice on this point. I know that Stonehill has a recognized program for the training of medical technologists which has worked in association with St. Joseph's Hospital in Providence, R.I.; and when I began to think about what I might say to you tonight, it seemed to me that it might be mutually worthwhile if you would tell me whether Federal assistance is needed to assure an adequate supply of these vital workers. Reliable statistics on the dimensions of the need—for example—is one of the first considerations in the drafting of legislation.

I am in sympathy with the problems of the medical technologists. Three or four years ago I addressed the American Society of Medical Technologists, and at that time considered with them the problems facing their very young profession. It is ironic that it is so hard to get the facts concerning this element of the health team that is dedicated to getting the information on which doctors and pathologists rely. But, with the advice of such schools as this, I am prepared to urge the Congress to take whatever action seems appropriate.

Finally, among the necessary legislative measures now before the Congress designed to help build a bridge between the worlds of medical research and medical practice is one left over from the 88th Congress, which must not be postponed again. This measure would authorize assistance in meeting the initial cost of staffing community mental health centers.

When John F. Kennedy suggested to the last Congress the measures that needed to be taken to meet the problems of mental illness and mental retardation—a subject very near to his heart, as you know—he proposed a three-part program. Two parts of this program were enacted by the Congress—grants to the States for the construction of community mental health centers, and grants for preliminary planning of these centers.

The third part of this program—support for the staffing of these centers—was not provided by the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. This provision was intended as part of the act and I supported the provision, but, unfortunately, it was deleted in the final version. It is imperative that an amendment to the act pass this Congress, and it must do so quickly, or the entire community mental health centers movement will be placed in jeopardy.

My remarks have not touched upon other matters of interest to this group and to me—for example, my bill to create a new Cabinet-level department of education. But tonight I have chosen to emphasize the 89th Congress and health care because of the extraordinary way in which events have conspired to place us in a position to capitalize on the gains we have made in research in medicine over the past 15 years or more. In the field of medical and health-related care there is no need to wait for opportunity to knock—it is knocking now, on the doors of Congress—and I hope that you will join me in urging passage of the health-related measures I have mentioned tonight. Opportunity is also knocking on the doors of our collective conscience—lives are being lost, while we wait to answer the doors.

Let me urge all of you—as I am urging all Americans—to do everything in your power to assure that this Congress does not miss this opportunity—an opportunity to be known in history as the "medical care" Congress.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JUNE 30, 1965

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

I Thessalonians 5: 21: *Prove all things; hold fast that which is good.*

Most merciful and gracious God, may Thy servants daily sense Thy presence and power in this Chamber as they seek to discharge their duties and responsibilities with wisdom and understanding, with fidelity and fortitude.

We humbly beseech Thee that when moods of anxiety and doubt lay hold upon us we may be assured that Thou wilt strengthen and guide us in our efforts and endeavors to safeguard our heritage of freedom and share it with all mankind.

Show us how we may be channels of inspiration and instruments of help and hope to all who are longing and laboring for the dawning of that brighter and better day when a nobler and more magnanimous spirit shall rule the mind of man and all nations shall follow the ways of reason and righteousness.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8147. An act to amend the tariff schedules of the United States with respect to the exemption from duty for returning residents, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD of Virginia, Mr. LONG of Louisiana, Mr. SMATHERS, Mr. CARLSON, and Mr. MORTON to be the conferees on the part of the Senate.

REREFERRAL OF SENATE JOINT RESOLUTION 1 TO COMMITTEE ON CONFERENCE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that the conference report on Senate Joint Resolution 1, concerning the amendment involving Presidential inability, be referred to the committee on conference because of a technical error in copying.

The SPEAKER. The gentleman from New York requests unanimous consent that Senate Joint Resolution 1 be recommitted to the committee on conference.

Mr. POFF. Mr. Speaker, reserving the right to object, and I shall not object, I am familiar with the reason for the request and join in the request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TO AMEND TARIFF SCHEDULES OF THE UNITED STATES WITH RESPECT TO THE EXEMPTION FROM DUTY FOR RETURNING RESIDENTS AND FOR OTHER PURPOSES

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8147) to amend the tariff schedules of the United States with respect to the exemption from duty for returning residents, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

The Chair hears none, and appoints the following conferees: Messrs. MILLS, KING of California, BOGGS, BYRNES of Wisconsin, and CURTIS.

[redacted] VICE PRESIDENT

Mr. CELLER submitted the following conference report and statement on the joint resolution (S.J. Res. 1) 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.

CONFERENCE REPORT (REPORT NO. 564)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That the following article is proposed as an amendment to the Constitution of the

United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

" 'ARTICLE —

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

" 'SEC. 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.

" 'SEC. 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.

" 'SEC. 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.' "

And the House agree to the same.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

BIRCH E. BAYH, JR.,
JAMES O. EASTLAND,
SAM J. ERVIN, JR.,
EVERETT M. DIRKSEN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S.J. Res. 1) 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, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House passed House Joint Resolution 1 and then substituted the provisions it had adopted by striking out all after the enacting clause and inserting all of its provisions in Senate Joint Resolution 1. The Senate insisted upon its version and requested a conference; the House then agreed to the conference. The conference report recommends that the Senate recede from its disagreement to the House amendment and agree to the same with an amendment, the amendment being to insert in lieu of the matter inserted by the House amendment the matter agreed to by the conferees and that the House agree thereto.

In substance, the conference report contains substantially the language of the House amendment with a few exceptions.

Sections 1 and 2 of the proposed constitutional amendment were not in disagreement. However, in sections 3 and 4, the Senate provided that the transmittal of the notification of a President's inability be to the President of the Senate and the Speaker of the House of Representatives. The House version provided that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives. The conference report provides that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives.

In section 3, the Senate provided that after receipt of the President's written declaration of his inability that such powers and duties would then be discharged by the Vice President as Acting President. The House version provided the same provision except it added the clause "and until he transmits a written declaration to the contrary". The conference report adopts the House language with one minor change for purposes of clarification by adding the phrase "to them", meaning the President pro tempore of the Senate and the Speaker of the House.

The first paragraph of section 4, outside of adopting the language of the House designating the recipient of the letter of transmittal be the President pro tempore of the Senate and the Speaker of the House of Representatives, minor change in language was made for purposes of clarification.

In the Senate version there was a specific section; namely, section 5, dealing with the procedure that when the President sent to the Congress his written declaration that he was no longer disabled he could resume the powers and duties of his office unless the Vice President and a majority of the principal officers of the executive departments, or such other body as the Congress might by law provide, transmit within 7 days to the designated officers of the Congress their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon, the Congress would immediately proceed to decide the issue. It further provided that if the Congress 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 would continue to discharge the same as Acting President; otherwise, the President would resume the powers and duties of his office.

The House version combined sections 4 and 5 into one section, now section 4. Under the House version, the Vice President had 2 days in which to decide whether or not to send a letter stating that he and a majority of the officers of the executive departments, or such other body as Congress may by law provide that the President is unable to discharge the powers and duties of his office. The conference report provides that the period of time for the transmittal of the letter must be within 4 days.

The Senate provision did not provide for the convening of the Congress to decide this issue if it was not in session; the House provided that the Congress must convene for this specific purpose of deciding the issue within 48 hours after the receipt of the written declaration that the President is still disabled. The conference report adopts the language of the House.

The Senate provision placed no time limitation on the Congress for determining whether or not the President was still disabled. The House version provided that determination by the Congress must be made within 10 days after the receipt of the written declaration of the Vice President and a majority of the principal officers of the executive departments, or such other body as Congress may by law provide. The conference report adopts the principle of limiting the period of time within which the Congress must determine the issue, and while the House original version was 10 days and the Senate version an unlimited period of time, the report requires a final determination within 21 days. The 21-day period, if the Congress is in session, runs from the date of receipt of the letter. It further provides that if the Congress is not in session, the 21-day period runs from the time that the Congress convenes.

A vote of less than two-thirds by either House would immediately authorize the President to assume the powers and duties of his office.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

Mr. CELLER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the joint resolution (S.J. Res. 1) 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, and I ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

Mr. CELLER. Mr. Speaker, today we write on the tablets of history. We amend the Constitution, which Gladstone, speaking in 1898, hailed as the most wonderful work struck off at a given time by the brain and purpose of man.

The United States has two great symbols of her freedom and liberty. One is the Declaration of Independence and the other is the Constitution. The Declaration is the profession of faith, while the Constitution is its working instrument. It gives action to that faith.

There is no document in any country that can compare with our Constitution. It is the touchstone of our prowess and progress as a nation. Most countries envy us our Constitution.

The Constitution has such elasticity that it remains vital throughout the decades, but it is not immutable. It is not written in stone on Mount Sinai.

Associate Supreme Court Justice Oliver Wendell Holmes once said:

The Constitution is an experiment, as all life is an experiment. If new contingencies arise the Constitution must be made to fit them either by interpretation of fearless judges aware of historical perspective or by amendment.

Jefferson called the Constitution "the ark of our safety and grand palladium of our peace and happiness." He also said:

We must be content to accept of its good and to cure what is evil in it, hereafter (1788).

Years later, in 1823, he said:

The States are now so numerous that I despair of ever seeing another amendment to the Constitution; although innovations of time will certainly call and now already call for some.

Note his prescience.

Let it be emphasized; we never should amend this charter for light or transient reasons. Only for just cause shown should we attempt any change. What we do today is epoch making. We offer an amendment for an overriding reason.

I would like to remind the Members that the House Committee on the Judiciary has been studying this problem since 1955 and has examined it from every conceivable angle. We have had the benefit of the testimony of political scientists, constitutional experts, the American Bar Association, and other groups who had no motive other than to serve this country by closing a gap which had existed since the adoption of the Constitution.

The Constitution was silent, too silent concerning presidential inability. Tragic events had cast ominous shadows which we dared no longer disregard. The assassin's bullet and possible nuclear holocaust forced action.

We, the conferees worked dispassionately and with searching inquiry after both Houses had responded to the call for action. We met in numerous conclaves and finally rounded out differences. We labored hard and patiently. We accepted the pace of Nature, for is not patience her secret? We examined all contingencies and possibilities. We present a solution that is ample, wise, and practicable.

May I at this time pay tribute to the gentleman from Ohio [Mr. McCULLOCH] and the gentleman from Virginia [Mr. POFF], both on the Republican side, and to the gentleman from Colorado [Mr. ROGERS] and the gentleman from California [Mr. CORMAN] on the Democratic side—all conferees—who rendered painstaking and dedicated and wise services in the conference. They were of immeasurable help in the conference with the Senators. I am deeply grateful to them.

Mr. POFF. Mr. Speaker, the conference report represents a compromise. That word should be understood not as an apology for a concession but as a justification for an achievement, an achievement in the highest traditions of legislative and constitutional craftsmanship. It is an accommodation and an accord of viewpoints which once were widely divergent and now, happily, are concordant. The business of the Nation, left unattended for a century because too controversial, has been performed and the controversy has been resolved.

Aside from minor, relatively inconsequential language differences, the House version and the Senate version were substantially equivalent in all but four major particulars.

The first major difference was in section 3. That is the section under which the President can voluntarily vacate his office and vest the Vice President as Acting President with the powers and duties of his office. The difference was in the mechanics of resumption of power by the President. Under the Senate version, the mechanics outlined in sections 4 and 5 would apply. Those mechanics involved first, a declaration of restoration by the President; second, an opportunity for a challenge by the Vice President transmitted to the Congress; and third, the possibility of congressional approval of the Vice President's challenge. The House version did not acuate the mechanics of sections 4 and 5. Rather, it was felt that a distinction should be made between section 3 authorizing voluntary withdrawal of the President and section 4 authorizing involuntary removal of the President by the Vice President. The House felt that the President would be reluctant to utilize section 3 if to do so exposed himself to the possibility of the Vice Presidential challenge and congressional action when he decided to resume the office. Accordingly, section 3 of the House version provided that the President who used the provisions of section 3 could promptly restore himself to his office simply by transmitting a written declaration to the two Houses of Congress.

The conference report—after adding two words of clarification—accepted the House version.

The second major difference between the two versions was in the mechanics of restoration in sections 4 and 5. In the Senate version, the Vice President as Acting President, was allowed 7 days in which to make a decision about challenging the President's declaration of restoration. The House version was 2 days. By way of compromise, the conference report recommends 4 days. The conferees intend that the 4-day period be interpreted as an outside limitation on the time in which the Vice President may consider making a challenge; it is not necessary that the President wait 4 days to resume his office if he and the Vice President mutually agree that he do so earlier.

The third major difference involves a procedural uncertainty which Speaker McCORMACK during House debate recognized might cause calamitous consequences. Under the Senate version, the Vice President's challenge of the President's declaration of restoration had the effect of submitting the dispute between the two men to the Congress for settlement. However, it simply instructed Congress "to immediately proceed to decide the issue." This left unclear what delay might occur in the event the Congress was in recess when it received the Vice President's challenge. Under the House version, the Congress, if not in session, is required to assemble "within 48 hours" to decide the issue.

The conference report accepts the House version.

The fourth major difference is a conceptual difference. Under the Senate version, the Congress having received the Vice President's challenge was empowered to act upon it and if it upheld the challenge by a two-thirds vote, the Vice President would continue to hold office as Acting President; otherwise, the President would resume his office. The House version was essentially the same except that it imposed a 10-day limitation upon congressional action. It said that if the Congress did challenge within 10 days after receipt, then the President would resume his office. The House approach guaranteed that any delay on the part of Congress, whether accidental and unavoidable or intentional and purposeful, would operate in favor of the President elected by the people.

The conference report adopts the concept of a time limitation but increases the time limit from 10 days to 21 days, and if the Congress is in recess when the Vice President's challenge is received, then the 21 days begin to run from the day Congress reconvenes.

No one should assume that House insistence upon a time limit was a criticism of the Senate. It is true that the rules of the other body permit unlimited debate and a small minority of Senators hostile to the President and loyal to the Vice President as Acting President could, in the absence of a time limit, make a great deal of public mischief at a most critical time in the life of the Nation. It is no less true that such mischief could be wrought by a small dedicated band of enemies of the President in the House. By tedious invocation of the technical rules of procedure, that little band could frustrate action on the Vice President's challenge for a protracted period of time, during which the Vice President would continue to serve as Acting President and the President, knocking on his own door for readmission, would be kept standing outside. If this little band happened to be one more than half the membership of the House, their task would be much easier, because they could simply meet and adjourn every third day without any action at all. Thus, more than half but less than two-thirds could effectively accomplish by inaction the same thing it would take two-thirds to accomplish by vote if there is no time limit in the Constitution. The conference committee understood this danger, and that is why the 21-day provision is in the conference report.

Several matters need to be clearly established by legislative history. First of all, the conferees unanimously intend that the 21-day period be considered an outside limitation and should in no wise be interpreted to encourage a delay longer than necessary. Indeed, in the face of such a crisis as the Nation would face at a time when section 4 would become operable, the conferees feel that both Houses of Congress should act with the least possible delay.

Secondly, the conferees unanimously intend that should one House of the Congress proceed to a vote on the Vice President's challenge and less than two-thirds of its Members vote to uphold the challenge, this action shall have the effect of restoring the President immediately to his office, even though the other House has not yet acted.

Mr. Speaker, I have no fear but that this conference report will be adopted by a two-thirds vote. But I am prompted to express the hope and the plea that it will be adopted by a unanimous vote, and with such a congressional blessing, the proposal would, I am confident, be ratified by three-fourths of the States before the end of next year.

[redacted] Mr. Speaker, I would like to take this opportunity to associate myself with the distinguished majority leader and minority whip in expressing my gratitude and admiration for the chairman of the Committee on the Judiciary and the dean of the House, the gentleman from New York [Mr. CELLER].

Today is a very suitable occasion: for we have just given final House approval to a proposed constitutional amendment making necessary provisions for the continuance of orderly government and Executive responsibility in the case of Presidential disability or a vacancy in the Vice-Presidency. This legislation exhibits the genius and diligence which have been characteristic of all the undertakings of Mr. CELLER in his many years of service to the Nation and to this House.

His decades of service in the National Congress, his noteworthy legal career, and a sound understanding of the necessities and needs of the American Constitution have all contributed to make our dean of the House a recognized leader in legal and constitutional matters, and a spokesman who must be heard. This House has heard Mr. CELLER and his Judiciary Committee in approving this legislation today. This is a great tribute to the chairman and his committee who have gone a long way toward effecting eventual incorporation of this greatly needed provision into our Constitution.

Mr. Speaker, I include with my remarks at this point in the RECORD an editorial taken from the Springfield, Mass., Daily News of June 29, 1965, entitled "When the President Is Disabled":

WHEN THE PRESIDENT IS DISABLED

A compromise formula for correcting a major flaw in the Constitution of the United States; namely, the lack of a provision for filling the Vice-Presidency when the office becomes vacant or for making the Vice President a temporary Acting President in case the President of the United States should become disabled, has been reached by Senate and House conferees. It will now go before Congress for approval and then to the States for ratification.

The way the plan would operate is that if the President felt himself unable to perform his duties he would simply notify the Speaker of the House of Representatives and the President pro tempore of the Senate of his disability. The Vice President would then take over immediately as Acting President. In the event of a President so disabled as to be unable to notify Congress of his disability or if he should refuse to admit he is disabled, the situation would be handled this way. The Vice President and a majority of the members of the President's Cabinet would sign a written declaration that the President was disabled and send the declaration to Congress. The Vice President would then become Acting President, just as though the President himself had declared his own disability.

The need for this constitutional amendment is generally accepted. On at least two occasions, because there was no such provision, the executive branch of the Federal Government has been virtually paralyzed because of this constitutional lack. President James A. Garfield lived for 80 days after being shot in 1881, but his Vice President felt he had not the right to take over. President Woodrow Wilson served for 18 months while paralyzed with a stroke, but many believe that his wife and the Cabinet really governed. There are also the cases of two other Presidents who were disabled. President William McKinley survived for 8 days after being shot in 1901, and the business of Government came to a halt. Most recently, President Dwight D. Eisenhower suffered a coronary thrombosis in 1955 and was almost completely isolated for a week and hospitalized for 6 weeks.

The proposed amendment to the Constitution also covers a vacancy in the Vice-Presidency. It provides that the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress. This is the first provision ever made for filling such a gap, which has existed often in this country. Not many, probably, realize it, but in the 176 years since John Adams became the first Vice President of the United States, the Nation has functioned without a Vice President on 16 occasions for a total of 37 years, which is roughly one-fifth of the time the Federal Government has been in operation.

Here is what happened to Vice Presidents who failed to complete their terms: George Clinton died April 20, 1812, 10 months before his term expired; Elbridge Gerry died November 23, 1814, 2 years before his term expired; John C. Calhoun resigned December 28, 1832, with 2 months to serve, to become a U.S. Senator; John Tyler became President April 6, 1841, almost 4 years before his term expired, replacing President William H. Harrison, who died; Millard Fillmore became President July 10, 1850, 2 years and 8 months before his term expired, succeeding President Zachary Taylor, who died; William R. King died April 19, 1853, with almost 4 years to serve; Andrew Johnson became President April 15, 1865, with 3 years and 11 months to serve, replacing President Abraham Lincoln, who was assassinated; Henry Wilson died in office November 22, 1875, a year and 3 months before the end of his term; Chester A. Arthur became President September 20, 1881, with 3 years and 5 months to serve, succeeding President James A. Garfield, who was assassinated; Thomas A. Hendricks died November 25, 1885, with 3 years and 3 months to serve; Garret A. Hobart died November 21, 1899, a year and 3 months before his term expired; Theodore Roosevelt became President September 14, 1901, with 3 years and 6 months to serve, when President William McKinley was murdered; James A. Sherman died October 30, 1912, 4 months before his term expired; Calvin Coolidge became President August 3, 1923, with a year and 7 months to serve, when President Warren G. Harding died; Harry S. Truman became President April 12, 1945, with 3 years and 9 months to serve, when President Franklin D. Roosevelt died; and Lyndon B. Johnson became President November 23, 1963, with a year and 2 months to serve, when President John F. Kennedy was assassinated.

