9-29-1964

Senate Floor Debates: Proposed Amendment to the Constitution Relating to the Succession to Presidency and Vice Presidency

United States. Senate

ESTES KEFAUVER WILL NOT BE FORGOTTEN

Mr. COOPER. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Lexington Leader, on August 26, 1964, which pays a deserved tribute to our late colleague, Senator Estes Kefauver.

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

WE MAY NOT REMEMBER KEFAUVER BUT WE BENEFIT FROM HIS EFFORT

Estes Kefauver, the gangling, coonskin-cap-affecting Senator from Tennessee, died a little over a year ago.

As a form of memorial to him, a book called "The Real Voice" has been published, telling of Kefauver's fight for the Senate bill that eventually became the Drug Amendment Act of 1962.

It was one of the longest, costliest and fiercest legislative battles in recent history.

The title of the book is taken from a statement by Woodrow Wilson:

"Things get very lonely in Washington sometimes. The real voice of the great people of America sometimes sounds faint and distant in that strange city."

Seldom has this been better exemplified than in the investigations of the pricing, manufacturing, testing, selling, advertising, and licensing methods of the drug industry and, in Kefauver's words, "the ins and outs, the ups and downs, and the dirty dealings" involved in getting a bill through Congress.

The significant thing, however, is not that legislators are less honest, less dedicated, more self-seeking than ordinary men; they are not. It is that they can occasionally rise above the enormous pressures that beat upon them from every side (there are 10 lobbyists in Washington for every Congressman) and actually serve the public welfare.

In the end, it was the thalidomide tragedy—which the United States escaped because of the stubbornness of Dr. Frances O. Kelsey of the Food and Drug Administration in refusing to OK the drug—that aroused "the real voice" and provided the impetus to push the bill into law.

History does repeat itself. It had taken another drug tragedy in 1937, in which 107 people died, to inspire the Food, Drug, and Cosmetics Act in 1938. Before that, the Government had no control at all over drug safety.

Although the public today is better protected against experimental drugs, Kefauver failed in his primary aim—to institute free enterprise measures that would have resulted in lowered drug prices, some of which he asserted were inflated 1,000 percent or more above cost. It was the sacrifice that had to be made to get any sort of bill passed.

The drug manufacturers' explanation—then and now—for their prices is that profits must be sufficient to finance necessary research. An executive of a small drug company testified at the Kefauver hearings, however, that the Government spends almost as much as the drug industry on such research and that private foundations, universities, charitable organizations and individuals contribute more to drug and medical research than either the drug industry or the Government.

The Salk polio vaccine, for instance, was paid for largely by public donations (though only five drug companies shared the profits of its manufacture).

Another quotation from "The Real Voice" is a statement made on the floor of the Senate by THOMAS DODD, of Connecticut, after the final rollcall and after everyone—including many who had opposed the bill all along—had made their little speeches of self-congratulation. Said DODD:

"I have an idea that the Senator from Tennessee will be remembered long after all of us in this Chamber at this hour are gone."

PROPOSED AMENDMENT TO THE CONSTITUTION RELATING TO THE SUCCESSION TO PRESIDENCY AND VICE PRESIDENCY

Mr. STENNIS. Mr. President, yesterday, a highly important piece of legislation, Senate Joint Resolution 139 passed the Senate. It is an elaborate joint resolution concerning the Presidency and the possible succession of the Vice President to the Presidency, and with a provision for an Acting President, which would repeal an existing section of the Constitution.

I have not had an opportunity to discuss this with the majority leader, but as one who is eligible under the rule to make a motion to reconsider—I do not know whether it is in order during the morning hour—I wish to give notice that when I can obtain the floor for that purpose I shall make a motion to reconsider.

The PRESIDING OFFICER. The Senator may make his motion at any time.

Mr. STENNIS. I thank the Chair.

I wish to make clear that I am not in opposition to the joint resolution. I will support it. I support its great purposes; but, at the same time, without anyone being at fault, there was no prior notice given that this joint resolution would be up for passage—at least none that I received. I was present yesterday and in my office all afternoon and until far into the night, with reference to other official business.

The press reports that the measure passed at a time when only nine Senators were present. I do not know whether that is correct. The record does show that only nine Senators addressed themselves to the subject. The record does not show that there was any recorded quorum call prior to the vote. I received no notice of a quorum call.

I am not blaming anyone. It is a condition which existed. But the Constitution of the United States does not contemplate the approval of a resolution to amend the Constitution of the United States at a time when only nine Members of the Senate are present.

Clearly the Constitution requires, and its spirit demands, that there be a showing on the face of the record that there was at least a quorum present, and that two-thirds of the Senators present and voting voted for the proposal.

Without going into the legal aspects, I refer to a case decided in 1920 on this question. One of of the conclusions of the Court, as found in 253 U.S. 350, 386, had this to say:

> The two-thirds vote in each House which is required in proposing an amendment is a vote of two-thirds of the Members present—assuming the presence of a quorum—and not a vote of two-thirds of the entire membership, present and absent.

I have not had time to go into this question in detail. I do not propose to make an exhaustive argument now—nor at any other time—except that I do wish to bring this matter to the attention of the Senate. I have no doubt as to what the Senate will do, and I hope that no motion will be made immediately to table the motion to reconsider, because I do believe that the matter should be more closely examined. When I can obtain the floor for that purpose, I shall make a motion to reconsider.

The PRESIDING OFFICER. Is the Senator from Mississippi making his motion to reconsider now?

Mr. STENNIS. I should like first to yield to the majority leader. I have not had an opportunity to discuss this question with him. I assume there will not be an immediate motion to table until this matter has been fully discussed.

Mr. MANSFIELD. Let me say to the Senator from Mississippi that this is the first knowledge I have had of his feelings on the matter. I believe that the Senate acted entirely within the rules of this body, that there had been a quorum on this floor earlier in the day, and that every Senator present voted in favor of the constitutional amendment. There was no opposition voiced whatsoever to it.

If a motion is made to reconsider for the purpose of reopening this question and having extended debate, I shall object. I should like the Senator to know that. If he wishes to make a motion to reconsider to vote at a time certain today, but letting other business intervene, and have a yea-and-nay vote, that will be fine, but under no other circumstances today——

Mr. STENNIS. Let me assure the Senator from Montana that I have already stated that no one is to blame, and that no one was misled. It was merely a matter of lack of information.

Mr. MANSFIELD. That is correct.

Mr. STENNIS. I have no desire to postpone the matter and will agree to a vote at any time convenient to the leadership. However, I believe there should be an opportunity for further debate; this question should be fully presented and discussed, and then a vote should be taken, which will reflect affirmatively the presence of a quorum and two-thirds of the quorum voting for the amendment. I believe that will give it a better start.

I ask unanimous consent that I may have an additional 2 minutes.

Mr. DIRKSEN. Mr. President, may I say to the distinguished Senator from Mississippi [Mr. STENNIS] and likewise to the distinguished majority leader, that the joint resolution was the subject of long hearings in the Subcommittee on Constitutional Amendments of the Committee on the Judiciary. I do not remember how many witnesses were heard. But the witnesses were of a very high order.

The joint resolution was then reported to the full committee. The full committee had a substantial discussion of the matter. If I remember correctly—and I was present—there was no dissenting voice in the Committee on the Judiciary. As a consequence, it was reported to the

Senate floor in that fashion. I was in and out most of the time on various chores, but I detected no opposition to the joint resolution. That probably accounted for the fact that there were not too many Senators on the floor.

