

# New England Journal of Public Policy

---

Volume 32 | Issue 2

Article 10

---


10-5-2020

## The Troubled Backstory of the Twenty-Fifth Amendment: The Photo, the Feud, and the Secret Service

Garrison Nelson  
*University of Vermont*

Brenna M. Rosen  
*FoleyHoag, LLP*

Follow this and additional works at: <https://scholarworks.umb.edu/nejpp>

 Part of the [American Politics Commons](#), [Political History Commons](#), [Public Policy Commons](#), and the [United States History Commons](#)

---

### Recommended Citation

Nelson, Garrison and Rosen, Brenna M. (2020) "The Troubled Backstory of the Twenty-Fifth Amendment: The Photo, the Feud, and the Secret Service," *New England Journal of Public Policy*. Vol. 32 : Iss. 2 , Article 10.

Available at: <https://scholarworks.umb.edu/nejpp/vol32/iss2/10>

This Article is brought to you for free and open access by ScholarWorks at UMass Boston. It has been accepted for inclusion in *New England Journal of Public Policy* by an authorized editor of ScholarWorks at UMass Boston. For more information, please contact [library.uasc@umb.edu](mailto:library.uasc@umb.edu).

## **The Troubled Backstory of the Twenty-Fifth Amendment: The Photo, the Feud, and the Secret Service**

**Garrison Nelson**

*University of Vermont*

**Brenna M. Rosen**

*FoleyHoag, LLP*

### **Abstract**

The 1963 murder of President John F. Kennedy led to a reconsideration of the 1947 Presidential Succession Act, which mandated that the Speaker of the US House of Representatives was next in line to the vice president and the Senate president pro tempore was next in line to the Speaker. The new president, Lyndon B. Johnson, was only fifty-five when he took the oath of office on November 22, 1963, but he had a well-known heart condition that would end his life nine years later. Seated behind Johnson when he met with Congress was the soon-to-be seventy-two-year-old House Speaker John W. McCormack (D-MA) and the eighty-six-year-old Senate president pro tempore Carl Hayden (D-AZ). The prospect of either elderly man succeeding to the presidency led Congress to pass the Twenty-Fifth Amendment, enabling it to fill vice presidential vacancies by congressional confirmation of presidential appointments. The amendment also provided for the presidency to be temporarily filled should the president announce his own temporary incapacity or lose the powers of the office if the Cabinet and Congress determined that the president was incapable of carrying out the duties of the office. The president may retain the office but those powers will go to the vice president as “Acting President.” The president may petition Congress to regain the powers and if Congress agrees that “no inability exists,” the powers will be restored. This article explores the backstage drama surrounding the circumstances leading to the passage of the Twenty-Fifth Amendment.

*Garrison Nelson is the Elliott A. Brown Professor Emeritus of Law, Politics, and Political Behavior at the University of Vermont and the author of John William McCormack: A Political Biography (Bloomsbury Academic, 2017).*

*Brenna M. Rosen, a 2017 graduate of the University of Vermont, is employed as a paralegal at a New York City law firm.*



Figure 1. President Lyndon B. Johnson's first address to Congress on November 27, 1963, with House Speaker John W. McCormack (D-MA) (*left*) and Senate president pro tempore Carl Hayden (D-AZ) (*right*) (US, House Historical Office)

**T**he murder of John F. Kennedy, the nation's thirty-fifth president at mid-day on the streets of Dallas, Texas, is a national wound that has never healed. Each year there are more outpourings of conspiracy theories intended to explain the inexplicable of how the most powerful man on earth, protected by the Secret Service, could be killed in broad daylight by a lone drifter with a mail-order rifle. A Texas murder made a Texan president.