A way has now been found to overcome a serious constitutional weakness. It may not be ideal, but it is far preferable to the present void. It deserves prompt approval by Congress and ratification by the States.

Mr. ROYBAL. Mr. Speaker, I rise to urge prompt ratification by the legislatures of the several States of the proposed 25th amendment to the Constitution 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.

This proposed amendment, overwhelmingly adopted by both House and Senate, can be of vital importance in helping clear up some 175 years of constitutional uncertainty and in assuring the continuity of the legal Government of the United States whenever the questions of Presidential disability or succession arise, or a vacancy in the office of the Vice President occurs.

As cosponsor of the joint congressional resolution which proposed the amendment, I believe we have come to realize more fully than ever before, especially since the tragic assassination of our late beloved President John F. Kennedy, that we can no longer afford, in this nuclear space age, to gamble with the future stability of our Government by leaving its fate to the uncertain whims of chance.

Nothing less than the safe and sure continuity of the legal Government of the United States is at stake. This essential continuity has been endangered many times in the past, and in some instances, only good fortune has prevented possible disaster.

For more than a year after Lyndon Johnson became President, our national luck held out, and we were all witnesses to an impressive demonstration of the true inner strength of America's democratic traditions.

The new President firmly and quickly took up the reins of leadership, to assure continuity of the Government in the midst of a great constitutional crisis, to begin to heal the Nation's wounds, and to reinstill in our people a sense of unity and brotherhood and faith in the future.

This experience has again focused public attention on the critical issue of Presidential and Vice-Presidential succession, as well as the related, and in some ways more difficult, problem of Presidential disability.

As a result, there has developed a strong national consensus in favor of resolving these issues in a positive way, so that there will be no doubt concerning the constitutional provisions for handling such problems in the future.

As an affirmative response to the need for a solution to these problems, the joint congressional resolution proposes to amend the Constitution in three respects: first, it confirms the established custom that a Vice President, succeeding to a vacancy in the office of the President, becomes President in his own right instead of merely Acting President; second, it establishes a procedure for filling a vacancy in the office of Vice President; and third, it deals with the problem of Presidential disability.

Section 1 of the proposed amendment provides that in the case of the removal of the President from office, or of his

death or resignation, the Vice President shall become President.

Section 2 provides that in the event of a Vice-Presidential vacancy, the President can nominate a new Vice President, who will take office when he has been confirmed by a majority vote of both Houses of Congress.

Section 3 enables a President to declare his own disability to exercise the powers and duties of his office, thus voluntarily turning over those powers and duties, but not the office, to the Vice President who then becomes Acting President, until such time as the President declares that the disability no longer exists, and he resumes the powers and duties of his office.

In the absence of a Presidential declaration of disability, section 4 permits the Vice President, with the approval of a majority of the Cabinet, or such other body as Congress may stipulate, to make such a declaration, and to assume the presidential responsibilities as Acting President. It also provides for quick and orderly congressional resolution of any dispute over the President's ability, by authorizing him to resume discharging the powers and duties of his office unless two-thirds of both House and Senate agree with the Vice President and a majority of the Cabinet—or such other body as Congress has stipulated—that the President is unable to perform those duties.

This proposed amendment, though not perfect, represents a sincere effort on the part of many persons who have studied the admittedly complicated issues involved to offer a workable means of solving difficult and delicate problems affecting the continuity and perhaps even the life of our Government.

A variety of suggestions have been made to improve this proposed amendment, and Congress has given full and thorough consideration to all these suggestions, and, in fact, has incorporated several of them into the joint resolution.

For these reasons, Mr. Speaker, I strongly urge our State legislatures to act without unnecessary delay, for the subject is important to the future stability and peace of this Nation, and we cannot afford the risk that further delay would entail in this vital matter.

As President Johnson stated in his message to Congress:

> Favorable action * * * will, I believe, assure the orderly continuity in the Presidency that is imperative to the success and stability of our system.
>
> Action * * * now will allay future anxiety among our 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.

Mr. CELLER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and (two-thirds having voted in favor thereof) the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks in the RECORD on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO HONORABLE H. R. GROSS

Mrs. BOLTON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Mrs. BOLTON. Mr. Speaker, may I have the attention of the House?

I rise today to ask all of you to pay honor to a man whom I have grown to admire very much. He is one of the hornets in the House. He is one of the most hard working men, if not the most hard working man, in the House. He is very much beloved by many people and he is just not liked too much by others. But he is a wonderful person and he is a marvelous Member. He is an example to all of us about doing our homework.

This is his birthday. I hope very much that you will join me in wishing him many more years of the service he has been rendering, assuring him of our appreciation of his amazing capacity, his loyalty, and his patriotism.

I give you the distinguished gentleman from Iowa, H. R. GROSS.

A MEMORABLE DAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, this is a memorable day in the history of the House and in the life of one of the most distinguished men ever to serve in the House. The House has just adopted the conference report on the constitutional amendment dealing with Presidential disability and succession, which has been managed from its beginning by the distinguished dean of the House, the gentleman from New York [Mr. CELLER].

Also of historical significance is the fact that this is the third constitutional amendment which has been shepherded through the House by our distinguished friend from New York. He also authored and brought out of his committee and through the House the constitutional amendment dealing with poll taxes and the constitutional amendment dealing with the right of citizens of the District of Columbia to vote in presidential elections. This is a great milestone in the legislative career of one of our Members.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I will be glad to yield to the gentleman.

Mr. BOGGS. I would like to join in the tribute that our distinguished majority leader is paying to the dean of the House of Representatives. In the first place, this is a most significant amendment to our Constitution. I had the responsibility of serving on the Assassination Commission. One of the alarming things about that sad duty was the fact that we had not adequately provided for the succession of the Chief of State of the United States of America.

The distinguished gentleman has done an outstanding job. I think there is no Member more beloved than MANNY CELLER of New York. Some may disagree with him on occasion, as all of us are inclined to disagree with one another. But no person could conceivably question his fairness and his great love for the House of Representatives.

So I am proud, indeed, to join in this tribute.

Mr. ALBERT. Mr. Speaker, I thank the gentleman.

Mr. Speaker, along with commending our great chairman, I should also like to commend all members of the Committee on the Judiciary on both sides of the House who have performed a great service to the Congress and to the country.

HAPPY BIRTHDAY, MR. GROSS

Mr. HALL. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HALL. Mr. Speaker, when one addresses his remarks to the 10th birthday of the Republic of the Congo, such remarks might well "scoop me" on the subject of the birthday of a great Republican in the Congress. However, quite properly the gentlewoman from Ohio [Mrs. BOLTON] did "scoop me" in my remarks about the great Iowan's [Mr. GROSS] natal date; in which all have so enthusiastically responded to the arrival of his 66th year, which is over and above the call of service and the age of retirement. This droll gentleman, this watchdog of the Treasury, this radio reporter of early and extraordinary vintage, this stanch advocate, considered irascible by some but loved by all, and particularly his lovely wife and fine sons, son of the soil from the great farm State of Iowa, trained in Missouri, this friendly statesman, leads me to honor his birthday, by further leave of the Speaker, to make a point of order that there is no quorum present.

I will not dwell upon the details of the very simple proposal which would provide an incentive for railroad management to build freight cars essential to the Nation's needs. It would grant authority to the Interstate Commerce Commission to fix rental rates which would provide just and reasonable compensation to freight car owners and it would encourage the acquisition and maintenance of a car supply sufficient to meet the needs of both commerce and the national defense.

I wholeheartedly endorse this proposal, and I urge its passage to offer relief to an important segment of our economy.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the amendments of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the United States Constitution 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.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF VICE PRESIDENT—CONFERENCE REPORT

Mr. BAYH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) 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. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. BAYH. Mr. President, we have before us for final passage Senate Joint Resolution 1, which is a proposal to amend the Constitution to assure Presidential succession and authority in our Government.

The progress of the bill has been the result of the labors of many persons, particularly the President of the United States, the leadership of this body, the leadership of the House of Representatives, the executives of the American Bar Association, and my colleagues on the Judiciary Committee, with particular emphasis upon those who labored on the Subcommittee on Constitutional Amendments.

The measure was introduced by myself on behalf of myself and many other Senators. It has been slightly modified from the form in which it was introduced in December 1963. Since then it has been the subject of two sets of hearing before the Senate Subcommittee on Constitutional Amendments. It has been studied by the full Committees on the Judiciary of both the House and the Senate. It was twice passed in the Senate by unanimous yea and nay votes, and it was overwhelmingly approved by the other body.

Earlier this year the proposed amendment received the full support of the President of the United States. Earlier it had been endorsed, as was brought out in some detail in the debate which ensued in this body, by such distinguished nongovernmental groups as the American Bar Association.

At long last the Senate and House conferees have completed their studies of the proposed amendment. A short while ago the conference report was approved by the House of Representatives. All that remains is for this body to approve the conference report, and then the measure will be sent to the States for ratification.

If the Senate acts affirmatively, it will be the 11th time in the past 90 years that Congress has submitted a proposed amendment to the Constitution to the several States. Of the last 10 that have been submitted, 9 have been ratified.

We have every reason to believe that the States will look with favor upon the proposed amendment, which is not designed really to alter the Constitution, but rather to fill a void in that great document which has existed for 178 years. As all of us know, the amendment is designed to do three specific things. I should like hastily to review the three purposes:

First, the proposed amendment would make forever clear that when the office of President becomes vacant, the Vice President shall become President, not merely Acting President. We would clearly state in the Constitution what has become precedent through the actions of Vice President Tyler following the death of the then President Harrison.

Second, if the office of Vice President should become vacant, the proposed amendment would provide a means to fill that office so that we would at all times have a Vice President of the United States.

Third, the proposed amendment would provide a means by which the Vice President may assume the powers and duties of the Chief Executive when the President is unable to do so himself.

The conference report, which has now been approved by the House of Representatives, contains certain changes from the proposal which the Senate approved earlier this year by a vote of 72 to 0. I should like to describe those changes and then urge approval of the conference report by this body.

In the Senate version of the measure we prescribed that all declarations concerning the inability of the President or of his ability to perform the powers and duties of that office, particularly a declaration concerning his readiness to resume the powers and duties of his office made by the President of the United States himself, be transmitted to the Speaker of the House and to the President of the Senate.

The conference committee report proposes that those declarations go to the Speaker and to the President pro tempore of the Senate. The reason for the change is, of course, that the Vice President, who is also the President of the Senate, would be participating in making a declaration of presidential inability, and therefore would be unable to transmit his own declaration to himself. In addition, I believe that we would be on better legal ground not to send the declaration to a party in interest. The Vice President, who would be shortly assuming or seeking to assume the powers and duties of the office, would indeed be a party in interest.

In the Senate version of the bill we did not specify that if the President were to surrender his powers and duties voluntarily—and I emphasize the word "voluntarily"—he could resume them immediately upon declaring that his inability no longer existed. We believe that our language clearly implied this. Certainly the intention was made clear in the debate on the question on the floor of the Senate and in the record of our committee hearings, but the Attorney General of the United States requested that we be more specific on this point so as to encourage a President to make a voluntary declaration to the effect that he was unable to perform the powers and duties of the office, if it was necessary for him to do so.

We made that point clear in the conference committee report.

We added specific language enabling the President to resume his powers and duties immediately, with no waiting period, if he had given up his powers and duties by voluntary declaration.

That had been the intention of the Senate all along, as I recall the colloquy which took place on the floor of the Senate; and we had no objection to making that intention crystal clear in the wording of the proposed constitutional amendment itself.

In the Senate version we prescribed that the President, having been divested of his powers and duties by declaration of the Vice President and a majority of the Cabinet, or such other body as Congress by law may provide, could resume the powers and duties of the office of President upon his declaration that no inability existed, unless within 7 days the Vice President and a majority of the Cabinet or the other body issued a declaration challenging the President's intention. The House version prescribed that the waiting period be 2 days. The conference compromised on 4 days, and I urge the Senate to accept that as a

reasonable compromise between the time limits imposed by the two bodies.

Furthermore, we have clarified language, at the request of the Senate conferees, to make crystal clear that the Vice President must be a party to any action declaring the President unable to perform his powers and duties.

I remember well the words of President Eisenhower before the American Bar Association conference, when he said that it is a constitutional obligation of the Vice President to help make these decisions. We in the Senate felt that to be the case, and thus changed the language a bit to make it specifically clear.

That, I am sure, had been the intention of both the Senate and the House, but we felt that the language was not specific enough, so we clarified it on that point.

The Senate conferees accepted a House amendment requiring the Congress to convene within 48 hours, if they were not then in session, and if the Vice President and a majority of the Cabinet or the other body were to challenge the President's declaration that he, the Chief Executive, were not disabled or, once again, able to perform the powers and duties of his office.

We feel that the requirement would encourage speedy disposition of the question by the Congress, and I urge its acceptance by the Senate.

Finally, the Senate version imposed longtime limitations upon the Congress to settle a dispute as to whether the President or the Vice President could perform the powers and duties of the office of President. Senators know the question would come to the Congress only if the Vice President, who would then be acting as President, were to challenge, in conjunction with a majority of the Cabinet, the President's declaration that no inability existed. The House version imposed a 10-day time limitation. The Senate conferees were willing to have a time limitation as a further safeguard to the President, but we were unanimous in agreeing that 10 days was too short a period in which to decide on that grave a question.

The conferees finally agreed to a 21-day time limitation after which, if the Vice President had failed to win the support of two-thirds of both the Houses of Congress, the President would automatically return to the powers and duties of his office. I urge the Senate to accept that change.

I should like to specify one thing further about this particular point since I feel it is the main point of contention between the House and the Senate, and one upon which I was happy to see we could find some agreement.

First, including a time limitation in the Constitution of the United States would impose upon those who come after us in this great body a limitation on their discussion and deliberation when surrounded by contingencies which we cannot foresee. The Senate conferees felt that a 10-day time limitation was too short a period.

Our feeling in the Senate, as represented by the views of the conferees, was that we should go slowly in imposing a maximum time limitation if we could not foresee the contingencies that might confront those who were forced to make their determination as to who would be the President of the United States. I believe 21 days is a reasonable time. I emphasize that it is our feeling that this is not necessarily an absolute period. The 21 days need not always be used. In my estimation, most decisions would be made in a shorter time. But if the Nation were involved in a war or other international crisis, and the President had suffered an illness whose diagnosis might be difficult, a longer time might be needed, and the maximum of 21 days that was agreed upon might be required.

It should be made clear that if during the 21-day limit one House of Congress, either the Senate or the House of Representatives, voted on the issue as to whether the President was unable to perform his powers and duties, but failed to obtain the necessary two-thirds majority to sustain the position of the Vice President and the Cabinet, or whatever other body Congress in its wisdom might prescribe at some future date, the issue would be decided in favor of the President. In other words, if one House voted but failed to get the necessary two-thirds majority, the other House would be precluded from using the 21 days and the President would immediately reassume the powers and duties of his office.

I feel that further remarks are unnecessary. I thank all who have made it possible for us to bring the amendment to this stage, especially the distinguished Senator from Nebraska [Mr. HRUSKA].

I observe in the Chamber the father of the last constitutional amendment to be adopted, the distinguished Senator from Florida [Mr. HOLLAND], whose advice I shall be seeking with respect to the method of approaching State legislatures.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HOLLAND. I compliment the Senator from Indiana warmly on the fine service he has rendered to the Senate and the Nation. I hope he will have early success in obtaining action by the 43 State legislatures whose ratification of the amendment is necessary before it becomes a part of the Constitution. I believe he will receive that kind of action, because the Nation realizes that in these perilous times this difficult question, which has been pending for so long, should have this method of solution available at all times, and as speedily as possible.

I wish I could help the Senator from Indiana in relation to his contacts with Governors and State legislatures. But judging by the fine ability that he has shown in consulting others up to this time, he certainly needs no suggestions from me or from anyone else.

May I ask the distinguished Senator a question?

Mr. BAYH. Yes.

Mr. HOLLAND. Is it the Senator's intention to ask for a quorum call and then to ask for the yeas and nays?

Mr. BAYH. That is not my intention. Inasmuch as the Senate has voted on much the same proposal by a substantial margin on two occasions; inasmuch as the House, when it concurred in the conference report, did not take a yea-and-nay vote; and inasmuch as some Senators are not present at this time, I believe it is really unnecessary to have a yea-and-nay vote.

Mr. HOLLAND. I shall defer, of course, to the views of the distinguished Senator, who is the principal author and cosponsor of the measure, and to the views of the majority leader and the acting minority leader, who are in the Chamber.

I believe it would be impressive—and this is the only comment I shall have to make—when action is taken by the States if more than one or two Senators had affirmatively espoused a particular version of an amendment which had reached State legislatures. But I shall gladly defer to the judgment of the Senator from Indiana and the majority leader and acting minority leader.

Mr. HRUSKA. Mr. President, I join the Senator from Indiana in urging the adoption of the conference report.

The proposed constitutional amendment is a correction of a long-exposed defect in the organization of our National Government. The amendment provides for a solution of the disastrous but inevitable situation that would confront the Nation in the event of a fallen leader of the Nation, either because of violence, illness, or disability. It has been a troublesome problem, one which has provided many uneasy moments to the people of the Nation from time to time during our history.

In the course of examining the problem, we have found that there is an infinity of contingencies which could be raised in any number of hypothetical situations. If we ever tried to provide for all of them or for any substantial number of them, it would require an infinite number of days or months, or perhaps years, to continue the debate on this subject. So we had to fill the vacuum by agreeing upon the joint resolution which is before us as the resolute action of this body and the other body and of the conference committee.

I believe the solution is sound. It would restrict the role of Congress considerably. Under the amendment Congress would act only as an appellate body in the event there were a difference of opinion between the President, on the one hand, as to his ability to return to his office, and the judgment of the Vice President and a majority of the Cabinet, or some other body that might be constituted by law, which might have an opinion to the contrary.

Congress by itself would have no power to initiate a challenge of the President's ability or inability in this regard.

I wish to comment upon the role of the junior Senator from Indiana in the preparation of the joint resolution, not only with respect to sponsoring it, but also in so consistently pursuing the background and foundational material.

That material was gathered in conferences with, for example, representatives of the House of Delegates of the American Bar Association and with the house of delegates itself. That effort was followed by many discussions with professors and scholars learned in the law, in addition to the committee hearings themselves.

An effort was made to follow the established procedures of Congress in both bodies for the implementation of the amendment. That was not found to be possible with respect to the time limitation in section 3 which provides for the event of the issue of disability being joined between the President, on the one hand, and the Vice President and a majority of the Cabinet, on the other.

In deciding upon a period of 21 days, I believe we have provided a reasonable time in which the issue can be canvassed and acted upon intelligently.

A new duty has been placed upon Congress. It is a duty that lies upon men and women of good purpose in responding to the needs of their Nation in a time of crisis. It is my hope that the amendment will be consistently unneeded. Nevertheless, such an agreement, as provided in this fashion, is wise, indeed.