Mr. STENNIS. Mr. President, I agree with the Senator that the resolution has great merit. I want to support it. I do not know of any Senator who is opposed to it. But I make the point that we ought, in all cases on a constitutional amendment, to let the record speak for itself. The record should show that a quorum was present and that two-thirds of the Senators present voted in the affirmative. Otherwise, I believe it would be subject to attack. And the Supreme Court has so held, if this case is correctly reported.

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

Mr. STENNIS. I yield.

Mr. MANSFIELD. Mr. President, I am happy to propose a unanimous-consent request which I hope the Senate will grant.

Mr. President, I ask unanimous consent—and this is an extraordinary circumstance—that there be a yea-and-nay vote on this Senate Joint Resolution 139 at 2:30 this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object, and I do not object, the time that is proposed would permit a little over 2 hours within which to look into this matter and get ready.

Mr. MANSFIELD. That is correct.

Mr. STENNIS. Could the majority leader make that 3:30? That would give a little more time to read the cases and make a comparison. I believe there is a clear-cut case here that requires a quorum to be present. I believe that it is worth while to look into it.

Mr. MANSFIELD. Mr. President, there was a quorum present yesterday. There was no quorum at the time the joint resolution was passed. That is true. But, so far as I can ascertain, we complied with the rules of the Senate. Therefore, we acted properly in proceeding as we did. But, I would be delighted to change the time to 3:30 this afternoon.

Mr. STENNIS. Could we make that tomorrow?

Mr. MANSFIELD. A quorum is present today.

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

Mr. STENNIS. Mr. President, I ask unanimous consent that I may have an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Montana [Mr. MANSFIELD] has the floor by unanimous consent.

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

Mr. MANSFIELD. I yield.

Mr. COOPER. Mr. President, I have listened with interest to the comments of the distinguished Senator from Mississippi. While I do not see any violation of the rules with respect to the action taken yesterday, I agree with the Senator from Mississippi that such an important subject as the proposed constitutional amendment ought to have the consideration of at least a quorum at the time the vote is taken on it.

Not only is the action that we take upon it important, but the House also must take action. Beyond that, we must consider the weight that will be given to the action of the Senate by the States, their legislatures and peoples in the constitutional process of confirmation. I support the Senator from Mississippi in asking that the vote be put over until tomorrow.

Mr. MANSFIELD. Mr. President, I would hope that the Senators would not press that request. We are having a very difficult time maintaining a quorum. We have a quorum at present. I believe we ought to take advantage of that fact. We had 4 or 5 hours of debate on the joint resolution yesterday. There was no sign of any opposition whatsoever. I believe that agreeing to the suggestion of the Senator from Mississippi that there be a rollcall vote at 3:30 would be about as far as we could go at this time.

Mr. STENNIS. Mr. President, the Senator from Mississippi can be ready at 3:30. But there may be other Senators who could not be ready. If the majority leader cannot agree to putting the vote over until tomorrow, does he have another day in mind?

Mr. MANSFIELD. No; only today. I believe we have gone as far as we can on the matter of reconsidering the vote.

Mr. STENNIS. At 4 o'clock?

Mr. MANSFIELD. At 4 o'clock. But that is the end.

Mr. STENNIS. All right. Will the Senator yield?

Mr. MANSFIELD. I have gone from 2:30 to 3:30, to 4 o'clock. This is the end.

Mr. STENNIS. After all, this is a constitutional amendment.

Mr. MANSFIELD. That is correct. I was present for 5 hours yesterday listening to the debate.

Mr. STENNIS. The Senator knows that no notice was given that there would be a vote. The Senator from Mississippi understood that there would be no vote—but not from the majority leader. But that is neither here nor there; 4 o'clock is all right with me.

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

LAYMEN'S NATIONAL COMMITTEE, INC., CITATION OF MERIT FOR 1964 TO NATHANIEL LEVERONE

Mr. DIRKSEN. Mr. President, on October 14, 1964, Mr. Nathaniel Leverone, founder of Automatic Canteen Co. of America, will receive a citation of merit from the Laymen's National Committee, Inc., for his many years of devoted service to the cause of Christianity. The citation will be issued in connection with the observance of National Bible Week. It is so richly deserved and I know of my own knowledge the great contributions which Mr. Leverone has made to this exalted cause. I ask unanimous consent that this citation be printed at this point in the RECORD.

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

LAYMEN'S NATIONAL COMMITTEE, INC., CITATION OF MERIT, 1964

To Nathaniel Leverone, on behalf of what he has done in helping to further the cause of religious education and the fundamental principles of God's words, the Laymen's National Committee, Inc., therefore presents this citation of merit, not only in gratitude for his unselfish work for this committee, but for a lifelong devotion to bringing the goodness and kindness of the Almighty to a world that he knew could only survive through God.

BEN H. WILLINGHAM,
National Chairman, National Bible Week.

SIXTY-FOUR YEARS OF FEDERAL SPENDING, DEBT GROWTH, AND SHARE BY EACH AMERICAN, 1899–1964

Mr. DIRKSEN. Mr. President, my staff has compiled a record of Government spending, deficits, increased spending per capita, the increased annual debt service, and related matters. The data has been arranged in tabular form to show, among other things, the political party in power, the population, the Federal spending in millions, the per capita, the Federal debt, the debt per capita, and the change in the U.S. debt status from administration to administration since 1899. This is truly an impressive piece of work and shows what has happened to us in the fiscal field.

The Government has had surpluses over expenditures in 25 of the last 64 years—20 years in Republican administrations and 5 years in Democrat administrations. In the same 64 years "deficits" were produced by 12 Republican and 27 Democrat administrations—page 81 of Bureau of the Budget Document of 1964.

My compilation of debt growth shows how very slight has been the effort to meet the ever-growing national debt obligation. We have had 19 separate Presidential administrations in 64 years, including the short term by Coolidge and another by President Johnson. Of these 19 administrations, 10 have been under Republican Presidents for a total of 32 years, and 9 have covered 32 years under Democrat Presidents. What has each of these contributed to enlarging or lowering the national debt and per capita of that debt? Let us have a look:

Additions to the 1899 national debt of $1.437 billion have been:

By 10 Republican administrations—32 years—$22,372 billion.

By 9 Democrat administrations—32 years—$287,929 billion.

Of the 19 administrations serving during the 64-year span, only 5 reduced the national debt, and these 5 were all Republican adminstrations.

As relates to administrations affording increases in the share per person of the national debt:

Seven of nine Democrat administrations in 32 years added $1,842.

One of ten Republican administrations in 32 years added $9.24.

PROPOSED AMENDMENT TO THE CONSTITUTION RELATING TO THE SUCCESSION TO PRESIDENCY AND VICE PRESIDENCY

Mr. MANSFIELD. Mr. President, to make the RECORD clear, I ask unanimous consent that the Senate reconsider Senate Joint Resolution 139.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a yea-and-nay vote on Senate Joint Resolution 139 at 4 o'clock this afternoon.

Mr. STENNIS. Mr. President, reserving the right to object, how much time for debate does the distinguished majority leader have in mind?

Mr. MANSFIELD. It was understood that there would be a vote on this measure at 4 o'clock. So far as debate is concerned, I assume that Senators would have to debate the measure before the vote and during discussion of pending legislation.

There were 5 hours of debate yesterday.

Mr. STENNIS. The Senator from Mississippi does not agree to the unanimous-consent request.

Mr. MANSFIELD. Mr. President, I hope the Senator will reconsider before the matter goes too far. As the Senator knows, I would have been opposed to a tabling motion.

Mr. STENNIS. Mr. President, the agreement to vote implies that the measure will be heard.

