A Rhetorical Analysis of Selected Speeches of Senator Birch E. Bayh on the Twenty-fifth Amendment to the Constitution of the United States

Michael Lee Brubaker

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A RHETORICAL ANALYSIS OF SELECTED SPEECHES
OF SENATOR BIRCH E. BAYH ON THE TWENTY-FIFTH
AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

BY

MICHAEL LEE BRUBAKER

A thesis submitted
in partial fulfillment of the requirements for the
degree Master of Arts, Major in
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A RHETORICAL ANALYSIS OF SELECTED SPEECHES
OF SENATOR BIRCH E. BAYH ON THE TWENTY-FIFTH
AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

This thesis is approved as a creditable and independent investigation by a candidate for the degree, Master of Arts, and is acceptable as meeting the thesis requirements for this degree. Acceptance of this thesis does not imply that the conclusions reached by the candidate are necessarily the conclusions of the major department.

Thesis Adviser / Date

Head, Speech Department / Date
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MLB
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CHAPTER I

INTRODUCTION

Origin of the Problem

Several times in the past, the American public has faced the possibility of having no President because of his illness or death in office. The question arising from this situation is significant not only to citizens of this country but to the citizens of the world community as well. For this reason the writer was prompted to initiate an analysis of the speeches of Senator Birch Bayh of Indiana in his support of the Twenty-fifth Amendment to the Constitution of the United States of America.

The analysis of the speeches of a prominent person in our society carries a potential contribution to scholars in the field of speech communication in that it may reveal the oral persuasive process used by one prominent person in his attempts to influence the beliefs, attitudes, and opinions of an audience. By examining the organization, supporting proofs, logic, language, and inventiveness, a partial reason for the passage of the amendment may have been discovered. This, it is hoped, was accomplished through the research and development of this thesis.
Statement of the Problem

Recently, the Constitution of the United States of America was amended. The chief sponsor of that amendment was the junior Senator from Indiana, the Honorable Birch E. Bayh. This study consisted of an analysis of the Senator's rhetoric in selected speeches made during the process of the adoption of the Twenty-fifth Amendment concerning the Presidential succession in the case of a vacancy of office by the President. The purpose of the study was to determine the degree to which the rhetoric used by the Senator met established criteria of effectiveness. By applying the judicial method of criticism, the procedure was to analyze what the Senator said, the purpose of the speeches, and the effect of his rhetoric upon the adoption of the proposed measure. By this type of analysis, the speaking effectiveness of the Senator may be assessed.

Method of Investigation

The first step in the analysis was to determine whether or not any studies had been previously made on Senator Bayh's speeches concerning the Twenty-fifth Amendment. A review of the following sources revealed no such work:


A process of gathering the data to be utilized in the research constituted the second step. The available texts of the Senator's speeches in relation to the amendment were procured and examined. Relevant background material from news publications, governmental documents, and other incidental sources were also sought.

Following this process, an investigation and analysis was completed pertaining to the historical background of the Twenty-fifth Amendment to the Constitution. In this process, the previously submitted legislation and the urgency of need for such a proposal were analyzed.

The third step was to establish a method to be used for the purpose of analysis. For a basis, the standards of criticism contained within the following texts were used: *Speech Criticism* by Lester Thonssen and A. Craig Baird, *The Rhetoric of Aristotle* translated by Lane Cooper, and *Persuasion* by Winston Brembeck and William Howell.

For this analysis, the judicial method of criticism was used.¹

It reconstructs a speech situation with fidelity to fact; it examines this situation carefully in the light of the interaction of the speaker, audience, subject and occasion; it interprets the data with an eye to determining the
effect of the speech; it formulates a judgment in the light of the philosophical-historical-logical constituents of the inquiry; and it appraises the entire event by assigning it comparative rank in the total enterprise of speaking.2

For the analysis of the selected speeches, the intention was to utilize four of the five canons of rhetoric: invention, arrangement, style, and delivery. However, only three of these four canons could be applied. Since no electronic recordings of the Senator's speeches on this topic were available, evaluation of his delivery was impossible. An analysis of the total data was then endeavored: a rhetorical criticism of the selected speeches of the Senator concerning the passage of the amendment was attempted. In the analysis of arrangement, the attempt was made to analyze the thematic emergence, the method of organization, and the development of the speeches as used by the Senator. Concerning invention, the analysis consisted of analyzing the ethical, emotional, and logical proofs of Senator Bayh. In the consideration of the Senator's style, judgment was passed on the effectiveness of the qualities of correctness, clearness, appropriateness, and vividness.

The final step was the passing of judgment as to the effectiveness of the Senator's rhetorical powers and his effect upon the passage and adoption of this proposed measure.
FOOTNOTES


2Ibid.
CHAPTER II

HISTORICAL BACKGROUND

Introduction

From the time of its conception until its amendment in 1966, there existed in the Constitution of the United States a defect relating to the inability of the President to discharge the powers and duties of his office. This inability might have come about because of serious illness, as it has in the past, or through some other emergency. Recently, legislation was initiated to correct this defect with the ultimate goal of removing the possibility of having no President. The following pages deal with the problems and the events which led to the initiation and final passage of this legislation.

Background

Clause 5 of Section 1 of Article II of the United States Constitution reads as follows:

In the Case of the Removal of the President from Office, or of his Death, resignation, or inability to discharge the powers and Duties of the said Office, the Same shall devolve on the Vice-President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.
It is well settled by precedent that in case of removal, death, or resignation of the President, the Vice-President succeeds to the Presidential office and not just to the "powers and duties of that office." 2

What was to happen, however, in the event that the President was unable to discharge the powers and duties of his office was not clear. Two questions arose: (1) Would the "Office" of the President, or do the "powers" and "Duties of said Office," devolve upon the Vice-President? And (2) Who was to raise the question of "Inability," and who was to make the determination as to the commencement and termination of the said "Inability?" These questions were left unanswered by the original Constitution.

The first significant occurrence of the problem of succession and disability came with the death of President William Henry Harrison on April 4, 1841. In this instance it was found that the Constitution was elastic and not so easily interpreted in certain situations.

Some forty years later, President John A. Garfield was struck by an assassin's bullet and killed. In this case, however, the death was not immediate and the President survived for days, leaving the country without a leader for that period of time. Garfield had been shot on July 2 and it was not until late August, when the Cabinet members were spending long hours at the White House, that they first began to consider the possibility of Chester A. Arthur's assuming the executive duties.
The issue did not raise its head again until 1884 when Vice-President Thomas Andrew Hendricks died, and President Grover Cleveland was confronted with the same vacuum in congressional succession which President Arthur had experienced. There was no immediate successor to the Presidency. Fortunately, however, this period of insecurity lasted only from November 25 to December 7, when John Sherman of Ohio was elected President pro tempore of the Senate.

The next crisis in Presidential inability began early in April of 1919 when newspapers reported that President Woodrow Wilson, only recently returned from his European trip in support of the League of Nations, was suffering from influenza. To add to the distress, it was reported that the President suffered a partial stroke and that the attack was not his first. Again there was a period of great uncertainty due to the disability of the President of the United States. However, the nation's painful experience with this Presidential disability finally ended on March 4, 1921, when Warren G. Harding was inaugurated as the newly elected President.

In early 1945, shortly after he had been re-elected to a fourth term of office, President Franklin Roosevelt died. Harry S. Truman succeeded to the Presidency and the office of Vice-President remained vacant. The nation was again without a second-in-command, and President Truman, like few of his predecessors, realized the significance of the problem. Determined to do something about it, the new President delivered a special
message to Congress, proposing changes in the 1886 Succession Act. That old Act, he said, gave the President power to appoint his own successor, in the person of the Secretary of State. In Truman's opinion the office of the President should be filled by an elected, not an appointed, official. Since only the President and Vice-President were elected by the whole country, the most appropriate official to be next in line after them was the Speaker of the House, who was elected to that office by a vote of all the representatives of all the people of the country. The representatives, moreover, since they were re-elected every two years, were close to the people, and therefore, best fitted to have such a responsibility. The new President's proposal to Congress contained four planks:

1. Establish the line of succession from the Speaker to the President pro tempore of the Senate, then down through the Cabinet officers, beginning with the Secretary of State.

2. Provide that if the Speaker or President pro tempore had to act as President, he would first resign from his seat in Congress.

3. Provide that if there were no Speaker or President pro tempore, the first Cabinet members who passed the necessary constitutional qualifications would serve until a Speaker or President pro tempore was elected.

4. Provide that in any circumstance in which someone other than the Vice-President succeeded to the Presidency, he would hold the office only until the next congressional election, at which time a special election would be held to elect a new Presidential ticket.

Such debate was initiated over the proposal in both houses of Congress that no action was taken, and thus it died
as just a proposal. However, it did pave the way for future proposals and finally for the Constitutional Amendment.\textsuperscript{5}

On March 3, 1958, President Eisenhower and Vice-President Nixon established a precedent by publishing a memorandum of agreement between them as follows:

The President and the Vice-President have agreed that the following procedures are in accord with the purposes and provisions of Article II, Section 1, of the Constitution, dealing with the procedures, which are intended to apply to themselves only, are in no sense outside or contrary to the Constitution but are consistent with its present provisions and implement its clear intent.

1. In the event of inability the President would—if possible—so inform the Vice-President, and the Vice-President would serve as Acting President, exercising the powers and duties of the office until the inability has ended.

2. In the event of an inability which would prevent the President from communication with the Vice-President, the Vice-President, after such consultation as seems to him appropriate under the circumstances, would decide upon the devolution of the powers and duties of the office and would serve as Acting President until the inability had ended.

3. The President, in either event, would determine when the inability had ended and at that time would resume the full exercise of the powers and duties of the office.\textsuperscript{6}

On August 10, 1961, the White House announced that an agreement identical to the Eisenhower-Nixon agreement had been made between President Kennedy and Vice-President Johnson.\textsuperscript{7}

The White House statement also said:

After consultation with the Attorney-General, it is the understanding of the President and the Vice-President that these procedures reflect the correct interpretation to be given to Article II,
Section 1, Clause 5 of the Constitution. This was also the view of the prior Administration and is supported by the great majority of Constitutional Scholars.\textsuperscript{8}

It seems clear that in the event of the inability of the present President, this memorandum would have been construed as establishing a procedure by which the powers and duties of the office of the President would be assumed by the Vice-President. The memorandum notes that the procedures "are intended to apply to themselves only" and thus would not appear to be binding upon future incumbents of the office of the President and Vice-President. A serious defect in the agreement approach was that it did not provide for a system of final determination of inability by anyone other than the President, in the event that the President was actually unable to discharge the powers and duties of the office, but believed otherwise.