So I join the Senator from Indiana in urging the Senate to adopt the conference report and to do whatever any of us can do toward urging the legislatures of the several States to ratify the amendment to our organic law, so that it may be duly promulgated and given force and effect.

Mr. BAYH. I thank the Senator from Nebraska for his thoughtful words, but more particularly for the dedicated effort, the long, tiresome hours of hearings and conference work, and the constant writing and rewriting that were necessary to reach the end of the tortuous journey we have been making.

Mr. KENNEDY of New York. Mr. President, I congratulate the junior Senator from Indiana [Mr. BAYH] on the outstanding job he has done in shepherding Senate Joint Resolution 1 from the realm of abstract proposal to its realization today. Along the way he consulted with a great number of people about this problem, and he heard a considerable variety of ideas on how it should be solved. It is to his credit that he was able, with patience and diplomacy, to resolve these differences.

I call to the Senate's attention a most important aspect of Senate Joint Resolution 1 which has not received as much notice as it should have. That is the provision, in section 4, which gives Congress authority to provide by law for a body other than the Cabinet to determine the inability of the President to exercise the powers and duties of his office when he is unwilling to make the declaration of inability himself.

This provision was wisely added by the framers of Senate Joint Resolution 1 because of the doubts which some people voiced as to the workability of using the Cabinet as the body to determine the President's inability. Now that we are finally enacting Senate Joint Resolution 1, we must not cease thinking about this aspect of the inability problem. We must keep in mind that we have given Congress the power to provide a different body to determine Presidential inability, and we should engage in a continuing study of whether there is some better way to handle this very difficult matter.

The need to engage in continuing reexamination of whether the Cabinet is the best available body to determine Presidential inability is demonstrated by certain historical evidence which I call to the Senate's attention today.

I refer to the facts surrounding the resignation of Robert Lansing as President Wilson's Secretary of State. These facts were brought to my attention by Mr. Allen Dulles, who has served the Government for many years in many capacities. Secretary Lansing was his uncle, and Mr. Dulles has made available certain relevant correspondence and memorandums, which are now on deposit at Princeton University and are not yet available to the public.

Together with Secretary Lansing's correspondence with President Wilson at the time of the resignation—which is a matter of public record—these documents are interesting and revealing.

President Wilson fell ill during the latter months of 1919. Mr. Lansing, after consultation with other members of the Cabinet, decided that it was necessary for the Cabinet to meet and carry on the affairs of Government as best it could. About 25 meetings had taken place, over a period of some 4 months, when Wilson wrote to Lansing, charged him with usurpation of Presidential powers because of the Cabinet meetings, and asked for his resignation. After an exchange of letters, Lansing did resign.

There were other reasons for friction between Lansing and Wilson. They were at odds over the negotiation of the Treaty of Versailles and subsequent congressional consideration of the treaty. Nevertheless, Wilson's inference that the Presidential Cabinet had usurped power demonstrates the wisdom of the framers of this amendment in leaving open to further consideration the question of who should decide when the President is disabled.

For the point of the Wilson incident is that, even though no procedure there existed for declaring a President to be disabled and even though there was no evidence of any overt attempt to usurp the powers of the President, the ailing President nevertheless decided to dispose of any Cabinet member who seemed to present a threat. More serious conflict might follow, in a comparable situation, now that a procedure for determining disability is established. Indeed, a President might fire his entire Cabinet.

This is a matter concerning which I have had numerous conversations with the Senator from Indiana.

It is true that the committee reports and other legislative history make it quite clear that, for purposes of Senate Joint Resolution 1, the Deputies or Under Secretaries in the various departments would, when there clearly are vacancies in the Cabinet, become acting heads of the departments until new principal officers were confirmed, or, if Congress were not in session, until recess appointments were made. I believe this legislative history is extremely important, but if the President did become involved in this kind of dispute with his Cabinet the situation would nonetheless be most difficult and disruptive, especially in a period of crisis for the United States either domestically or with other countries around the world.

What could ensue is a conflict as to who is actually acting as President at a particular time.

The question that might arise is whether the President had, in fact, fired the Cabinet at the time they had met and decided to put in a new President. What we could end up with, in effect, would be the spectacle of having two Presidents both claiming the right to exercise the powers and duties of the Presidency, and perhaps two sets of Cabinet officers both claiming the right to act.

Thus there are dangers in the amendment, with all due respect to the Senator from Indiana. Nevertheless, I believe we should go forward, since the dangers involved in not enacting Senate Joint Resolution 1 are greater still and we do not know whether a procedure better than Cabinet determination can be found. Certainly if one were now possible, I believe the Senator from Indiana would have found it.

The Senator has wisely left open the way to further improvement. I urge that the Congress follow his lead, and move directly to continued examination of alternate procedures, to be enacted by the Congress, for determining when a President is unable to discharge the duties of his office.

Mr. BAYH. Mr. President, first of all, I am indebted to the Senator from New York, and so is the Senate, not only for his present statement, but also for the discussion which he stimulated on the floor when we were considering the measure for passage earlier this year. The Senator points out very correctly that there is a degree of flexibility in this measure.

I am not so bold as to suggest that this is a perfect amendment. I believe that its perfection is based upon the ability of the men living at the time when the measure must be used to cope successfully with the problems and contingencies with which they are confronted. For that reason, we believed that the Cabinet, as we see it now, is the best body to serve as a check. However, we might be wrong. Why close the door? Why not leave us a degree of leeway so that when Congress is confronted with different circumstances than we presently foresee, it could designate a different body and give it authority to act.

Mr. KENNEDY of New York. Mr. President, as I said to the Senator from Indiana, I have strong reservations about the use of the Cabinet in this matter. I believe that the Senator from Indiana has considered my suggestions and every other suggestion and recommendation which he has received.

I praise the Senator for coming forward with this legislation, for which he is more responsible than anyone else. I should like to ask a series of questions of

the Senator from Indiana on another aspect of the proposed constitutional amendment. I think this would help in clarifying another important issue.

I go back to the colloquy which took place on the floor of the Senate when the matter was considered a month or so ago. Is it not true that the inability to which we are referring in the proposed amendment is total inability to exercise the powers and duties of the office?

Mr. BAYH. The inability that we deal with here is described several times in the amendment itself as the inability of the President to perform the powers and duties of his office.

It is conceivable that a President might be able to walk, for example, and thus, by the definition of some people, might be physically able, but at the same time he might not possess the mental capacity to make a decision and perform the powers and duties of his office. We are talking about inability to perform the constitutional duties of the office of President.

Mr. KENNEDY of New York. And that has to be total disability to perform the powers and duties of office.

Mr. BAYH. The Senator is correct. We are not getting into a position, through the pending measure, in which, when a President makes an unpopular decision, he would immediately be rendered unable to perform the duties of his office.

Mr. KENNEDY of New York. Is it limited to mental inability to make or communicate his decision regarding his capacity and mental inability to perform the powers and duties prescribed by law?

Mr. BAYH. I do not believe that we should limit it to mental disability. It is conceivable that the President might fall into the hands of the enemy, for example.

Mr. KENNEDY of New York. It involves physical or mental inability to make or communicate his decision regarding his capacity and physical or mental inability to exercise the powers and duties of his office.

Mr. BAYH. The Senator is correct. That is very important. I would refer the Senator back to the definition which I read into the RECORD at the time the Senate passed this measure earlier this year.

Mr. KENNEDY of New York. It was that definition which I was seeking to reemphasize. May I ask one other question? Is it not true that the inability referred to must be expected to be of long duration, or at least one whose duration is uncertain and might persist?

Mr. BAYH. Here again I think one of the advantages of this particular amendment is the leeway it gives us. We are not talking about the kind of inability in which the President went to the dentist and was under anesthesia. It is not that type of inability we are talking about, but the Cabinet, as well as the Vice President and Congress, are going to have to judge the severity of the disability and the problems that face our country.

Perhaps the Senator from New York would like to rephrase the question.

Mr. KENNEDY of New York. Is it not true that what we are talking about here, as far as inability is concerned, is not a brief or temporary inability?

Mr. BAYH. We are talking about one that would seriously impair the President's ability to perform the powers and duties of his office.

Mr. KENNEDY of New York. Could a President have such inability for a short period of time?

Mr. BAYH. A President who was unconscious for 30 minutes when missiles were flying toward this country might only be disabled temporarily, but it would be of severe consequence when viewed in the light of the problems facing the country.

So at that time, even for that short duration, someone would have to make a decision. But a disability which has persisted for only a short time would ordinarily be excluded. If a President were unable to make an Executive decision which might have severe consequences for the country, I think we would be better off under the conditions of the amendment.

Mr. KENNEDY of New York. The Senator realizes the complications for the people of this country and the world under those circumstances.

Mr. BAYH. I do, indeed. I also recognize our difficulty if we had no amendment at all. The Senator from New York realizes the consequences in that case. The Senator is aware of the time limitations which give the President a certain amount of leeway now. If he recovers from the illness within the time limitations, he would have protection under the amendment.

Mr. KENNEDY of New York. As I said at the beginning, I believe there should be a continuing study of the problem. Based on my own personal experience and on what was brought out in the hearings, I believe that members of the Cabinet could be subjected to political strains of one kind or another under certain circumstances of danger which might arise for the United States. They might be impelled to challenge the President's ability and capacity for the wrong reasons. And when we think of the great crisis in 1919 with President Wilson and Mr. Lansing, it is apparent that under the procedure set out in section 4 of Senate Joint Resolution 1 there could actually be a question as to who was acting as President of the United States at a particular time. That is why this subject should receive continuing study by this body to determine whether an alternative to the Cabinet's acting could be evolved.

What if the President of the United States made a decision which was very unpopular with members of his Cabinet?

I think back to the time of Abraham Lincoln in 1863. I think back to the time of President Andrew Johnson, and recall how unpopular he was with all the members of his Cabinet. They could have taken action, under the slightest pretext, to have him removed. Even with all the protections provided, I say the situation is dangerous. We would be deluding ourselves in thinking that by adopting the amendment the danger to our people and the people around the world would disappear, because a danger would still exist. The subject deserves our continuing effort and attention.

Mr. BAYH. I agree. There is leeway with respect to Congress and the committees and the Cabinet.

In discussing dangers to the people, think of the danger after President Garfield had been felled by a bullet and we had no President for 80 days. The danger of such a situation in this day and age is considerably more than the danger that could arise if the provisions of this amendment were invoked.

Mr. KENNEDY of New York. That is why I intend to support this amendment.

Mr. BAYH. I appreciate the Senator's comments.

CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

Mr. MANSFIELD. Mr. President, will the Senator yield without losing the floor?

Mr. BAYH. I yield.

Mr. MANSFIELD. I ask unanimous consent, for the purpose of providing regular procedure, that the consideration of Calendar No. 352, H.R. 7105, follow consideration of the present conference report.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 7105) to provide for continuation of authority for regulation of exports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) 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.

Mr. BAYH and Mr. McCARTHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. McCARTHY. If it were not for the fact that the amendment provides that the Congress of the United States has a right to designate some body other than the Cabinet to pass upon the question of Presidential disability, I could not support the amendment. The Senator from New York has pointed out the necessity, and I hope that the appropriate committees of the Congress and the Congress will give consideration to some other body's passing upon the question of Presidential disability. If that provision were not in the amendment, I could not support the proposed amendment, and I would urge its rejection.

History shows that it is better to have one sane king rather than two who are not, each one of them claiming to be the

COMPENSATION FOR INNOCENT VICTIMS OF CRIMES

Mr. YARBOROUGH. Mr. President, it is time that we in America started to give some consideration to the victims of crimes, rather than only to the perpetrators of these crimes. Right now, we provide to the indigent criminal free counsel. To the victim, however, we give nothing, even though we have failed to provide him the police protection which we have promised. I have introduced a bill—S. 2155—which at least provides for some actual compensation of losses incurred by the victims of violent crimes.

I ask unanimous consent to have printed in the RECORD an excellent article describing the bill. The article was written by Ned Curran, and was published in the June 21 edition of the Corpus Christi Caller-Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YARBOROUGH SPONSORS BILL TO ASSIST CRIME VICTIMS

(By Ned Curran)

WASHINGTON.—Senator RALPH YARBOROUGH has begun a long trip through completely unchartered backwaters of criminal law with a bill to compensate the victims of violent crime.

In introducing the bill, YARBOROUGH told the Senate that society is given too much lately to lamenting the plight of the criminal.

"It is time," he said, "the Government of this Nation shows as much concern for the victims of crime or violence against the person as for the people who commit the crime."

The totally new concept embodied in the Senator's bill would apply, of necessity, only to Federal jurisdictions, such as the District of Columbia, military and Indian reservations, ships at sea and territories. He expressed the hope, however, that State and local jurisdictions study the idea with an eye toward emulating it.

The bill would establish a three-member Federal commission, appointed by the President and armed with quasi-judicial powers and a staff.

Any innocent victim of one of 14 crimes of violence, ranging from assault with intent to kill, rob, rape or prison to mayhem could file a claim with the commission within 2 years.

The commission, after establishing that the claimant was in fact the innocent victim of the crime, could then award compensation up to a limit of $25,000.

YARBOROUGH has sought to plug as many loopholes as possible in the bill—there would be no appeal from the commission; attorney fees would be limited to 15 percent of an award over $1,000; hospitalization or insurance benefits received by the victim would be taken into account; the prevailing commission guideline would be equity rather than legal technicalities; the victim cannot be related or married to the attacker; compensation would be limited to actual damages, shorn of any "profit" to the victim.

But obviously loopholes do and will crop up. One of YARBOROUGH's principal aims is to broach the idea and encourage discussion, debate and consideration. He admitted it may be 5 years before there is complete congressional acceptance of the concept.

He said although New Zealand and Great Britain have recently enacted similar laws, the matter is totally new to American jurisprudence. The only ally YARBOROUGH called up was Supreme Court Justice Arthur Goldberg who has espoused the same idea.

"Since the middle of the 19th century," YARBOROUGH pointed out, "we have turned away from the old concepts of 'an eye for an eye and a tooth for a tooth,' and 'every man his best protector' as workable methods for punishing criminals and protecting the law-abiding citizens. We have demanded that people no longer go armed on our streets in order to protect themselves. We have outlawed vigilante groups. We have left the punishment of the criminal to the State rather than to the victim's relatives or a lynch-crazed mob.

"We have told our people," he continued, "that they will be best protected if law enforcement is left to the government, not to the private person. Having encouraged our people to go out into the streets unprotected, we cannot deny that this puts a special obligation upon us to see that these people are, in fact, protected from the consequences of crime."

YARBOROUGH contrasted the lot of the victim with the concern shown the criminal.

"What happens to the perpetrator of the brutal attack? Society says that, if apprehended, he must be warned of his legal rights to have an attorney before he is permitted to confess. Then if the criminal is held beyond a short while before being taken before a magistrate, a conviction would be reversed on constitutional grounds. Many persons stand ready to assist the offender in protecting his constitutional rights through all the courts of the land.

"While society is weeping over the criminals," YARBOROUGH said, "it is showing no such concern, indeed no concern, for the victims of his crime. Society is brutal toward the victims of crime, not against the criminals."

DEPARTMENT OF ALASKA AMERICAN LEGION ENDORSES COLD WAR GI BILL

Mr. YARBOROUGH. Mr. President, the Department of Alaska American Legion held its State convention at Sitka, Alaska, on June 16 through 19, 1965. This department has a proud history. The present legislative director of the American Legion headquarters here in Washington, Harold E. Stringer, comes from the American Legion Department of Alaska.

At its recent statewide convention, the Alaskan department adopted a resolution endorsing the cold war GI bill, and specifically Senate bill 9, now pending on the Senate Calendar. I ask unanimous consent that the resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION 65–23

Resolved, That the American Legion, Department of Alaska, in regular convention assembled at Sitka, Alaska, June 16–19, 1965, does hereby endorse S. 9 (cold war GI bill) now pending in the Senate of the United States; and be it further

Resolved, That a copy of this resolution be forwarded to Senator RALPH YARBOROUGH, chairman of the Senate Subcommittee on Veterans' Affairs, each member of congressional delegation from Alaska, and to the national adjutant of the American Legion.

OLDER AMERICANS ACT OF 1965

Mr. SMATHERS. Mr. President, today final congressional approval was given H.R. 3708, entitled the "Older Americans Act of 1965." I am confident that I speak for the overwhelming majority of the Senate Special Committee on Aging in expressing pleasure and satisfaction over passage by Congress of this measure. I myself have sponsored a proposal which has many features in common with this bill, having introduced S. 1357 in 1963, which I reintroduced early this year as S. 991. The Older Americans Act will authorize several Federal grant programs which would have been authorized by enactment of my bill. For this reason, I am happy to join the sponsors of the Older Americans Act of 1965 in celebrating final approval by Congress of this measure.

It will do a tremendous amount for the elderly of our Nation at comparatively small cost. It will greatly strengthen State and local agencies for the aging and will provide funds needed for community planning and coordination of programs for older citizens. It will provide funds needed for research and demonstration projects to extend and improve our knowledge of effective methods of meeting the needs of our Nation's elderly. It will increase the number of trained personnel to serve the Nation's elderly, for lack of sufficient numbers of which many activities and programs for the elderly are badly handicapped.

Enactment of this measure will implement recommendations of many knowledgeable witnesses at hearings of the Senate Special Committee on Aging and its subcommittees. Those who have studied the problems and opportunities of America's elderly and who are qualified to speak authoritatively have long advocated programs of these types.

This bill will do all these things at the cost of only a few million dollars a year. It represents a sound investment in improving the later years of not only the senior citizens of today but also those of younger Americans who hope to live long enough to be tomorrow's senior citizens. The President should give it his prompt, enthusiastic approval.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that further proceedings under the quorum call be terminated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF VICE PRESIDENT CONFERENCE REPORT

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair lays before the Senate the pending business, which the clerk will state.

The LEGISLATIVE CLERK. Report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) 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.

The Senate resumed the consideration of the report.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. It is my understanding that under the unanimous-consent agreement adopted by the Senate earlier, the time is to be controlled, 1 hour by the distinguished Senator from Tennessee [Mr. GORE] and 1 hour by me.

The PRESIDING OFFICER. Under the agreement, there is a limitation of 2 hours, 1 hour on each side.

Who yields time?

Mr. BAYH. Mr. President, the Senator from Tennessee [Mr. GORE] has a prepared speech. I do not desire to engage in colloquy.

I will yield myself just 2 minutes to say that this has been a much discussed subject over the 187 years of our history. The record over the past 187 years is replete with studies by the Congress, the Senate, and individuals concerned.

The purpose of the constitutional amendment, the conference report on which we are now called to approve, is to provide a means which we have devised by which the Vice President will be able to perform the powers and duties of the office of the President if the President is unable to do so.

Mr. President, in my estimation, it is impossible to devise a bill or a constitutional amendment which can cover all the contingencies in this particular, complicated field, but this Congress has gone further than any of its predecessors toward meeting the problem.

On the last day of the debate I went into some detail to specify the details of the report. I do not believe it is necessary to do so again today, unless some of my colleagues wish to question me or engage in colloquy.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield to the Senator from New York, who has contributed so much to bringing us in the position we now find ourselves.

Mr. JAVITS. I am gratified by the statement of the Senator. I read the RECORD over the weekend and thought a great deal about the subject over the weekend and thought again about the relatively close questions which the Senator from Tennessee, the Senator from Indiana, I, and other Senators discussed.