Mr. MANSFIELD. I said specifically that it would be for that purpose only that the question was raised, and not by me, in the beginning. There will be time available for debate on the measure. How much, I do not know, because I would like to take up some other business as well.

Mr. STENNIS. The Senator from Mississippi does not desire a great amount of time. The Senator from Kentucky [Mr. COOPER] is interested in the question. It would take me approximately 30 minutes to present my statement. I should like 30 minutes for those who are in favor of the motion to reconsider.

Mr. MANSFIELD. We shall be most reasonable.

Mr. STENNIS. I agree to the request.

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

WATERSHED PROJECTS AND PUBLIC BUILDINGS APPROVED BY THE COMMITTEE ON PUBLIC WORKS

Mr. McNAMARA. Mr. President, in order that the Senate and other interested parties may be advised of various projects approved by the Committee on Public Works, I submit for inclusion in the CONGRESSIONAL RECORD, information on this matter.

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

Projects approved by the Committee on Public Works on Sept. 28, 1964, under the Watershed Protection and Flood Prevention Act, Public Law 566, 83d Cong., as amended

	Estimated Federal cost
Montpelier Creek, Idaho	$1,455,525
Sutherlin Creek, Oreg	645,555
Total	2,101,080

Projects approved by the Committee on Public Works on Sept. 28, 1964, under the Public Buildings Act of 1959, Public Law 249, 86th Cong.

	Estimated Federal cost
GSA Facility, Naval Supply Center, Stockton, Calif. (alteration)	$2,500,000
Federal Motor Vehicle Facility, Houston, Tex. (construction)	891,000
Veterans Administration Regional Office, Waco, Tex. (leased office building) annual lease charge (10-year firm lease)	134,810

THE POVERTY PROGRAM GETS UNDERWAY

Mr. McGOVERN. Mr. President, the speed with which the economic opportunity programs are being launched, and the speed with which Indian people generally and Indian tribes in South Dakota are taking advantage of the programs it offers, are very gratifying to me and should be to all of those Members of the Senate who supported the President's antipoverty bill.

A meeting to explain the program was held in South Dakota last week. It was well attended. The Oglala Sioux Tribe of Indians had already started development of a community project. Members of the staff of the State university had also made a proposal for forestry work around the reservoir lakes of the Missouri river which is being developed. And plans are underway for 2 work-study camps in the Black Hills National Forest.

The response in South Dakota has thus been excellent, and the program assuredly is going to give our State—particularly young people in need of employment to continue their educational work—greatly needed assistance.

There is evidence that a similar response is being met generally. Dr. Robert Russell, of Arizona State University, told the South Dakota meeting last week that inquiries to 16 Indian tribes about their interest in community projects revealed that all 16 are starting development of proposals.

I ask unanimous consent to have printed in the RECORD an article from the September 24 issue of the Sioux Falls Argus Leader reporting on the poverty program conference in Pierre, S. Dak., last week indicating the constructive response the program is receiving.

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

SEVERAL COMMUNITIES MAY BENEFIT: OGLALA SIOUX FIRST TO PREPARE FOR ECONOMIC OPPORTUNITY AID

PIERRE.—The Pine Ridge Oglala Sioux are the first Indians in South Dakota to begin a program to get Federal funds under the Government's Economic Opportunity Act.

Dr. Robert Russell of the Arizona State University told an information meeting on the act here that the Economic Opportunity Act could be a great help to the Indian people.

A list of 16 Indian tribes across the Nation initially prepared to get reactions of the tribal leaders and the Indian people toward the act has been extremely successful, he said. Russell added that there was some doubt that the tribes would be able or want to take part in the program, but all 16 of the original 16 have begun programs to get funds under the act.

OTHERS BENEFIT

The act, which is part of President Johnson's war on poverty, would also make funds available for the migrant worker, small businessman, farmer, and unemployed family head.

Programs designed to give poverty stricken people the money by which to take themselves out of the poverty classification is the single most important purpose of the act, William Finale, deputy assistant commissioner of the Community Services Bureau in Washington, D.C., said.

Finale said the migrant worker could improve his living conditions. the small businessman his management practices, the farmers their method of operations and the unemployed could begin to find jobs. The act is also aimed directly at the youth of the Nation, Finale said, through programs in the community and work camps which would be established throughout the Nation.

One provision would make Federal funds available to communities wishing to take care of the dropouts or those students in danger of dropping out of school.

STUDENT JOBS

The funds would be made available to nonprofit organizations in the community for the purpose of giving students in school jobs within the school itself, in addition to giving work and improving skills of those who already have dropped out of school.

Finale said students would be allowed to work in the school as teachers' aids and other positions up to 15 hours per week. College students, if the local school officials felt money was the factor in the student having to leave school, could receive jobs by which they could earn and continue to learn, Finale added.

He said, however, in no case could the students take jobs that would eliminate a position held by a wage earner. The students who have quit school could work in a community in a number of jobs ranging from park workers to assistants in a variety of positions within the community.

Several South Dakota communities might take part in programs under the Federal Government's antipoverty program before the end of the present fiscal year. Finale said.

The act would provide in part, for the establishment of work camps which would give young persons the opportunity to receive basic educational and vocational courses while working on public works projects.

Martin N. B. Holm, Aberdeen, area director of the Economic Opportunity Act told some 200 persons at the meeting that local

ANNIS. Well you see these have been the statements they've been making for a long period of time without bothering to check the record. But the record presented before the Ways and Means Committee of the House, the testimony presented there by the health insurance industry of this Nation shows and can document the truth of what I just stated to you.

KAPLOW. Well now, did not the McNamara committee, which looked into this, come up with figures which would seem to support those favoring the——

ANNIS. I could have written Senator MCNAMARA'S report before he ever had his committee action. No one is ever surprised with what he finds. He knows ahead of time what he's going to report. He's been doing this for a number of years. I'm asking you to look at the records before the Ways and Means Committee of the House——

KAPLOW. Senator MCNAMARA might vouch for the authenticity of his own committee, and you have as head of the Ways and Means Committee, WILBUR MILLS, who at least to this point, is opposed to the medicare.

ANNIS. The only thing I can tell you is that when MCNAMARA'S report came out a year ago that the overall chairman of the committee decried the negative character of the report. All we say is this, right today, we have programs in this Nation, to see that no one is denied medical care, because of inability to pay—old or young. And we think that a responsible administration will work with the medical profession to see to it that senior citizens who need medical care, or junior citizens, are given all of that care, already available to them, that many people don't ask for because they don't even know that these programs exist.

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

Mr. MORSE. I yield.

Mr. MANSFIELD. There is no man of greater integrity or honesty in this body than the distinguished Senator from Michigan [Mr. MCNAMARA]. He is an unusual man. We always know where PAT MCNAMARA stands; and when he makes a statement, it is almost always, if not always, backed by facts.

I am delighted to have this opportunity to state publicly my high esteem for the Senator from Michigan, who has represented his State so well, who has done so much for the Nation, and who has sought out of the kindness of his heart and on the basis of his most responsible position to do what he could to bring about a better era for our elderly citizens.

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

Mr. MORSE. I yield.

Mr. HART. It was not until I came to the floor of the Senate a few minutes ago that I learned of the comments that Dr. Annis had made concerning my distinguished senior colleague. In the brief moment that I have had opportunity, I have seen some of the excerpts from the "Today" show as were reported by the distinguished Senator from Oregon [Mr. MORSE]. I am grateful to both the Senator from Oregon [Mr. MORSE] and our majority leader, the Senator from Montana [Mr. MANSFIELD], that they should have so promptly, publicly, and effectively made reply. I suppose that it would be expected that the junior Senator would rise to the defense of his senior colleague, whatever his true feeling might be. I wish that were not the assumption, because in truth I would like to hope I would not do so if I felt that any colleague was in error.

