

## VICE PRESIDENT

*See also* "President Pro Tempore," pp. 1019-1024; "Presiding Officer," pp. 1025-1033.

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### Constitution, Article I, Section 3

#### [The Vice President and His Vote]

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

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#### Address Senate:

From time to time the Vice President has been authorized by unanimous consent, to address the Senate for a brief period of time.<sup>1</sup>

#### Appointive Power of the Vice President:

*See also* "Special or Select Committees," pp. 427-428, for his appointive power to fill vacancies on special committees.

The Vice President is given his appointive power for specific purposes by various statutes, by concurrent resolutions approved by both Houses, and by orders, including simple resolutions, adopted by the Senate.<sup>2</sup>

Where a motion was made that a special committee authorized by a Senate resolution be appointed by the Chair, it was suggested that this particular authority was entrusted to him in his capacity as President of the Senate and not as Vice President.<sup>3</sup>

#### Busts of Vice Presidents:

The Senate (in 1886) adopted an order providing for the placing of busts of Vice Presidents of the United States

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<sup>1</sup> Apr. 24, 1975, 94-1, *Record*, pp. 11650-51; Apr. 27, 1976, 94-2, *Record*, pp. 11344, 11350-51.

<sup>2</sup> June 16, 1938, 75-3, *Journal*, p. 599, *Record*, p. 9573.

<sup>3</sup> Apr. 2, 1885, 49-Special Session, *Record*, p. 96.

from time to time in the vacant niches of the Senate Chamber.<sup>4</sup>

### **Capitol Grounds, Control of by Vice President and Speaker of House:**

The Act approved on July 1, 1882, regulating the use of the Capitol grounds, provided that the "President of the Senate and the Speaker of the House of Representatives, acting concurrently, are authorized to suspend for such proper occasions so much of the above provisions (such as prohibitions against the occupation and obstruction of roadways, climbing upon steps, walls, seats, etc.) as would prevent the use of the roads and walks of the said grounds by processions or assemblages, and the use upon them of suitable decorations, music, addresses, and ceremonies."<sup>5</sup>

### **Certificates of Election of Senators:**

The certificates of election of Senators must be certified by the executive of a State, under the seal of the State, and sent to the President of the Senate.<sup>6</sup>

### **Certificates of Electors for President:**

Certificates of the action of the electors in each State must be transmitted to the Vice President.<sup>7</sup>

### **Commissions and Committees, Appointments to, During Recess of the Senate:**

See "Special or Select Committees," pp. 427-428.

### **Debate by:**

The Vice President should not participate in debate; but on different occasions he has made long statements from the chair.<sup>8</sup> The Vice President may address the

<sup>4</sup> Jan. 27, 1886, 49-1, *Record*, p. 908; Feb. 8, 1886, 49-1, *Record*, p. 1192; May 13, 1886, 49-1, *Journal*, p. 730.

<sup>5</sup> 22 Stat. 126-27.

<sup>6</sup> U.S.C. Title 2, sec. 1a.

<sup>7</sup> U.S.C. Title 3, secs. 11 and 12.

<sup>8</sup> Jan. 2, 1951, 81-2, *Record*, pp. 17117-18; Jan. 3, 1951, 82-1, *Record*, p. 4; Oct. 20, 1951, 82-1, *Record*, p. 13714; Mar. 2, 1953, 83-1, *Record*, p. 1506; Apr. 17, 1952, 82-2, *Record*, pp. 4051-52; Mar. 31, 1952, 82-2, *Record*, pp. 3147-48; Sept. 12, 1951, 82-1, *Record*, p. 11160; Aug. 13, 1951, 82-1, *Record*, p. 9845.

Senate on his rulings at the indulgence of the Senate or with unanimous consent.<sup>9</sup>

References in debate to the Vice President are not controlled by Rule XIX. See "Disorderly Language, Use of, in Debate, and Restrictions on," pp. 738-742.

### **Election of Vice President, Quorum for:**

See "Vice President, Election of," pp. 1074-1075.

### **Electoral Vote:**

See "Electoral Vote," pp. 812-814.

### **Franking Privilege:**

A law was passed in 1973, permitting franking privilege for the Vice President after he had resigned as Vice President. See S.J. Res. 164 of 93d Congress.

### **Funeral Committee, Member of:**

In recent years the Vice President has frequently been appointed to funeral committees of deceased Senators.<sup>10</sup>

### **Galleries:**

See "Galleries," pp. 850-853.

### **Oath of Office:**

I, *A.B.*, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.<sup>11</sup>

The oath of office can be administered to the Vice President by any Member of the Senate.<sup>12</sup>

Since 1861, and until the adoption of the 20th amendment, the oath was administered by the retiring Vice President or the President pro tempore. Since 1941, Senator Joe T. Robinson administered the oath to John N.

<sup>9</sup> Oct. 3, 1977, 95-1, *Record*, pp. 31916-21.

<sup>10</sup> June 23, 1941, 77-1, *Journal*, p. 271; June 26, 1953, 83-1, *Journal*, p. 400, *Record*, pp. 7359-60; Jan. 21, 1971, 92-1, *Journal*, p. 3.