I had the good fortune to read in one of the New York newspapers, the Herald Tribune, a fine editorial on the subject, which, if the Senator will permit me, I ask unanimous consent to have printed at this point in the RECORD as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CLARIFYING THE PRESIDENTIAL SUCCESSION

Hopes that this session of Congress would see the beginning of the end of a very serious hiatus in the present laws governing the succession to the Presidency—what is to be done if a President still lives, but is incapacitated from serving—have been discouraged. The Senate had passed a proposed amendment covering this contingency; the House passed a somewhat different version. A conference committee reconciled the two, and its solution was accepted by the House. Then a sudden uprising by some Democratic Senators (including our own ROBERT KENNEDY) saw flaws in the amendment and obtained a delay in the Senate vote until tomorrow.

It is to be hoped that the Senate will weigh the theoretical objections put forward by the amendment's opponents against the very real dangers that now exist. The amendment tries manfully to cover all contingencies, but it obviously cannot prevent a group, infecting both the administration and Congress, from attempting to subvert the spirit of our institutions and affronting the good sense of the American people by seeking to have a sane and healthy President declared incapable of performing his duties. If such a desperate situation should arise, the lack of the proposed amendment would not stop the conspirators. It did not arrest the attempt to oust President Andrew Johnson by impeachment, for example—which failed by only one vote.

But the amendment would foreclose the possibility of another such constitutional nightmare as occurred when President Wilson was felled by a stroke and the country—to all appearances—was governed by his wife. This portion of the amendment is, in other words, about as sound as human forethought can make it. It relies, to some extent, upon the integrity and good sense of the men elected to high office by the American people. But so does everything else in our Constitution.

In other respects, too, the amendment makes needed reforms. It provides for filling a Vice-Presidential vacancy by Presidential appointment, confirmed by Congress. This is a better arrangement than the various succession acts passed by Congress since 1792, and fleshes out the 20th amendment, which deals chiefly with the problems arising between the election of a President and his inauguration. The amendment is good and necessary. It will require months to acquire approval by the necessary two-thirds of the States and should not be further delayed by counsels of impossible perfection nor by fears of what would be, in fact, revolution.

Mr. JAVITS. Mr. President, this is a tremendously important measure, a historic development in the field of Presidential succession, and we have spent a great amount of time working it out in detail. Senators who have raised questions about the matter have been statesmenlike about it and have not necessarily said that they would vote against it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAYH. I yield 1 minute to the Senator from New York.

Mr. JAVITS. We all know that in many areas of legislation, especially in the field of constitutional amendments, we cannot spell out all the details. If an attempt to do so is made, we get into more trouble than if an effort was not made and we leave it open to further implementation.

What we discussed about the exclusivity of action of a body provided for by Congress would properly be a subject of legislation. If Congress chose not to act, it would be making a choice that the machinery provided for in the amendment should operate.

The argument that not everything is "buttoned down" by the proposed amendment is not, in my judgment, persuasive. We should not "monkey around" with the amendment to provide for something which could be taken care of by legislation by Congress.

There are many occurrences which are tantamount to revolution which could take place to immobilize our Government. Suppose the Senate and the House should refuse to approve any appropriations for the carrying on of the Government. It would immobilize us——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAYH. I yield 1 minute to the Senator from New York.

Mr. JAVITS. That would immobilize us as much as would be the case if, contrary to acting in good faith, Congress chose not to legislate in the utilization of the amendment.

So, after further deep consideration of the matter, I have come to the conclusion that notwithstanding the questions I expressed, which were in the form of exploratory questions, we have come as far as Congress can go, as the saying is, and I shall vote to approve the conference report.

Mr. BAYH. I thank the Senator. I believe that the colloquy that we had, I, being in charge of the conference report, was helpful in the last discussion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORE. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, and that the time be equally divided.

Mr. BAYH. Mr. President, I think this is unnecessary. If the Senator wishes to take it out of his own time——

Mr. GORE. Mr. President, I withdraw the request.

Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be not charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 163 Leg.]

Allott	Inouye	Muskie
Anderson	Jackson	Pearson
Bass	Javits	Pell
Bayh	Jordan, Idaho	Proxmire
Boggs	Kennedy, N.Y.	Ribicoff
Burdick	Long, La.	Robertson
Church	McCarthy	Smith
Clark	McGovern	Sparkman
Dirksen	McNamara	Stennis
Ervin	Metcalf	Symington
Gore	Monroney	Talmadge
Harris	Morton	Young, N. Dak.
Hill	Moss	
Holland	Mundt	

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG of Louisiana. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Louisiana [Mr. ELLENDER], the Senator from Nevada [Mr. CANNON], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from North Carolina [Mr. JORDAN], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Montana [Mr. MANSFIELD], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mrs. NEUBERGER], the Senator from West Virginia [Mr. RANDOLPH] and the Senator from Oregon [Mr. MORSE] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], and the Senator from Indiana [Mr. HARTKE] are absent on official business.

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Colorado [Mr. DOMINICK], the Senator from Nebraska [Mr. HRUSKA], and the Senator from California [Mr. MURPHY] are absent on official business.

The Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. CARLSON], the Senator from New Hampshire [Mr. COTTON], the Senator from Hawaii [Mr. FONG], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

Mr. BAYH. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay Mr. BREWSTER, Mr. BYRD of West Virginia, Mr. CASE, Mr. COOPER, Mr. CURTIS, Mr. DODD, Mr. DOUGLAS, Mr. FANNIN, Mr. GRUENING, Mr. HART, Mr. HAYDEN, Mr. HICKENLOOPER, Mr. KENNEDY of Massachusetts, Mr. KUCHEL, Mr. LAUSCHE, Mr. MCCLELLAN, Mr. MCGEE, Mr. MCINTYRE, Mr. MILLER, Mr. MONDALE, Mr. NELSON, Mr. PASTORE, Mr. PROUTY, Mr. RUSSELL of South Carolina, Mr. RUSSELL of Georgia, Mr. SCOTT, Mr. SMATHERS, Mr. THURMOND, Mr. TOWER, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. WILLIAMS of Delaware, Mr. YARBOROUGH, and Mr. YOUNG of Ohio entered the Chamber and answered to their names.

The PRESIDING OFFICER (Mr. KENNEDY of Massachusetts in the chair). A quorum is present.

Who yields time?

Mr. GORE. Mr. President, I yield 15 minutes to the senior Senator from Minnesota.

Mr. McCARTHY. Mr. President, I believe that the Senate acted wisely in putting off action on the conference report for a few days so that we could carefully examine the language in the proposed amendment and so that all Senators, rather than the four or five who participated in the discussion last week, might be fully aware and informed as to the committee interpretation and what would then be the congressional interpretation of what the proposed amendment to the Constitution would actually mean.

I note again that we are not enacting a statute, something which we could change in this Congress or in any subsequent Congress. We are acting on a constitutional amendment which would establish the procedure for the indefinite future.

I have serious reservations about more than the language of the amendment. I have very serious reservations about the substance of the amendment itself. It was my view when the question of presidential disability and vice-presidential succession was raised that there was sufficient authority in the Constitution to permit Congress to proceed by statute.

Paragraph 6, section 1, of article II of the Constitution gives Congress power to legislate in the area of presidential disability and of succession of a Vice President. This section of the Constitution reads:

> In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

It is my judgment that we could act by statute to meet both the problem of succession and disability. There are constitutional authorities who feel that we have power to act in case of a vacancy in the vice-presidency. However, there is some question as to our ability to act in case of disability.

I am willing to abide by the judgment of those who thought we needed a constitutional amendment. It was my opinion that the amendment should be a simple one and should make clear the right and authority of Congress to act by statute.

This was the opinion of Deputy Attorney General Katzenbach when he testified before the committee in 1963 and in his statement submitted to the committee in 1964. He asked for a simple constitutional amendment; and, following that, for action on the part of Congress to spell out the procedures by which inability might be determined and also by which the commencement and termination of any inability would be determined.

This is not the issue involved today. Congressional committees, in both the Senate and House, have considered, I am sure, the possibility of a simple amendment to leave the way open to proceed under statute but they have not approved this method.

At this time, we are preparing to take what will probably be final action or, at least, the last chance to review the proposed amendment.

It has been argued that State legislatures would give a thorough review to the matter. We were informed last week that one State legislature was holding up action until after Congress had acted on the matter so that it would be the first State legislature to ratify the measure. It may be that the State legislature studied the matter and is fully informed as to the amendment. However, I have very grave doubts that this is so. I believe that after Congress acts on the matter, ratification by the States will be almost routine.

Mr. GORE. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. GORE. Mr. President, I wonder if the able Senator believes that the members of the legislature which was awaiting the adoption of the conference report by the Senate in order to be the first State to ratify the amendment could have had an opportunity to read the conference report and determine that the conferees had added certain words to the language. Two of the words were "pro tempore." Another was "either," and the other word was "of."

The conference report did relate that minor changes in language had been made. However, I wonder if the Senator believes that the insertion of the word "either" in the Constitution of the United States, having to do with two bodies, either of which, under the terms of the pending amendment, would play a part in the declaration of presidential disability is a minor matter, and if the State legislature to which the Senator referred was aware of this fact.

Mr. McCARTHY. Mr. President, I believe that it could very well be a most serious matter. Certainly, the language of the amendment as sent to conference would be preferable to this language.

I know that the Senator from Tennessee has given much study to the meaning of the words and the application of the disjunctive alternative of "either/or" in this case.

The Senator will speak on that at some length later today. I should say that we are writing new meaning into the word "either," and that if we were to approve the draft which is before us from the conferees, we would be ignoring every treatise of grammar in which it is pointed out that if we use the word "either/or," we are providing a choice. They are alternatives. One does not include the other. We ought to use words in their logical meaning when we write them into the Constitution of the United States.

I had hoped that Senators who were handling the matter would agree to return to conference. I believe that the matter could have been cleared up in a 4- or 5-minute conference with Representatives of the House. The word "either" appears to have been dropped into the amendment almost by inadvertence. It was not used as a result of carefully considered judgment. It is not a word that was weighed or was subject to any prolonged discussion in conference.

I hope that the Senate will give consideration to the possibility of what I think might create great confusion when and if this amendment is ever put to the test. If such an occasion should arise, it could be at a time when the entire constitutional structure of the United

States would be subject to its most severe test in history.

The question of having two Presidents, each of whom desires to perform the duties of office, and the question of having two cabinets or of trying to determine when the functions of one Cabinet came to an end, might be impossible of solution. The President could end the term of office of the members of the Cabinet with a mere declaration. There would be no way to determine whether they could participate in the making of the judgment provided in the proposed amendment.

It is my opinion that the Vice President should have been excluded in any case. This question has been considered by the committee. The committee has decided that the Vice President should be the key man.

No one, under this amendment, can take action with reference to the inability or disability of the President unless such action has the concurrence of the Vice President. The procedure which is provided by the Constitution for impeachment provides for action by the House of Representatives and the Senate. I believe that, as elective officials of the country, Congress should be willing to assume its full responsibility.

I had hoped that the conferees might have gone back and at least cleared up the point raised by the Senator from Tennessee, although, as I have said, my preference would be for an amendment giving Congress the clear authority to act by statute. This was evidently the position concurred in by Attorney General Katzenbach in his original testimony before the committee, and also by several other members who said that the amendment is not what they would have written had they been free to write it. I had hoped that these more substantive matters would have been considered——

Mr. BAYH. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. BAYH. Mr. President, I do not want the record to be incorrect in expressing the present position of the Attorney General. Is the senior Senator from Minnesota aware of the testimony given by the Attorney General before the committee in 1965?

Mr. McCARTHY. I knew the Attorney General was supporting the amendment.

Mr. BAYH. I thank the Chair.

Mr. McCARTHY. I was referring to what was his preferred position when as Deputy Attorney General he testified on the constitutional amendment dealing with Presidential inability. I believe his original position was sound, although, as in the case of many other people, he is willing to support the proposed amendment because of the urgency of the situation.

Mr. BAYH. But the Attorney General did say, before the Subcommittee on Constitutional Amendments of the Committee on the Judiciary, that he believed the proposed amendment was the best alternative that has been conceived.

Mr. McCARTHY. I do not know whether he said it was the best alternative that has been conceived. He said it was the only possible course of action rather than no action at all, not that it was better than any alternative that was ever conceived. He conceived one which he thought was the best he could conceive.

Mr. BAYH. It might be well to have in the RECORD at this point the Attorney General's letter which was placed in the RECORD on the date of the debate when the Senate passed this measure 72 to nothing, if the Senator from Minnesota and the Senator from Tennessee have no objection.

Mr. McCARTHY. I have no objection. I know the Attorney General is supporting the amendment. I know what his opinion as stated publicly was. I know what his private opinion was. I know what the opinion which he gave to the Judiciary Committee was.

Mr. BAYH. May I ask that the letter may be made a part of the RECORD at this point, so that subsequent scholars may have the advantage of it?

Mr. McCARTHY. Yes.

Mr. BAYH. Mr. President, I ask unanimous consent that the letter to which I have referred be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 18, 1965.

HON. BIRCH BAYH,
U.S. Senate, Washington, D.C.

DEAR SENATOR BAYH: I understand that recent newspaper reports have raised some question as to whether I favor the solution for the problem of Presidential inability embodied in Senate Joint Resolution 1, or whether I prefer a constitutional amendment which would empower Congress to enact appropriate legislation for determining when inability commences and when it terminates.

Obviously, more than one acceptable solution to the problem of Presidential inability is possible. As the President said in his message of January 28, 1965, Senate Joint Resolution 1 represents a carefully considered solution that would responsibly meet the urgent need for action in this area. In addition, it represents a formidable consensus of considered opinion. I have, accordingly, testified twice in recent weeks in support of the solution embodied in Senate Joint Resolution 1 and House Joint Resolution 1.

My views on the particular question here involved were stated on January 29, 1965, before the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee, as follows:

"In my testimony during the hearings of 1963, I expressed the view that the specific procedures for determining the commencement and termination of the President's inability should not be written into the Constitution, but instead should be left to Congress so that the Constitution would not be encumbered by detail. There is, however, overwhelming support for Senate Joint Resolution 1, and widespread sentiment that these procedures should be written into the Constitution. The debate has already gone on much too long. Above all, we should be concerned with substance, not form. It is to the credit of Senate Joint Resolution 1 that it provides for immediate, self-implementing procedures that are not dependent on further congressional or Presidential action. In addition, it has the advantage that the States, when called upon to ratify the proposed amendment to the Constitution, will know precisely what is intended. In view of these reasons supporting the method adopted by Senate Joint Resolution 1, I see no reason to insist upon the preference I expressed in 1963 and assert no objection on that ground."

I reaffirmed these views with the same explicit language in my prepared statement delivered on February 9, 1965, before the House Judiciary Committee. In view of the above, there should be no question that I support Senate Joint Resolution 1.

Sincerely,

NICHOLAS DEB. KATZENBACH,
Attorney General.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. How much time does the Senator from Tennessee yield to himself?

Mr. GORE. Such time as I may desire.

This is the last opportunity for any group of men in any body politic to revise or clarify the language of the proposed amendment. The House has already adopted the conference report. Should the Senate adopt the conference report in its present form, the proposed amendment would then go to the States for ratification. If the amendment is ratified by three-fourths of the State legislatures, it will then become a part of the U.S. Constitution.

The States will have no choice except to ratify or reject the amendment in the form submitted. That is why I say this is an important action on the part of the Senate.

The charter of our Republic is a precious document. Amendment of it should be approached with the greatest gravity.

In the beginning of our Republic the candidate for President who received the second largest vote became Vice President. The country's experience under that provision soon led to trouble, so much so that in 1804, I believe, the Constitution was amended so that the Vice President would be elected to a separate office by separate vote. Thus, it was sought to minimize the possibility of conflict between a President and a Vice President.

In July 1965 the U.S. Senate is again undertaking to deal with the question of the President and the Vice President of the United States.

On last Wednesday, when the conference report on Senate Joint Resolution 1 was before the Senate, I was one of those who urged that the vote on the conference report be delayed to permit additional time for Senators to examine the language of the proposed constitutional amendment before taking the final congressional action on what would be one of the more important amendments ever adopted to our Constitution.

I wish to make it clear that I did not then, nor do I now, seek either to block action on or otherwise defeat an amendment which would fill an existing procedural void in the area of presidential succession and presidential disability. The tragic events of November 1963 have served to call to the attention of the American people that failure to act on this matter might, at some time in the future, pose serious consequences to our Republic. Indeed, we should regard ourselves as most fortunate that we have not

already, at some time in our history, experienced a grave constitutional crisis for want of a procedure for determining with certainty the fact of presidential disability. Clarity and certainty are the essential characteristics of any constitutional provision dealing with the subject.

The basic objective of an amendment such as we now consider should be the provision of a procedure certain for the declaration of disability of a President of the United States, but I submit that the provision now before the Senate provides an uncertain procedure.

In my opinion, the language of section 4 of the proposed amendment, which deals with the determination of the fact of Presidential disability by means other than the voluntary act of the President himself, lacks the degree of clarity and certainty required if the objective of this section of the amendment is to be achieved. If the fact of Presidential disability should ever become a matter upon which a President and other authorities designated in the amendment are in disagreement, the most essential requirement is that the procedure for making the determination be clear and precise, with the identity of those charged with responsibility for making the determination beyond question. Should the procedure not be clearly and precisely defined, or if the identity of the determining authority should be subject to conflicting interpretations, this Nation could undergo the potentially disastrous spectacle of competing claims to the power of the Presidency of the United States. This is precisely the risk which this section of the amendment is designed to avoid, but which, Mr. President, may be the result if this amendment should be adopted in its present form.

In my opinion, the language of section 4, if unchanged, is subject to conflicting interpretation—to say the least—and might create a situation in which a serious question could arise as to whether Presidential disability had been constitutionally determined.

I invite attention to the report of the Senate Judiciary Committee, on page 11:

> We must not gamble with the constitutional legitimacy of our Nation's executive branch. When a President or a Vice President of the United States assumes office, the entire Nation and the world must know without doubt that he does so as a matter of right.

I submit that under the proposed amendment one might assume or claim the power of the Presidency, not without doubt but under a cloud of doubt.

Let me read the first sentence of 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.

I invite attention to four words in the above sentence—all four of which were added in conference. This is not the same language as that upon which the Senate previously voted. The words added in conference are "either," "of," and "pro tempore."

These words do not appear in the section as it was approved unanimously by the Senate. The addition of the words "pro tempore" effected a change in the Senate version to conform to the language of the House version so as to provide that a declaration of presidential disability should be transmitted to the President pro tempore of the Senate rather than the "President of the Senate."

I raise no question about that.

The statement filed by the managers on the part of the House, referring to the addition of the words "either" and "of", states that "minor change in language was made for purposes of clarification." The addition of these two words was, in my opinion, more than a minor change in language. This is a change in language which is proposed to be written into the Constitution dealing with one of the most sensitive events of our Republic; namely, the possible declaration of disability of a President of the United States.

In the absence of implementing action by Congress, it is clear that a declaration of presidential disability may be transmitted to the Congress by the Vice President acting in concert with a majority of "the principal officers of the executive departments." Hereafter I shall refer to the principal officers of the executive departments as members of the Cabinet.

To me, it also seems clear, under the language of the provision, that if Congress should "by law provide" some "other body," the Vice President might then be authorized to act in concert with either the Cabinet or such other body.

How can any other meaning be read into the words "either" and "or"?

Let us reverse the sentence. The Senator from Indiana says that the Cabinet would have the primary responsibility. The amendment does not so provide. In reversing the sentence, let us see how it would read and whether it would be changed in any way.