I rise because of a deep conviction which developed long before I came to the Senate and was permitted to sit with my colleague [Mr. MCNAMARA] that few men in public life are more forthright in their statements of opinion and position and more sincere in their conviction behind the statement than PAT MCNAMARA. As the RECORD will clearly show, my colleague and I on occasions have differed. In a few instances we have differed on major legislative proposals.

I know PAT MCNAMARA a great deal better than Dr. Annis knows him. It has never crossed my mind on occasions when we have differed that Senator MCNAMARA had any motives other than to seek what he believed to be the right answer. Sometimes some of those questions are so complex that only time will give us the absolutely correct answer, if it is ever reached.

No Member of this body is more concerned about correctly resolving any public question than is my senior colleague; and, having reached a conclusion, no one is more willing clearly to state it and fight for it.

Parenthetically, on the matter of medical care for elderly citizens, it has sometimes been said that those who support this cause do so in search of votes. For those who do not know PAT MCNAMARA as I do, let me make clear that many years ago, when I was still in college, and when medical care for older people was only a little cloud on a horizon few thought we would ever reach, PAT MCNAMARA, in the early 1930's, was chairman of a committee seeking to achieve that objective. There were no votes involved then. It was a thankless undertaking. I am delighted that he has been given the years to see the day when we are about to attain that objective.

I regret very much that, on a national television show, the implication should have been voiced which suggested that the motivation was anything other than decent and right.

I thank the Senator from Oregon for bringing this matter to our attention.

Mr. MORSE. I thank the Senator very much.

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

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

CORRECTION OF CERTAIN ERRORS IN THE TARIFF SCHEDULES OF THE UNITED STATES

The Senate resumed the consideration of the bill (H.R. 12253), to correct certain errors in the tariff schedules of the United States.

Mr. STENNIS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 12253, a bill to correct certain errors in the tariff schedules of the United States.

PROPOSED AMENDMENT TO THE CONSTITUTION RELATING TO THE SUCCESSION TO PRESIDENCY AND VICE-PRESIDENCY

The Senate resumed the consideration of the joint resolution (S.J. Res. 139) proposing an amendment to the Constitution of the United States relating to the 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. STENNIS. Mr. President, I wish to address myself briefly to Senate Joint Resolution 139, which was passed yesterday. It has to do with a proposed constitutional amendment.

Earlier today I made the suggestion that I would make a motion to reconsider the vote by which the joint resolution was passed yesterday. Thereupon, in colloquy with the senior Senator from Montana, it was agreed by unanimous consent that the joint resolution would be recalled and placed on the calendar and then would be taken up today; further, that there would be a yea-and-nay vote on it at 4 p.m. today.

I address myself briefly to the matters that prompted me to make the motion to reconsider; but really the point that I had in mind has been attained by having reached an agreement on a yea-and-nay vote on Senate Joint Resolution 139.

Nevertheless, I believe some matters ought to be covered. First I wish to make it clear that the steps I am taking here today are prompted solely by the desire to have a record made of this consideration, particularly to have a yea-and-nay vote on the proposal. I in no way intend to find fault with any Senator's action, or to blame any Senator. No one is to blame for anything—especially not the majority leader, the minority leader, or the Senator from Indiana [Mr. BAYH], who so ably handled the joint resolution on the floor. I also thank the Senator from Indiana for his fine attitude toward reconsideration of the joint resolution.

Yesterday, the joint resolution, a highly important measure, passed the Senate without a yea-and-nay vote, although there was an able discussion of the measure. The newspapers this morning reported that only nine Senators were in the Chamber when the measure was passed. Frankly, as a practical matter, so small an attendance would give any proposed amendment to the Constitution a "limping start" toward final passage in the other body and approval by the States of the United States. It would be much better that a measure of such great worth—and this one has great worth—should start by having the express approval of two-thirds of a quorum of the Senate. I do not question the fact that under a strict interpretation of Senate precedents, the amendment was legally passed yesterday. But I believe the whole tenor and spirit of the Constitu-

tion of the United States require that a proposal of this nature should have the RECORD show affirmatively that a quorum was actually present at that time and passed on the measure. I know the precedents do not require that, and I am not questioning that the action taken yesterday will be reconsidered, but I believe the Senate should adopt a pattern of procedure with reference to passing upon amendments to the Constitution. Article 5 of the U.S. Constitution provides:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution.

That calls for an affirmative expression. It has been held, and properly, I believe, that the two-thirds requirement does not mean two-thirds of the entire membership, but rather two-thirds of a quorum present and voting on the measure.

I have before me a case decided in 1920, in which the express point was before the Supreme Court for decision. I refer to the National Prohibition Cases, reported in 253 U.S. 350. In passing on a question of a constitutional proposal, the Supreme Court, at page 386, said:

> The two-thirds vote in each House which is required in proposing an amendment is a vote of two-thirds of the Members present—assuming the presence of a quorum—and not a vote of two-thirds of the entire membership present and absent.

The Court then cited another case, decided 2 or 3 years earlier. The Court said that the two-thirds vote required assumed the presence of a quorum. So far as the RECORD goes, I am sure that if it were shown that the Senate had a quorum early in the day, and unless that quorum were shown to have been broken, it would be presumed to have continued. But that still falls short of affirmative proof that two-thirds of a quorum—not of the membership—actually passed on this question.

Further, to carry out the spirit of the constitutional provision with reference to amending the Constitution, it would be well for the Senate to adopt a rule, or if not a rule, a practice, to provide affirmatively that there shall be a yea-and-nay vote, to show positively the number of Senators comprising the quorum who favored the proposal, and which ones they were, so that the positions they held with reference to the proposal would be known.

A few years ago, the Senate had fallen into the habit of approving treaties by a voice vote, although the Constitution requires the approval of two-thirds of a quorum. Sometimes only two or three Senators would be in the Chamber. As I recall, the Senate amended its rules so as to require a yea-and-nay vote. I have not verified that, but I know that the Senate had dropped into a habit of not having yea-and-nay votes on the approval of treaties. However, I believe the rule was changed. Certainly if a treaty, however small, is worthy of a yea-and-nay vote, a proposal by this august body to the States of the United States that a constitutional amendment be adopted should be subject to a yea-and-nay vote. I shall examine further into this question to see if a satisfactory solution can be reached.

Since I have raised this point, I shall speak for a moment on the merits of the proposed amendment itself. I commend the Senator from Indiana [Mr. BAYH] for the excellent work he has done on it this year. He has been diligent and industrious. He has shown a deep understanding of the problem. I remember a conference I had with him at the first of the year in which we discussed the major problem, the selection of a Vice President in the event that office became vacant. The Senator from Indiana presented the case for the amendment yesterday.

I did not hear him then, because I did not know that it was his intention to speak on the subject and had understood that there would not be a vote, even though the joint resolution would be taken up.

But to return to the merits of the amendment, I believe that the committee selected the best way of dealing with the problem of a vacancy in the office of Vice President of the United States when, for any reason, the office of the Vice Presidency becomes vacant. Many different plans were proposed. All were weighed, considered, and discussed. In my opinion, the best and most practical plan was adopted. That lends importance, too, to the weight of this amendment and the gravity of not passing it except by a two-thirds rollcall vote of a quorum.