<sup>11</sup> U.S.C., Title 5, sec. 16.

<sup>12</sup> U.S.C., Title 2, sec. 22.

Garner; Associate Justice Reed of the Supreme Court to Alben W. Barkley; Senator William F. Knowland to Richard M. Nixon; Speaker Rayburn to Lyndon B. Johnson; Speaker McCormack to Hubert H. Humphrey; Senator Everett M. Dirksen to Spiro T. Agnew in 1969; and Chief Justice Burger to Spiro T. Agnew in 1973.<sup>13</sup>

The oath to the first Vice President to be elected under the 25th amendment to the Constitution, Gerald R. Ford, was administered by Chief Justice Burger in a joint meeting of Congress.<sup>14</sup>

This was the first Vice President selected under the 25th Amendment to the Constitution. The Second Vice President (Mr. Rockefeller) so selected took his oath of office in the Senate, which was administered by Chief Justice Burger.<sup>15</sup> The next regular elected Vice President, Walter F. Mondale, was administered the oath by Speaker of the House of Representatives, Thomas O'Neill.

### Signs Bills:

See "Enrolled Bills and Joint Resolutions," pp. 823-831.

### Swearing in:

A joint session of the two Houses was held for swearing in ceremonies of Vice President Ford, and when the Senators returned to the Senate, Vice President Ford called the Senate to order.<sup>16</sup>

The swearing in of Vice President Rockefeller took place in the Senate Chamber and pursuant to a unanimous consent request was held in legislative session.<sup>17</sup>

### Tributes to, by Senators:

The Senate on the closing day of each session adopts a resolution of thanks for the manner, or fairness, in which the Vice President had presided during that session,<sup>18</sup>

<sup>13</sup> See *Senate Journal* for Jan. 20, 1937; Jan. 20, 1949; Jan. 20, 1953; Jan. 20, 1961; Jan. 20, 1965; Jan. 20, 1969; Jan. 20, 1973.

<sup>14</sup> See *Congressional Record* for Dec. 6, 1973.

<sup>15</sup> Dec. 19, 1974, 93-2, *Journal*, p. 1764.

<sup>16</sup> Dec. 6, 1973, 93-1, *Record*, pp. 39943, 40104-05.

<sup>17</sup> Dec. 19, 1974, 93-2, *Record*, p. 41021.

<sup>18</sup> May 29, 1928, 70-1, *Record*, p. 10678; Mar. 2, 1929, 70-2, *Journal*, p. 264, *Record*, p. 4986; June 18, 1934, 73-2, *Journal*, p. 621, *Record*, p. 12423; Aug. 3, 1953, 83-1, *Record*, p. 11057; Jan. 16, 1953, 83-1, *Record*, p. 396; July 7, 1952, 82-2, *Record*, pp. 9730-31; Mar. 4, 1950, 81-2, *Record*, pp. 2814-16.

including the presentation of a silver tray in the cases of Vice Presidents Charles G. Dawes,<sup>19</sup> and Charles Curtis.<sup>20</sup>

### **Vice President Nominated Under Constitution:**

Under Article 25, Sec. 2 of the Constitution, the President of the United States nominates a Vice President when there is a vacancy in that office. The first to be nominated under this article was President Ford and the second was the nomination of Mr. Rockefeller by President Ford as follows:

#### VICE PRESIDENT OF THE UNITED STATES

Pursuant to the provisions of Section 2 of the Twenty-fifth Amendment to the Constitution of the United States, I hereby nominate Nelson A. Rockefeller, of New York to be the Vice President of the United States.<sup>21</sup>

Vice President Rockefeller's nomination was reported by the Committee on Rules and Administration on November 22, 1974, by a vote of 9 to 0.<sup>22</sup>

A resolution (S. Res. 452) was adopted on December 14, 1974, to authorize the televising of the swearing in ceremonies in the Senate Chamber of Vice President Rockefeller.

### **Vote by Vice President:**

#### **[Form Used by Vice President To Vote]**

The VICE PRESIDENT. Senators, on this question the yeas are \_\_\_\_ and the nays are \_\_\_\_\_. The Senate being equally divided, the Vice President votes in the \_\_\_\_ and the (proposition) is \_\_\_\_\_.

Or, the Senate being equally divided, the Vice President declares the (proposition) lost or disagreed to.

“The Vice President \* \* \* shall have no vote, unless they be equally divided.”<sup>23</sup>

On one occasion the Vice President voted “no” on a tie vote, although such a vote was not necessary to defeat the question.<sup>24</sup>

<sup>19</sup> Mar. 2, 1929, 70-2, *Journal*, p. 264, *Record*, p. 4986.

<sup>20</sup> Mar. 3, 1933, 72-2, *Journal*, p. 288, *Record*, p. 5498.

<sup>21</sup> Aug. 20, 1974, 93-2, *Record*, p. 29186.

<sup>22</sup> Nov. 22, 1974, 93-2, *Record*, p. 37043.