First, I read the sentence as it now appears:

> 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.

Now, Mr. President, I read the sentence in a revised form, and ask whether it would change the meaning in any respect:

> Whenever the Vice President and a majority either of such other body as Congress may by law create or a majority of the principal officers of the executive departments 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.

If one changes the sequence in which the Cabinet and some other body created by Congress appear in the sentence, one still will have "either" and "or." It would be in the alternative. I do not know how "either" and "or" would give primary responsibility to one and secondary responsibility to the other.

I do not know how the words "either" and "or" can be interpreted to mean that one part has priority, or how it could be read to mean that if the other body is created, the first body has no responsibility and no power to act.

If I understand anything about the English language, if either the Senator or I is privileged to act, then either of us can act or both of us can act. Therefore, I insist that when the conferees added these words, they did more than make a minor change of language for purposes of clarification. I believe that I know why it was added—at least I have been so advised—to make it clear that the Vice President would participate in the declaration of disability with a body created by law if such were done.

But in adding the words, they established the possibility of two coequal bodies—coequal in responsibility under the Constitution—coequal in authority to act in concert with the Vice President to declare the disability of a President of the United States.

I do not believe this effect can be eliminated by a statement of legislative intent.

If my interpretation of the language is correct—and it seems to me that is what the words used clearly say—the Vice President would be free to choose to ally himself with either of the groups, depending upon which included individuals sympathetic with his view of the then current situation. And it is entirely possible that there might be differing views among members of the Cabinet appointed by the President, on the one hand, and members of a group designated by the Congress, on the other hand, on the question of whether a President suffers "disability."

Under the above interpretation—which is my interpretation—a Vice President would be in a position to "shop around" for support of his view that the President is not able to discharge the duties of his office. When the constitutional requirements have been met, it is the Vice President upon whom the duties and powers of the Presidency would devolve.

I should not like to indulge in the assumption that at any future time some diabolical person would be Vice President of the United States. However, the Constitution is the charter for our Republic. Rights must be safeguarded; so must constitutional procedure.

Let me repeat that we seek by this proposed amendment to provide a procedure certain for a declaration of disability of the President of the United States. I submit that the language of the conference report creates uncertainty, rather than certainty. This uncertainty cannot be eliminated by a statement of legislative intent, particularly so when the stated intent is not supported by the precise language of the amendment.

I should like to suggest, although it does not involve any assumption that we shall ever have a diabolical person as Vice President, that where there is a way we must guard against possibility of the will, and beware of the old adage that where there is a will there is a way.

Questions have been raised about the approach taken by this section of the amendment. In my view there is some validity to these questions. Whether the Vice President, who would become Acting President, should have any part in making a determination of presidential disability is, to say the least, debatable.

Were I privileged to reconsider the whole matter, I should want to think about this one point a long time. However I do not press this point now. I recognize that it is perhaps not possible to devise a procedure which would meet with unanimous approval. Members of the Judiciary Committee who have worked long and diligently on this matter state that this is an approach upon which it is possible to reach agreement. I accept their statement in this regard.

I know it is difficult. We have been considering this subject for months. However, is that justification for adopting an amendment on which Senators are in disagreement as to its meaning? Does not this invite a controversy that would have to be resolved by the Supreme Court of the United States at a possibly critical hour in the history of our country? If Senators cannot agree upon the meaning of the language of the amendment, how do we expect the State legislatures to have a clear and precise understanding?

I do not seek to defeat the proposed amendment, but I ask for rejection of the conference report, which changed the language of this provision, not in a minor manner, but in a major way and, I think, in a dangerous way. I ask that the conference report be rejected and that a further conference with the House be requested. Why should there not be an attempt to clarify the meaning or to refine the language of the amendment? If it is the intent that the Cabinet have the primary responsibility, the amendment should so state. If it is the legislative intent that once Congress had created another body the Cabinet would no longer have any responsibility, the amendment should so provide. If that is what we mean, let us say what we mean. Otherwise, how can the legislatures of our respective States act with a clear understanding of what an amendment to the Constitution of the United States in this delicate field means?

If the Vice President is to participate in the disability determination procedure, there should be no question whatever about the identity of the group which would jointly exercise the responsibility with him. Under my interpretation of the language used, a Vice President would be able to act in concert with either of the two groups—and I say again that the word "either" was added in conference—assuming that Congress had acted to create the second group. This would be the language of the Constitution upon ratification of the amendment as now drafted.

In the course of the debate last Wednesday, the manager of the bill, the distinguished junior Senator from Indiana [Mr. BAYH] and the distinguished senior Senator from New York [Mr. JAVITS] disagreed with my interpretation of the language used. It was their view that, if and when the Congress acted to provide by a law a body other than the Cabinet to share the responsibility with the Vice President, the Cabinet would thereafter be removed from the picture altogether. How? The amendment does not so provide. The amendment, once it becomes a part of the Constitution of the United States, will vest in the Vice President and a majority of the Cabinet the power to declare the disability of the President.

My friend the distiguished junior Senator from Indiana and the senior Senator from New York maintained that, after another body was created by law, only the Vice President and the body created by act of Congress could make a declaration of disability. Does the amendment so provide? I ask my colleagues in the Senate to read it. It does not. It provides that a majority of either one or the other could act in concert with the Vice President to declare the disability of the President.

The Senator from New York contended that the Congress, in the act creating "such other body," might undertake to eliminate the Cabinet, and that the courts in applying a rule of "exclusivity" would rule that since the Congress had acted, the body designated by Congress would possess the authority exclusively. The Senator from Indiana appeared to adopt this view.

The amendment does not so provide. I know of no rule of exclusivity which provides or could provide that a legislative enactment would take precedence over an express provision of the U.S. Constitution, which this amendment, if adopted, would become.

I do not subscribe to the view that Congress, even should it affirmatively undertake to do so, could by statute deny authority and responsibility conferred upon the Cabinet by what would then be an express and integral provision of the Constitution.

I should like to read again the language proposed:

> Whenever the Vice President and a majority of either the principal officers of the executive departments—

Let us leave out the words "either" and "or." I should like to read it in this way:

> Whenever the Vice President and a majority of the principal officers of the departments transmit to the President pro tempore of the Senate a statement of the declaration of disability of the President.

That is a part of the amendment. I submit that we cannot take that language out of the Constitution by statute once we write it in. A further amendment to the Constitution would be required.

But without pressing the subject of the final judicial outcome of such a question, I submit that we cannot here decide with certainty what the Supreme Court might finally rule. It is even more certain that we on the floor of the Senate cannot eliminate the possibility that the Court might someday of necessity have to rule upon the question. And it is entirely conceivable that while the courts are in the process of making a final determination there might be two individuals each claiming the power of the Presidency.

Mr. ERVIN. Mr. President, will the Senator yield for a question at that point?

Mr. GORE. I yield.

Mr. ERVIN. I ask the Senator from Tennessee if the proposed amendment would not make the question of whether or not the President is capable of performing the duties of his office a political question? In my view it would be a political question and for that reason the Court would not be called upon to pass upon it. In other words, the question posed by the Senator's interpretation would be the same question which would be raised by the interpretation of the Senator from Indiana; namely, Is the President incapable of performing the duties of his office?

The amendment provides that, if the President claims he is competent, the question shall be determined by the Congress. Therefore, would not the amendment make it purely a political question as distinguished from a judicial question, since under the terms of the amendment Congress would be the sole arbiter or determiner of the question?

Mr. GORE. I submit to my distinguished friend, the able senior Senator from North Carolina, that I do not find any provision in the amendment that Congress shall be the sole arbiter. I find that the amendment would vest in the Vice President, acting in concert with the majority of the Cabinet, authority to declare the disability of a President of the United States. If that language is not in the amendment, then I simply do not understand the English language.

Mr. ERVIN. Does not the Senator from Tennessee agree with the Senator from North Carolina that the resolution represents an attempt to establish a constitutional method of determining whether the President is disabled to perform the duties of his office?

Mr. GORE. I agree; but it provides two ways in which the determination could be made. That is the difficulty I have with it.

Mr. ERVIN. What is the harm in providing alternatives in making the determination? Would that not improve the amendment? It would make it more flexible. If the Senator from Tennessee is correct in his interpretation—and he is making a very fine argument—that the Vice President, either acting with the majority of the Cabinet or acting with the majority of an alternative body established by Congress, could declare a President to be disabled, would that not be an advantage? I feel that it would, in that it provides some flexibility instead of only one inflexible procedure.

Mr. GORE. The Senator in charge of the bill has said that that is not the correct interpretation. But to answer the Senator's question, I believe the existence

of an alternate procedure would be harmful, and could be the cause of much mischief. The Senator has asked me a question. I should like very much to cite an example in which the language might even prove to be disastrous.

Let us suppose that the Congress has acted to create by law some other body to act in such cases with the Vice President. Let us suppose further that the individuals making up that body, or a majority of them, felt that the President was fully capable of discharging the duties of his office. But suppose the Vice President held a different view. And suppose further that, for one reason or another, a majority of the Cabinet shared the view of the Vice President. In such a situation if the Vice President and a majority of the Cabinet transmitted the necessary declaration to the Congress, who, then, exercises Presidential power? Will there be time for the courts to make a determination of competing claims without disaster? We all hope devoutly that such a situation never arises. But, in my opinion, it could arise, under the language contained in section 4 and under the hypothesis on which the Senator has based his question.

Mr. ERVIN. Does not the Senator from Tennessee contemplate the possibility that the members of the Cabinet might have such an overpowering sense of loyalty to the President that they would be unwilling to take such action? In such a case, in my view, it would be desirable to have an alternative body that could take the action rather than run the risk of having as President of the United States a person who conceivably might be a victim of insanity.

Mr. GORE. If the answer to the Senator's question is "Yes," then clearly and beyond question only one group should be empowered to act at one time.

Let me go further. I am not at all sure that it would be wise to set up an alternative procedure. Our basic objective should be to provide a procedure certain for the declaration of the disability of the President. I should like to recall to Senators that there is now one procedure under the Constitution for the removal of a President from office, namely, impeachment. It is now proposed to provide a second means by which a President could be removed and separated from the power of that office, the most powerful office in the world. If we are to take this step—and I would like to take such a step—we should do so with clear understanding and with certain procedure, not procedure which could invite a court contest at a critical hour in our Republic.

Mr. ERVIN. That is where the Senator from North Carolina reaches a point of disagreement with the Senator from Tennessee. I do not understand how there would be a court contest, because the amendment provides that the Vice President acting with either the Cabinet or another body established by Congress would raise the question. They would make a temporary decision, and that temporary decision would be immediately transmitted to the Congress for its decision.

Mr. GORE. Where in the proposed amendment is there a provision for a temporary decision?

Mr. ERVIN. The proposed Constitutional amendment provides that the Vice President could not take over the office of President unless he had given immediate notice to the President pro tempore of the Senate and the Speaker of the House. It also provides if Congress is not already in session, it must be called immediately into session and must make a decision on the issue within 21 days; Congress would decide the question before it would ever reach the courts.

Mr. GORE. Mr. President, I would like to debate further. I am advised that I have about exhausted my time. Will the Senator from North Carolina ask consent that the time used in our colloquy thus far be equally divided or charged to his side?

Mr. ERVIN. Mr. President, I ask unanimous consent that I may have 2 minutes of my own time in which to thank the Senator for yielding, and to say if the interpretation of the senior Senator from Tennessee is correct, that it would improve, instead of hurt, the amendment by making it more flexible.

Mr. GORE. Mr. President, an anomalous situation has just been revealed. The distinguished senior Senator from North Carolina, formerly a justice of the Supreme Court of North Carolina, has agreed with my interpretation and has said that the language improves the amendment. The distinguished Senator from Indiana disagrees with my interpretation.

I submit that when there is a disagreement as to interpretation between two of the authors of an amendment, this is the time to restudy, to redefine, and to clarify, before we submit the constitutional amendment to the States for their ratification or rejection. We are about to write into the Constitution of the United States an amendment that could be the most important amendment ever written.

Mr. ERVIN. Mr. President, I ask unanimous consent for 1 minute.

Mr. GORE. Mr. President, I do not now yield to the Senator.

Mr. ERVIN. I have merely assumed the Senator's interpretation to be correct.

The PRESIDING OFFICER. The Senator from Tennessee declines to yield.

Mr. GORE. I have only 4 minutes remaining.

In a situation involving the passing of the power of the Presidency from the hands of one individual to another it is equally important that the law be certain as that it be just or wise. Admittedly, we cannot anticipate and guard against every conceivable contingency. But in this case, we now have an opportunity to eliminate uncertainty, and to provide with certainty exactly who shall make the determination—not a temporary decision, but a determination of the disability of the President of the United States; and upon such a determination the power of the Presidency would pass to the hands of the Vice President, who could then fire the Cabinet, or part of it, and then make another declaration within 4 days of a contrary declaration by the President.

If we adopt the conference report in its present form, the matter will pass from the hands of Congress, and there will be no opportunity to change the language. There can be no language changes during the ratification process.

I am also concerned about remarks made by the junior Senator from Indiana during the debate last Wednesday which left me, at least, in doubt about the time at which it is intended by the authors of the amendment that the Congress would act to create "such other body." I had rather supposed that it was intended that the Congress would, reasonably promptly after ratification of the proposed amendment, proceed to consider this matter at a time when there was no question whatever that the then President was fully able to discharge his duties. But there is no guarantee that Congress would in fact act at a time when this question could be given dispassionate consideration. I think it should. If the amendment is adopted, it seems to me that Congress should proceed forthwith to write a law in this regard, creating such a body. However, some of the remarks of the Senator from Indiana seemed to reflect a view that Congress might well not act until a question had been raised about disability on the part of the President. Is it the view of the authors of the amendment that Congress should not act until a situation arose—such as described by the senior Senator from North Carolina [Mr. ERVIN]—in which the prevailing view of Members of Congress was that the President was in fact disabled but a majority of the Cabinet was disinclined to so declare?

If that is the assumption, let us look at the other side of the coin. Suppose that instead of a Cabinet being reluctant, the body created by Congress is reluctant. Then there would be the possibility of one or the other acting, not as anticipated by the authors of the amendment, but in contrast therewith. Could Congress act wisely under such circumstances? It might not be able to act at all, if we waited until such time as Congress believed the President was disabled and thought the Cabinet was reluctant to act.

If a President should be resisting a determination of disability he might veto any bill passed, thus requiring a vote of two-thirds of both Houses of Congress to override the veto. Again, we all hope that there will never be an occasion for Presidential disability to be declared, either by the President himself or by anyone else. But if the need ever arises for such action other than by voluntary act of the President, it would likely have to be done in circumstances in which the President would not concur.

If the approach followed in the proposed amendment is to be followed, I would hope that any action taken by Congress would be taken at a time and under circumstances free of constitutional crisis.

Moreover, Mr. President, I feel strongly that if Congress by law provides for some "other body" to act jointly with

the Vice President in making a declaration of Presidential disability, it ought to be clear beyond all doubt that only that "body" may participate with the Vice President in making such a declaration. I do not believe it improves the amendment to provide that two bodies may act. If either of two groups possess such authority the possibility of confusion and conflicting claims is much magnified.

As I have stated, it is my opinion that the language now before the Senate would authorize either of two groups to join with the Vice President in declaring Presidential disability. At the very least there is doubt about the matter. And a doubt or a question is all that it takes to require a Supreme Court decision, with the possibility of constitutional chaos during the period of judicial proceedings.

Mr. President, we need not take that risk. The proposed amendment is still before Congress.

If two-thirds of the Senate vote "yea," the amendment will no longer be before the Senate. There will no longer be any opportunity to clarify or define the language. It should not be overly difficult to devise language to clarify this one question—and it is an important one.

Unfortunately, under the existing parliamentary situation, there is no way in which language revision can be considered other than by rejection of the conference report. Once this step has been taken, a further conference with the House can be requested—that is what I propose—and the conferees would then have an opportunity to present language free of uncertainty. We should establish a procedure with certainty for the declaration of the disability of the President of the United States. I say that this uncertainty, instead of improving the amendment, condemns it to uncertainty and unwisdom.

Should the conference report, with its present language, be approved, doubt and uncertainty will, upon ratification, become embedded in the Constitution.

For the reason I have stated, I urge Senators to vote to reject the conference report and give to the conferees an opportunity to bring to us an amendment having precise, clear meaning.

Mr. President, I reserve the remainder of my time.

Mr. BAYH. Mr. President, I yield 10 minutes to the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, the able and distinguished junior Senator from Indiana [Mr. BAYH] interprets the joint resolution to provide that if Congress does not create a substitute body as authorized by the amendment, then the Vice President, acting with the consent of the majority of the Cabinet, can declare the disability of the President, subject to congressional reversal. The Senator from Indiana also interprets the proposed amendment to mean that if Congress does create a substitute body to act, such substitute body supplants the Cabinet, and the Vice President, acting with the majority of such substitute body, can initially declare the disability of the President. The able and distinguished senior Senator from Tennessee says, on the contrary, that the Vice President may elect to use either the Cabinet or the body. I do not know what ultimate decision or construction will be placed on the amendment, but I say that a good argument can be made for either interpretation. However, I shall support the joint resolution.

The Senator from Indiana, the Senator from Tennessee, and I could have drawn a better resolution if we had had uncontrolled authority to do so. I have worked on this problem. If I were allowed to draft a resolution by myself, I think I could draw a better one. As a matter of fact, I drew what I believe to be a better one.

I did not believe the Vice President should be involved in the matter. My resolution put the matter in the hands of Congress alone. However, the measure before us reflects an amalgamation of views. As such, it represents a consensus which may not satisfy any of its proponents entirely. It may not be perfect. Indeed, in my view it is not perfect but I feel that it is the best resolution that is attainable.

I had to withdraw many of my opinions in order to obtain a resolution that would be approved by the Committee on the Judiciary and the conference committee.

I am not at all disturbed by the interpretation which my good friend, the Senator from Tennessee, places on the document. If it is a correct interpretation it would make the resolution better. This is a dangerous period in which we live, a period in which the President of the United States has his finger on the button that can start an atomic holocaust.

Many provisions of law provide alternative means. For example, in virtually every State of the Union, a prosecution for a felony can be started either by an individual in the court of a justice of the peace or by the indictment of a grand jury. However, before anybody can be convicted of a felony, he must be convicted by the same type of petit jury in a trial on the merits.

It is quite possible that in the future we may have a President who would be suffering from a mental disease, and the members of the Cabinet, appointed by the President, would be so loyal to him that they would be blind, to some extent, to his weaknesses and would not be amenable to declaring him disabled.

It would be well in a case such as that to have a body set up by Congress with the power to act. I believe that the interpretation given by the Senator from Tennessee, instead of injuring the resolution, would make it better. After all, the Vice President could not take over the office without the approval of a majority of either the Cabinet or the body established by Congress. I presume that all of the members of either the Cabinet or the body set up by Congress would be patriotic Americans. Even in that case, before the Vice President could take over, the President pro tempore of the Senate and the Speaker of the House of Representatives would have to be notified. Congress would then have to assemble, if it were not already in session, within 48 hours. Furthermore, it would have to make a decision within 21 days. If Congress did not make a decision adverse to the Preisdent by two-thirds vote in each House within 21 days, the executive powers would automatically return to the President.

Mr. GORE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. GORE. Mr. President, I apologize to the Senator for my reluctance to yield further during the colloquy in which we engaged.

Mr. ERVIN. I understand, The Senator was most generous.