Numerous arguments had been put forward in opposition to the view that an agreement of this sort should be looked upon as the last word in answer to the problem. In all probability the most forceful of all the arguments was that if the agreement were challenged at a time when it was to be implemented, a serious conflict would arise "at the very time when clear-cut procedure was vitally necessary."\textsuperscript{9}

Accordingly, while the Kennedy-Johnson agreement may have been looked upon favorably as a temporary measure, in the opinion of the Committee on Federal Constitution of the New York Bar Association, a Constitutional amendment was necessary to
implement legislation governing similar cases.\textsuperscript{10} Thus, the way was paved for the Amendment to the Constitution of the United States.

The Committee for Federal Legislation in May, 1962, set down the essentials of a Constitutional amendment of this type to be as follows:

1. Confirm the established view that upon the removal of the President from office, or his death or resignation, the Vice-President actually becomes President;

2. Reaffirm and clarify beyond any doubt that in case of the inability of the President to discharge the powers and duties of the office of President, the Vice-President assumes only the powers and duties of the office, and not the office itself; and

3. Empower Congress to enact legislation for determining when inability commences and when it terminates.\textsuperscript{11}

During the sessions of the 87th Congress, ten proposals were set forth to deal with the problem of Presidential disability, none of which were recommended for passage by their respective committees.\textsuperscript{12} With these defeats, the idea of an amendment illustrating the line of succession to the Presidency lay dormant for approximately four years.

On June 25, 1963, the New York State Bar Association once again initiated action for a bill to map out the line of succession and to establish who would fill the office of the Presidency in a time of vacancy. From this re-enacted interest in such a bill, came the Senate Joint Resolution (S. J. Res.) 35. This proposal was sponsored by the late Senator Estes Kefauver of Kentucky, who at that time was the chairman of the
Senate Committee for Constitutional Amendments, and Senator Thomas Keating of New York, another member of that committee. However, because of the untimely death of Senator Kefauver, the bill was put to sleep again awaiting more action by the committee.13

On September 30, 1963, Senator Birch Bayh of Indiana was nominated and confirmed to fill the Committee position vacated by the late Senator Kefauver. Then tragedy struck the country and the world. On November 22, 1963, the President of the United States, John F. Kennedy, was shot and killed by an assassin's bullet in Dallas.14 Again the country was without a President. As ex-president Johnson stated:

The tragic death of President Kennedy on November 22, 1963, raised—once again—the perplexing question of Presidential disability and succession.

The problem in adopting effective succession procedures were obvious. Men held strong and widely divergent opinions as to what the order of succession should be.

This concern was not unfounded. For the sixteenth time in our nation's history, the United States was without a Vice-President. On three other occasions an American President had suffered from major disabilities that incapacitated him for weeks or even months.15

At this time the support of the current Administration was realized, and the wheels began to turn once again. On December 12, 1963, Senator Bayh introduced S. J. Res. 139 dealing with the problem of Presidential succession and disability.16

On January 17, 1964, the Resolution was referred to the Subcommittee on Constitutional Amendments, and from that time
until March 5 of that year, hearings were held to discuss the proposition. On that date the committee gave its unanimous approval to the Resolution and also received the overwhelming acclaim of the American Bar Association. On September 28, 1964, following the approval of the Senate Judiciary Committee, S. J. Res. 139 was passed by the Senate of the United States and sent to the House of Representatives. However, on October 3, 1964, Congress adjourned sine die with no further action on the Resolution.

In November of 1964, President Lyndon Johnson was re-elected by the people of the United States with Hubert Humphrey as Vice-President. In this election also, Senator Keating of New York, the author of S. J. Res. 35, was defeated in the Senatorial election.

January 4, 1965, H. J. Res. 1, the equivalent to S. J. Res. 139, was introduced by Congressman Emanuel Celler in the House of Representatives. On January 6, 1965, Senator Bayh introduced into the Senate S. J. Res. 1 (the equivalent to S. J. Res. 139 of the earlier Congress) which was passed by voice vote of 72-0 on February 19, 1965. At this time the bill was again sent to the House of Representatives. Following a great deal of deliberation in the House, the bill was sent back to the Senate for amendments to the resolution itself which had been suggested by the hearings held in the House. Then on May 11, 1965, the joint committee on and for the Resolution of the House and Senate met in Washington and agreed upon the amended resolution.
Finally, after due consideration by both Houses of Congress, on July 6, 1965, the Bayh Amendment passed and was offered to the states for ratification. On July 12, 1965, Nebraska was the first state to begin the process of ratification. And on February 10, 1967, Minnesota and Nevada completed the required process. Thus S. J. Res. 1 became the Twenty-fifth Amendment to the Constitution of the United States of America. The Amendment reads as follows:

EIGHTY-NINTH CONGRESS OF THE
UNITED STATES OF AMERICA

At the First Session

Begun and held at the City of Washington on Monday, the fourth day of January, one thousand nine hundred and sixty-five

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

Article--

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.

Section 4. Whenever the Vice-President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice-President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice-President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice-President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office. 25

John McCormack

Speaker of the House of Representatives

Hubert H. Humphrey

Vice-President of the United States and President of the Senate
Throughout the laborious process of enactment of this legislation—the study of the needs of the people, the drafting of the bill for presentation, the presentation on the floor of the Senate, the floor fights and debates, committee hearings and subcommittee hearings, passage, and finally ratification—Senator Birch Bayh continually spoke in favor of the legislation. The remainder of this paper is an analysis of the effectiveness of that speaking and what effect this speaking may have had upon the final ratification of the Twenty-fifth Amendment to the Constitution of the United States of America.
FOOTNOTES


4Ibid., pp. 21-22.

5Ibid., pp. 22-23.


8Hearings, p. 54.

9Hearings, p. 58.

10Hearings, p. 65.

11Hearings, p. 67.

12Hearings, p. 70.

13Bayh, One Heartbeat Away, p. 345.

14Ibid.

15President L. B. Johnson as recorded in Birch Bayh's One Heartbeat Away (New York: Bobbs-Merrill Co.1968), pp. v-vi.


17Bayh, One Heartbeat Away, pp. 345-46.

19 Bayh, One Heartbeat Away, p. 346.

20 Ibid.

21 Ibid.


24 Bayh, One Heartbeat Away, p. 347.

25 Ibid., p. 355-56.
CHAPTER III

RHETORICAL ANALYSIS

Purpose of This Chapter

The purpose of this chapter was to make an evaluative judgement via rhetorical analysis of the speaking of Senator Bayh. Included in the following pages are a biographical sketch of the speaker, a description of the method employed in the selection of the texts to be analyzed, an attempt to establish authenticity of the texts to be utilized, a rhetorical analysis of the texts of the speeches, and finally, an attempt to assess the effectiveness of the rhetorical devices employed by the speaker.

The Speaker

A most spectacular upset of the 1962 United States Senatorial elections was the defeat of veteran Republican Homer E. Capehart of Indiana by Democrat Birch E. Bayh, Jr., a thirty-four year old lawyer and former farmer. After reaching the Senate, Bayh distinguished himself particularly by his work as chairman of the Judiciary Committee's subcommittee on Constitutional amendments. He was also a member of the Public Works Committee and was known for his sponsorship or support of bills in the area of conservation and youth opportunity. With some reservation,
Senator Bayh has supported the legislation programs of Presidents Kennedy and Johnson.¹

Birch Evans Bayh, Jr., whose unusual family name is of Welsh origin, was born in Terre Haute, Indiana, on January 22, 1928, to Birch Evans Bayh, Sr., a physical education teacher, and Leah (Hollingsworth) Bayh. In 1935 the father became director of physical education, athletics, and safety in the Washington, D. C. school system, and the family moved to Washington's Maryland suburbs. Birch Bayh, Jr., who had begun his public schooling, continued it in the public schools of Montgomery County, Maryland. He attended Bethesda-Chevy Chase High School until the death of his mother when he returned to Indiana to live on his grandfather's farm in Vigo County.

During his youth, Bayh's chief interest was farming. At seventeen he won the Indiana 4-H Club tomato growing championship. After graduating from high school in Vigo County, he enrolled in the School of Agriculture at Purdue University. At Purdue, Bayh was on the baseball and debating teams and won the University's light heavy-weight boxing championship. In his senior year he was elected president of his class. His college work, interrupted by two years of service in the United States Army, was completed in 1951, when Purdue granted him the Bachelor of Science degree with a major in Agriculture.²

After college, Bayh married and settled with his wife, Marvella, on a 340-acre farm outside Terre Haute, Indiana; but his career as a full-time farmer was short-lived. He soon became
involved in practical politics. In 1954 he was elected to the Indiana House of Representatives from Vigo County. Bayh served four terms in the State House, two of them as minority leader (1957-58 and 1961-62) and one as speaker of the House (1959-60). Reporters covering the Indiana legislative sessions voted him the state's "Most Able Representative" in 1961.

Meanwhile, Bayh became more interested in law than in farming. After a prelaw course at Indiana State College, he attended Indiana University School of Law for three years and received his Doctor of Jurisprudence degree there in 1960. The following year he was admitted to the Indiana Bar. Joining the local law firm of Marshall, Batman and Day, and turning his farm over to a tenant, Bayh moved with his family into a modest home in urban Terre Haute.

In 1961 Homer E. Capehart was in his seventeenth year as a United States Senator from Indiana and was generally considered invincible at the polls. To win for himself the formidable challenge of facing Capehart in the Congressional elections to be held the following year, Bayh, with the help of his wife, began in the spring of 1961 the long, patient task of personally contacting Democrats throughout the state, making his views known to them, and persuading them that he was the man to oppose Capehart. By June, 1962, when the Democratic State Convention was held in Indianapolis, Bayh had gained enough support to win the nomination. As stated earlier, one of the Senator's first
duties within the Senate was Chairman of the Sub-committee on Constitutional Amendments of the Committee on the Judiciary.

The assassination of President John F. Kennedy in November, 1963, raising Lyndon B. Johnson to the Presidency and leaving the United States without a Vice-President, suddenly gave Bayh and his sub-committee an important task to perform: the study of possible improvements in the procedure for Presidential succession.