One of the consequences of that event was the passage of the Twenty-Fifth Amendment, formally known as the Presidential Succession and Disability Amendment. Section 4 of that amendment has been seized on as a constitutional means to terminate the presidency of Donald J. Trump, the nation's forty-fifth president.<sup>1</sup> That section allows a majority of the Cabinet to declare that the president is unable to discharge the duties of the office. At that time, the vice president becomes acting president and the declaration is referred to Congress, where a two-thirds vote in each chamber will lead to the president's temporary loss of power while still remaining in office.<sup>2</sup>

Though multiple contemporaneous articles try to explain all the "things to know" about the amendment, it is important to remember that the amendment's initial purpose was to prevent John W. McCormack, the soon-to-be seventy-two-year-old Speaker of the House, from becoming president. Its passage effectively voided the Presidential Succession Act of 1947, which placed the Speaker of the House directly behind the vice president in the line of succession.<sup>3</sup> That goal was achieved with section 2 of the Twenty-Fifth Amendment, which enabled Congress in 1973 to fill the vice presidency with House minority leader Gerald R. Ford Jr. of Michigan to replace Vice President Spiro T. Agnew and, in 1974 when Vice President Ford replaced President Richard Nixon, to fill the vice presidency with New York governor Nelson A. Rockefeller.

The 1947 act replaced the 1886 Presidential Succession Act, which removed the two senior congressional officers from the succession and placed Cabinet members behind the vice president.<sup>4</sup> The 1886 act replaced the original Presidential Succession Act of 1792, which placed

the Senate president pro tempore and the Speaker of the House directly behind the vice president.<sup>5</sup> The 1886 act was passed in response to Charles Guiteau's 1881 murder of President James Garfield. Guiteau intended to elevate Vice President Chester Arthur in order to advance his own political aspirations.<sup>6</sup> With divided government occurring in nine of the eleven Congresses in the years 1875–1897, the potential for changing the partisan affiliation of the presidency through natural death or intentional murder was a genuine fear. By 1947 that fear had abated and the 1947 act restored the two congressional leaders to the top of the succession order but with their places reversed. It was President Harry Truman's contention that elected leaders and not appointed ones should be next in line and that it could be "undemocratic" to allow a president to specify his own successor.<sup>7</sup>

## **The 1963 Context**

A series of little-known events that occurred in the days following the Kennedy assassination are worthy of further examination. Reluctantly thrust into the middle of the confusion engulfing Washington at that time was Speaker John W. McCormack from the hard-edged Irish American ghetto of South Boston. Although Kennedy was also of Boston Irish Catholic descent, his background was of the well-born "lace curtain Irish." The class differential complicated the family's political relationships and, in the words of the matriarch Rose Kennedy, their two families interacted "usually as friends, sometimes as foes, sometimes friendly enemies."<sup>8</sup>

In the days before the assassination, McCormack had been in Boston to bury his brother Edward, a colorful South Boston barkeep known as "Knocko." John McCormack returned to Washington on November 21, and the next day, at lunch in the House dining room, he received the news of Kennedy's assassination from a reporter. Seated with two key aides, Martin Sweig and Edward Fitzgerald, McCormack suddenly became unsteady and, according to one eyewitness account: "[He] suffered a severe attack of dizziness. He started to rise, reeled, and began to lose consciousness. He raised a hand to his eyes, sank back in his seat and sat trembling."<sup>9</sup> He then declaimed, "My God . . . My God. What are we coming to?"<sup>10</sup>

## **Protection Rejected**

Having voted for the 1947 act, McCormack realized immediately that he was now next in line to the presidency. Among other security concerns, it became a "burning issue of whether Speaker of the House McCormack [would be] receiving Secret Service protection as the constitutional successor to Lyndon Johnson."<sup>11</sup> John wanted no such protection, but would the choice be his?

After hearing the news, McCormack returned to his office and met with Majority Leader Carl Albert and Armed Services chair Carl Vinson of Georgia, the chamber's senior-most member. Albert and fellow Oklahoman US Representative Ed Edmondson, a former FBI agent, contacted the FBI's Cartha DeLoach in the hope of obtaining protection for McCormack. In their initial request, they said that "utter confusion and hysteria reigned" in McCormack's office. Edmondson then called Jim Rowley, the chief of the US Secret Service, to gain protection for McCormack. Sweig, McCormack's administrative assistant, had already contacted the FBI requesting assistance, but the Secret Service and not the FBI was responsible for protection. Later that afternoon, two men knocked on McCormack's door on the eighth floor at the Hotel Washington. They identified themselves as Secret Service men and told him that since he was now next in line to the presidency, he would receive their protection.