The amendment proposes the creation of a new way of selecting the person who may become President of the United States. That in itself is a tremendous step and carries with it all the gravity, solemnity, and seriousness that any legislation could possibly have. The subject resolution presents a satisfactory solution, as nearly as can be done. It provides that the President may select a Vice President, subject to the approval of a majority vote of the two branches of Congress. That in itself is major legislation of the gravest kind. Not only does it remedy a deficiency in the Constitution, but it relates to the most momentous single event that occurs in the Nation every 4 years. We pray, of course, that the question of presidential succession may not arise again.

In addition, the amendment provides for the creation of a body that would be called to pass upon the ability or disability of one who had already been elected to the office of President of the United States. The question of removing him from office, in the event of disability, without his consent and judgment is a tremendous responsibility. So the committee has also taken an important step forward in this respect.

I am glad to join in commending this particular joint resolution. I am also glad, indeed, that the committee has worked it out and has presented it, because it is necessary for the soundness of our Government. However, I wish to get it off to as good a start as possible with a yea-and-nay vote, perhaps with no votes against it, but certainly to get it off to a good start, and an understanding before the people, which would lend strength to it.

I hope that the vote on the joint resolution will establish a precedent with reference to passing on all future constitutional proposals—whether I may or may not favor them. That has nothing to do with it.

Mr. BAYH. Mr. President, will the Senator from Mississippi yield?

The PRESIDING OFFICER (Mr. WALTERS in the chair). Does the Senator from Mississippi yield to the Senator from Indiana?

Mr. STENNIS. I am glad to yield to the Senator from Indiana.

Mr. BAYH. I thank the Senator from Mississippi for bringing this question of the need to establish a precedent to the attention of the Senate. I join him in the hope that it will be established by this vote.

The Senator—and, indeed, other Senators—are aware of the efforts which the committee made, very early in the deliberations, to acquaint each Senator with all the facts and what went on in the deliberations. The subcommittee held extensive hearings. The committee discussed the issue at some length. The chief counsel of the subcommittee distributed to each Senator vast quantities of information, so that he could have at his disposal the complete information concerning what the subcommittee felt was a most important subject.

As the Senator pointed out, the precedent which was followed yesterday was according to that which had been established previously. The leadership and I have acted in the best of faith. There was a quorum call of an hour and a half to two hours, prior to the deliberations on this question.

Frankly, I am quick to admit that if I had my choice, I would much prefer the system which we shall follow this afternoon. However, in this colloquy, we should also include, perhaps, a bit of admonition to each of us as Senators, that we should make an effort to help the leadership carry on the burdens of leadership in its drive to close down deliberations for this session. It is faced with a gigantic task, trying to wind up the odds and ends. Some of these odds and ends, of course, are serious pieces of proposed legislation. One of the things which increases the difficulty of its task is the fact that it is almost impossible, at times, to obtain a quorum—although we did get a quorum yesterday prior to the deliberations on the proposed legislation.

For the RECORD, let me say to the Senator, in case he did not know it, that we went to some lengths, including two long-distance telephone calls to Senators who had earlier expressed opposition, and we proceeded to follow the pattern which had been followed before, to obtain the consent of those two Senators to going ahead and proceeding without them, and the promise that they would voice no objection.

I should like to raise my voice and admit that I have been one of the transgressors, from time to time, and have not been in the Chamber because I have been engaged in other deliberations.

In closing, let me point out that, perhaps, when we are closer to the vote this afternoon, I should like to make a quick

summary of the issue. Speaking to the point the Senator from Mississippi has so aptly raised, it would behoove each of us in this body to be a little more diligent about what is on the calendar, to be a little more diligent about being in the Chamber and helping the leadership to maintain a quorum so that we can go ahead and transact the business of the Senate, so that Senators can go about the business which so many of us have in our own constituencies.

Mr. STENNIS. If I may interrupt the Senator, I agree with him on the great burden the leadership carries. In ordinary times, it is heavy enough, but now, toward the close of the session, it is even heavier. I am compelled to say, in this case, in view of the Senator's remarks, however, that I inquired yesterday of the Senate aids about the vote, and they told me there would be no vote. Theoretically, I know that that is not enough, and that a Senator is supposed to be in the Chamber. This is an illustration of what we are up against. I was in my office yesterday until 11 o'clock last night, as is the Senator from Indiana frequently, I know. But, I have no complaint. I merely want to make the RECORD clear.

Mr. BAYH. Mr. President, will the Senator from Mississippi yield once more?

Mr. STENNIS. I am glad to yield.

Mr. BAYH. I believe the leadership acted in good faith, through my office, and through one of the aids on the floor, in going to some trouble to contact Senators who had voiced objection. I believe that they will agree, and I will agree with the Senator from Mississippi, on a matter of this importance. I am glad to have the RECORD show the vote. I wish to see each Senator's vote recorded, I hope favorably; nevertheless, I wish each Senator to have his right to dissent.

Mr. STENNIS. I thank the Senator from Indiana.

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

Mr. STENNIS. I am glad to yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, this morning, the distinguished Senator from Mississippi [Mr. STENNIS] suggested that it would be appropriate and, in fact, constitutional for a quorum of the Senate to vote, by recorded vote, upon this important proposed constitutional amendment. I supported him in his statement and in his request.

I did so because I believe that his suggestion is proper and carries great force. The proposed constitutional amendment before us is of such importance that even if there were no constitutional question relating to the necessity of a quorum, it should be voted upon at minimum by 51 Senators who would make up a quorum.

I suggested this morning—and repeat the suggestion again—that the record vote would carry great weight in the House, and in the legislatures of the States which, according to our constitutional process, provided for by article V of the Constitution, must ratify the proposed amendment by the approval of three-fourths of the State legislatures. A recorded vote by a quorum of the Senate, and I hope by as full as attendance of all Members as is possible, will also give proof to the people of our country of our belief in the necessity of this resolution, for the people's support is of most importance.

The Senator from Mississippi has rendered a service to the Senate and to the country. His objective is achieved now that a record vote is required for a quorum will be necessary to obtain a vote upon the proposed amendment.

The majority leader, the Senator from Montana [Mr. MANSFIELD], recognized the importance of his request and joined the Senator from Mississippi this morning in securing reconsideration of yesterdays voice vote.

I do not in any way derogate the importance of the proposed constitutional amendment by making this statement. In fact my purpose is, with that of the Senator from Mississippi, to indicate its great importance, and the necessity that it carry with it the strength and the support which a vote of 51 or more Senators will accord it when it is considered by the House, and I hope favorably by the legislatures of the States.

I also congratulate the Senator from Indiana [Mr. BAYH].

It was his creative idea, his initiative, and his force which brought the proposed constitutional amendment to the floor of the Senate—and I hope adoption and approval by the States.

His achievement is a tribute to his ability and statesmanship. It is a service to the country, which will be long remembered. At his request, I was happy to be a cosponsor of this resolution.

Its very importance, as the Senator from Mississippi has stated, and in whose statement I concur and I believe the Senator from Indiana will also concur, requires that it have the full support, and recorded support, of at least a quorum of the Senate.

Mr. STENNIS. Mr. President, I thank the Senator from Kentucky for his kind remarks.

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

Mr. STENNIS. I yield.

Mr. BAYH. Mr. President, I thank the Senator for his patience and cooperation in yielding to me again. I thank the Senator from Kentucky, who knows that we discussed this subject privately. I concur with him and with the Senator from Mississippi.

As I stated a moment ago, we should put the vote on the record. A matter of this importance, any constitutional amendment, but particularly this one that deals with the ready transfer of the Presidency should be placed on the record. We hope we shall never have to use it. Nevertheless, it should be available for the safety and welfare of the country.