In 1964 Bayh proposed a constitutional amendment that would have a Vice-Presidential vacancy filled by the choice of the President and approval by the majority of both houses of Congress. Speaking from the Senate floor about Bayh's work on the amendment, Senator E. L. Bartlett said, as recorded in the Congressional Record on February 18, 1965:

He [Bayh] has done an astounding thing. In his first term, he has studied one of the most delicate and most troubling problems of our day, and has found for it, here in the Senate, a well nigh unanimously supported solution.

On January 12, 1965, with Senator Vance Hartke, the senior Senator from Indiana, Bayh introduced in the Senate a bill to permit federal aid for construction of a deep water port on the Indiana shore of Lake Michigan. Other measures he has sponsored or co-sponsored include a program that would gradually diminish the need for wheat subsidies and a bill to require the authentication of mail-order gun purchases by high-level local law enforcement officers. Bayh's current bill (1970) on the
floor of the Senate deals with the abolition of the electoral college in Presidential elections.  

The United States Junior Chamber of Commerce named Bayh one of the ten Outstanding Young Men in the Nation in 1963. Noted for his interest in education in the young people, Senator Bayh has served handicapped children as Indiana Easter Seals campaign chairman in 1965, 1966, 1967, and 1968. He now serves on the National Advisory Committee of the Society for Crippled Children and Adults and has been named permanent chairman of Indiana Easter Seals.

Selection of Texts To Be Evaluated

Previous to any type of analysis of a speaker or speeches, a primary obstacle had to be overcome: the availability of the speeches in some sort of recorded manner. In this particular case only two recorded sources for the texts of the speeches were found. The Congressional Record, of course, contained the speeches as delivered by the Senator on the floor of the Senate. Secondly, Senator Bayh's book One Heartbeat Away contained sections of speeches given in the United States Senate and sections of certain speeches delivered outside the Senate Chambers. Within the process of selecting the speeches for analysis, it was thought that the complete speech of the Senator would be a primary requirement. It was also thought that the Congressional Record is a fairly accurate recording of the transmission on the floor of the Senate as it is a record of what
the Senators and Representatives hope to have said. The speeches, then, to be analyzed in this paper have originated from the pages of the Congressional Record. The particular speeches to be utilized will be the speeches as recorded in the Congressional Record on September 28, 1964; February 19, 1965; and July 6, 1965. It was felt that these three speeches best represent the total speaking of the Senator on the topic of Presidential succession in that they represent the speaking of the Senator at three different periods of development of the resolution: the introduction, a progress report on the development of the bill, and the final speech for passage within the chambers of the Senate of the United States. It is further assumed that these speeches best represent the scope and range of the Senator's rhetorical qualities and abilities as he was speaking to his colleagues in such a manner as to produce persuasion and to get the proposed measure passed.

Authenticity of Texts

As stated by Thonssen and Baird:

Clearly the critic needs genuine materials, if he is to appraise oratory without prejudice and folly. If a speaker is to be judged by what he said, it would seem proper that his words be quoted with as much fidelity to original utterance as possible. Undoubtedly, a speaker's general train of thought can be evaluated, and with discernment, even though the critic works with inaccurate texts.

The best method of getting an authentic text is, of course, to make a recording of the speech while it is being delivered. Since recording is a recent development and even now often unfeasible because of the
equipment and financial resources necessary for its successful use, we must turn to the next best way of finding the most accurate version. That method is one of matching, or comparison.  

In any rhetorical or historical study, it is imperative that the author have accurate information on which to base the study. In this particular search, several sources were investigated in an attempt to obtain as many different copies of the texts as possible. In this manner an attempt was made to establish probable authenticity. In a letter to Senator Bayh of October 23, 1969, the question was asked, "If possible, could you or your office supply me with any information as to how I might get copies of speeches, transcripts, or notes which might be of assistance in my research?" To this request the response was:

"I regret to inform you that the speeches on the 25th Amendment are simply not in abundance. After the Amendment's introduction, I spoke a great deal until its ratification, but most of these were 'off the cuff'."

A second attempt at establishing probable authenticity was to locate articles in the Washington Post of the New York Times which might contain a paragraph or two and to compare these passages with the text which had been procured. However, this investigation produced no concrete results as no accounts of the Senator's speeches were located within those papers.

In his book, Senator Bayh indicated that he had spoken in Indianapolis in October 1965. Accordingly, a letter was addressed to the editor of the Indianapolis Star asking if a copy
of the speech was recorded and for information as to how to 

obtain a copy. To the request the reply was, "I am enclosing 
a copy of the story we carried on October 31, 1965, in regard 
to the Bayh speech. We do not have a copy of the text of the 
speech. Have you tried Senator Bayh's office in Washington?"

A few days previous to this, a letter was addressed to the In­
dianapolis office of Senator Bayh requesting the same information to which no response was received.

Following this search for collaborating texts, the 
decision was made to use the speeches as recorded in the Congressional Record. In communication with the Senator, a question as to the accurateness of the speeches as found in the Congressional Record was asked, to which the reply was: "The Congressional Record contains an accurate account of the speeches I made in connection with the 25th Amendment."

A point here may be of interest. In the reading of the Senator's book, One Heartbeat Away, an exact duplicate to the speech made on July 6, 1965, within the Senate Chambers, as recorded in the Congressional Record, was located. This led to the belief in the accurateness of the speeches as recorded— if the second was not copied from the former.

It is thought, then, that these speeches as recorded in the Congressional Record do represent the best available texts of the Senator's speaking at three different periods of chronological development in the success of the 25th Amendment. It
is recognized that in those areas where textual authenticity is most crucial, such as style, conclusions drawn will need to take into account the possibility of less than totally accurate texts.

**Basis of the Criteria for the Rhetorical Criticism**

The basis of the criteria for the subsequent rhetorical criticism, unless otherwise mentioned, was Lester Thonssen and A. Craig Baird's *Speech Criticism.* Suitable standards of judgement were found in Part V of this text. The basis for the selected criteria are classical writings. Therefore, the analysis called for five major divisions: invention, arrangement, style, memory, and delivery. It was the intent of this study to evaluate in all the classical divisions of rhetoric; however, in the process of gathering information, there was no available means whereby to analyze delivery, as no electronically recorded copies of the Senator's speeches exist. Additionally, Thonssen and Baird report that memory has dropped out of common usage in rhetorical criticism. For these reasons, the canons of memory and delivery will not be utilized in this rhetorical criticism. Therefore, the following analysis will fall under the headings of invention, arrangement, and style.

Regarding invention, the speeches will be analyzed under the division of logical proof, emotional proof, and ethical proof. The arrangement of the speeches will be criticized on the basis of the emergence of the theme, the choice of
organizational patterns, the clarity of transitions and main points, and the adequacy of conclusions. The analysis of style will include the evaluation of the attributes of clarity, correctness, appropriateness, and vividness. Following the rhetorical analysis, a judgement of overall effectiveness will be attempted. This particular method of criticism was chosen as the basis for evaluation because of its comprehensiveness in the selected canons.

Arrangement

"Arrangement is the structure of oral discourse." 18

It can be defined as the manner in which the speaker coordinates his material and his particular arguments. 19

In the broadest sense disposition (Arrangement) embraces the following matter: the emergence of the central theme, the general method of arrangement adopted for the speech, and the order in which the parts of the discourse are developed. 20

The objectives of the critic in the evaluation of arrangement should be to examine the speech as an instance of rhetorical craftsmanship and to appraise the total organization with reference to the audience conditions. 21 This analysis represented an attempt to observe and evaluate (1) the emergence of the central theme of each of the selected speeches, (2) the choice of organizational pattern, and (3) the apparentness of the main points and transitions utilized by Senator Bayh in his speaking.
Thematic Emergence

According to Thonssen and Baird, the speech should contain a clearly defined and easily determined thesis or purpose. In order to evaluate the emergence of the thesis of the Senator’s speaking, the critical question was: How clearly did the central theme emerge?

In his speech of September 28, 1964, the Senator’s opening statement immediately led to his thesis statement:

I speak this afternoon in support of the constitutional amendment, Senate Joint Resolution 139, which deals with the basic structure and the basic transfer of authority of executive power, the office of the President and the office of the Vice-President of the United States.

In the above paragraph the Senator displayed his purpose for the entire speech: speaking in favor of his proposed amendment, Senate Joint Resolution 139.

The thesis statement of his speech of February 19, 1965, also emerged with the same type of straightforward manner. As stated by the Senator:

There are one or two additional points which were raised by the minority leader, on which I should like to comment. First, I should like to point out that in the quotation which he read from the Presidential message, the President was at that particular time addressing himself to the need for a Vice-President at all times, to elect a Vice-President by Congress and Presidential appointment, a matter which is not even contained in the Dirksen amendment. Second, I refer to my earlier remarks, that under the Provisions of section 3 where the President voluntarily gives up his powers, is the understanding reinforced by the testimony of the Attorney General, that he could assume it merely by declaration, and would not have to invoke the provisions of the section 5 and bring in the Vice-President, and the Cabinet, and Congress.
For the first time on this particular resolution, the Senator's type of speaking changed to that of answering the questions raised by his fellow senators on the floor of the Senate Chambers. In this case, the thesis again was presented in such a manner as to be easily detected.

In his speech of July 6, 1965, the Senator, in refutation to further questions raised on the floor of the Senate, immediately presented himself to the matter at hand using the following statement:

Mr. President, I thank the Senator from Illinois and the other Senators who have labored tirelessly to help us get this far down the road. I yield myself such time as I may require to discuss the points which have been raised by the Senators. I have no prepared speech. I have made some notes on one or two points that I wish to discuss. I shall speak with as much ability as I possess and try to clarify the question of intent in the consideration of this subject. However, I emphasize that the Senator from Tennessee and I share one intention, among others, and that is we seek to clarify any ambiguity which may exist.

Therefore, the expressed main purpose of this particular speech, as outlined by the Senator, was to clarify points which had arisen from the members in attendance. In this speech, as observed in the two preceding speeches under consideration, the theme or thesis statement was easily recognizable and lent itself to a qualified organizational pattern.

Method of Organization

Method of organization "implies a choice of a principle by means of which the materials of a speech are divided."26 It
is the rational basis for the divisions of a speech. There are three common types of organization: the historical, the distributive, and the logical. A less common type of organization used in persuasion is that of elimination order. In the choice of organizational pattern, the following questions were explored: What type of organizational pattern was used by the Senator in the development of his speeches, and was the choice a wise one?