McCormack's response, according to Drew Pearson, was blunt: "This is an intolerable intrusion in my private life and Mrs. McCormack's and I won't have it."<sup>12</sup>

The journalist Jim Bishop, a close wartime friend of McCormack's older nephew John "Jocko" McCormack, described a similar response:

The Speaker refused to admit the two men. He was brusque. It was not necessary for them to tell him he was the next man. He and Mrs. McCormack were averse to altering their private lives in the shadow of the Secret Service. He would not have these men accompany him in an automobile or stand over Mrs. McCormack in the shops. "Please," he said softly as he could, "get out of the hall."<sup>13</sup>

Later, McCormack was driven to Andrews Air Force Base along with a motorcade of House members to await the arrival of Air Force One. He joined fellow dignitaries assembled at Andrews to meet the plane with its tragic cargo. The most distressed of those assembled was Attorney General Robert F. Kennedy, who bolted up the stairs to comfort his sister-in-law, the newly widowed Jacqueline Kennedy. Accounts vary, but it is reported that Bobby Kennedy barely looked at the new president and brushed past him in his effort to console Jackie.<sup>14</sup> For two men like Lyndon Johnson and Bobby Kennedy who had a long history of distrust and acrimony, this moment was the exclamation point.

## **Catastrophe Averted**

The crisis would have been worse had the early reports of Vice President Lyndon Johnson's suffering a heart attack been true. While that rumor was untrue, there was a troubling account by Gerald Blaine, a member of the Secret Service's "Kennedy Detail," who described an incident outside Johnson's Washington residence early on the morning of November 23. Johnson, whose tendency to urinate whenever and wherever the call of nature occurred, was nearly shot to death by an anxious Blaine, who had his Thompson submachine gun at the ready when he heard a suspicious rustling sound outside the house.<sup>15</sup> Johnson emerged, and no shot was fired.

As described in Blaine's book: "Blaine struggled to regain his composure as the reality of what had just happened washed over him. Fourteen hours after losing a president, the nation had come chillingly close to losing another one." Although John McCormack's name is not mentioned in Blaine's book, a few news stories about the book correctly pointed out that McCormack would have become president had Agent Blaine pulled the trigger.<sup>16</sup>

Kennedy was the first president to be killed while under Secret Service protection, and anxiety levels within the agency grew as public dismay about their inability to protect Kennedy led to heightened criticism.<sup>17</sup> Making matters worse was that next-in-line Speaker John McCormack sought to cancel Secret Service protection as a violation of his and his wife's personal privacy. While McCormack aide Martin Sweig immediately requested FBI protection for his boss, a problem developed.

As stated in the initial memo written by Cartha DeLoach, the Bureau's deputy associate director:

Both men, armed, reported to Dr. Sweig at approximately 4:35. I additionally issued appropriate instructions to SAC Gillies of the Washington Field Office that there should be an around-the-clock surveillance of the Speaker until further notice. . . . I told Agents — and — and SAC Gillies that if our Agents are challenged at any time by Secret service men they should exhibit their credentials and explain to the Secret service men that our Agents were present at the specific request of the Speaker's Office.<sup>18</sup>

The surveillance did not last long. The following day, DeLoach sent another memo to “Mr. Mohr”:

At 11 a.m. this morning, SAC Gillies of the Washington Field Office advised me that our Agents are having a somewhat difficult time in carrying out their responsibilities. Mrs. McCormack found out through hotel authorities that Metropolitan police were maintaining a room down the hall from the Speaker’s suite in the Washington Hotel...

At 3 a.m. this morning, the Speaker, wearing only his pajama pants and an undershirt, visited a public bathroom at the end of the corridor. At approximately 7:45 a.m. this morning, the Speaker, after having breakfast in his suite, pushed the breakfast cart down the hotel corridor to the room in which the police officer and our Agents were sitting. The Speaker suddenly crashed open the door which had been left slightly ajar. He confronted our Agents and the police officer and asked them to identify themselves.

The Agents, acting under our instructions, fully identified themselves and advised the Speaker that his office had specifically requested this action. The Speaker indicated his appreciation in a very cordial manner. He was very firm, however, in insisting that no protection be afforded him.<sup>19</sup>

Declaring that “the Nation’s Capital is full of fear and hysteria and he did not want to give rise to further feelings in this regard,” McCormack countermanded the request the following day, but he could not avoid other humiliations. McCormack valued his privacy and with his increasingly frail eighty-year-old wife, Harriet, he wished to minimize any disruptions in the well-ordered life they had spent in Washington for thirty-five years, a life so well-ordered that they had dinner together every night of their married life. He refused the security detail.

