

II 1(5) In case of the Removal of the President from office,  
or at his death,  
resignation, or  
inability to discharge the Powers and duties of 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.

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there is a sound doctrine of Constitutional law, ~~that~~  
regrettably honored more in its breach than in its observance,  
that the fundamental document ought not be burdened  
with legislative detail. This proposed Constitutional  
Amendment # 5 Res 1 contains detail better left to  
legislative statute law. (develop this point). <sup>rigidity</sup>

Present provisions take care of everything except  
what agency or body shall determine disability.  
this Amendment doesn't define it. It calls for  
a political determination of inability, NOT a  
medical or psychiatric one.

Better if Congress were simply empowered to  
provide the methods of determining disability &  
by whom. Congress is legislated for reaction - but  
when it is finally being persuaded to act, it is  
asked to delegate the matter to the Constitution -  
which means Court interpretation & NOT  
Congressional implementation.

Argue that Present Provision is actually

sufficient, ~~since~~ and Congress Now has power  
to provide Methods & Lists of disability by Statute.  
Since Neither the Executive or the Courts can  
implement Constitution Only Congress can do that.

Political decisions of inability - The Illusions  
of formalism for Power.

Vacancy -

Dangerous that President has now his successor,  
Congressional Confirmation - not a check on the  
Circumstances Surrounding the Vacancy.

Speaker of House - or Secy of State -  
Should automatically fill the vacancy -  
If Congress should provide by law in advance  
of the vacancy, then the succession would  
be filled outside the crisis - ~~by the House~~ <sup>by the House</sup> ~~or~~ other  
than for the VP vacancy itself.

When we undertake to Amend the Constitution  
We should first examine the document to  
ascertain a deficiency in Constitutional Power.

Doesn't define disability.

H.S. Res 1 would incorporate into the Constitution a detailed procedure for the transfer of executive power from the President to the vice President in times of the President's <sup>inability to perform</sup> ~~inability to perform~~ ~~inability to discharge the powers and duties of his office~~. ~~the first question to be resolved is~~  
~~Does the Constitution and present Constitutional provisions~~

Such transfer of power can occur with ~~or~~ without the president's consent or over his protest. The language ~~Spurs on the measure~~ provides no hint of the resolution provides no hint that the determination of inability shall be based on medical or psychiatric evidence. ~~Instead, it is~~ ~~instead it is~~ <sup>more likely</sup> ~~is~~ the determination will be a political one; and here lies the danger of this proposal.

Words written into the Constitution a century ago have not power to extents and in ways not intended by their authors. ~~We should profit from this~~ We should be extremely cautious, lest we unwittingly provide tools of power we would ourselves oppose.

Do the provisions of Section 4 of this Resolution in effect create a new way by which a president may be removed from office? Might it be possible for a vice president to form a cabal with a majority of the president's cabinet to seize power from him? <sup>H.S. Res 1</sup> If ~~these~~ provisions had been part of the Constitution in 1865, could President Andrew Johnson have been removed from office through this route? We have had unpopular presidents

II, 1 (5) In case of the removal of the president from office  
or at his death,

Resignation,

or inability to discharge the Powers and duties of 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.

XX 3

If, at the time fixed for the beginning of the term of the President,  
the president elect shall have died,

the vice President elect shall become president,

→ If a president shall NOT have been chosen before the time fixed for  
the beginning of his term, or

→ If the President elect shall have failed to qualify, then  
the vice President elect shall act as president  
until a president shall have qualified;

→ And the Congress may by law provide for the case  
whenever neither a president elect nor a vice President  
elect shall have qualified,

declaring who shall then act as President, or

the manner in which one who is to act shall be selected,

and such person shall act accordingly until a  
President or vice President elect shall have qualified.

XXII 1. No person shall be elected to the President more than twice,  
and no person who has held the office of President, or  
acted as President,  
for more than two years of a term to which some other person  
was elected President  
shall be elected to the office of the President more than once.

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## ~~A Constitutional Amendment Necessary~~

~~Before the Congress~~

~~to show a need~~

H. R. 1 would incorporate into the Constitution a rather detailed procedure for determining the disability of the President and for the devolvement of the powers and duties of his office during his disability.

~~The present Constitutional provisions deficient~~

~~Unless present Constitutional provisions~~

~~Are present Constitutional provisions~~

The present Constitutional provisions on this point are found in Article II Section 1. In case of the inability of the president to discharge the powers and duties of his office, "the same" shall devolve on the vice president. ~~the Congress may by law provide~~

What is meant by the term "inability" and who shall determine it?

A new form of removal - practically determined disability.

Automatic succession procedure called