In the speech of introduction of Senate Joint Resolution 139 of September 28, 1964, a type of topical-historical order was utilized. As stated in Thonssen and Baird, historical order can be defined as material divided into time units. The arrangement can be from past to present to future, from present to past to future, or any other derivative of this pattern. Although this particular speech is topical in nature, the Senator has arguments arranged in an historical order. He used a pattern of beginning with the present or present past as he stated:

Earlier this year, the American Bar Association conducted a 2-day meeting—a forum of the leading constitutional lawyers and scholars in the Nation—to which members of the subcommittee were invited. At this point, the Senator changed to the present time and the present problem: that of having no Vice-President. As was stated by the Senator:

Mr. President, the first of our problems is that there is a vacancy in the office of the Vice-President. I remind Senators that the office of Vice-President has gone through a period of development, perhaps to a greater degree than any other office in the history of the country.
At this point, the Senator recalled the development of the office of the Vice-President:

Senators will recall that John Adams, the first Vice-President, described his new job as the most insignificant one that ever the invention of man had contrived.

Later, Theodore Roosevelt, Vice-President at the age of 42, was quoted as saying that he was going to Washington not to be praised, but to be buried. John Nance Garner, graphically described the Nation's second highest office in terms which are typical of this great Texan. He described the Nation's second highest office as not being 'worth a pitcher of warm spit'.

The attempt was made to re-enact the past with the implications of the present and to project into the future the seriousness of this problem and the real need for a change in the status quo. After examination, the conclusion was made that the method of organization employed by the Senator was effectively used in terms of the purpose of the speech: his speaking in favor of the proposed amendment and presenting a basic criterion of need for that measure.

In the speech of February 19, 1965, the Senator designated his organizational structure via his thesis statement:

"There are two additional points which I should like to consider that have been raised from the floor of the Senate." By means of this thesis statement itself, the Senator delineated the pattern of arrangement that he would use--topical or distributive. The statement of the Senator was as follows:

First, I should like to point out that in the quotation which he read from the Presidential message,
the President was at that particular time addressing himself to the need for a Vice-President at all times, to elect a Vice-President by Congress and Presidential appointment, a matter which is not contained in the Dirksen amendment.

Second, I refer to my earlier remarks, that under the provisions of section 3 where the President voluntarily gives up his powers, it is the understanding—reinforced by the testimony of the Attorney General—that he could assume it merely by declaration and would not have to invoke the provisions of section 5 and bring in the Vice-President, the Cabinet and Congress.

By means of a qualified endorsement, this choice of organization was wise. However, the Senator tended to group all objections into two categories which called for an overgeneralization on his part. Perhaps at this point that was not the most advantageous.

Likewise, in the speech to the Senate on July 6, 1965, the Senator again qualified the organizational pattern to be utilized in his thesis statement:

I yield myself such time as I may require to discuss the points which have been raised by the Senators. I have made some notes on one or two points that I wish to discuss.

Conclusions which might be drawn from the foregoing information led to the belief that in the speech of September 28, 1964, the Senator relied heavily upon the topical-historical form of organization. In the speeches of February 19, and July 6, 1965, he changed his pattern to that of a strictly distributive method of organization. This was done to deal specifically with refutation, which had been raised from the floor of the Senate, and to clarify points of uncertainty.
On the basis of the foregoing criticism and analysis, the conclusion was made that the methods of organization were clear and, for the most part, adapted to the particular situation. As the organizational patterns were clearly defined, the patterns utilized by the Senator did not appear contrary to the persuasion needed.

Development of the Speech

Plato remarked that:

...every speech ought to be put together like a living creature, with a body of its own, so as to be neither without head, nor without feet, but to have both a middle and extremities, described proportionately to each other and to the whole. 36

The development of the speech is the order in which the parts are put together. The clarity of the transitions, the mainpoints of the speech and the main points of the body are important. 37

The question to be dealt with here is: How clear were the main points and transitions in the speeches of Senator Bayh?

In the Senator's speech of introduction for Senate Joint Resolution 139, the main points were relatively easy to detect. As he stated:

Mr. President, the first of our problems is that there is a vacancy in the office of Vice-President. I remind the Senators that the office of Vice-President has gone through a period of development perhaps to a greater degree than any other office in the history of the country. 38

A bit later, the emphasis shifted to the following rhetorical question: "Why have a Vice-President? Has not this office been
the subject of sharp satire since the Constitutional Convention created it as an afterthought?"39 At this point, the Senator again shifted to the topic of national security.

I am sure it is the consensus of the Senators that there are few more significant issues of the day than the security of our Nation, the race for space, and the fight for equal rights. The Vice-President is by virtue of his office in the thick of each and every one of these issues.40

In the fourth and final part of the body of the speech, the Senator spoke of the "constitutional gap" as he stated:

Our obligation to deal with the question of Presidential inability is crystal clear. In this instance, there is a constitutional gap, or a blind spot. We must fill this gap if we are to protect our Nation from the possibility of floundering in the sea of confusion and uncertainty.41

In this speech the main points were easily located and detected.

In the Senator's speech of February 19, 1965, the structure was different. The reader will recall that in this particular speech, the senator was addressing himself to the questions which have been raised by his colleagues in that chamber. In this case the transitions were actually supplied by his fellow senators. The speech tended to hinge on three basic areas. In the first place, the Senator addressed himself to the problem of when the Vice-President would become the Acting President:

I point out for the Record, with respect to the wording of the amendment, that, as originally introduced and as reported by the committee, it was suggested that the message would be transmitted to Congress.42

Secondly, a question was asked dealing with the possibility that Congress would not be in session; to which the reply was:
It is specifically provided in section 5, when it is necessary for Congress to convene, that it shall immediately proceed to decide.\textsuperscript{43} 

The third and final point included in this particular speech was that of calling for the unanimous consent of the Senate to have a letter from Attorney General Katzenbach in support of the proposed amendment printed in the Record. As the Senator stated:

\begin{quote}
I should like to suggest that this might be an appropriate time to ask the unanimous consent to have printed in the Record a letter which I received yesterday from the Attorney General, Nicholas Katzenbach, in an effort to clarify and point out specifically that his opinion does away with some of the rumors to the contrary.\textsuperscript{44}
\end{quote}

In this speech the Senator used dialectical process that provided an effective and complete transition.

In his speech of July 6, 1965, the development might be categorized as one of dialectical refutation. By this means Senator Bayh adhered to the questions of his fellow senators and then refuted the points which stood little ground. First, "Reference has been made to the position of the Attorney General of the United States which was previously inserted in the Record and verified his position supporting Senate Joint Resolution 1."\textsuperscript{45}

Secondly, the Senator stated:

\begin{quote}
The question has been raised as to why we have put the Vice-President in the position of acting in the capacity he would have under the amendment. I believe that former President Eisenhower dramatically made this point in the presentation he made before the conference of the American Bar Association called by the President last June.\textsuperscript{46}
\end{quote}
And finally the Senator stated:

There has been a great deal of discussion about the last section, the most controversial section, of the proposed amendment. I point out, based upon my judgment, that this most controversial part of the amendment rarely if ever would be brought into play.  

The Senator displayed an ability to speak with a type of occasional analysis. In the first occasion a means of explanatory rhetoric was necessary. On the second occasion, the Senator lent himself to a type of dialectical approach. Finally, in the speech of July 6, 1965, he again shifted to a type of refutational rhetoric to call for the further passage of the proposed amendment. As to the effectiveness of this procedure, based upon the clarity of the main points and transitions, it seemed that the development of the speeches was handled adequately and the main points were readily apparent.

Conclusions

The conclusion is the means by which the speaker attempts to refresh the memory of the auditors concerning the content of his speech. The critical questions to be considered here are

(1) What types of conclusions were utilized by the Senator: and

(2) How effective were they? In considering the conclusions used by the Senator, in the speech of September 28, 1964, a summary was employed. As the Senator stated:

I have tried to make some principal points thus far. I have said that we should provide a means by which we might have a Vice-President at all times. And I have said that we must provide machinery by
which the Vice-President could act as President if the President himself were disabled. The summary in this case appeared to be effective.

In his speeches of February 19, and July 6, 1965, however, a change was made to a type of review of recent legislative action and a closing remark. In the speech of February 19, 1965, the following was used:

The issue of calling a special session has been well covered in previous colloquy and I shall not repeat what has been stated; but it is our understanding that sufficient authority has been indicated in the report to adequately point out that the intention of the amendment is to give this power to the President of the Senate and the Speaker of the House. I close by saying that it seems to me we are making a general policy determination which was articulated so well by my colleague, the Senator from North Carolina (Mr. Ervin), as to whether we are going to open Pandora's box to permit a blanket check provision to be given to Congress to provide laws in these vital areas at some later date.

At this point the method used to conclude the speech appeared effective as it did refresh the memory of the audience of the present problem. And in the July 6, 1965, speech the Senator remarked:

In the last session of Congress, the Senate passed the proposed legislation by a vote of 65 to 0; in the present session of the Congress, the Senate passed the measure by a vote of 72 to 0.

This measure is not something which we have arrived at on the spur of the moment. We have had controversy and differences of opinion over individual words. I should like to remind Senators that during the past few years we have received over 100 different proposals. Since I have been chairman of the Subcommittee on Constitutional Amendments, during the past few months 26 different proposals have been submitted. I point out that
if those who had the foresight to introduce proposed legislation on the subject had not been willing to try to reach a consensus, and if it had not been for the guiding hand of the American Bar Association to try to get those with differing views together, we would not be so far as we are now. I do not believe that we should let two words separate us.50

Again, this type of review and closing statement appeared to adequately conclude the speech.

As to the adequacy of the conclusions utilized in each instance, those used were, indeed, adequate and effective.

Invention

According to Aristotle, invention refers to the proof which produces persuasion. These proofs consist of three types:

The first kind resides in the character of the speaker, the second consists in producing a certain attitude in the hearer, and the third appertains to the arguments proper, in so far as it actually or seemingly demonstrates.51

Thonssen and Baird accept these three types of proof and add the intellectual resources of the speaker and the functional validity of the arguments as essential ingredients of invention.52

This section includes an analysis of invention: first, by evaluating the ethical proof of Senator Bayh; second, by analyzing the emotional proof utilized by the Senator; and third, by an analysis of the logical proof utilized by the Senator in his speaking on the floor of the Senate.
Ethical Proof

Ethical proof or ethos was defined by Aristotle in his *Rhetoric*, when he said:

The instrument of proof is the moral character when the delivery of the speech is such as to produce an impression of the speaker's credibility; for we yield a more complete and ready credence to persons of high character not only ordinarily and in a general way, but in such matters as do not admit of absolute certainty but necessarily leave room for difference of opinion, without any qualification whatever.53

Ethical proof is the character of the speaker as perceived by the audience. It can be divided, as it was by Aristotle, into the character, knowledge, and goodwill of the speaker.