Former Speaker Jim Wright (D-TX) recalled one last effort to protect McCormack that involved Secret Service members dressed as priests who followed the McCormacks on their daily rounds. When McCormack discovered the ruse, he exploded and made it clear to President Johnson that under the separation of powers he was a legislative officer and not an executive one. Even Lyndon Johnson backed off.<sup>20</sup> Remarkably, for the fourteen months between November 22, 1963, and January 20, 1965, when Hubert Humphrey was sworn in as vice president, John McCormack, the next-in-line to President Johnson, was unprotected.

John McCormack was a tough guy, but none of his childhood hardships in the Irish tenements of Boston’s Andrew Square prepared him to be a heartbeat away from the White House. The fact deeply humbled him. No American in twentieth-century public life had traveled as far as John McCormack. With only an eighth-grade public school education, he had overcome enormous obstacles to gain his prestigious post. McCormack had no intention of surrendering to fear at this time in his life.

## **The Rotunda Battle**

William Manchester’s monumental but controversial opus *The Death of a President* captures the dramatic tension surrounding the memorial service in the Capitol. Jackie Kennedy’s brother-in-law Sargent Shriver announced, “Jackie’s decided about tomorrow. She wants [Senate Majority Leader Mike] Mansfield to deliver the eulogy in the rotunda.”<sup>21</sup> Mrs. Kennedy’s desire that there be only one eulogist, and the Senate leader at that, would have excluded the House and Speaker McCormack from participating in the service. The House Doorkeeper, William “Fishbait” Miller, “flatly told Shriver that Mrs. Kennedy would have to withdraw her request or settle for a

compromise.” “That part of the Capitol,” Fishbait explained, “is under the jurisdiction of the House.”

It belongs to the Speaker. If you have any request concerning the rotunda, it will have to be made to the Speaker. That’s going to [be] the Congressional part of the funeral, and you can’t just walk in and say Mike Mansfield’s going to speak, whatever Jackie’s wish. You might hurt the Speaker’s feelings.<sup>22</sup>

It is doubtful that Jackie cared one whit about John McCormack’s feelings, but she backed off. Whether she made her original request because she wanted no eulogy from John McCormack, the factional leader of Jack’s home-state rivals, or because she was simply unmindful of Capitol protocol did not matter. John McCormack, the Speaker of the House, would be one of the eulogists.

Two days after the assassination, the nation’s major leaders—House Speaker McCormack, Senate Majority Leader Mansfield, and Chief Justice Earl Warren—gathered in the Rotunda of the Capitol to eulogize the fallen leader. The speeches produced different reactions. Mansfield spoke first, then Warren, and then McCormack. Manchester’s book takes the measure of the three speeches and the reactions to them:

No one criticized McCormack, because he did not say anything, but the Chief Justice’s strong denunciation of hatemongering had a mixed reception. Mike Mansfield, however, was by far the most controversial of the three. Like Warren, he grasped the essence of the Dallas crime—“the bigotry, the hatred, prejudice, and the arrogance which converged in that moment of horror to strike him down”—but in its imagery and high diction his address was altogether different. It was, indeed, an authentic masterpiece.<sup>23</sup>

Mansfield’s was the speech that most moved Jackie. On Tuesday, November 26, the president’s casket was laid to rest in the Arlington National Cemetery. Presiding over the religious portion of the service was Richard Cardinal Cushing. Cushing, who had presided over Jack and Jackie’s 1953 wedding, was John McCormack’s confessor and a fellow South Boston native.<sup>24</sup>

## **The Photograph**

The 88th Congress was still in session and the nation’s business had to get done. On November 27, 1963, following five days of official mourning, new president Lyndon B. Johnson appeared before a joint session of Congress in the Hall of the US House of Representatives where he had once served for twelve years and where Jack Kennedy had served for six.

Late November days in Washington, DC, are gray, chilly, and dreary, but this one on November 27, 1963, was the most somber anyone could remember as Lyndon B. Johnson, the newly installed thirty-sixth president of the United States, entered the Hall of the US House of Representatives. It was the chamber where the twenty-eight-year-old Johnson began his elective career in 1937.