I thank the Senator from Kentucky and the Senator from Mississippi for lending their voices in support of this particular piece of legislation. They are extremely able attorneys. As a freshman Member of the Senate, it is very comforting and rewarding to me to have their support. I particularly thank the Senator for cosponsoring this measure. Putting the name "COOPER" on the resolution is like putting the name "sterling" on silver. I appreciate it very much.

Mr. STENNIS. Mr. President, I have prepared some brief remarks. I do not wish to detain the Senate by reading them. I ask unanimous consent that they may be printed at this point in the RECORD.

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

The statement of Mr. STENNIS is as follows:

As the RECORD for this date will reflect, I have previously moved to reconsider the vote by which Senate Joint Resolution 139 was passed by the Senate on September 28, 1964. The RECORD will likewise reflect my reasons for making this motion, but I want to briefly expand on these remarks at this time.

My desire to reconsider this vote was certainly not based on any objection to the merits of the resolution. To the contrary, I believe it absolutely necessary that the records of the Senate affirmatively show that Senate Joint Resolution 139 has the support of an overwhelming majority of the Members of the Senate. Not in the tenure of the office of the Senator from Mississippi has a more important measure been before the Senate. It is one which should be passed by the Congress and ratified by the States without undue delay.

As all Members of the Senate know, the purpose of Senate Joint Resolution 139 is twofold: (1) to provide a method to fill the office of the vice presidency in the event of a vacancy in that office; and (2) to provide a positive means of determining, in any event, if the President is unable to perform the duties and responsibilities of his office. This measure is of such great importance to our Nation that, in my opinion, the records should reflect that it has the approval of at least two-thirds of the Members of this body. Yet, an examination of the Senate proceedings on September 28, 1964, when this measure was passed, does not reflect that a quorum was present, nor was there a record vote to positively establish the fact that this resolution was adopted in accordance with the requirements of article V of the Constitution.

While the RECORD reflects that a quorum was present at the time of the convening of the Senate yesterday, there was nothing to indicate whether a quorum was present at the time of the consideration and vote on this resolution. Although the absence of a quorum was suggested immediately prior to the consideration of Senate Joint Resolution 139, proceedings under the quorum call were dispensed with and the RECORD does not reflect that a quorum was present. I respectfully suggest that on a matter of such great importance as determining who shall exercise the powers of the Presidency, it is incumbent on the Senate to conduct its proceedings in such a manner as to affirmatively show the presence of a quorum. I do not question the fact that, under a strict interpretation of the rules of the Senate, there was no infraction, although there is judicial precedence that a quorum should be present in any proceeding under article V of the Constitution. In a series of cases in which the Supreme Court rendered a collective opinion, the Court was called upon to interpret article V as to whether an absolute two-thirds majority of each House of the Congress is required to propose a constitutional amendment, and the Court stated: "The two-thirds vote in each House which is required in proposing an amendment is a

vote of two-thirds of the Members present—assuming the presence of a quorum—and not a vote of two-thirds of the entire membership, present and absent."

The Court made this statement in the *National Prohibition Cases*, 253 U.S. 350 (1920) at page 386.

I repeat for emphasis that the Court stated that a two-thirds vote of the Members present "assuming the presence of a quorum" is required to propose a constitutional amendment. The Court does recognize the importance, and, in effect, the necessity of a quorum being present in Congress during the consideration of an amendment.

It is abundantly clear that the spirit, even the letter, of the Constitution demands that a quorum be present in both the House and Senate when a constitutional amendment is approved. I believe it is the duty of each House to proceed in such a manner that the RECORD will reflect the presence of a quorum in such circumstances.

I further believe that in all matters of such importance the Senate should record its support by means of a yea-and-nay vote. Such proceedings will lend weight and significance to any amendment thus approved. It is for this reason that I, not only move for the reconsideration of Senate Joint Resolution 139, but also request the yea-and-nay vote on the question of its final passage.

Although I do not intend to comment in detail on the merits and substantive provisions of Senate Joint Resolution 139, I do want to show for the RECORD my recognition of the great importance of this measure and my support. As I previously stated, the two basic purposes of this resolution are to provide for a method of filling the office of the Vice Presidency in the event of a vacancy and to provide a method of affirmatively determining, in any given event, that the President is unable to carry out the duties of his office. I believe the provisions of Senate Joint Resolution 139 effectively resolve these two questions which have arisen on numerous occasions during the history of our Nation. It is fitting and proper that the President have the authority, with the consent of Congress, to determine who shall be the Vice President in the event of the death, resignation, or removal of the Vice President. The method proposed by Senate Joint Resolution 139 effectively satisfies these requirements. At the same time, it should be a function of the executive branch of government to determine when the Chief Executive is disabled or, for any reason, is unable to perform his duties. Again, however, Senate Joint Resolution 139 provides a system of checks and balances on this power of the Cabinet.

The third purpose of this resolution clarifies the question of whether a Vice President who assumes the powers of the Presidency in the event of the disability of the President actually becomes President or merely acts as President during the disability. This also is a very needed improvement in our constitutional provisions as they now exist.

I, therefore, strongly support the passage of Senate Joint Resolution 139. I again want to assure the majority leader and all Members of the Senate that my action in moving for reconsideration of this resolution was motivated by a sincere desire to strengthen the position of the Senate in adopting this resolution. As a result of this reconsideration the permanent RECORD will positively reflect the presence of the quorum and, I believe, the overwhelming support of the Senate.

Mr. BAYH. 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. Without objection, it is so ordered.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair until not later than 3:45 p.m.

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

(At 3 o'clock and 16 minutes p.m., the Senate took a recess subject to the call of the Chair.)

At 3 o'clock and 45 minutes p.m., the Senate reassembled, when called to order by the Presiding Officer (Mr. TALMADGE in the chair).

Mr. MANSFIELD. 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. BAYH. 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. BAYH. Mr. President, prior to the recess we were discussing the issue which will be before the Senate for a formal vote at 4 o'clock; namely, Senate Joint Resolution 139.

Senate Joint Resolution 139 is designed to correct certain provisions in the Constitution relating to a continuity of executive power.

The problems which are dealt with by the joint resolution can be briefly stated as follows:

First, today, because of the tragedy that occurred in Dallas last November, we have no Vice President. Although there is not a soul in the Senate who will ever forget those tragic days, nevertheless, I wonder how many of us remember that this is the 16th time in the history of our country that we have had no Vice President. Indeed, over a total of more than 37 years the United States of America has not had a Vice President. We have had no Vice President 16 times. Eight Presidents died in office, seven Vice Presidents died in office, and one Vice President resigned.

Most of us are aware of the fact that over the past few years there has been a great development of the office of Vice President. Today the Vice Presidency is no longer a one-way ticket to oblivion, as it has been described by some of our Vice Presidents of the past. The Vice President has numerous tasks assigned to him.

First, the Vice President sits with the National Security Council. Second, he plays an important part in the area of space and aeronautics. Third, he is Chairman of the Equal Employment Opportunity Commission. In addition to these official jobs, I believe it is fair to say that the Vice President today is really our No. 1 ambassador.

Vice President Nixon, in the previous administration, traveled thousands of miles outside our country, twice as much as did President Eisenhower, carrying the good will and the flag of the United States. So it was with the present President of the United States, when, as Vice President, Mr. Johnson served in this capacity.

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

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from North Carolina?

Mr. BAYH. I am glad to yield to the distinguished senior Senator from North Carolina.

Mr. ERVIN. Will not the Senator from Indiana agree with me that it is a far cry from the day when a distinguished citizen of his State, Thomas Riley Marshall, served as Vice President?

Mr. BAYH. That is correct.

