Presidential Inability + Succession

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We Can't Await A Perfect Answer To This Problem

BILL LADD called Wednesday night's *C.B.S. Reports* "an interesting, informative, and even frightening program." It s all of that. The subject was what hapns when an American President dies or benes incapacitated. Former Presidents senhower and Truman, and Richard Nixon re among those expressing their views.

Another man who appeared was House eaker John McCormack. Our present sysn of succession, dating from 1947, places n next in line behind President Johnson the highest office in the world. Nobody nts to be brutal about such matters, but story itself can be brutal. Few who saw the ogram could imagine our nation led in rilous times by an amiable gentleman of who represents one Congressional district South Boston.

Eric Sevareid called the subject "profoundly nfused and profoundly controversial." The re the participants talked, the harder it came to see an easy answer to the dilem-. Some guide-lines did begin to emerge, wever.

Both Mr. Truman and Mr. Nixon supported plan for action when the country has no cted Vice President, as at present. A man fill the place would be selected within 30 ys, by majority vote of the Electoral Col-ge.

An Imperative Need

This obscure body has existed solely to ify the public choice of a President and e President every four years. It has the tue, however, of being embedded in the nstitution. This group could be asked to ect a Vice President from a list of perhaps ee submitted by the President. Such a thod would insure the selection of a per-n of the same party as the man in the ite House, a political necessity.

The question of when a President must be nsidered unable to carry out his duties still more thorny. Who is to make such a ive decision? Surely not the man himself, o might be in a coma, or lost in mental ess. Surely not the Vice President, who uld be promoting himself to the top.

The distinguished men on the program did agree on a formula to fill this gap, but y were unanimous in insisting that legal vision should be made without delay. re it would seem logical to give the respon-lity to a blue-ribbon commission named in vance, with three members nominated each the President, the Senate and the House. No system which relies on human beings be perfect, but this one would safe-rd the national interest as well as any t seems obtainable. To wait for perfection to wait forever. And any system written o law could be altered later, in the light of ther experience.

Of the last four Presidents, one has been assinated, two have been the targets of assination attempts, and the fourth has fered a severe heart attack while in office. e has surely been trying to warn the un-ding people of the United States. We must now, while the tragedy of Dallas is still sh in our minds, or place ourselves and whole world in unnecessary peril.

Defining Presidential "Inability"

From Wednesday evening's enlightening CBS report on White House succession and disability at least one conclusion emerges:

The American people, despite marked disagreement on the matter, may well solve the question of the order of succession more quickly than they agree on a working definition of "inability"—governing instances when an ailing President should hand his powers on to the vice president, or he assume them.

Flexibility of phrase is a secret of the Constitution's endurance; that flexibility often rests (as it does in Article II, Section I) on vagueness:

> In case of the President's removal from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve upon the vice president.

Although the same section gives Congress power to fix a working definition of "inability," the term continues undefined today. Nor does any court-made law bear on disability. This lack is understandable, in that a President could be considered disabled for any of a thousand reasons; but it is, as Arthur Krock said, a "constant threat."

No U. S. President has yet resigned. No President has been successfully impeached. Death is of course final. But no less than 16 times illness or attempted assassination has disabled an incumbent President. The examples aren't remote, either. It happened twice during the Eisenhower years, when the President suffered both a heart attack and a mild stroke—though luckily neither impaired his mental powers.

One shudders to think that had the sniper's aim in Dallas been but slightly less deadly the U. S. might today face the same crisis it faced when President Garfield, shot by a disappointed office-seeker, lingered for weeks between life and death.

Indeed, the crisis would be infinitely worse. Today the world-wide responsibilities of the U. S. are vexed by enemies with world-wide ambitions. A prolonged crisis of presidential inability would almost surely be exploited: A period when no one knew who the President really was could invite aggression against our interests in Berlin or elsewhere.

All who appeared on the CBS program—Presidents Eisenhower and Truman, Vice President Nixon, Arthur Krock (who covered the Wilson illness more than four decades ago)—agree that a statutory solution is needed.

Presently the gap is plastered over with an exchange of letters between th President and his immediate successor Under the letter agreement it is the vic president's duty to say when disability i present, the President's to say when i ends.

This informal agreement is better tha nothing, but is largely unsatisfactory Basically it is extra-legal and extra-con stitutional. More seriously, it provides n formal medical or constitutional machin ery to determine "inability" by agreed upon, objective standards. Since thi is so, any discreet vice president woul hesitate to take the drastic step of de claring himself, on his own motion, Presi dent of the U. S. while there is still breath in his superior.

President Truman's criticism of the agreement is also compelling: Once a vic president has taken the office of Presi dent, he should not be expected to giv it up. This, as Mr. Truman put it, place the presidency "up for grabs"; it conceivably could lead to a constitutiona crisis in which the U. S., like the state of Georgia a few years back, would have two men claiming at once to be legitimate chief executive. A succession, once made, should be final, despite the constitutional proviso that "inability" may be "removed."

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What holds up the settlement of this matter by law, then? There is, it seems, a school of legislative thought that "inability" cannot suitably be defined by law. And certainly the complications are evident.

But this is defeatist. In the present state of the world the President is not only the chief executive of one republic but the acknowledged leader of a coalition of nations. With his medical competence in doubt for an extended period (as under Garfield or Wilson) there is no reckoning the crises. The question of presidential disability, even more than the order of succession, presses for legal clarification. The U. S. has never had a double succession—a case in which both the President and his elected running mate succumbed in the same term. But 16 times—to repeat the fateful number—a President has been disabled.

Eric Sevareid aptly compares the national attitude to the attitude of the legendary farmer with a leaky roof: When it rains he can't fix it; when it doesn't rain it doesn't leak. There, surely, the comparison ends. The farmer can with luck escape a flood but the country must know who is actually President. That is why Congress must fix this gaping hole in the constitutional roof—and soon.