Perceived character of the Senator

The character of the speaker can be defined as an attempt on the speaker's part to make himself appear virtuous. There are several means by which the speaker can focus attention on his character. Those means are offered by Thonssen and Baird as follows:

In general, a speaker focuses attention upon the probity of his character if he (1) associates either himself or his message with what is virtuous and elevated; (2) bestows, with propriety, tempered praise upon himself, his client, and his cause; (3) links the opponent or the opponent's cause with what is not virtuous; (4) removes or minimizes unfavorable impressions of himself or his cause previously established by his opponent; (5) relies upon authority derived from his personal experience; and (6) creates the impression of being completely sincere in his undertaking.54

The critical idea to be dealt with here was to determine to what
degree the Senator was building the image of his personal character via his speaking.

In his addresses the Senator seemingly attempted to create an illusion of sincerity. By this means, he seemed to build a bond of trust between himself and his audience. The Senator made four attempts at establishing his character in line with criterion (6) as offered above. In the first speech of introduction, the Senator stated:

The problems of Vice-Presidential vacancies and Presidential inability are complex and significant, to say the least. In my estimation, they deserve our urgent attention. The problems are not insoluble. They are not new problems. They have confronted us many times in the past. They have been the subject of discussion from time to time since the adoption of the Constitution. But today they have a ringing urgency with the tragedy of our martyred President still fresh in our memory. Now, for the first time in our history, we are on the brink of finding a solution. The Committee on the Judiciary has favorably reported Senate Joint Resolution 139.55

In this opening statement, Senator Bayh pursued the problem and attempted to gain the trust and devotion of his fellow senators. By stating that the problem was not insoluble, the Senator addressed himself to the human aspect of the power of reason.

A second apparent attempt to further substantiate his cause was the introduction of the testimony of the American Bar Association and other authorities. As the Senator stated:

Today, I am happy to report that there is a vast grassroots feeling of urgency. I should like to give particular credit to the American Bar Association which has done more than any single group to help us arrive at this consensus. I present this consensus today on
In introducing statements and testimony Senator Bayh adhered himself to the laurels of the American Bar Association and other respected individuals in an attempt to identify his personal character with that of the Association. As mentioned earlier in this chapter, the Senator, along with many of his colleagues, was a member of the American Bar Association. By identifying with several members of the Senate, he associated himself with criterion (1) mentioned earlier.

A third means the Senator used to appear virtuous was that of bestowing praise upon the government as a whole and then to associate his associates with a virtuous cause. The Senator stated:

Each time a President has died, it has been a severe shock to the Nation; but each time the Government has withstood the test, and there was an orderly transfer of Executive authority. We pray that we may never be faced with the supreme test—the loss of a President and a Vice-President within the same 4-year term of office. But in the event that history does not treat us so kindly in the future as it has in the past, we must be prepared for such an eventuality. For, whatever tragedy may befall our national leaders, the Nation must continue in stability, functioning to preserve a society in which freedom may prosper.

Finally, the Senator associated himself with his colleagues in the Senate and indicated the virtuous path which they all must follow:

I express my gratitude to the long list of co-sponsors which now lists some 32 Senators. I point
out that this is good evidence of the fact that Senators today are willing to compromise, even though they have their own ideas on the best way to achieve the end we all seek.

There is no pride of authorship in Senate Joint Resolution 139. Rather, there is the desire that Senators on both sides of the aisle support the resolution.58

In his speech of introduction the Senator apparently relied heavily upon the concept of establishing his own character in the minds of his audience. However, in the second speech of February 19, 1965, and the third speech of July 6, 1965, little attempt was made in this vein. It should be remembered that these two speeches were of interaction and debate. In the second speech (February 19, 1965) the Senator utilized only two instances of establishing character. The first was in direct refutation to a statement from Senator Bass of Tennessee when Senator Bayh stated:

Mr. President, let me point out, in studying this situation carefully, that the Senator from Tennessee hit upon only two of the many possibilities, if we are to expand our wildest dreams. The specific point to which the Senator refers, I should like to point out, is very little different from the customary constitutional requirements of advise and consent which the Senate has over the Executive appointments; and that during the period to which the Senator referred, the President was of one party and the Congress was of another, there was very little discussion and refusal on the part of the legislative branch to accept the appointments of the President.59

The second attempt was made when the Senator associated himself with the virtue of the total democratic system of government and included the proposed measure. He spoke as follows:
There is a President who is able to conduct business and carry on the affairs of our country. I should dislike to see everything that must be decided by Congress come to a stop in the event Congress becomes logjammed on this question.  

In the third speech (July 6, 1965), the Senator used only one instance which could be intended to build his character image. In direct refutation he stated that the objections as set forth by his colleagues were not in the best interests of the country, and therefore a question of virtue arose. In this case the Senator linked his opponents' cause with that which is not virtuous, which meets criterion (3) as stated above, as he stated:

It is our intention for the plan, as it is enacted, to have a Vice-President and a majority of the Cabinet make the decision, unless Congress, in its wisdom, at some later time determines by statute to establish some other body to act with the Vice-President. It would be rather ridiculous to give that power to Congress and provide at the same time that it may not exercise it within a certain number of years, or could not exercise it at all. We give to Congress, in its wisdom the power to make the determination as to when another body should act in concert with the Vice-President. It is our intention that at that time this other body shall supersede the Cabinet. 

The Senator, in his rhetoric, did attempt to illustrate his personal virtue as well as the virtue of the measure introduced. The reliance upon this factor was stronger in the opening address, but the attempt was obvious throughout the course of his speaking on this particular measure.
Perceived knowledge of the Senator

Personal knowledge exhibited by any speaker tends to build his ethos as it makes him appear a more believable source. The means by which a speaker may establish his apparent knowledge are various. As stated in Thonssen and Baird:

A speaker helps to establish the impression of sagacity if he (1) uses what is popularly called common sense; (2) acts with tact and moderation; (3) displays a sense of good taste; (4) reveals a broad familiarity with the interests of the day; and (5) shows through the way in which he handles speech materials that he is possessed of intellectual integrity and wisdom.62

The critical idea considered here was the assessment of the Senator's effectiveness in establishing his personal knowledge of the subject: the effectiveness with which the Senator utilized his personal knowledge as a means of ethical proof.

In the first speech of introduction, the Senator drew heavily upon his personal knowledge in dealing with the several occasions which the United States had been faced with the problem of having no Vice-President or in cases where the illness of the President left the decision making office of the Vice-President vacated. As he stated:

It is almost unbelievable that on 16 different occasions, totaling more than 38 years in time, the United States has been without a Vice-President. In any one of those years something could have happened to the President which would have required another individual other than the Vice-President to act as President. Eight times in our history a President has died and has been succeeded by the Vice-President. Seven times, the Vice-President has died in office. On one occasion, the Vice-President, John Calhoun,
resigned. It will be remembered that when Mr. Nixon was on an official mission as the Nation's chief ambassador as Vice-President, he confronted surly youths in Latin America, and also met Mr. Khrushchev in the famous kitchen debate.

For nearly 2 years, after President Wilson collapsed with a stroke, our Government was virtually controlled by Mrs. Wilson and the President's personal physician—two well-meaning individuals, but hardly those with constitutional authority to direct our affairs of State.63

By means of these documented literal examples of periods of possible tragedy, the Senator displayed a trait of being "well schooled" in the problem at hand and lent himself to a more believable and plausible rhetoric through the designated criterion (5) listed above.

At a later time, in the speech of February 19, 1965, the Senator again displayed his personal knowledge of various aspects of the problem. Points arising from the questions on the floor required a great deal of reflective thinking, and there was little, if any, time to prepare a speech of refutation. In this particular speech, only one example of the Senator's personal knowledge was displayed in response to a question from the floor.

As stated by the Senator:

In the 12th amendment, as the Senator knows, in the event no candidate receives a majority of the electoral votes, it is the responsibility of the House to decide who the President shall be; in the case of the Vice-President it is the responsibility of the Senate. We should have some sense of urgency in this situation and put all other things aside.64
Remaining within the realm of refutational rhetoric, Senator Bayh again drew upon the well of personal knowledge to lend support to his arguments in the speech of July 6, 1965. The following examples are offered:

With respect to "either/or," it is clear to me—and I invite the attention of the Senators to the definition of this phrase in Black's Legal Dictionary and to most legal cases on the point—that when we talk about "either/or" it is interpreted in the disjunctive. It does not refer to two, but to either one or the other. 65

To those students of history I do not have to document again and again the fact that we have labored for 187 years as a country and we have not yet been able to get sufficient support for any type of proposed legislation in this area. In 38 of those years we had no Vice-President. We have had three serious presidential disabilities. Wilson was disabled for 16 months. Garfield was disabled for 80 days, and during that period there was no Executive running the country. 66

However, it should not be taken for granted that the Senator had all supporting matter committed to memory. In the same speech the Senator utilized the following example of criterion (3) as stated above:

Mr. President, I have uncovered three or four cases dealing with Article V of the Constitution. They are Hawke v. Smith, 253 U. S. 221; Dillon v. Gloss, 256 U. S. 368; National Prohibition cases, 253 U. S. 350; and United States v. Sprague, 282 U. S. 716. 67

What was the effectiveness of the Senator in establishing his perceived knowledge? The answer must be that Senator Bayh relied heavily upon his perceived knowledge to aid his arguments in all three speeches. At times, he documented the sources
for the information. In these particular instances, the audience was given a firm basis from which to perceive the Senator as being knowledgeable about this topic. This would certainly enhance the Senator's ethical proof.

**Perceived good will of the Senator**

Good will can be defined as the speaker's apparent belief in the ends which the means produce. For the most part, good will can be the speaker's conviction to his predetermined purpose. In addition, good will can mean the Platonian concept of speaking "truth" to this audience. Means by which a speaker's good will can be revealed are stated as follows by Thonssen and Baird:

...(1) to capture the proper balance between too much and too little praise of his audience; (2) to identify himself properly with the hearers and their problems; (3) to proceed with candor and straightforwardness; (4) to offer necessary rebukes with tact and consideration; (5) to offset any personal reasons he may have for giving the speech; and (6) to reveal, without guile or exhibitionism, his personable qualities as a messenger of the truth.68

The primary concept to be considered here is with what effectiveness did the Senator communicate an attitude of good will or trust?