Mr. ERVIN. I feel certain that the Senator from Indiana will agree with the Senator from North Carolina that Thomas Riley Marshall, in his inimitable way, suggested the esteem in which the office of the Vice President used to be held in the old days, when he said, on one occasion, that there were two brothers, one of whom went to sea, and the other was elected Vice President, and neither of them was ever heard from again.

Mr. BAYH. Yes; that is a very famous tale. The Senator is correct. It is a far cry from those days, from the days depicted by that famous Hoosier, Thomas Marshall. Today, the Vice President is a full-time assistant to the President. He is one heartbeat away from the office of President. How important it is to have in that office one who can spend his full time in carrying out the duties of office that will best serve him in the event tragedy should strike the Nation again.

The second aspect of the problem is the one of disability. Three instances are called to mind when the executive authority of the United States has rested rather tenuously in the hands of a President who was seriously ill.

The first occasion was the assassination of President Garfield, when for 80 days President Garfield lay between life and death and signed only one extradition paper, at a time when many other problems were confronting the United States.

The second, and the one which has created a great deal of stir, because of the publication of a recent best selling book was the instance of the stroke suffered by President Wilson. President Wilson lay paralyzed and disabled for 16 months while such serious problems as the League of Nations confronted the country. He was unable, because of his affliction, to fulfill all the powers and duties of his office. More recently, we all remember the three serious illnesses suffered by President Eisenhower.

We seek to deal with a problem which today offers no legal means of transferring, even temporarily, for sickness, the power which rests on the shoulders of the President. There are no such means, other than a private agreement, such as that entered into between President Eisenhower and Vice President Nixon, subsequently between President Kennedy and Vice President Johnson, and most recently between President

Johnson and Speaker McCormack. But these are private agreements which have no legal basis.

Steps have been taken previously by Congress. Efforts have been made by Members of the Senate. Perhaps the foremost advocate of this type of reform was the late Senator Kefauver, who, despite waging a strong battle, was unable to have the measure reported by the committee.

But I am happy, as chairman of the Subcommittee on Constitutional Amendments of the Committee on the Judiciary, that the committee has been able to report a constitutional amendment because of the recognition by Members of this body, including the distinguished Senator from North Carolina [Mr. Ervin], the distinguished Senator from Kentucky [Mr. Cooper], the distinguished majority leader [Mr. Mansfield], and others, that it is time action was taken. We have achieved this success by working closely with nongovernment groups, including the American Bar Association.

We are fast reaching the place where we realize that we must put aside our petty differences and adopt the best solution we possibly can. Basically, there are three criteria for the best solution. First, it must be a solution which, if it must be implemented—God forbid that it must—but history has shown us that we will not be spared—if our future can be judged by the past, we shall be faced with crises or tragedies in this area. So such an amendment must be presented in the best form or formula to be acceptable to the people.

Second, it must be workable from an administration standpoint.

Third, it must arose sufficient support in Congress and in State legislatures to obtain the necessary votes to make it a part of the U.S. Constitution. The proposal of Senate Joint Resolution 139 meets these three criteria.

First, the joint resolution provides that in the event a vacancy exists in the Office of Vice President, the President, the one who must work closely with the Vice President, shall nominate a person for the Office and submit the name to Congress. Thereupon, the nomination shall be confirmed or the person elected or chosen Vice President by a majority of both Houses of Congress.

This requirement will accomplish two purposes. First, it will guarantee that there will be a Vice President, who will be able to work with the President. Second, it guarantees to the people that their representatives in Congress, those who are most responsive to the wishes of the people at any given time, will be able to express the voice of those whom they represent.

Third, in the event the President becomes unable to perform the powers and duties of his Office, the joint resolution provides that, first, the President may declare his own disability. In the event he knows that he will have a serious operation or feels that a serious illness is coming on, he may declare his own disability in writing and submit it to Congress. Second, in the event he is unable to do so—perhaps he might have a serious heart attack, or he might be captured by the enemy—we have tried to think of every eventuality—the Vice President, acting with the consent of a majority of the members of the Cabinet, the executive officers who are closest to the President, will assume the duties and powers of the President.

We believe that this arrangement will protect the President from any possible coup or destruction of the power of his Office. The Vice President, operating with the consent of a majority of the members of the Cabinet, could assume the powers and duties of the President as Acting President. I emphasize the words "Acting President" because it was their desire not to become President that kept Thomas Marshall and Chester Arthur—and, indeed, I think seriously inhibited Richard Nixon—from assuming the powers and duties of the Office during the illnesses I described earlier.

The last contingency is that in the event—this is not likely, but is possible—there is a dispute between the President, on the one hand, saying he is able or that he has recovered, and the Vice President and a majority of the Cabinet, on the other, saying that he is still unable to perform his duties, Congress shall settle the question.

As the Senator from North Carolina [Mr. Ervin] and I disclosed in our colloquy yesterday, we do not feel that the power of the Presidency—the Executive power—should be treated lightly. For that reason, we have said that a two-thirds vote of both Houses of Congress should be required to take Executive power away from the President.

Although there might have been a time when the Vice Presidency was a step to oblivion, this is no longer true. We are living in an age different from that which confronted our forefathers, when they almost forgot to mention the Vice Presidency in writing the Constitution. Rather, today we are living in an age when mankind has at its disposal the ability to wipe out civilization in a matter of minutes. Armies can be moved half way around the world in a matter of hours. In these times we must have able-bodied individuals as President and Vice President, persons who will always be capable of performing the powers and duties of President, to make that difficult decision which we pray God will never have to be made. We need able-bodied individuals at all times.

Considering the difficult problems and heavy burdens carried by the President today, we must have an assistant President, a Vice President, always standing at his side, helping to hold the torch for this great country.

In terminating my remarks, I feel it is only fair, and I feel compelled to say that had it not been for the cooperation of my colleagues, this measure would not have come to pass. Never before has Congress come this far with a proposal of this type of legislation.

In addition, had it not been for the willingness of the majority leader to cooperate and go out of his way, despite the tremendous burdens he carries in the closing days of the session, and his willingness to have this important measure considered, and his recognition of the urgency of the problem and the necessity for solving it, this measure would not have come to pass.

This is the best possible example we can have of the Senate at work. We considered 13 different suggestions and have resolved upon one, subject to the vote of the Senate, which we hope will ultimately be passed by the Senate and the House and ratified by three-fourths of the general assemblies of the individual States.

The PRESIDING OFFICER. The hour of 4 o'clock having arrived, the Chair, under the previous unanimous-consent agreement, lays before the Senate Senate Joint Resolution 139, which the clerk will report by title.

The Chief Clerk. A joint resolution (S.J. Res. 139) proposing an amendment to the Constitution of the United States relating to the 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 PRESIDING OFFICER. Under the unanimous-consent agreement, a yea-and-nay vote is ordered on the question of its passage, and the clerk will therefore call the roll.

The Chief Clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from North Dakota [Mr. Burdick], the Senator from Nevada [Mr. Cannon], the Senator from Connecticut [Mr. Dodd], the Senator from South Carolina [Mr. Johnston], the Senator from Missouri [Mr. Long], and the Senator from Oregon [Mrs. Neuberger] are absent on official business.

I also announce that the Senator from Oklahoma [Mr. Edmondson], the Senator from Alaska [Mr. Gruening], the Senator from Indiana [Mr. Hartke], the Senator from Minnesota [Mr. Humphrey], the Senator from Washington [Mr. Jackson], the Senator from Wyoming [Mr. McGee], the Senator from South Dakota [Mr. McGovern], the Senator from Utah [Mr. Moss], the Senator from Maine [Mr. Muskie], the Senator from Rhode Island [Mr. Pell], the Senator from California [Mr. Salinger], the Senator from Missouri [Mr. Symington], the Senator from New Jersey [Mr. Williams], and the Senator from Texas [Mr. Yarborough] are necessarily absent.

