

# Of Political Earthquakes, Tsunamis and the 25th Amendment

by [Joseph DeMaio](#), ©2024

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## Twenty-Fifth Amendment

Twenty-Fifth Amendment Explained

### Section 1

In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

### Section 2

Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

### Section 3

Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

<https://constitution.congress.gov/constitution/amendment-25/>

(Jun. 30, 2024) — The epicenter of the most recent political earthquake took place last Thursday in Atlanta, Georgia and lasted approximately 90 minutes. On the political Richter scale, it measured 10.0. And the 2024 presidential sweepstakes tsunami it has generated will soon inundate the nation.

To begin with, the “debate” that took place between President Trump and the octogenarian slug residing at 1600 Pennsylvania Avenue was nothing short of a catastrophic train-wreck for Brandon. His “performance” was described by Bob Woodward – one of the WaPo reporters who blew open the [Watergate](#) scandal leading to the resignation of President Nixon in 1974 – as being a “[political H-bomb](#).” Woodward understates the impact of the debacle. It was an H-bomb followed by a [Chernobyl](#) meltdown.

Among the more serious issues now being raised as the tsunami approaches DC and the banks of the Potomac is this: will the person occupying the office of the Vice President – Kamala Harris – seriously consider attempting to invoke the [25<sup>th</sup> Amendment](#) in an effort to replace the slug on the grounds that he is no longer capable of discharging the duties of the office? Indeed, Rep. Chip Roy (R. TX) has already introduced a [House Resolution](#) urging her to do exactly that.

But before anyone gets too excited about relying on that amendment to sideline the slug – and quite apart from the fact that it would take either (a) a majority of the members of his

Cabinet, all Democrats, to “get it done” or (b) the action of “such other body as Congress may by law provide...,” – one major problem emerges.

Specifically, if it were successful, it would mean that, until the slug’s “disability” were to be removed or a new president were inaugurated in 2025, Kamala Harris would serve as the “Acting President” under the amendment. Only if the president resigned or died would she become the actual “President.”

There are, at minimum, two *gigantic* problems with that result. First, as the planet teeters on the verge of World War III, how wise would it be to have an “Acting President” in command of the military and with access to the nuclear launch codes? Answer: not prudent *at all* or, stated bluntly, stupid and dangerous, too..., particularly with regard to the “Word Salad Queen.”

Second, and of equal or even greater importance, Kamala Harris is arguably *not* a “natural born Citizen” (“nbC”) as required under Art. 2, § 1, Cl. 5 of the Constitution as likely understood and intended by the Founders. This issue has been addressed and discussed at *The P&E* [here](#), [here](#) and [here](#). Moreover, there is zero historical evidence to suggest that the Founders would have waived the nbC restriction in the case of an “Acting President,” not only because the amendment did not exist until 1967, but also particularly against the backdrop of perilous times such as we now face.



The [White House](#)

In the meantime, it is likely that the Democrats, being the Machiavellian insects that they are, will bring withering pressure on Brandon – as well as Dr. Jill – for him to resign. After the Atlanta first – and likely *only* – debate, he is, figuratively speaking, a “dead man walking.” If he resigns, the Vice President steps in as his replacement under § 1 of the 25<sup>th</sup> Amendment.

Accordingly, the only viable alternative to address the “Hobson’s Choice” tsunami approaching DC and the banks of the Potomac is for Speaker of the House Mike Johnson to gather the courage to do that which was suggested to him last October [here](#).

That “free advice” was for him to bring a declaratory judgment action *immediately* seeking a judicial determination that Harris is not, and never has been, an nbC. If that succeeds, she would be out as Vice President..., parenthetically, a result which might not

be altogether unacceptable to the Democrats either as their nominating convention approaches.

Under [3 U.S.C. § 19](#), Speaker Johnson is next in the line of succession to the presidency after Harris. Accordingly, he is also the only person with the requisite “litigant standing” to bring the question before the judicial branch, including, eventually, the Supreme Court. And with the chaotic events unfolding following the Atlanta debate debacle, there is *zero* additional time to waste.

If such a final judicial determination is made – possible, but unlikely given the limited amount of time remaining before the November general election and inauguration of a new president on January 25, 2025 – at that point, the vice-presidency becomes vacant. Assuming that Brandon by that time has *not* resigned and that the 25<sup>th</sup> Amendment has *not* been invoked and implemented, under § 2 of the 25<sup>th</sup> Amendment, he would have the opportunity to name a replacement person as Vice President.

However, that person would assume the duties of the office only “upon confirmation by a majority vote of *both* Houses of Congress.” (Emphasis added) While the person might get the Senate to confirm, because the House remains in control of the GOP, that could be a different story. Thus, the classic opportunity for political “horse trading” would emerge.

Under one scenario, the office could remain vacant, in theory, indefinitely or at most, until January 25, 2025, when a new President is sworn in. On the other hand, given the stakes, it would – or certainly *should* – be seen as a bipartisan issue that needed to be resolved quickly rather than allowed to fester. Therefore, the potential actually exists for agreement on a “placeholder” Vice President to serve until the next administration takes over. Much of the horse trading taking place during that time would be driven by whether Brandon remained President and whether invocation of the 25<sup>th</sup> Amendment remained a “viable” option.

In the meantime, if no agreement on a placeholder VP is reached, but because of the building pressure for Brandon to resign – or his untimely passing if he takes another fall – one or the other of those events occurs, the office of the President becomes vacant, and Mike Johnson becomes President until January 25, 2025. Moreover, under § 1 of the 25<sup>th</sup> Amendment, he becomes the *President*..., not the “Acting President.” And, BTW, there is zero question that he is an nbC.

Your humble servant first floated the proposal [here](#) in August, 2023, when the Speaker of the House was Kevin McCarthy. Since last October, when your humble servant advanced the proposal as to Speaker Johnson, eight more months have been wasted. Each additional *day*..., each additional *week*... and each additional *month* that passes without action such as suggested brings the Republic that much closer to a constitutional crisis, not to mention the threat of military actions by our enemies.

Those enemies, of course, have been greatly emboldened by the recent incoherent, feckless and dangerous performance of the slug in Atlanta. What better time than the present to initiate bad and dangerous aggression? Instead of just letting “nature take its course” within the panic-stricken Democrat cabal, Speaker Johnson should take decisive action as suggested. Granted, the effort might not succeed, as there are many, including in the judiciary, who believe that Kamala Harris satisfies the contemporary accepted – but flawed – narrative of what constitutes an nbC, *i.e.*, someone who is merely a U.S. “citizen at birth” or a “citizen by birth,” regardless of the citizenship status of both parents or the place of birth on the planet.



[The White House](#)

On the other hand, faithful *P&E* readers well-understand that your humble servant has for over a decade articulated the differing view, *i.e.*, that the Founders understood and adopted the definition set out by Swiss jurist, attorney and scholar Emer de Vattel. In Book 1, Ch. 19, § 212 of his 1758 treatise “*The Law of Nations*,” the term is defined as a person born in a country to two parents, a mother and a father, who are already its citizens. Only that definition meets the Founders’ goal of mandating *sole and exclusive* fidelity and allegiance to the United States and assures the highest barrier against the insinuation of “foreign influence” into the presidency.

Speaker Johnson could go down in history as one of the few elected officials to actually satisfy the template concept rumored to have originated with Aristotle: “The nation needs more statesmen and fewer politicians.” Anyone reading this proposal is encouraged to bring it to Speaker Johnson’s attention. The time for action instead of just words is upon us.

Or as the slug might say: “Not hyperbole..., not joking.”