

Presidential Inability
+ Succession
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M. C.

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We Can't Await A Perfect Answer To This Problem

WILL LADD called Wednesday night's C.B.S. Reports "an interesting, informative, and even frightening program." It is all of that. The subject was what happens when an American President dies or becomes incapacitated. Former Presidents Eisenhower and Truman, and Richard Nixon are among those expressing their views. Another man who appeared was House Speaker John McCormack. Our present system of succession, dating from 1947, places next in line behind President Johnson the highest office in the world. Nobody wants to be brutal about such matters, but the story itself can be brutal. Few who saw the program could imagine our nation led in perilous times by an amiable gentleman of whom represents one Congressional district in South Boston.

Eric Sevareid called the subject "profoundly confused and profoundly controversial." The more the participants talked, the harder it came to see an easy answer to the dilemma. Some guide-lines did begin to emerge, however.

Both Mr. Truman and Mr. Nixon supported plan for action when the country has no elected Vice President, as at present. A man to fill the place would be selected within 30 days, by majority vote of the Electoral College.

An Imperative Need

This obscure body has existed solely to certify the public choice of a President and elect the President every four years. It has the virtue, however, of being embedded in the constitution. This group could be asked to select a Vice President from a list of perhaps three submitted by the President. Such a method would insure the selection of a person of the same party as the man in the White House, a political necessity.

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

The distinguished men on the program did not agree on a formula to fill this gap, but they were unanimous in insisting that legal provision should be made without delay. It would seem logical to give the responsibility to a blue-ribbon commission named in advance, with three members nominated each by the President, the Senate and the House. No system which relies on human beings can be perfect, but this one would safeguard the national interest as well as any that seems obtainable. To wait for perfection is to wait forever. And any system written into law could be altered later, in the light of their experience.

Of the last four Presidents, one has been assassinated, two have been the targets of assassination attempts, and the fourth has suffered a severe heart attack while in office. We have surely been trying to warn the undying people of the United States. We must act now, while the tragedy of Dallas is still fresh in our minds, or place ourselves and the 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 the President and his immediate successor. Under the letter agreement it is the vice president's duty to say when disability is present, the President's to say when it ends.

This informal agreement is better than nothing, but is largely unsatisfactory. Basically it is extra-legal and extra-constitutional. More seriously, it provides no formal medical or constitutional machinery to determine "inability" by agreed-upon, objective standards. Since this is so, any discreet vice president would hesitate to take the drastic step of declaring himself, on his own motion, President of the U. S. while there is still breath in his superior.

President Truman's criticism of the agreement is also compelling: Once a vice president has taken the office of President, he should not be expected to give it up. This, as Mr. Truman put it, places the presidency "up for grabs"; it conceivably could lead to a constitutional 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.