Johnson was now president. As he stepped to the podium to address a mourning nation and an anxious world greatly in need of reassurance, Johnson turned and nodded to the two elderly men seated behind him. Over Johnson’s left shoulder was Senator Carl Hayden (D-AZ), the president pro tempore of the Senate, and second in line to Johnson. Over Johnson’s right shoulder was John McCormack, the Speaker of the House and immediately next in line. Their respective order was established in the Succession Act of 1947 that all three men had voted for.

At the time of the photograph, Hayden was eighty-six, and McCormack was two weeks away from his seventy-second birthday. To disinterested observers of the photograph, Speaker McCormack and Senator Hayden seemed to represent the ghosts of “Congress Past.” Their longevity in office had enabled them to attain these particular posts, as it had been for most of US political history.

Senator Hayden entered the Congress as Arizona’s first elected US representative in 1912, when the state joined the Union as the forty-eighth and final contiguous state. Hayden left the House for the Senate in 1927 and served there until 1969, when he retired at the age of ninety-one with 56 years and 318 days of continuous service in Congress, the longest in US history at that time.<sup>25</sup>

Speaker McCormack was first elected to the House in 1928 during the closing days of the Coolidge administration and served until 1971, when he retired at the age of seventy-nine at the mid-point of President Nixon’s first term. A childhood brush with tuberculosis that had claimed the lives of his three grown siblings led to a partially collapsed lung, which gave McCormack a gaunt appearance, making him look even older than he was.<sup>26</sup> He served with Johnson in the House for twelve years, 1937–1949, where they were linked by their mutual association with the legendary House Speaker Sam Rayburn. McCormack served dutifully under Rayburn as second-in-command for twenty-one years, while Johnson called him “my daddy.”<sup>27</sup>

Johnson suffered from a well-known heart condition that had kept him out of the 1956 presidential nominating contest and that would end his life in 1973 at the relatively young age of sixty-four. While Johnson’s November 27, 1963, “Let Us Continue” speech sought to reassure the nation and the world, the photograph of the men who could succeed him was not reassuring. In the caption that appears with the photograph in Michael Beschloss’s compilation of President Johnson’s tape recordings, Beschloss observes, “Many Americans were frightened at the sight of the two elderly men next in line for the presidency behind LBJ, who had once suffered a massive heart attack.”<sup>28</sup>

Johnson was well aware of those concerns when he spoke about presidential disability four days later on December 1, 1963, with JFK’s White House counsel and chief speechwriter Ted Sorensen:

LBJ: I think we ought to do it pretty soon. . . . Everybody is getting worried and talking about it and Mrs. Johnson says she’s had thirty people say, “I looked up there and saw those men behind you”—and I’ve got to come home before seven o’clock at night. I know these wives will use anything on you, but that’s a sample and you think about what we ought to do and give me a page of what you think.

SORENSEN: The first thing you ought to do is take Mrs. Johnson’s advice and take it goddamned easy because that would be a real disaster—with all due respect to the Speaker.<sup>29</sup>

Since seniority had become inviolable as a guiding principle for congressional advancement, it was clear that only elderly members would occupy these two posts. Five of McCormack’s six predecessors as Speaker died in office—four between 1931 and 1940.<sup>30</sup> Furthermore, only thirteen months had passed since the Cuban missile crisis of October 1962 had put the nation’s survival at risk. Clearly, something had to be done. Unsettled members of Congress introduced bills to change the Constitution by adding an amendment to undo the 1947 Succession Act by giving Congress the authority to fill the vice presidency when it became vacant. They also sought to address the issue of presidential incapacity that had surfaced during President Eisenhower’s health crises—his 1955 heart attack and his 1957 stroke.<sup>31</sup>



