

Sec. 1—The President

Cl. 8—Oath of Office

act as President, and such Officer shall act accordingly until the Disability be removed, or a President shall be elected.

PRESIDENTIAL SUCCESSION

When the President is disabled or is removed or has died, to what does the Vice President succeed: to the “powers and duties of the said office,” or to the office itself? There is a reasonable amount of evidence from the proceedings of the convention from which to conclude that the Framers intended the Vice President to remain Vice President and to exercise the powers of the President until, in the words of the final clause, “a President shall be elected.” Nonetheless, when President Harrison died in 1841, Vice President Tyler, after initial hesitation, took the position that he was automatically President,¹⁰⁵ a precedent which has been followed subsequently and which is now permanently settled by section 1 of the Twenty-fifth Amendment. That Amendment also settles a number of other pressing questions with regard to presidential inability and succession.

Clause 7. The President shall, at stated Times, receive for his Services, a Compensation which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

COMPENSATION AND EMOLUMENTS

Clause 7 may be advantageously considered in the light of the rulings and learning arising out of parallel provision regarding judicial salaries.¹⁰⁶

Clause 8. Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—“I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

¹⁰⁵ E. Corwin, *supra* at 53–59, 344 n.46.

¹⁰⁶ *Cf.* 13 Ops. Atty. Gen. 161 (1869), holding that a specific tax by the United States upon the salary of an officer, to be deducted from the amount which otherwise would by law be payable as such salary, is a diminution of the compensation to be paid to him which, in the case of the President, would be unconstitutional if the act of Congress levying the tax was passed during his official term.