I further announce that the Senator from Massachusetts [Mr. Kennedy], and the Senator from Alabama [Mr. Hill] are absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut [Mr. Dodd], the Senator from Oklahoma [Mr. Edmondson], the Senator from Alaska [Mr. Gruening], the Senator from Indiana [Mr. Hartke], the Senator from Massachusetts [Mr. Kennedy], the Senator from South Dakota [Mr. McGovern], the Senator from California [Mr. Salinger], the Senator from New Jersey [Mr. Williams], the Senator from Texas [Mr. Yarborough], the Senator from Oregon [Mrs. Neuberger], and the Senator from Washington [Mr. Jackson] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Maryland [Mr. Beall],

the Senators from Nebraska [Mr. CURTIS and Mr. HRUSKA], the Senator from Arizona [Mr. GOLDWATER], the Senator from Idaho [Mr. JORDAN], the Senator from New York [Mr. KEATING], the Senator from New Mexico [Mr. MECHEM], the Senator from Iowa [Mr. MILLER], the Senator from South Dakota [Mr. MUNDT], the Senator from Pennsylvania [Mr. SCOTT], the Senator from South Carolina [Mr. THURMOND], the Senator from Texas [Mr. TOWER], and the Senator from Delaware [Mr. WILLIAMS] are necessarily absent.

If present and voting, the Senator from Maryland [Mr. BEALL], the Senators from Nebraska [Mr. CURTIS and Mr. HRUSKA], the Senator from Idaho [Mr. JORDAN], the Senator from New York [Mr. KEATING], the Senator from Iowa [Mr. MILLER], the Senator from South Dakota [Mr. MUNDT], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Texas [Mr. TOWER] would each vote "yea."

The yeas and nays resulted—yeas 65, nays 0, as follows:

[No. 588 Leg.]

YEAS—65

Aiken	Ervin	Morse
Allott	Fong	Morton
Anderson	Fulbright	Nelson
Bartlett	Gore	Pastore
Bayh	Hart	Pearson
Bennett	Hayden	Prouty
Bible	Hickenlooper	Proxmire
Boggs	Holland	Randolph
Brewster	Inouye	Ribicoff
Byrd, Va.	Javits	Robertson
Byrd, W. Va.	Jordan, N.C.	Russell
Carlson	Kuchel	Saltonstall
Case	Lausche	Simpson
Church	Long, La.	Smathers
Clark	Magnuson	Smith
Cooper	Mansfield	Sparkman
Cotton	McCarthy	Stennis
Dirksen	McClellan	Talmadge
Dominick	McIntyre	Walters
Douglas	McNamara	Young, N. Dak.
Eastland	Metcalf	Young, Ohio
Ellender	Monroney	

NAYS—0

NOT VOTING—35

Beall	Jackson	Muskie
Burdick	Johnston	Neuberger
Cannon	Jordan, Idaho	Pell
Curtis	Keating	Salinger
Dodd	Kennedy	Scott
Edmondson	Long, Mo.	Symington
Goldwater	McGee	Thurmond
Gruening	McGovern	Tower
Hartke	Mechem	Williams, N.J.
Hill	Miller	Williams, Del.
Hruska	Moss	Yarborough
Humphrey	Mundt	

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the joint resolution is passed.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR THE SELECT COMMITTEE ON SMALL BUSINESS TO FILE TWO REPORTS DURING ADJOURNMENT

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Select Committee on Small Business be authorized during the adjournment of the 2d session of the 88th Congress to file with the Secretary of the Senate two reports, entitled "The Role of Small Business in Government Procurement, 1964," and "The Role and Effect of Technology in the Nation's Economy," and that the reports be printed, along with any individual, supplemental, or minority views.

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

FRANK B. ROWLETT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar No. 1494, H.R. 7348.

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

The LEGISLATIVE CLERK. A bill (H.R. 7348) for the relief of Frank B. Rowlett.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill? There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. LONG of Louisiana. Mr. President, reserving the right to object, I suspect that that is the bill that the Treasury Department objects to.

Mr. MANSFIELD. Mr. President, it seems to be a habit for the past 3 or 4 days to reconsider bills. So, once again, though the bill has been cleared on both sides, I ask that H.R. 7348, which was just passed, be reconsidered and placed on the calendar.

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

ACTIVITIES OF THE COMMITTEE ON GOVERNMENT OPERATIONS—88TH CONGRESS

Mr. McCLELLAN. Mr. President, as chairman of the Committee on Government Operations, I submit for the information of the Senate, a brief summary of the activities of the committee in the 88th Congress, as of this date.

A full, detailed report on the activities of the committee and its four subcommittees in the present Congress will be submitted upon the convening of the next session of Congress, as has been the custom in the past.

The following is a condensation of the actions taken by the committee with brief explanation of some of the legislation processed, which was enacted into law, or approved by the Senate. Included are bills and subjects on which hearings were held and/or reports issued.

Of the total of 127 bills and resolutions referred to the committee during the 88th Congress, 15 were enacted into law. Twenty-eight resolutions were adopted by the Senate, and 12 bills were approved by the Senate but were not acted upon in the House of Representatives.

Those bills which became law or on which the Senate acted are listed under appropriate headings. No listing was made of property transfer proposals, or other bills on which the committee took no action.

BUDGETING AND ACCOUNTING

The Committee on Government Operations again reported favorably, and the Senate approved, as it has in five preceding Congresses, a bill (S. 537) proposing the creation of a Joint Committee on the Budget. This proposed legislation, with 77 Senators as sponsors, was developed and perfected by the committee over a period of 14 years, and has repeatedly passed the Senate. It is designed to remedy serious deficiencies in appropriation procedures and to improve the congressional surveillance over the expenditure of public funds. It constitutes a positive approach to the elimination of extravagance, waste, and needless or excessive expenditures.

The creation of a joint committee, as proposed, and its staff would serve in the appropriation field in a manner comparable to that in which the Joint Committee on Internal Revenue Taxation and its staff in the field of taxation serve the House Committee on Ways and Means and the Senate Committee on Finance. The Joint Committee on Internal Revenue Taxation has, for more than a quarter of a century, proved its great worth and service in the revenue field. In the view of the committee, a like joint committee and service is needed in the appropriation and expenditure field. The bill was referred to the House Committee on Rules on May 21, 1963, but no further action was taken.

Other fiscal legislation approved by the committee and enacted into law included, first, an act to permit the use of statistical sampling procedures in the examination of vouchers—Public Law 88–521; second, an amendment to the Government Corporation Control Act changing the General Accounting Office audit to a calendar year basis in the case of the Federal home loan banks and the Federal Savings and Loan Insurance Corporation—Public Law 88–518; third, authorizing the payment of per diem in lieu of subsistence to certain Federal employees assigned to duty on the California offshore islands—Public Law 88–538; fourth, authorizing the payment of the expenses of certain Government student trainees—Public Law 88–146; fifth, authorizing the payment of the cost of transportation of privately owned vehicles of Government employees assigned to duty in Alaska—Public Law 88–266; and, sixth, extension for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by RFC to other Government agencies—Public Law 88–330.

Another proposal S. 2670, recommended by the Civil Service Commission, which would amend the Administrative Expenses Act of 1946 to provide for reimbursement of certain moving expenses of employees, and to authorize payment of expenses for storage of household goods and personal effects of employees assigned to isolated duty stations within the continental United States, requires further study and consideration of suggested amendments, before the committee can report it to the Senate.