The bill gaining the most support was written by Senator Birch Bayh (D-IN), a close friend of President Kennedy's youngest brother, Senator Edward Kennedy of Massachusetts, whose first political victory had been achieved by defeating state attorney general Eddie McCormack, the childless Speaker's younger nephew in the 1962 US Senate Democratic primary.<sup>32</sup> In June 1964, seven months after the assassination, Senator Bayh and his wife, Marvella, flew to Massachusetts with Senator Kennedy to attend the state convention. Hampered by thunderstorms, the low-flying plane crashed into a tall tree, causing the deaths of the plane's pilot, Edwin Zimny, and Edward Moss, a Kennedy aide. Senator and Mrs. Bayh, who escaped unharmed, pulled the seriously injured Ted Kennedy from the burning plane, fearing that it would explode. Kennedy was spared the fate that had claimed the lives of his oldest brother, Joseph P. Kennedy Jr., his sister Kathleen, and later, his nephew John Jr. While he escaped death, he was hospitalized for five months with broken ribs and a serious back injury.<sup>33</sup> The fragility of life weighed heavily on Senator Bayh.

Bayh's amendment allowed the president to fill the vice presidency with congressional approval if it became vacant. To hammer home his point about the necessity of the amendment, the fateful 1963 photograph graces the cover of Bayh's book *One Heartbeat Away*.<sup>34</sup> The message was clear and unequivocal. Neither of these men should become president.

The Twenty-Fifth Amendment was ratified with Nevada's vote on February 10, 1967, 584 days after Congress had approved it on July 6, 1965, and sent to the states. The time it took to move through the state legislatures was close to the median of other Constitutional amendments. The photograph alerted but did not panic the nation.

With the solution implemented, Senator Hayden was spared further speculation about his fitness for the presidency. Speaker McCormack was not so fortunate; he had to endure multiple humiliations in its immediate wake and beyond.

## **The Impact**

While Johnson's words were heartfelt and moving, the lingering visual of the speech was the photograph of the president with two old men, his would-be successors, sitting behind him. It was a disquieting image. The critical response to the photograph was but one of the indignities to which John McCormack was subjected to during that traumatic week of the transition from President Kennedy to President Johnson.

Johnson was deeply concerned about the succession.<sup>35</sup> On December 23, 1963, he sent a two-page letter to be co-signed by John McCormack, focusing on the procedures to be followed "in the event of my inability to exercise the powers and duties of the Presidency."<sup>36</sup> The wording was similar to that of letters between President Eisenhower and Vice President Richard Nixon and between President Kennedy and Johnson himself. Should that disability occur, Johnson said that "the Speaker of the House would serve as Acting President, exercising the powers and duties of the Office until the inability had ended." Johnson was fearful that his support for the amendment might be seen as a "slap at McCormack."<sup>37</sup> While McCormack appreciated the passage of the amendment that lifted the burden from his shoulders, he did not appreciate the references to his age that aided in its passage.

Critical editorials include one from the western Massachusetts *Berkshire Eagle* that asserts: "It would not seem amiss for Mr. McCormack to recognize the incongruity of his present situation by stepping down as Speaker of the House so that a younger man can be elevated to the post which is now, in effect, the Vice Presidency." When an impertinent reporter asked

McCormack if he would do so, he replied: “I was elected Speaker and I am staying Speaker. I’m amazed, just amazed that you can ask that. Are there no limits to decency?”<sup>38</sup>

Consequently, Speaker John McCormack, next-in-line to President Johnson, had no Secret Service protection for the fourteen months between the November 22, 1963, assassination and the January 20, 1965, swearing-in of Vice President Hubert H. Humphrey. Had the Secret Service failed again?

## Amendment Prognosis

While those opposed to the Trump presidency believe that article 4 of the Twenty-Fifth Amendment may be used to terminate it, that article removes the powers of the presidency but it does not remove the president from office. The powers shift to the vice president as “acting president.” The vice president and the Cabinet must agree that the president can no longer discharge the duties of the office before the matter is sent to Congress for a vote. The president can petition Congress, contending that “no inability exists” and Congress may restore those powers. Since President Trump has already removed three of the Cabinet officers who might have supported such a move—Secretary of State Rex Tillerson, Secretary of Defense James Mattis, and Attorney General Jeff Sessions—none of those remaining is likely to support removal of his powers. Furthermore, with fifty-three Republican senators seated, there will be no two-thirds vote in that chamber to remove him, a fact confirmed by the failure of the January 2020 Senate vote to remove the House-impeached president from office. Despite the hope of many that President Trump will hear the phrase he repeated so often on his weekly television show, the words “You’re fired” will not be heard in the Oval Office.