Mr. GORE. Mr. President, let us suppose that the Vice President and a majority of either body provided for in the proposed amendment were to transfer to the President pro tempore of the Senate and the Speaker of the House a declaration of the disability of the President of the United States. Upon whom would the power of the Presidency then devolve?

Mr. ERVIN. The power would devolve upon the Vice President temporarily, until Congress could act, and then the decision would be made by Congress.

Mr. GORE. Mr. President, who would then have the power to appoint Cabinet members?

Mr. ERVIN. I do not believe that this amendment deals with that question. I believe that the Vice President could do so temporarily. However, I do not believe that Congress would confirm his appointees at a time when they were considering the question of whether he should be permitted to remain in the Office of President.

Mr. GORE. If the Vice President becomes Acting President?

Mr. ERVIN. That question was raised in committee. The question was also raised concerning whether the amendment should provide for succession to the Presidency in the case of the death of the President and Vice President simultaneously or in a common disaster.

Mr. GORE. The Acting President could dismiss his predecessor's Cabinet.

Mr. ERVIN. The Senator is correct.

Mr. GORE. Then he could appoint members of the Cabinet of his own choosing, subject to confirmation.

Mr. ERVIN. Yes. But Congress could vacate such action by decision favorable to the President.

Mr. GORE. Suppose that under the proposed amendment, the President, over his signature, were to notify the President pro tempore that he is able to assume the duties of the office of President. Then suppose that the Acting President, in concert either with the Cabinet, or with the other body which Congress would create, were to send a second declaration to the President pro tempore of the Senate declaring the disability of the President.

Mr. ERVIN. That could happen under either the construction placed on the amendment by the Senator from Indiana or that made by the Senator from Tennessee. There would be no difference whatever in that situation, under either construction.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. GORE. Mr. President, I should like to conclude this point first.

Mr. President, will the Senator yield further?

Mr. ERVIN. I yield first to the Senator from Tennessee and then to the Senator from Indiana.

Mr. GORE. If that be the case, if the answers which the distinguished and able senior Senator from North Carolina has provided be correct, then I say that it is all the more necessary to provide a procedure certain for the declaration of disability of the President. It illustrates clearly the unwisdom and the danger of creating a situation whereby there may be competing claims and groups as to the disability or ability of the President. We are dealing with a subject which might endanger the very procedures of our Republic.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ERVIN. Mr. President, will the Senator yield me an additional minute?

Mr. BAYH. I yield 1 more minute to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 1 additional minute.

Mr. ERVIN. I should say that every legal and constitutional situation conjured up by the Senator from Tennessee would be possible under either interpretation. There would be absolutely no difference whatever.

Mr. BAYH. Mr. President, I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The junior Senator from Illinois is recognized for 10 minutes.

Mr. DIRKSEN. Mr. President, first of all, I should like to pay testimony to the distinguished Senator from Indiana for the long and painstaking labor that was involved in the preparation of the proposed amendment. He has been very patient. He has heard the testimony of many witnesses. He has been very patient in the conferences with the House.

I pay testimony also to the distinguished jurist, the Senator from North Carolina, for the great service he has rendered.

I pay testimony likewise to the Senator from Nebraska [Mr. HRUSKA], good lawyer that he is, who has worked diligently on this matter, knowing its importance and knowing that sooner or later Congress would have to do something in this field.

I presume that the first thing we discover is that language is not absolute. The only word I can think of that is absolute is the word "zero." However, interpretations of all kinds can be placed upon language, and all the diversities of judicial decisions that are presumed since the beginning of the Republic, if placed in a pile, would reach up to the sky. Consequently, in dealing with the language before us, we have the same problem that we had in the subcommittee and in the conference.

Fashioning language to do what we have in mind, particularly when we are subject to the requirement of compression for constitutional amendment purposes, is certainly not an easy undertaking. However, I believe that a reading of the resolution will speak for itself.

Bruce Barton, a great advertising man who served one term in the House of Representatives and wrote that fascinating book, "The Book Nobody Knows," meaning the Bible, once observed to me that there was a penchant to read all the commentaries, but not to read the book itself. I am afraid that too often we fail to read into the RECORD exactly what is present.

They have a better custom in the House of Representatives, because when a bill goes to final reading in the Committee of the Whole, it is read a paragraph or section at a time. In the case of legislative measures, they are always read by section. In the case of appropriation bills, they are read by paragraph.

Perhaps it would be rather diverting if we started with section No. 1 of the amendment, which reads:

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

When Lincoln died, there was a quick transition of the Presidency into the hands of Andrew Johnson, and it offered no problem. To my knowledge, there has not been a resignation from the Presidency, and there has been no removal. Only once was an effort made to impeach a President and remove him from office. So this article of the section stands by itself and speaks for itself.

Section 2 provides:

> 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.

When Franklin Roosevelt died, Truman acceded to the Presidency, and there was no Vice President. We then set up a line of succession, and I was in the House of Representatives when it was done. I do not know that our labor was a happy one, because it was beset with some prejudice and some bias. This question should have been taken care of long ago.

The question is taken care of through amendment to the Constitution. Who better to nominate the Vice President than the President himself? He is the party responsible. There is the sense of affinity, the capacity of working with somebody. The President should be able to select his working partner. That selection would be confirmed by majority votes of both Houses of Congress. That is about as good as English language can state it. I doubt if we can set it out more clearly.

Section 3 states:

> 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.

There is the President, on his own volition and by his own motion, advising the Congress he can no longer discharge his duties. What more natural than that the Vice President should take over, not as President, but as Acting President, because there is always the chance of recovery? It took a long time in the case of Woodrow Wilson. It required only 90 days in the case of President Garfield when he passed away. But under this proposal the duties go to the Vice President as Acting President. That appears to be the logical way, in the absence of any contrary declaration made by Congress.

Then let us go to 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.

One can make a hundred different assumptions under that language. The President might dismiss the Cabinet. But the President did not create the Cabinet. He appointed those who filled the positions. But it is the Congress that created the Cabinet, and Congress can always create a Cabinet, if it so desires. This is still the disciplinary branch in the Federal Government. It was no wonder that President Monroe said, "The legislative branch is the core and center of our free Government." There are only a few things that we cannot do. We cannot dismiss the President. We cannot diminish the number on the Supreme Court. We cannot abolish the Supreme Court. But we can do just about everything else. We can reduce their number if we so desire, and, of course, we can abolish every Cabinet post. There is nothing to stop the Congress from doing it.

In the light of that power, I doubt whether we need to be disturbed by the ghosts that have been created in connection with the question, largely on the basis of first one assumption and then another.

So the Vice President becomes the Acting President, and as such he continues until the disability is removed.

That section goes further.

> 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 4 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.

One would have to assume a venal Vice President; he would have to assume either a venal or very timid Cabinet, that would not carry out their duties. If they failed so to act, because of an overriding fidelity to the Chief Executive who placed them where they were, that might be a circumstance to be taken into account. But I cannot imagine a member of the Cabinet so wanting in fidelity to the Republic, rather than to the man

who placed him in his position, that he would not undertake to discharge his duty. But if the Congress felt, for any reason, that that was not going to be done, we have made provision in this language for some other body, and the Congress can create that body. It can consist of civilians, including people representing every walk of life, a goodly component of doctors, and those who have the capacity to pass upon the question of whether the inability still exists or whether the inability has passed.

I cannot imagine intelligent, competent, and patriotic Americans serving as the principal officers in the executive branch, or in any other body which Congress might create, that would not deal in forthright fashion with the power that is there, to determine whether the disability had been removed and whether the elected Chief Executive was capable or not capable of carrying on his duties and responsibilities.

Mr. GORE. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I am glad to yield to the Senator from Tennessee.

Mr. GORE. I appreciate the careful and tightly reasoned statement that the able Senator from Illinois is making. Most of us, perhaps, think of the disability of the President in the light of the tragic events of November 1963. I submit that a physical impairment of the President may not be the only condition against which we must most zealously guard. Disability may be phychiatric. It may be mental. It may be a sort on which people would honestly have differing opinions. A President might be physically fit—the picture of health; but to those who work closely with him, there might be a conviction that he had lost his mental balance, that he had psychiatric problems. In such an event, the country could be rent asunder by political passions. The able Senator has referred to the fact that the Acting President would assume the powers of the office of President. I asked the Senator from North Carolina if the Acting President could not dismiss the Cabinet of the previous President and the answer was yes, that of course he could, that he could also dismiss a few, or he could dismiss a part of them, or he could retain the few who agreed with him.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. BAYH. Mr. President, I yield 5 additional minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 additional minutes.

Mr. GORE. In that event, it might be crucial, and I believe necessary, that if the man who is to succeed to the office of Acting President is to initiate a declaration—and I believe the Senator will agree that neither the Cabinet nor the other body referred to in the proposed amendment could declare the disability of a President with any effect unless the Vice President concurred in it—if the Vice President, the man to succeed to the power of the office, with the power to select his own Cabinet, or to dismiss all or a part of the Cabinet of the President is to participate in the declaration, the body which must act in concert with him should be certain and beyond doubt. I believe it is most unwise and dangerous to have two groups which might be competing in such a disastrous situation.

Mr. DIRKSEN. I doubt the substance of my friend's premise. I should not like to be around to enjoy the furor if ever the Vice President undertook, for venal purposes, or motivations of his own, to pursue that kind of course.

Mr. BAYH. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I cannot imagine it, because, after all, the people of this country will have something to say about that. Where would it lead? They would not exactly run him out on a rail, but his whole political future, such as it might be, would come to an end at that point.

Let us always remember that we are dealing with human beings and human motivations, and also with the sense of fidelity and affection that people bear, one for another, when they are thrown into a common labor, such as that of a President and Vice President, and the principal executive officers under those circumstances.

Mr. BAYH. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield.

Mr. BAYH. I thought it might be helpful to ask the Senator from Illinois if he recalls the discussion in committee on this point. The committee realized that this danger lurked on the horizon, but that there was an equally severe danger that we might face a long period of Presidential disability in which a Cabinet officer might resign, or die. Unless the Vice President were given this power, he would be precluded from replacing a member whom he needed to help fill the Cabinet. I believe that the Senator from Illinois has hit the nail on the head when he advances the belief that in a time of national crisis, the American people would not tolerate an act on the part of the Vice President that was not in the best interests of the country.

Mr. DIRKSEN. There are some fundamentals we must remember in dealing with a matter of this kind. The first is that we do not strive for the eternal. I doubt that the English language could accomplish that, because that would be absolute. Second, we know that there will always be change, but in the change, the Constitution in its interpretation itself indicates that we would take it in our stride.

There was once a professor at Johns Hopkins University who had fashioned a thesis and a postulate that he though would stand up under every circumstance. Then he sat down with his fellow faculty members to discuss it. When the discussion was ended, his thesis and postulate were torn apart with suppositions and other arguments to the point that he gave out a frantic cry, "In God's name, is there nothing eternal?"

One of his fellow professors answered, "Yes, one thing, and that is change."

Always there will be change. We have not done an absolute job of solving this problem, but I believe that we have done a practical job. That is what we sought to do.

Mr. GORE. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. I yield.

Mr. GORE. Instead of assuming there may be a Vice President who is venal or diabolical, let us assume that there may be one who is perfectly honest and sincere concerning circumstances on which there is a sharp division of opinion both within the Cabinet and within Congress, but despite that disagreement, the disability of the President is declared. The Vice President then becomes Acting President. There is no certainty, in this amendment, as to which body he must act in concert with.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. BAYH. Mr. President, I yield 2 more minutes to the Senator from Illinois, but I would like to say that I intend to speak specifically to the point which the Senator from Tennessee raises. In my opinion there is no doubt. I believe that we have sufficient evidence, plus the intentions as reflected in the conference committee, to remove all questions. Whether I shall be successful, so far as the Senator from Tennessee is concerned, I do not know, but I shall do my very best.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 additional minutes.

Mr. GORE. I am sure the Senator from Indiana will present an able argument, but there is disagreement among Senators as to whether, after Congress has created another body, the Cabinet could declare, in concert with the Vice President, the disability of the President. The Senator from Indiana asserts that it could not do so.

The Senator from Indiana says that when Congress acts to create by law another body, the provision which vests power in the majority of the Cabinet, in concert with the Vice President, would then be superseded. I ask the Senator, as a lawyer, if he believes that Congress can, by statute, supersede and strip from the Cabinet the power vested by the Constitution in a majority of that Cabinet?

Mr. DIRKSEN. Congress, I believe, can take away any power that any Cabinet member has. There is not a line in the Constitution of the United States which provides for a Cabinet as such. Therefore, they are endowed with powers which we give to them.

Mr. BAYH. Let me suggest to the Senator from Tennessee, who has posed some perplexing questions, that I should like to have an opportunity to answer them but would appreciate it if he would ask these questions on his own time.

I merely wish to have all of the proposed amendment appear in the RECORD, so that when the 90,000 or 100,000 copies are sent to the libraries and schools and colleges, the entire text will be available, and also that the names of the managers on the part of the House and on the part of the Senate, who served on the conference committee, will

be shown. That will complete the RECORD.

There being no objection, the proposed article was ordered to be printed in the RECORD, as follows:

ARTICLE —

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

SEC. 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.

SEC. 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.

SEC. 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.

And the House agree to the same.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

BIRCH E. BAYH, JR.,
JAMES O. EASTLAND,
SAM J. ERVIN, JR.
EVERETT M. DIRKSEN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

Mr. DIRKSEN. Mr. President, I believe we have done a reasonably worthwhile job insofar as the feeble attributes of the language can accomplish it. I compliment and congratulate the distinguished Senator from Indiana, the chairman of the subcommittee, on the good job he has done.

Mr. BAYH. Mr. President, I thank the Senator from Illinois and other Senators who have labored tirelessly to help us get this far down the road.

I yield myself such time as I may require to discuss the points which have been raised by Senators. I have no prepared speech. I have made some notes on one or two points that I wish to discuss. I shall speak with as much ability as I possess and try to clarify the question of intent in the consideration of this subject. However, I emphasize that the Senator from Tennessee and I share one intention, among others, and that is that we seek to clarify any ambiguity which may exist.

Reference has been made to the position of the Attorney General of the United States which was previously inserted in the RECORD and verified his position supporting Senate Joint Resolution 1.

Mr. President, I also quote one sentence from his testimony before the subcommittee. He said:

I want to reaffirm my prior position that the only satisfactory method of settling the problem of Presidential inability is by constitutional amendment, as Senate Joint Resolution 1 proposes.

In this position, he was joined by a rather long list of Attorneys General of the United States, going back to Biddle and Brownell. He was also joined by such constitutional experts as Paul Freund. They felt that if there was any doubt, the Congress should propose an amendment to the Constitution.

The question has been raised as to why we have put the Vice President in the position of acting in the capacity he would have under the amendment. I believe that former President Eisenhower dramatically made this point in the presentation he made before the conference of the American Bar Association called by the President last June. President Eisenhower said he felt it was the responsibility of the Vice President to assume the authority of the Presidential office in the event that the President was unable to perform his duties, and that the Vice President could not escape that authority and obligation.

Therefore, I believe that we have done the right thing in placing the Vice President in the position of participating in that determination.

There has been a great deal of discussion about the last section, the most controversial section, of the proposed amendment. I point out, based upon my judgment, that this most controversial part of the amendment rarely if ever would be brought into play.

As the Senator from Illinois [Mr. DIRKSEN] has pointed out, the amendment provides for the voluntary declaration of disability by the President. Let us assume, for example, that he is undergoing a serious operation, and that he does not want to take the chance of having the enemy take advantage of the situation.

The amendment also deals with the kind of crisis which President Eisenhower described, such as a President suffering from a heart attack. For example, at the time he might be in an oxygen tent the Russians might begin to move missiles into Cuba. At that moment no person in the United States would have any power to make any decision that had to be made.

The amendment would take care of these points.

Now we get to the point to which the Senator from Tennessee has correctly alluded; namely, the question of a President who, although physically able, is not the man, from a substantive point, who was previously elected to that office. Thus arises the difficult problem of mental disability.

The Senator from Tennessee bases his argument on the fact that changes were made in the conference committee. I point out that in referring to the "either/or" change, the Senator from Tennessee overlooks the fact that several other changes were made in conference. I would not want to mislead anyone into believing that that was the only change that was made. Several others were made, in connection with which we tried to compromise with our friends in the House.

I believe that we have a better amendment now, in most respects, than when it left the Senate. I would have preferred the language which the Senator from Tennessee has suggested. This was not the case. The amendment is the product of our conference. I hope we can at least shed some light on our belief as to the validity of our contention that there is no ambiguity here.

With respect to "either/or", it is clear to me—and I invite the attention of Senators to the definition of this phrase in Black's Legal Dictionary and to most legal cases on the point—that when we talk about "either/or" it is interpreted in the disjunctive. It does not refer to two, but to either one or the other.

Reference was made—not by the Senator from Tennessee, but by another Senator—to the fact that the Vice President could in effect at one time go to either one of these bodies and use them simultaneously. I do not see how it is possible to do that.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BAYH. I should like to finish my argument. Then I shall be happy to yield. We have some evidence about what the courts have indicated in this respect. Certainly it is the intention of the conference committee and it is my contention, as the floor manager of the joint resolution and as the principal sponsor of it—and I believe I can also say that it is the opinion of a majority of the Judiciary Committee—that Congress should have some flexibility, and that we do not wish to nail down a plan which may not work. It is our intention for the plan, as it is enacted, to have the Vice President and a majority of the Cabinet make the decision, unless Congress, in its wisdom, at some later time, determines by statute to establish some other body to act with the Vice President. It would be rather ridiculous to give that power to Congress and provide at the same time that it may not exercise it within a certain number of years, or could not exercise it at all. We give to Congress, in its wisdom, the power to make the determination as to when another body should act in concert with

the Vice President. It is our intention that at that time this other body shall supersede the Cabinet.

Mr. LAUSCHE. Mr. President, will the Senator yield for a brief question?

Mr. BAYH. I should like to yield for only a brief question.

Mr. LAUSCHE. Yes. Was there any discussion among the conferees about putting it in the conjunctive, instead of the disjunctive, having both a majority of the members of the Cabinet and a majority of the members of the body created by Congress act?

Mr. BAYH. This was never considered.

Mr. LAUSCHE. It was never considered?

Mr. BAYH. It was never considered.

Since the Senator from Tennessee raised the question I have tried my best to look for cases which might soothe his concern about the ambiguity which he believes exists and which I believe does not exist.

Mr. President, I have uncovered three or four cases dealing with article V of the Constitution. They are *Hawke* v. *Smith*, 253 U.S. 221; *Dillon* v. *Gloss*, 256 U.S. 368; the *National Prohibition* cases, 253 U.S. 350; and *United States* v. *Sprague*, 282 U.S. 716.

As the Senate knows, article V deals with the means to amend the Constitution itself. Congress is given the authority to use either the means of legislative ratification or State convention ratification. Either one or the other may be used. In dealing with the fifth article, the courts have held in those cases to which I have referred—which are as close to being on the point as any I have been able to find—that Congress has full and plenary power to decide which method should be used, and once the choice is made, the other method is precluded.

These cases substantiate our feeling—at least our intention—as to what we desire to accomplish in the wording which has been placed in the conference report.