In each of the three speeches of Senator Bayh, the purpose could be considered a measure of good will. The Senator addressed himself to a proposal that was to alleviate a problem which existed in the American form of government. By this means he immediately conformed to the standards of providing good will by addressing himself to the problems of the hearers—criterion (2) as stated
above. In this case, the hearers were the elected representatives of the total American public. In the speech of introduction, three of the above listed criteria for providing good will were used by the Senator. In the first place, the Senator dealt strictly in a candid and straightforward manner. (See footnote 64). Secondly, the Senator addressed himself as representing a type of universal truth which existed within the population of the nation:

It seems to me that a private agreement would not enjoy the confidence of the public, as would the measure which I hope will be enacted by this body. 69

A third means of addressing himself to the quality of good will was revealed in the manner in which he praises the work of others within the audience itself:

I am more than happy to yield to the distinguished Senator from North Carolina. Later I intended to point out that the Senator is one of those who has led us down the road to a consensus. I feel that the roadblocks still ahead of us would have been much larger than they are if it weren't for him. I am very grateful to the Senator. 70

In the speech of February 19, 1965, the Senator, in the process of actually debating issues of the proposal, relied heavily upon two of the aforementioned standards: (3) candor and straightforwardness and (4) his rebukes with tact and consideration. In the first place, the Senator offered refutation in a straightforward manner as illustrated by the following:

There is a President who is able to conduct business and to carry on the affairs of our country. I should dislike to see everything that must be decided by Congress come to a stop in the event Congress becomes
logjammed on this question. It is conceivable that the example the Senator from Tennessee cites could come to pass. However, I believe there is very little likelihood that it would.\(^1\)

The situation to which the Senator from Michigan refers is one that has not gone unnoticed by the Senator from Indiana. Before this circumstance arose, the Vice-President, a majority of the President’s Cabinet, and two-thirds of the House of Representatives which does not have unlimited debate, would have to support the contention of the Vice-President. As soon as one less than two-thirds of the House cast their votes the issue would become moot, and the question would be out of court.\(^2\)

Secondly, in light of refutation from the floor of the Senate, the Senator sets out to refute points raised with a great degree of tact and consideration, as exemplified by the following:

Mr. President, I have said repeatedly in the Chamber that one of the main criteria, if not the main criterion, for the orderly transition of executive authority is acceptance by the people. With all due respect to the Senator from South Carolina, since we have been involved in this discussion, I have repeatedly consulted people in my State and other States that I have visited, who were members of the electoral college from their State. To date, I have found one person who knew one member of the electoral college.\(^3\)

Mr. President, let me point out in studying this situation that the Senator from Tennessee and the Senator from Rhode Island hit upon only two of the many possibilities if we are to expand our wildest dreams.

The specific point to which the Senator refers, I should like to point out, is very little different from the customary constitutional requirements of advise and consent which the Senate has had over Executive appointments; and that during the period to which the Senator referred, the President was of one party and the Congress was of another, there was very little discussion and refusal on the part of the legislative branch to accept the appointments of the Presidents.\(^4\)
In the final speech under consideration, that of July 6, 1965, Senator Bayh utilized three of the criteria mentioned earlier in this section: proper balance between too much and too little praise of his audience, candor and straightforwardness, and finally rebukes with tact and consideration.

First of all, the Senator was not afraid to praise the work of his fellow colleagues. As he stated:

I point out that if those who had foresight to introduce proposed legislation on the subject—the Senator from North Carolina (Mr. Ervin), the Senator from Illinois, the Senator from Kentucky (Mr. Cooper), the Senator from Idaho (Mr. Church), and others—had not been willing to agree and had not been willing to try to reach a consensus, and if it had not been for the guiding hand of the American Bar Association to try to get those with differing views together, we would not be so far as we now are.75

Secondly, the Senator again attacked in a straightforward manner any refutation or question raised:

Reference has been made to the position of the Attorney General of the United States which was previously inserted in the Record and verified his position supporting Senate Joint Resolution 1. In this position, he was joined by a rather long list of Attorneys General of the United States, going back to Biddle and Brownell.76

Thirdly, the Senator handled his refutation of points raised with a great deal of tact and consideration. Two examples were located:

There has been a great deal of discussion about the last section, the most controversial section, of the proposed amendment. I pointed out, based upon my judgement, that this most controversial part of the amendment rarely if ever would be brought into play.
Some Senators might say, 'What is the rush? We can send the measure back to the conference committee and have it reworded'. To those who are students of history I do not have to document again the fact that we have labored for 187 years as a country and we have not yet been able to get sufficient support for any type of proposed legislation in this area. 77

This portion of the analysis was begun to measure the effectiveness of the Senator in gaining the trust of his colleagues to his arguments. With the exception of perhaps too much praise of his audience, the conclusion can be drawn that by adhering to the criterion to establish said trust, the task was handled adequately. On the other hand, it cannot be overlooked that the Senator did not utilize all methods listed above; and it may be that if additional points were used the rhetoric of the Senator might have been more effective.

Emotional Proof

The second division in the canon of invention deals with emotional proof or pathos. Emotional proof is designed to put the listener in a frame of mind to react favorably and comfortably to the speaker's purpose. 78 The basic consideration is the adaptability of the speaker to the human behavior found in the specific group that he is addressing.

Emotional proof is also the ability of the speaker to touch the feelings of the audience with what he has to say. It can be an attempt to relate to the emotions and convictions of that audience. Analysis was based on (1) the principles of audience analysis and (2) the Senator's attempts to adapt to his particular audience.
Audience analysis

The pre-analysis of an audience is designed to furnish the speaker with information that will enable him to adapt his material to the hearers. This is an investigative undertaking which the speaker conducts prior to his talk. He relies on the collected data for guidance in composing the speech. The critical concept to be considered here is: To what extent, and with what measure of success, did the speaker analyze his audience?

As stated in Thonssen and Baird:

The critic will try to determine how fully the speaker took the following audience characteristics into account in the preparation and presentation of his speech: (1) age level; (2) sex; (3) intellectual and informational status with regard to the subject; (4) the political, social, religious, and other affiliations; (5) the economic status; (6) known or anticipated attitude toward the subject; (7) known or anticipated prejudices and predispositions; (8) occupational status; (9) known interest in the subject; (10) considerations of self-interest in the subject; and (11) temper and tone of the occasion.

In these particular speeches of the Senator, no direct instance of audience analysis were located in the texts themselves. However, it can be assumed that having been a member of that particular audience for three years, Senator Bayh had a fairly good working knowledge of his particular audience. It follows then, that the apparent arguments might have been perceived and those arguments worked out in advance of the presentation on the floor of the Senate. Also, the bill (S. J. Res. 1) had already survived the Senate Committee hearings where many objections must have been raised by fellow colleagues. But in
consideration of the criteria stated above, there is no possible means by which one can prove that the Senator actually analyzed his audience in preparation of his presentation.

**Audience adaptation**

As stated in Thonssen and Baird:

Another important phase of this matter is the adjustment that the speaker makes during his speech. Here we are dealing either with the response he makes to such overt behavior as applause or heckling, or to the intangibly tacit reactions indicating degrees of satisfaction or dissatisfaction with the proceedings. Since the critic frequently deals with speeches which he did not hear, he must necessarily rely upon texts which, at their best, serve as unsatisfactory if not wholly unreliable indicators of these subtle reactions. In this particular therefore, he operates under several restrictive conditions.  

Adaptation can be defined as the adjustment made by the speaker to the variables of human behavior found in the audience. The speaker should analyze the audience to whom he will speak in an effort to adapt his material to the hearers and always deliver his ideas with a concept of expected emotional makeup of that particular audience. He should also have an idea of the possible reactions of the audience to his speaking.

The critical idea considered here was: How well did the Senator adapt to his audiences? Three basic criteria were explored: (1) arousal of sympathy, (2) identity with the feelings of the audience, and (3) appeals made to the audience.

The first consideration was the Senator's attempts to arouse a sympathetic response from his audience. Only three
attempts at arousing a feeling of sympathy within the audience were located. The first was in the speech of introduction on September 28, 1964. As the Senator stated:

I am sure it is the consensus of Senators that there are few more significant issues of the day than the security of our Nation, the race for space, and the fight for equal rights. These are certainly among the paramount issues of our day and age. The Vice-President, by virtue of his office, is in the thick of each and every one of them. 82

A second attempt of arousing a feeling of sympathy was located in the speech of February 19, 1965:

As I pointed out in my earlier remarks, the horrible tragedy in Dallas, Texas, would have been much worse—if that is possible to imagine—if we had not had a definite procedure which was accepted by the people of America so that Lyndon Johnson could assume the office of President, succeeding to the office from that of Vice-President. 83

A final attempt of arousing a type of sympathetic response from the audience was found within the speech of July 6, 1965, as Senator Bayh stated:

I cannot help but feel that history has been trying to tell us something. There was a time in the history of this great Nation when carrier pigeons were the fastest means of communication and the Army was rolling on horse-drawn caissons. Perhaps it did not make any difference then whether the Nation had a President who was not able at all times to fulfill all the duties and powers of his office. But today, with the awesome power at our disposal, when armies can be moved half way around the world in a matter of hours, and when it is possible actually to destroy civilization in a matter of minutes, it is high time that we listened to history and make absolutely certain that there will be a President of the United States at all times, a President who has complete control and will be able to perform all the powers and duties of his office. 84
On all three occasions an apparent attempt was made to arouse some feeling from the audience to the particular idea of the Senator. As to the effectiveness of the arousal, the attempts may have left something to be desired. With the memory of the tragedy in Dallas still fresh in the minds of the legislators, the Senator could have appealed to the responsibility and the obligation of each Senator present to prevent the miscarriage of the succession of responsibility for the powers and duties of the President. The Senator could also have offered a more specific guideline for the audience to follow.

A second consideration to be dealt with under the topic of audience adaptation is that of the Senator's attempts to identify with the feelings of the audience. In the speeches of the Senator, three such attempts were located.