## Notes

---

<sup>1</sup> Among the many articles raising the presidential removal possibility includes one by the Pulitzer Prize-winning historian Jon Meacham, “How to Tell a President ‘You’re Fired,’” *Time*, January 22, 2018, 36–39.

<sup>2</sup> The definitive source is John D. Feerick, *The Twenty-Fifth Amendment: Its Complete History and Applications*, 3rd ed. (New York: Fordham University Press, 2014), 19–24. It was first published in 1976. A recent valuable addition to this literature is Brain Kalt, *Unable: The Law, Politics, and Limits of Section 4 of the Twenty-Fifth Amendment* (New York: Oxford University Press, 2019). Kalt’s interpretation of section 4 may be found in “What the 25th Amendment Says about Presidents Who Are ‘Unable’ to Serve,” *Salon*, September 28, 2018, [https://www.salon.com/2018/09/29/what-the-25th-amendment-says-about-presidents-who-are-unable-to-serve\\_partner/](https://www.salon.com/2018/09/29/what-the-25th-amendment-says-about-presidents-who-are-unable-to-serve_partner/).

<sup>3</sup> The best assessment of the Presidential Succession Act of 1947, approved July 18, 1947 (P.L.80 199, 61 Stat. 380-381) is Ruth C. Silva, *Presidential Succession* (Westport, CT: Greenwood, 1968). It is a reprint of the 1951 edition published by the University of Michigan Press.

<sup>4</sup> Presidential Succession Act of 1886, approved January 19, 1886 (24 Stat. 1-2).

<sup>5</sup> Presidential Succession Act of 1792 approved March 1, 1792 (1 Stat. 232-239).

<sup>6</sup> H. H. Alexander, *The Life of Guiteau and the Official History of the Most Exciting Case on Record: Being the Trial of Guiteau for Assassinating Pres. Garfield*. (Philadelphia, PA: National Publishing Company, 1882).

<sup>7</sup> Silva, *Presidential Succession*, 156; Arthur Krock, “In the Nation: Consistency by Mr. Truman That Is Also Fun,” *New York Times*, February 7, 1947.

<sup>8</sup> Rose Fitzgerald Kennedy, *Times to Remember* (Garden City, NY: Doubleday, 1974), 428.

<sup>9</sup> Drew Pearson and Jack Anderson, *The Case against Congress: A Compelling Indictment of Corruption on Capitol Hill* (New York: Simon & Schuster, 1968), 283.

<sup>10</sup> Wilfrid C. Rogers, “McCormack Now First in Line of Succession,” *Boston Globe*, November 23, 1963; “Rep. McCormack Is Next in Line,” *Washington Post*, November 23, 1963.