I should like to go one step further. In the debate I do not wish to concede ambiguity. But out of friendship for the Senator from Tennessee [Mr. GORE], I should like to suppose, for only a moment, that there might be ambiguity in the use of the words "either/or." What then would be the result? In the event of ambiguity there is no question that the Court would then look to the legislative intent. As a result of the insight and the perseverance of the Senator from Tennessee, we have now written a record of legislative intent, as long as our arms, to the effect that we desire only one body to act on the subject. In the event that an ambiguity is construed, I suggest that there is one last safeguard. I am certain that Congress, under the enabling provision which would permit another body to act with the Vice President, would in its wisdom at that time specify that, pursuant to section 4 of the 25th amendment to the Constitution, the other body is designated to supplant and replace the Cabinet and act in concert with the Vice President. So I am not concerned that there might be a vexatious ambiguity present.

I should like to speak on one other point which the Senator from Tennessee raised, and which I believe is a very good point.

Mr. LONG of Louisiana. Mr. President, will the Senator yield at that point?

Mr. BAYH. I yield.

Mr. LONG of Louisiana. It seems to this Senator that in a dangerous time when the inability of the President might be in question, particularly with respect to his mental capacity, Congress should act on the question. As I understand, no matter which body might make the declaration that the President was not able to serve, the question would then be before the Congress and it would have to be decided by a two-thirds vote; otherwise, the man who had been elected to the office of President would continue to serve as President.

Mr. BAYH. The Senator from Louisiana is correct. To remove, for any reason or on any ground, a man who has been elected to the most powerful office in the world, the office of President of the United States, is not an action to be taken lightly. As the Senator has pointed out, and as Senators will observe in other places in the amendment, we have leaned over backward in our effort to protect the President in his office. The decision would have to be made by Congress. A two-thirds vote would be required. That is a greater safeguard than is presently available under the provision for impeachment proceedings. Under that provision a vote of two-thirds of the Senate is needed; under the proposed amendment a vote of two-thirds of both Houses would be required.

There is no need to extend the debate, but I should like to speak to the question which the Senator from Tennessee raised. The Senator said that if there is any doubt, let us wait. We cannot be certain what the Supreme Court of the United States will do. I doubt very much that there have been many pieces of proposed legislation, certainly none related to constitutional amendments, that have passed this body in which there has not been considerable and heated debate as to whether some of the proposed language was right or wrong. Today I am certain that there are some Senators who would say that we cannot tell what the Supreme Court will do tomorrow with a constitutional amendment that is already on our books. The opinions of the Court change with time. I think we have to determine one question: Is the conference report the best piece of proposed legislation we can get and is it needed? As loudly as I can, I say that we must answer the question in the affirmative.

Some Senators might say, "What is the rush? We are not ready to adjourn yet. We can send the measure back to the conference committee and have it reworked."

To those who are students of history I do not have to document again and again the fact that we have labored for 187 years as a country and we have not yet been able to get sufficient support for any type of proposed legislation in this area. In 38 of those years we had no Vice President. We have had three serious presidential disabilities. Wilson was disabled for 16 months. Garfield was disabled for 80 days, and during that period there was no Executive running the country. Can Senators imagine what would happen to the United States and the world today if the United States were without a President? For all intents and purposes, we would be involved in world chaos from which we could not recover.

For more than 18 months the Senate has studied the proposed legislation. Two sets of hearings have been held. I appreciate the support that Senators have given us in this effort.

In the last session of Congress, the Senate passed the proposed legislation by a vote of 65 to 0; in the present session of the Congress, the Senate passed the measure by a vote of 72 to 0.

This measure is not something which we have arrived at on the spur of the moment. We have had controversy and differences of opinion over individual words. I should like to remind Senators that during the past few years we have received over 100 different proposals. Since I have been chairman of the Subcommittee on Constitutional Amendments, during the past few months 26 different proposals have been submitted.

I point out that if those who had the foresight to introduce proposed legislation on the subject—the Senator from North Carolina [Mr. ERVIN], the Senator from Illinois, the Senator from Kentucky [Mr. COOPER], Senator from Idaho [Mr. CHURCH], and others—had not been willing to agree and had not been willing to try to reach a consensus, and if it had not been for the guiding hand of the American Bar Association to try to get those with differing views together, we would not be so far as we are now. I do not believe that we should let two words separate us.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. LONG of Louisiana. If I had had my way, there are two or three changes I can think of immediately that I should like to have made. I suggested some of them to both the leadership and also to the executive branch—for the measure vitally affects the executive branch—when the subject was being considered previously. The advice that I received at that time was, "Please don't muddy the water. The amendment has been needed since the establishment of our country. If we start all over again, not only will the junior Senator from Louisiana have two or three additional suggestions that he would like to urge, but other Senators will also have suggestions to make, and we shall be another 100 years getting to the point which we now have reached."

Mr. BAYH. I thank the Senator from Louisiana. He is exactly correct.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. ERVIN. When we started to consider the proposal, the Senator from Indiana and I had a discussion. We were concerned with the old adage that too many cooks would spoil the broth. We had more cooks with more zeal concerned with preparing this "broth" than any

piece of proposed legislation I have ever seen in the time I have been in the Senate. If it had not been for the perseverance, the patience, and the willingness to compromise which was manifested on a multitude of occasions by the junior Senator from Indiana, we would never have gotten the resolution out of the subcommittee, much less through the full Judiciary Committee and then through the conference with the House. I am of the opinion that the conference report which the Senator from Indiana is seeking to have approved would submit to the States the very best possible resolution on the subject obtainable in the Congress of the United States as it is now constituted. The Senator from Indiana deserves the thanks of the American people for the fact that he was willing to change the ingredients of the broth in order to appease a multitude of different cooks who had different recipes for it, including myself.

Mr. BAYH. I thank the Senator from North Carolina. I have said, and I say again, that we are greatly indebted to him for his "seasoning" and his willingness to compromise. Although there were many cooks, we had a paddle large enough so that we could all get our hands on it and stir. The conference report is the composite of the efforts of many different people.

I should like to conclude with one last thought. We know that over the great Archives Building downtown there is a statement engraved in stone. I do not know whether it is Indiana limestone, but standing out in bold letters is the statement: "What is past is prolog."

I cannot help but feel that history has been trying to tell us something.

There was a time in the history of this great Nation when carrier pigeons were the fastest means of communication and the Army was rolling on horse-drawn caissons. Perhaps it did not make any difference then whether the Nation had a President who was not able at all times to fulfill all the duties and powers of his office. But today, with the awesome power at our disposal, when armies can be moved half way around the world in a matter of hours, and when it is possible actually to destroy civilization in a matter of minutes, it is high time that we listened to history and make absolutely certain that there will be a President of the United States at all times, a President who has complete control and will be able to perform all the powers and duties of his office.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. JAVITS. The Senator has made an excellent argument and the right argument, concerning the effect the amendment will have in a situation of preparation for the use of executive power.

Is it not true that, with the greatest respect for the opponents of what the Senator is trying to do, it is assumed that the people will do their duty by approving the amendment through their State legislatures, but that we will not implement it in such a way as to indicate that we are not the approving power? It is one thing to say that some Vice President or President may misuse power. But we are passing the amendment. Is it not logical for us to count on ourselves to implement it effectively?

We can resolve every doubt. We have complete power to resolve every doubt by legislation that will give exclusive power to the Cabinet or to the other body.

Mr. BAYH. I agree with the Senator from New York. The main authority behind the entire legislation—in fact, behind the enactment of any legislation—is the ability of men and women in Congress and in the executive branch to act with reason. If a time comes in the history of our Nation when Senators and Representatives and Presidents are despots, our entire democratic system will be in jeopardy. I, for one, am willing to place in my successors the faith that has been placed in us today. Can we doubt that future Senators and Representatives will fulfill the responsibility that inheres in the holding of high trust and office?

Mr. JAVITS. If Congress were to soldier on the people in any such way as some might fear, we could sit on our hands with respect to appropriations; we would not have to declare war; there would be plenty of ways in which to sabotage the United States.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. COOPER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. GORE. I yield 1 minute to the Senator from Kentucky.

Mr. COOPER. I do not wish to haggle over the meaning of the amendment, but the Senator from Tennessee asked one question which I think has not been answered.

We want to establish this body, because if we did not think it necessary and did not believe that at some point the Cabinet might not declare the President disabled, when he actually was disabled, there would not be any point in wishing to establish a second body.

The Senator from Tennessee asked the question: Assuming that Congress establishes this body, and Congress says it has exclusive jurisdiction——

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired. Who yields time?

Mr. BAYH. I shall be glad to yield time.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. GORE. I have only 3 minutes remaining. I wanted to close; however, I ask unanimous consent that the Senator from Kentucky have 5 minutes to discuss this question.

Mr. COOPER. I do not need 5 minutes.

Mr. GORE. I yield 1 minute of my remaining time to the Senator from Kentucky.

Mr. COOPER. The Senator from Tennessee made the point that since this is a constitutional amendment, Congress cannot take away the power given to the Cabinet by legislative enactment. He asks: If Congress should establish this body and give it exclusivity, would that have any force against the amendment itself, which provides that the power shall lie either in the Cabinet or in the body itself?

Mr. JAVITS. It is my considered judgment—and I am the one who debated this point—that Congress, having the power to establish the body, can give it exclusivity which will stand up as a matter of constitutional law.

The PRESIDING OFFICER. The time yielded by the Senator from Tennessee to the Senator from Kentucky has expired. The Senator from Tennessee has 2 minutes remaining.

Mr. BAYH. We have made the record abundantly clear.

Mr. GORE. The distinguished Senator from Kentucky has just said that a question I raised has not been answered.

The distinguished Senator from Ohio asked if this question was raised in conference. The answer was that it was not. It was not raised on the floor of either House.

Mr. BAYH. That was not the question.

Mr. GORE. The Senator from Ohio asked a question, about use of the disjunctive.

I say that the proposed amendment creates grave doubt. I should like to read from the record of the debate of last Wednesday, June 30:

> Mr. GORE. Do I correctly understand the able Senator to say that Congress could, immediately upon adoption of this constitutional amendment, provide by law for such a body as herein specified and that, then, either a majority of this body created by law or a majority of the Cabinet could perform this function?
>
> Mr. BAYH. No. The Cabinet has the primary responsibility. If it is replaced by Congress with another body, the Cabinet loses the responsibility, and it rests solely in the other body.
>
> Mr. GORE. But the amendment does not so provide.
>
> Mr. BAYH. Yes, it does. It states——
>
> Mr. GORE. The word is "or."
>
> Mr. BAYH. It says "or." It does not say "both." "Or such other body as Congress may by law prescribe."

I suggest, Mr. President, that we have time to correct this doubt. Let us return the report to conference; let it be clarified.

The PRESIDING OFFICER (Mr. HARRIS in the chair). All time has expired. The question is on agreeing to the conference report. [Putting the question.]

Mr. GORE. The majority leader announced that there would be a yea-and-nay vote.

Mr. BAYH. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Carolina will state it.

Mr. ERVIN. What is the question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the conference report on Senate Joint Resolution 1.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. Do I correctly understand that notwithstanding that the vote is on the conference report, a two-thirds majority is required for its adoption?

The PRESIDING OFFICER. The Senator from Illinois is correct. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Nevada [Mr. CANNON], the Senator from Louisiana [Mr. ELLENDER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from North Carolina [Mr. JORDAN], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Montana [Mr. MANSFIELD], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Oregon [Mrs. NEUBERGER] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], and the Senator from Indiana [Mr. HARTKE] are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. BIBLE], the Senator from North Carolina [Mr. JORDAN], the Senator from Oregon [Mr. MORSE], and the Senator from West Virginia [Mr. RANDOLPH] would each vote "yea."

On this vote, the Senator from Mississippi [Mr. EASTLAND] and the Senator from Nebraska [Mr. HRUSKA] are paired with the Senator from New Mexico [Mr. ANDERSON]. If present and voting, the Senator from Mississippi would vote "yea," the Senator from Nebraska would vote "yea," and the Senator from New Mexico would vote "nay."

On this vote, the Senator from Nevada [Mr. CANNON] and the Senator from Louisiana [Mr. ELLENDER] are paired with the Senator from Washington [Mr. MAGNUSON]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Louisiana would vote "yea," and the Senator from Washington would vote "nay."

On this vote, the Senator from Indiana [Mr. HARTKE] and the Senator from Montana [Mr. MANSFIELD] are paired with the Senator from New Mexico [Mr. MONTOYA]. If present and voting, the Senator from Indiana would vote "yea," the Senator from Montana would vote "yea," and the Senator from New Mexico would vote "nay."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Colorado [Mr. DOMINICK], the Senator from Nebraska [Mr. HRUSKA], and the Senator from California [Mr. MURPHY] are absent on official business.

The Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. CARLSON], the Senator from New Hampshire [Mr. COTTON], the Senator from Hawaii [Mr. FONG], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Vermont [Mr. AIKEN], the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. DOMINICK], the Senator from Hawaii [Mr. FONG], the Senator from California [Mr. MURPHY], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

On this vote, the Senator from Nebraska [Mr. HRUSKA] and the Senator from Mississippi [Mr. EASTLAND] are paired with the Senator from New Mexico [Mr. ANDERSON]. If present and voting, the Senator from Nebraska and the Senator from Mississippi would each vote "yea," and the Senator from New Mexico would vote "nay."

The yeas and nays resulted—yeas 68, nays 5, as follows:

[No. 164 Leg.]

YEAS—68

Allott	Holland	Pearson
Bass	Inouye	Pell
Bayh	Jackson	Prouty
Boggs	Javits	Proxmire
Brewster	Jordan, Idaho	Ribicoff
Burdick	Kennedy, Mass.	Robertson
Byrd, W. Va.	Kennedy, N.Y.	Russell, S.C.
Case	Kuchel	Russell, Ga.
Church	Long, La.	Scott
Clark	McClellan	Smathers
Cooper	McGee	Smith
Curtis	McGovern	Sparkman
Dirksen	McIntyre	Stennis
Dodd	McNamara	Symington
Douglas	Metcalf	Talmadge
Ervin	Miller	Thurmond
Fannin	Monroney	Tydings
Gruening	Morton	Williams, N.J.
Harris	Moss	Williams, Del.
Hart	Mundt	Yarborough
Hayden	Muskie	Young, N. Dak.
Hickenlooper	Nelson	Young, Ohio
Hill	Pastore	

NAYS—5

Gore	McCarthy	Tower
Lausche	Mondale	

NOT VOTING—27

Aiken	Dominick	Magnuson
Anderson	Eastland	Mansfield
Bartlett	Ellender	Montoya
Bennett	Fong	Morse
Bible	Fulbright	Murphy
Byrd, Va.	Hartke	Neuberger
Cannon	Hruska	Randolph
Carlson	Jordan, N.C.	Saltonstall
Cotton	Long, Mo.	Simpson

The PRESIDING OFFICER. On this vote, the yeas are 68, the nays 5. Two-thirds of the Senators present and voting having voted in the affirmative, the conference report is agreed to.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. KUCHEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HAGUE PROTOCOL TO WARSAW CONVENTION IS DETRIMENTAL TO INTERNATIONAL AIR PASSENGERS' RIGHTS AND SHOULD NOT BE RATIFIED

Mr. YARBOROUGH. Mr. President, I greatly regret to see now pending on our Executive Calendar the question of ratification of the Hague Protocol. This protocol has been pending before the Senate since the 86th Congress' 1st session, without being reported to the Senate by the Foreign Relations Committee for ratification or rejection, and I think the reasons are very strong that a little further delay will be beneficial for protecting the rights of American air passengers on international flights.

Although under American common law a person injured by another's negligence can recover his full damages, this Hague Protocol limits an international air carrier's responsibility to its injured passengers to $16,600. Under the existing Warsaw Convention, although there is a stated limit of $8,300, testimony before the Senate Foreign Relations Committee indicates that most cases can be settled for more than the $16,600 limits of Hague. And the Hague Protocol closes the doors by which injured passengers can avoid being limited in the damages they receive.

No one contends that $16,600 is an adequate amount to compensate for serious injuries or death to an air passenger. The State Department recommends ratification of this Hague Protocol only if companion legislation is enacted requiring an additional $50,000 in accident insurance on each international air passenger on a U.S. airline. That legislation is pending before the Senate Commerce Committee as S. 2032, but who can predict when or if it will be enacted?

In summary, an American injured on an international flight now can probably receive more than $16,600 in settlement of his claim. If S. 2032, is enacted, he can be assured of $50,000 in an accident policy. But if we should ratify the Hague Protocol now without waiting for that legislation, American air passengers will be limited to $16,600 or less in their claims for death or injury.

The New York Times has recently spoken out against the folly of ratifying the Hague Protocol in a well-reasoned editorial. I quote from their conclusion:

> The glaring shortcomings in the Hague Protocol and in the insurance plan to strengthen it argue for their rejection even if it means the end of the Warsaw Convention. The treaty had justification in the early days of air transport, when airlines could have been put out of business by sizable damage suits. It is unjustified now that airlines are financially sound and furnish uniform documentation in normal course; yet the administration is seeking to reaffirm allegiance to its outdated and miserly provisions for passenger protection.

I ask unanimous consent that the complete text of the editorial, "Protection in the Air," from the June 16, 1965, New York Times be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROTECTION IN THE AIR

Passengers on international airline flights involved in an accident have since 1934 been covered by the Warsaw Convention, which provides a unified liability code and uniform documentation on tickets and cargo for international air carriers. Under its antiquated provisions liability for loss of life or injury is limited to only $8,300, except where willful misconduct is proved. Recognizing that this amount is wholly inadequate, the signatories have proposed an amendment,

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

A TRIBUTE TO ADLAI STEVENSON

(By Dr. Dana McLean Greeley, president, Unitarian Universalist Association (of North America))

The very presence of this company speaks more eloquently and more tenderly than anything that we can say or sing. But here in the community and the church of his childhood and of lifelong associations, we pay to Governor Stevenson our most intimate and final tribute, recognizing also the lasting bereavement of all mankind.

Many of those who have loved him the longest and most dearly are with us, and each in the privacy of his own thoughts offers his own prayer; yet the larger company at Washington's National Cathedral bowed as reverently in his honor; and statesmen and the common people alike, the world around, have taken him to their hearts, and will mold his memory into their own images of the best life and prophecy of America in the 20th century.

Adlai Stevenson was destined by his heritage and his own nature for public service. And although in moments he shrank from that role, he also thrived upon it. It was at once a bitter cup that he had to drink, and the elixir of life that lifted him to the fulfillment of his own powers. He may not have thought that he had accomplished enough, for there were bitter disappointments, public and private, and yet unmistakably he was called to greatness; and the God that shines in the firmament of the heavens was radiant in his person and resonant in his voice. Not either ancient Israel or modern New York could produce a more articulate spokesman for justice and the right. If Winston Churchill could turn a phrase as well, it was not to liquidate the empire, but to keep the past upon her throne, whereas Governor Stevenson undertook the tougher task primarily of persuading a nation to minimize its sovereignty and to merge its hopes and fears with those of other nations. In his own words his attempt was "to defrost a * * * segment of the opaque window through which we see others and others see us," and thereby to increase understanding and fraternity among men.

He added very recently that change is not the great enemy of men, but violence is that enemy. If political success is to raise the level of the national debate and of the world's dialog, to make truly qualified people feel more at home in public life, and to influence one's country and mankind for good, then he achieved success emphatically and dramatically. We shall remember his combination of greatness and goodness.

We salute him for his modesty and his ambition, for his ability and his affability, for his wisdom and his wit, and for his failures and his successes. His mind was extraordinarily free from prejudice, and subservient to the truth. If at times he was deliberate in the making of decisions, it was because he sought the moral context for the workable answer.