In the speech of introduction, the following language was thought to be an attempt to make such identification:

One of the major difficulties confronting us in solving the problems of filling a vacancy in the office of Vice-President, or finding a workable way to deal with the Presidential inability is not that suggestions, ideas, and legislative proposals were scarce, but rather that we had so many of them that it was impossible to obtain a consensus—a majority opinion—and have it brought to the floor of the Senate for consideration. As all Senators know, before a constitutional amendment can be adopted, it requires the support of two-thirds of the Members of both Houses of Congress, and three-fourths of the State legislatures.85

In this passage, the Senator made the generalization that the problem facing the audience and the speaker was one and the same,
thus welding a common bond between himself and the audience.

He also placed the burden of responsibility for the alleviation of this problem on the shoulders of all those present, including himself, and via such language associated himself with that responsibility.

A second attempt was discovered in the speech of February 19, 1965, as the Senator associated himself with the feelings of some of the senators present as he stated:

Let me re-emphasize that if we give Congress the power by law to decide later, we shall not be able to prevent a majority of Congress from passing any laws it may wish to pass, and then we immediately negate the two-thirds protection residing in the impeachment provisions of the Constitution since its inception, and which is also provided in Senate Joint Resolution 1, as so vividly pointed out by the Senator from North Carolina (Mr. Ervin).

The above was an apparent attempt on the part of the Senator to identify with the feelings of fellow senators. In this case they were making a general policy determination in reference to the blanket check provision to be given to Congress as contained in the proposed amendment.

A final attempt by the Senator to identify with the feelings of the audience is witnessed in a passage in the final speech of July 6, 1965. The Senator stated:

I agree with the Senator from New York. The main authority behind the entire legislation—in fact, behind the enactment of any legislation—is the ability of men and women of Congress and in the executive branch to act with reason. If a time comes in the history of our Nation when Senators and Representatives and Presidents are despots, our entire democratic
system will be in jeopardy. I, for one, am willing to place in my successors the faith that has been placed in us today. Can we doubt that future Senators and Representatives will fulfill the responsibility that inheres in the holding of high trust and office? 57

Here again is an attempt to identify with the feelings of the audience and to comprise an agreement to resolve any differences which might have arisen. It cannot be overlooked, however, that the primary problem to which all the Senators present were addressing themselves was that of finding a suitable and responsible means to alleviate a defect in the original Constitution of the United States.

The above examples were perceived as the Senator's attempts to identify with the problems and feelings of the audience. The attempts in the final two speeches far outweigh the attempt made in the opening address. However, it is obvious that the use of emotional proof under this consideration in terms of effectiveness was less than sufficient.

A third consideration under the topic of audience adaptation was the Senator's ability to appeal to the audience. In these speeches four examples of attempts of appealing to the audience were discovered. In the speech of introduction, the Senator apparently made two such attempts. The first was appealing to the emotional response of the tragedy of Dallas a short time earlier, as the Senator stated:

Tragic as was the passing of this man, [the late President Kennedy] and as were the diabolical events which led to his demise, more tragic, indeed, will be
his passing if we do not use that unfortunate set of circumstances to understand and overcome an imperfection in our system of government which is made evident, once again, by the laws and constitutional provisions relating to the offices of President and Vice-President of the United States.  

In this attempt, the Senator seemingly tries, via emotional response, to persuade his audience that the proposed measure was needed to alleviate a defect in the American form of government.

A second appeal made by the Senator later in the same speech was:

How unfortunate it would be if we were confronted with a tragedy, with a disabled President, in a time of emergency. We should have an acceptable formula readily available.

A third appeal to the audience was made in the speech of February 19, 1965, when the Senator called for action from the Congress. As was stated by the Senator:

I should like to point out that if we had a President unable to write his name, the matter would not be considered under section 3, as the distinguished minority leader has suggested, but rather it would be considered under section 4, which is specifically provided for in which a President of the United States might have a heart attack and be in an oxygen tent at a time when missiles might be moving to Cuba or some other area of the world. The health and welfare of the country would demand immediate action; and thus the Vice-President and a majority of the Cabinet would act, when the President might be unable to do so.

By means of an emotional literal example, the Senator actually appealed to the audience in hopes of resolving a problem that had arisen from the floor of the Senate. In this case, the emotional appeal was used as a tool in the persuasive process to refute and convince the audience in relation to a particular phase of the proposed amendment.
A fourth and final appeal to the audience made by the Senator was located in the final speech of July 6, 1965, as Senator Bayh appealed for the passage of the proposed amendment.

As stated by the Senator:

The measure is not something which we have arrived at on the spur of the moment. We have had controversy and differences of opinion over individual words. I should like to remind Senators that during the past few years we have received over 100 different proposals. Since I have been chairman of the Subcommittee on Constitutional Amendments, during the past few months 26 different proposals have been submitted. I do not believe that we should let two words not separate us.

In this example, the appeal is obvious. The Senator called on the audience to accept the basics of the proposed measure and adopt its use.

Evidently, the Senator, in analyzing his audience, thought it a necessity to utilize some type of an emotional appeal. The utilization of this process of appealing to the audience may have been an aid to the Senator in conjunction with the designated purpose of his speaking.

Logical Proof

Logical proof is defined as the rational demonstration in the speech. Thonssen and Baird state that the objective of the critic in examining logical proof should be:

... to determine how fully a given speech enforces an idea; how closely that enforcement conforms to the general rules of argumentative development; and how nearly the totality of reasoning approaches a measure of truth adequate for purposes of action.
These authors further establish the means by which logical proof can be analyzed:

• • • ideas can be judged through three principal means: determination (1) of the intellectual resources of the speaker, (2) of the severity and strictness of the argumentative development, and (3) of the truth of the idea in functional existence. \(^{93}\)

**Inductive process**

The process of inductive reasoning involves reasoning from particular incidents to a general conclusion. Induction involves all of the evidence and support that a speaker brings to a speech. \(^{94}\) The product of induction is a generalization which, in turn, becomes a premise from which deduction can proceed. The critical idea to be considered in relation to the inductive process is: Was there sufficient evidence to make the needed generalizations?

**Intellectual resources**

The intellectual resources of a speaker can be defined as his knowledge and experience. As Thonssen and Baird state, "the orator should be appraised on his capacity for formulating ideas, on his recognition of the pressing problem of the time, and on his reflective thinking." \(^{95}\)

In his speeches, the Senator depended to a small extent upon the use of intellectual resources. This is made apparent in examining his speech of introduction. In this speech, the Senator made a definite statement as to the problem which existed:
"Mr. President, the first of our problems is that there is a vacancy in the office of Vice-President." From this recognition, the Senator then formulated and proposed his personal idea concerning the time for action upon this proposed measure. As was stated by the Senator:

It seems to me that there can be little question that the time to act is not when the President is lying ill and there is no machinery to deal with the execution of Executive power. If we act in those circumstances, we may come forth with an expedient, but ill-conceived answer to those pressing problems. The time to act is now, when we still find it hard to believe that President Kennedy is gone, and when we have a President who, fortunately for all of us, is in robust health.

In the same speech, the Senator used the process of reflective thinking: the process of reviewing past experiences which tend to help form a generalization. In this instance, as quoted earlier (footnote 34), he further developed the generalization which was to become his thesis.

In the speech of introduction, the Senator used three segments of his intellectual resources to further develop his purpose. This process was used more in this speech than in either of the remaining speeches.

In the speech of February 19, 1965, the Senator relies upon only his formulation of ideas and reflective thinking.

In terms of reflective thinking, the Senator stated:

I am satisfied that several members of this body who have had legislative experience at the State level can speak with more authority than I. But my 8 years in the Indiana General Assembly have
led me to believe that this was a false assumption. With this in mind, we sent copies of Joint Resolution 35, which was merely an enabling act giving Congress power to act, and Joint Resolution 139 of the previous year, which is almost identical with Senate Joint Resolution 1, to the president of the senate and the speaker of the house of all the States.98

From this point, the Senator eventually called for the adoption of the proposed amendment via the process of his induction:

It is my judgement that a constitutional amendment would be much better accepted by the people of America, and they would be more aware of its provisions, than a law which passed both Houses of Congress by a majority vote.99

In this case only two examples of the use of the Senator's intellectual resources were found.

Following the examination of the third and final address to the Senate, July 6, 1965, three examples of the use of intellectual resources were located. In the first case, the Senator recognized the pressing problem as he stated:

Now we get to the point to which the Senator from Tennessee has correctly alluded; namely, the question of a president who, although physically able, is not the man, from a substantive point, who was previously elected to that office. Thus arises the difficult problem of mental disability.100

Later, the formation of a personal idea was located.

As the Senator stated:

I believe that we have a better amendment now, in most respects, than when it left the Senate. I would have preferred the language which the Senator from Tennessee has suggested. This was not the case. I hope we can at least shed some light on our contention that there is no ambiguity here.101
In a third instance, the Senator paraphrased the feelings of
the late President Eisenhower concerning the succession of
authority:

President Eisenhower said he felt it was the respon-
sibility of the Vice-President to assume the authority
of the Presidential office in the event that the
President was unable to perform his duties.102

Examination of the speeches revealed that the Senator
actually did not rely heavily upon his intellectual resources.
The bulk of the speeches had a great dependence upon the Senator's
explanation and exposition, which in itself may be a type of
intellectual resource. He often used the process of restatement.

In an overall appraisal of his intellectual resources, it should
be recalled that following the three speeches under consideration,
the proposed amendment was passed by the Senate. It is obvious
that the Senator's use of intellectual resources, while in some
way may have aided his rhetoric, in any event did not prevent
the amendment's passage.

Research resources

Evidence, or research resources, as defined by Thonssen
and Baird is "the raw material used to establish proof."103 It
can include testimony, personal experience, statistics, examples,
or any factual points

- . . which induce in the mind of the hearer or reader
a state of belief—a tendency to affirm the existence
of the fact or proposition to which the evidence attaches
and in support of which it is introduced.104
According to Thonssen and Baird, the critic's chief function in analyzing research resources is to test the speaker's evidence to determine whether or not it serves as an adequate and valid substructure of reasoning.\textsuperscript{105} Evidence must support the conclusions drawn from it.