- <sup>11</sup> Walt Brown, *Treachery in Dallas* (New York: Carroll & Graf, 1995), 283.
- <sup>12</sup> Pearson and Anderson, *Case against Congress*, 283.
- <sup>13</sup> Jim Bishop, *The Day Kennedy Was Shot* (New York: Funk & Wagnalls, 1968), 338–339. Jocko was named John W. McCormack II for his uncle.
- <sup>14</sup> Jeff Shesol, *Mutual Contempt: Lyndon Johnson, Robert Kennedy, and the Feud That Defined a Decade* (New York: W. W. Norton, 1997), 116.
- <sup>15</sup> Gerald Blaine with Lisa McCubbin, *The Kennedy Detail: JFK's Secret Service Agents Break Their Silence* (New York: Gallery Books, 2010), 264–265. Johnson's penchant for public urination is referenced in Philip H. Melanson, *The Secret Service: The Hidden History of an Enigmatic Agency*, 2nd ed. (New York: Carroll & Graf, 2005), 289–291; Ronald Kessler, *In the President's Secret Service: Behind the Scenes with Agents in the Line of Fire and the Presidents They Protect* (New York: Crown, 2009), 18–19.
- <sup>16</sup> Nate Jones, “Double Take: Lyndon Johnson Was Nearly Shot by Secret Service? A Day after JFK Died,” *Time*, October 20, 2010.
- <sup>17</sup> Peter Belair Jr., “Secret Service Faces Changes in Its Procedures as a Result of the Assassination,” *New York Times*, November 24, 1963. According to Ted Kennedy's memoir, Johnson blamed the FBI for not informing the Secret Service of Lee Harvey Oswald's trips to Russia and Cuba. Kennedy's own recollection appears in Edward M. Kennedy, *True Compass: A Memoir* (New York: Twelve, 2009), 224.
- <sup>18</sup> C. D. DeLoach to Mr. Mohr, memorandum, November 22, 1963, John W. McCormack's FBI files.
- <sup>19</sup> C. D. DeLoach to Mr. Mohr, memorandum, November 23, 1963, McCormack's FBI files.
- <sup>20</sup> Author interview with the Hon. Jim Wright, Fort Worth, TX, January 13, 2011.
- <sup>21</sup> William Manchester, *The Death of a President, November 20–November 25, 1963* (New York: Harper & Row, 1967), 508.
- <sup>22</sup> *Ibid.*
- <sup>23</sup> *Ibid.*, 541.
- <sup>24</sup> John Henry Cutler, *Cardinal Cushing of Boston* (New York: Hawthorn Books, 1970), 219. Cushing also presided over “Knocko” McCormack's funeral.
- <sup>25</sup> “List of Members of the U.S. Congress by Longevity of Service,” Wikipedia, accessed January 4, 2019, [https://en.wikipedia.org/wiki/List\\_of\\_members\\_of\\_the\\_United\\_States\\_Congress\\_by\\_longevity\\_of\\_service](https://en.wikipedia.org/wiki/List_of_members_of_the_United_States_Congress_by_longevity_of_service). Hayden's service is now third.
- <sup>26</sup> Garrison Nelson, *John William McCormack: A Political Biography* (New York: Bloomsbury Academic, 2017), 53.
- <sup>27</sup> See Alfred Steinberg, “Sam Rayburn's Boy,” in *Sam Johnson's Boy: A Close-up of the President from Texas* (New York: Macmillan, 1968), pt. 5, 377–517.
- <sup>28</sup> Michael R. Beschloss, ed., *Taking Charge: The Johnson White House Tapes, 1963–1964* (New York: Simon & Shuster, 1997), following p. 224.
- <sup>29</sup> *Ibid.*, 86.
- <sup>30</sup> Speakers who died in office include Nicholas Longworth (R-OH) in 1931, Henry T. Rainey (D-IL) in 1932, Joseph W. Byrns (D-TN) in 1934, William B. Bankhead (D-AL.) in 1940, and Sam Rayburn (D-TX), in 1961.
- <sup>31</sup> See Feerick's account of congressional reaction to Eisenhower's health issues in *Twenty-Fifth Amendment*, 19–24.
- <sup>32</sup> The 1962 Democratic Senate primary in Massachusetts is fully examined in Murray B. Levin, *Kennedy Campaigning: The System and the Style as Practiced by Senator Edward Kennedy* (Boston: Beacon Press, 1967).
- <sup>33</sup> The plane crash is described vividly in Peter S. Canellos, ed., with the *Boston Globe* team, *The Last Lion: The Fall and Rise of Ted Kennedy* (New York: Simon & Schuster, 2009), 99–103. Kennedy's own recollection appears in *True Compass*, 218–223.
- <sup>34</sup> Birch Bayh, *One Heartbeat Away: Presidential Disability and Succession* (Indianapolis, IN: Bobbs-Merrill, 1968).
- <sup>35</sup> The presidential succession issue was a frequent topic in the Johnson tapes of January 8, 1964. Dick Russell, 312; Mike Mansfield, 319; James, “Scottie” Reston of the *New York Times*, 335; James Rowe, 340–342 in *Lyndon B. Johnson: The Presidential Recordings*, ed. Kent B. Germany and Robert David Johnson, vol. 3 (New York: W. W. Norton, 2005).
- <sup>36</sup> LBJ to McCormack, December 23, 1963, McCormack Papers, Gotlieb Archival Research Center, Boston University, Boston, MA.
- <sup>37</sup> Notes concerning LBJ's call to Ted Sorensen, January 16, 1964, appear in Germany and Johnson, *Lyndon B. Johnson*, 3:568. “The move placed Johnson in a tricky position, since endorsing Bayh's effort might be interpreted as a slap at McCormack.”
- <sup>38</sup> *New York Herald Tribune*, December 12, 1963.