He was a philosopher and a politician. All men counted with him, but none too much. He was an American, but he died in England. He was a Democrat, but his family newspaper, of which he was a principal owner, is Republican. He was a Unitarian, but in our Nation's Capitol his flag-draped casket lay fittingly before an ecumenical Episcopal altar. In the climax of his career he was an Ambassador to the United Nations, with strong convictions of his own, and with an unflinching fidelity to his country and his President. If there ever seemed to be contradictions in his life, Emerson's explanation is applicable, "to be great is to be misunderstood." He was not just an American, or only a Democrat, or exclusively a Unitarian, or solely an Ambassador. He was also always the universal citizen. His patriotism was intense, but it had no bounds. His politics were both purposeful and personal. And the cardinal principles of his religion were freedom and human dignity.

My colleague, his cousin, Robert Richardson, reminds me that their great-grandfather, Jesse Fell, would be very proud to have us say that the Governor was truly Lincolnesque in his idealism, his integrity, his compassion, and his humor, as well as in his love of the State of Illinois. He was a devoted son, and brother, and father, and grandfather. He was a loyal friend. And he was a servant to all the children of men. In that "distant day when nobody rattles a saber and nobody drags a chain," his name will shine with an ever-increasing luster.

He understood not only democracy and communism, but likewise the "moving forms and shadows of a world revolution." He was not cowed by complexity, but kept his eye on the goals that he knew to be worth every effort that could be bent in their direction. He believed in a better world that we ourselves can and must create here and now. Characteristically, a decade ago, with his friend Albert Schweitzer and Prime Minister Nehru, he was a prophetic advocate of a nuclear test ban treaty. "How beautiful upon the mountains are the feet of him that publisheth peace." G. K. Chesterton once said that if we only had more visionaries among our statesmen, we might get something really practical done. Adlai Stevenson was that kind of a statesman.

Though there was a poignancy in his life that matched the hungers of his heart and the sensitiveness of his being, he had a faith that was greater than any problem or peril or defeat. And he was able to say with Esdras, "Great is the truth and mighty above all things."

"The memorial of virtue is immortal because it is known with God and with men. When it is present, men take example at it, and when it is gone, they desire it. It weareth a crown and triumpheth forever, having gotten the victory, striving for undefiled rewards."

CAPTIVE NATIONS WEEK

Mr. SCOTT. Mr. President, this week we are observing Captive Nations Week. It is a week when all of those in the world fortunate enough to live in freedom should be reminded of those many millions for whom freedom is only an unreal dream or a word without meaning.

The Iron Curtain which descended over so many once free nations after World War II has not been raised. For more than 20 years tens of millions of people have suffered the despotic rule of Soviet colonialism. Poles, Latvians, Lithuanians, Estonians, Czechs, Ukrainians, Rumanians, Armenians, and others have all felt the iron heel of Soviet domination. Economic exploitation, religious persecution, expropriation of property, terror, purge, and imprisonment have in varying degrees become part of their daily lives.

But seeds of unrest and change are present in Eastern Europe. Freedom's flame still burns brightly in many hearts. It is up to us to do everything that we can to keep that flame alive until all of these peoples, from the Baltic to the Black Sea, achieve freedom and the right to govern themselves.

[redacted]

Mr. McGEE. Mr. President, several States have already acted with dispatch and wisdom to ratify the proposed 25th amendment to the Constitution pertaining to the continuation of the executive department of this Government in competent hands should disability strike our President at any time. But one State, Colorado, has acted with similar haste to reject the amendment on the specious grounds, as expressed by one member of its State senate, that the United States of America has done without this amendment for 175 years and can still do so.

In truth, Mr. President, I think virtually all of us are aware of the fact that the United States of America has been lucky in the past and cannot afford to flirt with the danger of political chaos which could arise out of a crisis over Presidential succession. As the Washington Post said editorially on Thursday:

On many occasions the country has been only one heartbeat away from potential chaos because of the absence of any mechanism for replacing the Vice President.

It is, indeed, rather shocking, as the Post has said, Mr. President, to note such complete unawareness of the problems of Presidential succession and disability as that manifested in Denver. But, in all fairness, Mr. President, I would add that I doubt in all seriousness if the action of the Colorado Senate, taken, apparently, in some haste, represents in fact the thinking of the people. I ask unanimous consent that the Washington Post editorial, "Reaction in Colorado," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

REACTION IN COLORADO

Colorado's rejection of the proposed 25th amendment to the Constitution merits some kind of note in the annals of political stagnation. This projected reform, designed to make certain that the office of President of the United States will always be occupied by an able-bodied and competent person, had majority support in Denver as elsewhere. But a handful of Republican State senators denied it the necessary two-thirds vote on the ground that the United States had done without it for more than 175 years and could still do so.

This argument advanced by L. T. Skiffington could be made with equal force against any governmental reform at any time. It could be made with equal force against the act giving statehood to Colorado. It is an essentially unenlightened plea for the status quo with no regard for the changed conditions which have made improvement of our machinery of government imperative. Indeed, the premise on which the argument is based is itself a betrayal of ignorance. The country passed through perilous times while President Garfield and later President Wilson were stricken and could not be temporarily relieved of their onerous duties because

of the existing defect in the Constitution. On many occasions the country has been only one heartbeat away from potential chaos because of the absence of any mechanism for replacing the Vice President.

It is rather shocking to note such complete unawareness of the problems of Presidential succession and disability as that manifested in Denver. Fortunately, three other States—Wisconsin, Nebraska, and Oklahoma—hastened to ratify the proposed 25th amendment. We have no doubt that 35 additional States will complete the ratification process. In the end Colorado may wish to erase the negative distinction it has acquired by a minority response to any argument based on blind reaction.

A CHALLENGE TO EXTREMISTS IN CALIFORNIA

Mr. McGEE. Mr. President, Columnist Max Freedman has paid the State controller of California, Alan Cranston, a much deserved tribute in the Washington Evening Star for Thursday.

Mr. Cranston, Freedman notes, has spoken out importantly about extremists in his State, expressing the view which none can challenge that the extremist makes his greatest gains when moderate, responsible people remain silent or act timidly. And he makes the very valid point that extremists, whether of the left or right, are one of a kind, really. The point is well made by Cranston, and by Freedman in his column, that both types of extremists are fundamentally destructive of the democratic process, though the rightwing variety enjoys a fundamental advantage in that many Americans honestly believe they are defending American ideals and freedoms.

Mr. President, I ask unanimous consent that Mr. Freedman's column, "Californian Challenges Extremists," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Evening Star, July 22, 1965]

CALIFORNIAN CHALLENGES EXTREMISTS

(By Max Freedman)

It could not have been easy for State Controller Alan Cranston to make his recent important speech on extremist groups in California. Had someone from outside California spoken in these harsh and challenging terms, he would have been charged with maligning the State as a paradise for extremists. Cranston accepted that risk because he believes that the extremists make their greatest gains when the moderate and responsible people are silent or timid.

What fails to emerge from Cranston's analysis, otherwise so admirable, is an explanation of why California should be so open to the appeal of the extremists. Their supporters are found among young people as well as among the old and the retired taking counsel from their frightened prejudices. We must apparently reconcile ourselves to the curious fact that the liberal and progressive traditions of California are crossed by a more raucous and extreme strain.

Cranston begins by citing documentary proof that the Communists and the John Birchers often say the same thing. For example, the monthly magazine published by the leftwing Progressive Labor Party charges that President Kennedy was assassinated on orders from big business. The John Birch Society claims that Kennedy was killed because he was not a good enough Communist. Both denounce President Johnson and Walter Reuther as conspirators afraid to avow their real purposes or to disclose their real masters. Both denounce the American press as an organized conspiracy against the truth.

The major difference between the leftwingers and the John Birchers is that one group thinks the United States is headed toward fascism and the other claims the United States is moving toward communism. It is not much of a difference for people who believe in freedom.

Cranston cited evidence that 3,000 groups in the United States are now spending $30 million a year promoting rightwing extremism. Last year the John Birch Society alone spent an estimated $3 million and is now planning to add 38,000 new members in California. Robert Welch, the society's president, devotes about half his time to enlarging the California membership.

Another rightwing extremist, Carl McIntire, a deposed Presbyterian minister now conducting a disreputable anti-Catholic radio campaign, grossed an estimated $1.5 million in 1964.

Welch has said, "Democracy is merely a deceptive phrase, a weapon of demagoguery, and a perennial fraud."

The one thing common to all extremist groups is their inflexible conviction that they are right and their opponents are evil. Acting on this principle, they are no longer open to reason, no longer willing to respect the wishes of the majority. What makes them dangerous is neither their ugly political technique nor their contempt for the facts. They are fundamentally destructive of the democratic process itself. They create a climate of fear so that their doctrines of hate may prevail. The vicious personal attack on the reputation of Senator THOMAS KUCHEL, Republican, of California, an attack to which he responded with rare courage, is only one example of the evil weapons they will use against a public man of whom they disapprove.

Yet the rightwing groups, as Cranston has shown, enjoy one vast advantage always denied to the Communists. Many Americans do honestly believe that these extreme rightwingers are defending American ideals and values. They see them owing no foreign allegiance and parading their claims as superpatriots. If the rightwingers are rough with their opponents, it is a roughness justified by the cause being served. That is the basic appeal of the extremists, in California as elsewhere. Yet the warning by the Los Angeles Times is profoundly true that subversion remain subversion whether it comes from the right or the left.

The extremists probably have made life a misery for Cranston since he denounced them. But other public officials will no doubt follow his courageous example. A concerted exposure of the false assumptions and dangerous methods of the extremist groups is the best way to discredit them utterly.

CHICAGO SYMPHONY ORCHESTRA SUCCESS IN ALASKA

Mr. DOUGLAS. Mr. President, the Chicago Symphony Orchestra enjoys an international reputation for excellence. I wish to bring to the attention of the Senate the overwhelming success it enjoyed at Fairbanks, Alaska. This was the first event in which a major orchestra had appeared in the city, and I am glad to read that thunderous applause acclaimed the performance.

I ask that the articles from the Fairbanks Daily News-Miner and New York Times be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Fairbanks (Alaska) Daily News-Miner, May 25, 1965]

FIRST MAJOR CONCERT THRILLS FAIRBANKS, SYMPHONY LAUDED

(By Prof. Charles Davis, head, music department, University of Alaska)

Last evening's capacity crowd accorded the Chicago Symphony a tremendous ovation as it concluded the first of two concerts in Hering Auditorium.

To residents of the Fairbanks area it was a truly memorable evening as one of the world's foremost symphonies conducted by the internationally known Jean Martinon became the first major orchestra ever to present a concert in the farthest North city.

With meticulous precision and ensemble the orchestra recreated the mood and contrasts of Beethoven's Symphony No. 6—the "Pastoral." At the outset, the vagaries of the acoustics of the Hering stage caused momentary uncertainties in the thinly scored section of the first movement. Quickly adjusting to the situation, the ensemble demonstrated its virtuosity in painting colors from the quiet pastels of countryside to the thunderous storm which interrupts the restful quiet of "the Brook."

DELICACY OF LINE

In opening an orchestral program with the "Pastoral" the first two movements in their predominantly restrained dynamics seem somewhat overlong. This reviewer might have preferred a degree of anticipation in the "Andante Molto Moto," as the tempo seemed to suggest too great a degree of repose. The serenity of this second movement was characterized by great delicacy of line and phrasing.

Certainly the third movement of the symphony is a welcome change of mood, with its Landler dance rhythm. From this movement the heightened tension builds to its ultimate climax in the "storm." Here the instruments combined with a sonority of tone that overwhelms, still maintaining an exactness and balance characteristic of great ensemble playing. The final Allegretto was a consummate portrayal of joy and peace.

Following the intermission, the orchestra turned to a composition in a contemporary idiom—"Orchestra Variation on a Theme of Paganini"—by Blacher. Announced by solo violin in its original form, the theme, disguised and altered, moves to various sections of the orchestra with accompaniments in widely contrasting rhythm and sonorities. The complexities of rhythm combined with a modern harmonic usage create highly entertaining program fare.

Concluding the program was the familiar tone poem "Don Juan" by Richard Strauss. This composition, typical of the early Strauss writing, exploits all sections of the orchestra in intricate melodic motives and contrasting stentorian harmonies. Once again the orchestra demonstrated great virtuosity with its precision of ensemble, its delicate maneuvering from one solo instrument to another or to the full complement of players as Conductor Martinon deftly recreated the score.

THUNDEROUS APPLAUSE

Accorded a thunderous, standing ovation by the audience, the orchestra responded with the bombastic "Rakoczy March" by Hector Berlioz. Still reluctant to accept the end of a thrilling evening, the audience kept Conductor Martinon returning for repeated acknowledgments.

Tonight, the symphony promises an equally exciting evening with Associate Conductor

A reduction to 12.5 percent "would produce still more dramatic unlocking of capital," the report declared.

The survey also found that these reductions would stimulate the flow of capital—after the initial investor response—to a consistently higher degree than at present.

The study estimates the impact of a reduction of 5 percentage points in the capital gains tax to a maximum tax of 20 percent as follows:

The market value of all sales of securities by investors would jump to $23 billion from $10.3 billion.

Total capital appreciation of $10 billion would thereby become subject to the lower capital gains tax—more than three times as much as under the present rate.

Nearly $13 billion more of capital would be freed for reinvestment.

The U.S. Treasury would receive an estimated $700 million more than under present rates.

The estimated impact of reducing the maximum capital gains tax rate to 12.5 percent would be:

Sales of securities by individuals would increase to $67.3 billion.

Total capital appreciation of $29.2 billion would thereby become subject to the lower capital gains tax.

Some $57 billion more of capital would be freed for reinvestment than under present rates.

The Treasury would receive an estimated $2 billion more than under present rates.

Examining the long-range implications of a reduction in the capital gains tax, the study found:

If the maximum tax rate were reduced to 20 percent, the ultimate leveling off of revenue to the Treasury would be more than one-quarter above present revenues.

If the maximum tax rates were reduced to 12.5 percent, the ultimate leveling off of revenue to the Treasury would be nearly 35 percent more than present revenues.

The Louis Harris survey reported that, during the course of interviews with investors, many of those questioned "felt strongly about being locked in with their present stockholdings," frequently regarding the capital gains tax as a key factor—along with the price level and outlook for a particular stock—in making any decisions to sell.

Another recurrent attitude found in the interviews was that investors said they wished to reinvest their profits, indicating that a lower capital gains tax rate would provide the impetus for transferring part of their holdings into growth stocks.

The survey findings were based on interviews with nearly 1,500 investors in 32 States and the District of Columbia.

L.B.J. INCONSISTENCY

Mr. COTTON. Mr. President, I ask unanimous consent to have inserted at this point in the RECORD an excellent editorial, entitled "L.B.J. Inconsistency" which appeared in the Friday, January 14 issue of the Valley News, a daily newspaper published in Lebanon, N.H.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

L.B.J. INCONSISTENCY

In the state of the Union message Wednesday evening, President Johnson within the same few minutes dwelt on the need for guaranteeing and enforcing civil rights and called for the repeal of 14(b) which allows States to have so-called right to work laws.

It would seem to us that the most necessary civil rights should be the right to work, the right to refuse to join a union if a worker so chooses, without losing his job.

Certainly one should have the right to join a union. Unions have played and must continue to play a vital role in labor-management relations, in securing and protecting rights and privileges for their members.

But mandatory membership in a union if a worker is to continue in his job is a violation of a highly individual civil and human right—the right of a man to earn his and his family's daily bread.

Mr. COTTON. Mr. President, the point is well made that the Federal Government should never deprive any State of the authority to take such steps as it deems necessary to preserve the civil and human rights of its people to have a full opportunity to earn their daily bread.

PROPOSED 25TH AMENDMENT IS MAKING PROGRESS

Mr. BAYH. Mr. President, I would like to report to the Senate on the progress of the proposed 25th amendment to the Constitution of the United States.

As you know, both the House and the Senate overwhelmingly approved the amendment, with more than 90 percent of the Members of each Chamber voting in favor of the proposal. The action of the Senate on July 6, 1965, sent the proposal to the several States for ratification.

The amendment would close existing serious loopholes in our fundamental law concerning the questions of presidential inability and vacancies in the Office of Vice President.

The amendment was submitted to the States at a time when relatively few were in session. And, because most State legislatures meet during odd-numbered years, it is not likely that the amendment will receive ratification by the necessary 38 States before the early months of 1967. Nonetheless, all of us who contributed to the amendment are gratified at the reception it has received thus far in the States.

Because of the many inquiries I have received on the progress of the amendment, I think it would be appropriate at this time to deliver this progress report to the Senate.

In 1965, 13 States ratified the amendment. They are, together with the dates of ratification: Nebraska, July 12; Wisconsin, July 13; Oklahoma, July 16; Massachusetts, August 9; Pennsylvania, August 15; Kentucky, September 15; Arizona, September 22; Michigan, October 5; Indiana, October 21; California, October 21; Arkansas, November 4; New Jersey, November 29; and Delaware, December 7. Yesterday, January 17, Utah became the 14th State to ratify the amendment, and the first in 1966.

The following State legislatures which have not yet ratified the amendment will meet in regular sessions this year: Alaska, Colorado, Georgia, Hawaii, Kansas, Louisiana, Maryland, Mississippi, New Mexico, New York, Rhode Island, South Carolina, South Dakota, Virginia, and West Virginia. Bar associations in 14 of those 15 States have endorsed the amendment.

States which may meet in special session in 1966 are Connecticut, Maine, North Carolina, Tennessee, and Vermont. Bar associations in four of those five States have endorsed the amendment, but only two of the States—Maine and Vermont—are known at this time to be considering action on the amendment should they meet in special session.

The remaining 16 States are not expected to meet before 1967. Bar associations in 11 of these 16 States have endorsed the amendment.

I would like at this time to express my gratitude to the American Bar Association which, in cooperation with the Senate Subcommittee on Constitutional Amendments, has been spending a great deal of time and effort to bring this amendment to the attention of lawyers and the general public and to answer questions about how the amendment, when ratified, will operate.

When the amendment becomes part of the Constitution of the United States, we will have greatly lessened the possibility of confusion, uncertainty and chaos among our people, should tragedy ever again strike those in executive leadership of our Nation.

TRIBUTE TO ROBERT G. DUNPHY AS SERGEANT AT ARMS OF THE SENATE

Mr. PELL. Mr. President, the nomination and subsequent confirmation by the Senate of Robert G. Dunphy as Sergeant at Arms is an action which confirms a fact which we have all long known, that Bob Dunphy is a capable and efficient public servant. More importantly, he has the affection and respect of all of us who know him, either officially or personally.

My immediate predecessor in office, Senator Theodore Francis Green, together with my senior colleague, Senator PASTORE, sponsored Bob Dunphy as Deputy Sergeant at Arms in 1955. I am sure, too, that Senator Green is most pleased and proud by the recent action of the Senate. And as a Rhode Islander, I can only express the pride which our State feels in having one of its native sons in such a position of trust and responsibility.

Twelve years as deputy to the very capable Joseph C. Duke, whom we shall all miss, eminently qualifies Bob Dunphy for his present post.

When I first came to the Senate, I was helped immensely by Bob Dunphy, who gave much time and effort in helping my staff and myself settle into office. I know that his sister Helen, who worked on my staff, and contributed so much to it when I first came to the Senate must be very proud of her brother, as are we all.

I extend to Bob Dunphy my hearty congratulations and best wishes for a long tenure.

INFLATION

Mr. ROBERTSON. Mr. President, anticipating that the President's budget for fiscal 1967, which we now expect will be presented to the Congress early next week, would start a discussion of inflation, I asked the staff economist of the Banking and Currency Committee last week to prepare for me a definition