<sup>23</sup> July 13, 1983, 98-1, *Record*, p. 18968; Constitution, Art. I, sec. 3.

<sup>24</sup> Aug. 7, 1986, 99-2, *Record*, p. 19790.

On occasions he (the Vice President) has refused to vote in the case of a tie; <sup>25</sup> he may vote in the case of a tie vote on a division of the Senate,<sup>26</sup> and if in the affirmative announces the proposition agreed to.<sup>27</sup>

He may vote to break a tie on the adoption of an amendment to a proposed amendment to the Constitution.<sup>28</sup>

He has a right to vote when the Senate is equally divided on an amendment to a bill,<sup>29</sup> or an amendment to a concurrent resolution,<sup>30</sup> or to go into executive session.<sup>31</sup> The Vice President has the right to vote on a motion to table an amendment when the Senate is equally divided.<sup>32</sup>

The Vice President has voted on relieving conferees from their promise on a flexible tariff provision, which was merely a resolution expressing the sense of the Senate.<sup>33</sup>

The Vice President not only votes in the case of legislative matters, but also in the case of the election of an officer of the Senate or confirmation of executive nominations; <sup>34</sup> he may vote in the case of a tie on the question as to the right of a Senator-elect to be seated as a Senator.<sup>35</sup>

The Vice President has voted on various occasions in the negative, when there was a tie vote, in which instances his vote was not necessary in order to defeat the proposition,<sup>36</sup> and announced the proposition not agreed to.<sup>37</sup>

In one instance in 1949, the Vice President announced the tie vote and stated that inasmuch as the Chair would vote in the negative, his vote is not necessary to defeat the motion.<sup>38</sup>

<sup>25</sup> Apr. 17, 1917, 65-1, *Record*, p. 767; see also tie votes on the following dates: Feb. 7, 1919, Jan. 22, 1920, Feb. 9, 1921, July 18, 1921, Apr. 7, 1922, May 8, 1928.

<sup>26</sup> May 19, 1914, 63-2, *Record*, p. 8828; Mar. 1, 1853, 32-2, *Congressional Globe*, p. 951.

<sup>27</sup> Apr. 14, 1916, 64-1, *Record*, p. 6125.

<sup>28</sup> June 12 and 13, 1911, 62-1, *Journal*, p. 94, *Record*, pp. 1923, 1949-58; Mar. 2, 1861, 36-2, *Record*, p. 1364.

<sup>29</sup> Feb. 9, 1872, 42-2, *The Congressional Globe*, p. 919; Nov. 4, 1977, 95-1, *Record*, p. 37138.

<sup>30</sup> May 9, 1985, 99-1, *Record*, p. 11475.

<sup>31</sup> Feb. 21, 1861, 36-2, *The Congressional Globe*, p. 1083.

<sup>32</sup> Sept. 22, 1987, 100-1, *Record*, p. S 12470.

<sup>33</sup> May 19 and 20, 1930, 71-2, *Journal*, pp. 360, 363, *Record*, pp. 9138, 9195.

<sup>34</sup> Jan. 9, 1850, 31-1, *Journal*, p. 68.

<sup>35</sup> Nov. 28, 1877, 45-1, *Journal*, pp. 101-02.

<sup>36</sup> Apr. 9, 1914, 63-2, *Record*, p. 6474; May 19, 1914, 63-2, *Record*, p. 8828; Sept. 15, 1949, 81-1, *Journal*, p. 711, *Record*, pp. 12927, 12929-32.

<sup>37</sup> *Ibid.*

<sup>38</sup> Oct. 18, 1949, 81-1, *Journal*, p. 809, *Record*, p. 14842.

In one instance in 1949, the Vice President made a statement in explanation of a vote cast by him in the case of a tie.<sup>39</sup>

In one case, in 1949, a motion was incorrectly announced as agreed to, when in fact the correct vote, as subsequently discovered, had resulted in a tie, and the Vice President was therefore deprived of an opportunity to cast an effective vote; he expressed the opinion that upon the discovery of the error it should be corrected even though an amendment had been stated in the meantime.<sup>40</sup>

In 1956 a recapitulation of the vote on a motion to strike out a section of a bill previously announced as agreed to, having disclosed the vote as a tie, the Vice President voted in the affirmative, and a point of order that he could vote only upon a reconsideration, and not upon a recapitulation was overruled by the Vice President.<sup>41</sup>

It is not in order, without a reconsideration, to have another vote on a question declared rejected by reason of the failure of the Vice President to vote in the case of a tie.<sup>42</sup>

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<sup>39</sup> Oct. 4, 1949, 81-1, *Journal*, p. 757, *Record*, pp. 13773-74.

<sup>40</sup> Sept. 15 and 16, 1949, 81-1, *Journal*, p. 711, *Record*, pp. 12927, 12929-32, 12961.

<sup>41</sup> Mar. 9 and 12, 1956, 84-2, *Record*, pp. 4427-28, 4434-39, 4501-07.

<sup>42</sup> May 8, 1928, 70-1, *Journal*, p. 419, *Record*, pp. 8064-65.