As recorded in the \textit{Record}, the presentation of documented evidence in the speech of introduction far outweighed that evidence presented in the other two speeches. In the September 28, 1964, speech, the Senator cited the support of the American Bar Association:

Early this year, the American Bar Association conducted a 2-day meeting to which members of the subcommittee were invited. . . . At that meeting, each one present entered into reasonable give-and-take in the hope that we could finally come forth with a proposal that might not be perfect nor totally acceptable to any one of us, yet nevertheless a workable plan which could be enacted by the Congress and approved by the several States.\textsuperscript{106}

Following this, the Senator stated that more than 200 articles, columns, and editorials, have appeared stressing the gravity of the situation and urging Congress to do something about it. I believe that a small sampling of this material will indicate the national concern over the constitutional gap.\textsuperscript{107}

At this point the Senator entered eleven of these articles into the \textit{Record}. The following is a listing of those articles:


"Presidential Disability Plan At Last? Senate Subcommittee Recommends First Breakthrough Since Study Began In 1956," St. Louis Post-Dispatch, June 1, 1964.108

In the speech of February 19, 1965, only one item of evidence was offered by the Senator in support of his speeches.

The Senator said:

I should like to suggest that this might be an appropriate time to ask unanimous consent to have printed in the Record a letter which I received yesterday from the Attorney General, Nicholas Katzenbach in an effort to clarify and point out specifically that his opinion does away with some of the rumors of the contrary.109

Finally, in the third speech of July 6, 1965, the Senator offered two instances of submitting research resources. The first was a reference made to the letter from the Attorney General that was submitted earlier: "Mr. President, I also quote one sentence from his testimony before the subcommittee."110

The second example located was the Senator's use of the following cases of law as evidence:

Mr. President, I have uncovered three or four cases dealing with article V of the Constitution.
They are Hawke v. Smith, 253, U. S. 221; Dillon v. Gloss, 253, U. S. 368; the National Prohibition cases, 253, U. S. 350; and United States v. Sprague, 282, U. S. 716.

Through the process of examination five instances were located in the Senator's speeches where he actually used evidence to develop and support his presentation. In his rhetoric, the Senator was somewhat lacking in the use of research resources (or evidence). Rather, the Senator preferred to proceed mainly on the basis of exposition: his rhetoric rested primarily on his own authority. Therefore, the conclusions drawn from this sparse evidence may also be questionable.

Inductive reasoning

Brembeck and Howell, in *Persuasion*, define induction as "the process of drawing a conclusion from the examination of specific data." In his speech of introduction, the Senator in three apparent instances used inductive reasoning. As quoted in footnote 34, the Senator spoke of the development of the office of the Vice-President and drew the following generalization:

> Each time a President has died, it has been a severe shock to the Nation; but each time the Government has withstood the test, and there was an orderly transfer of Executive authority.

This generalization, based on four items of evidence, was thought to be sufficiently complete. A second example of the Senator's use of the inductive reasoning came later when he spoke of the important duties and responsibilities of the office of the Vice-President in today's society. From the specific facts that the Vice-President is a statutory member of the National Security
Council, the Senator generalized that "the Vice-President, by virtue of his office, is in the thick of every one of them."\textsuperscript{114} In this instance, the term "them" referred to the responsibilities of the Vice-President. As this generalization was based entirely upon only two sources of evidence, its completeness could be questionable.

The third and final instance of inductive reasoning located in this first speech was as the Senator spoke of the historical development of the nation in times when we had no Vice-President. The Senator recalled the tragic possibility of a mishap in the governmental process in such times. He then cited the tragedy of Dallas just a short time earlier and concluded, "It seems to me that history has been trying to tell us something, and it is high time we listened."\textsuperscript{115} The basis of this generalization was the introduction of seven items of evidence and therefore likely to be relatively accurate.

In the second speech of February 19, 1965, only two examples of the use of induction were located. In the first place, the question was raised regarding the authority to call a special session in the event of illness of a President. The Senator answered that the power of calling to order any session of either House of Congress should remain as a power of the head of that particular body. From this evidence, the Senator generalized:

- - it is our understanding that sufficient authority has been indicated in the report to adequately point
out that the intention of the amendment is to give this power to the President of the Senate and the Speaker of the House.116

Again, the Senator based this entire generalization upon only two pieces of evidence: a quotation from the Presidential message to the Senate and the Senator's earlier remarks. From this evidence the conclusion reached was that the completeness of the generalization could be questioned.

A second example of inductive reasoning was located later in the speech. The Senator reasoned inductively to the generalization concerning the American people's acceptance of the proposed amendment. The Senator related his past experience in the Indiana State legislature of which he was a member and the opinions he had received from some of his colleagues. From this evidence the generalization was:

The preponderance of evidence was that State legislatures would prefer to enact the ratification resolution, that State legislatures should deal with a specific proposal and not give Congress a blank check to take away the safeguards to which the Senator from North Carolina (Mr. Ervin) has so adequately directed our attention.117

In the third speech of July 6, 1965, the Senator changed his use of the process of inductive reasoning. In this case, he reasoned to a general question. The Senator refuted the "let's wait" policy of a few of his colleagues and then illustrated the rising urgency for such a proposal. From the evidence he concluded: "I think, then, we have to determine one question: Is the conference report the best proposed legislation we can get and is it needed?" In this example of the Senator's inductive
powers, the generalization rested upon three fairly secure pieces of evidence: (1) a statement of agreement from Senator Long, a fellow colleague; (2) earlier evidence submitted; and (3) the recent rulings of the Supreme Court. In this manner, the basis for drawing the generalization seemed to be fairly secure.

A more traditional example of the Senator's inductive reasoning was located concerning the question of the Vice-President's ability to assume the office of Acting President should the President become incapacitated. In the dialogue which followed, the Senator paraphrased the late President Eisenhower's concepts, stated the accepted policy of the American Bar Association, related the report of the Attorney General's statement, and finally relied upon the testimony of fellow colleagues. As he did rely heavily upon evidence, the generalization drawn was assumed to be adequate:

Therefore, I believe that we have done the right thing in placing the Vice-President in the position of participating in that determination.\textsuperscript{119}

For the most part, the evidence which supported Senator Bayh's generalizations seemed adequate. In those cases where the evidence was questionable, the generalizations could be questioned. In other cases, however, the generalizations could be considered sufficiently and accurately drawn from the preceding evidence.
Deductive Process

According to Brembeck and Howell, deduction is, in a sense, the reverse of induction. It begins with the acceptance of a generalization, applies it to a specific instance, and draws a conclusion. The critical idea to be considered was the determination the Senator's use of deductive reasoning and the validity of that reasoning.

The purpose of this section was not only to evaluate the type of deduction used by the Senator in his speeches, but also to judge whether or not the conclusions drawn and the process used were valid. As a basis of criticism, the standards as listed by Thonssen and Baird were used:

The validity of syllogism can be determined through certain tests or rules which specifically relate to the categorical pattern as set forth:

1. The syllogism must contain a major premise, a minor premise, and a conclusion.
2. It must contain three terms: major, middle, and minor.
3. The middle term of the syllogism must be distributed in at least one of the premises.
4. To be distributed in the conclusion, the term must be distributed in one of the premises.
5. Two negative premises make impossible the drawing of a valid conclusion.
6. If one premise is negative, the conclusion must likewise be negative.
7. Negative conclusions cannot be drawn unless one premise is negative.
8. The facts alleged in the premises should be true.

In such cases where syllogistic reasoning was not used by the Senator, Thonssen and Baird state:

• • • since many of the arguments are expressed enthymematically it becomes necessary and profitable for the critic, especially, to recast such reasoning in complete syllogistic form and then apply the appropriate tests to the pattern.
It has been stated earlier in this chapter, that the evidence used by the Senator in his speeches was, at times, insufficient. Therefore, the generalizations drawn from that evidence may also have been questionable. Nevertheless, in his speeches the Senator employed these generalizations constructed inductively and reasoned deductively to apply them in specific cases.

Throughout the three speeches under examination, several examples of the Senator's use of deductive reasoning were observed. In some cases the Senator reasoned inductively to a specific generalization and then, in turn, reasoned deductively from that generalization to apply it to specific instances. There were three such illustrations found in the speech of introduction of September 28, 1964. In the first instance, the Senator reasoned to the generalization that, in all cases, the Government has withstood the shock of the loss of a president (footnote 113). From this generalization, the Senator implied that, as of yet, we have never lost a President and a Vice President in the same four year term. To complete the syllogism, the Senator then concluded:

But in the event that history does not treat us so kindly in the future as it has in the past, we must be prepared for such an eventuality. For whatever tragedy may befall our national leaders, the Nation must continue in stability, functioning to preserve a society in which freedom may prosper.

To reach the conclusion stated above, the syllogism, as constructed by the Senator, was found to be fallacious. In
this case the failure was a violation of criteria No. 3 listed above: the middle term of the syllogism must be distributed in at least one of the premises. Such was not the case in this example.

A second illustration of the Senator's use of deductive reasoning was also found in the same speech. In this case, the Senator constructed an enthymeme. From the implied premise that the Vice-President should succeed to the office of President in times of vacancy, the conclusion was drawn "that the Vice-Presidential candidate should be the man best qualified to be President should that unhappy day come." As was stated earlier, in the case of non-syllogistic reasoning, it is helpful to supply the missing term in testing the logic. Such was the case in testing the reasoning used to draw this conclusion. In the examination of the syllogism, the reasoning was found to be valid in that it survived the test of the logic.

A third example was located in the same speech. In this case, the Senator stated that in the past several Presidents and their respective Vice-Presidents have agreed upon the procedure to be followed in the case of Presidential inability. At this point, the Senator stated: "Such agreements depend on good will between the President and the Vice-President." From this statement, the conclusion was reached that this procedure might not be the best solution because it leaves the door open for possible usurpation of power from the President.
In consideration of this conclusion, the syllogistic reasoning was found to be fallacious. The reasoning failed in reference to criteria No. 7 listed above: negative conclusions cannot be drawn unless one premise is negative.

Later in the same speech, the Senator states his major premise that "today, the office of Vice-President is a full-time, highly responsible office." He then stated: "The Vice-President is an integral part of Cabinet meetings." From these two premises, the conclusion was drawn: "therefore, I submit that reason dictates that we take steps to assure that the Nation shall always have a Vice-President." Following the testing of the logic in this example, the reasoning was found to be valid.

The construction of an enthymeme was also discovered in the speech of February 19, 1965. In answer to a question from the floor of the Senate, the Senator stated as his major premise that the Constitution is the supreme law of the land, and it was constructed to be used as a basis for maintaining order. He then implied as his minor premise that the Constitution, however, was not without fault. From this exposition the conclusion was drawn:

It seems to me that a close analysis of our Constitution discloses that it is a wonderful, broad, general plan for a wonderful society, but at the same time certain basic specifics to protect certain inalienable rights are necessary, such as the basic features provided in article 2, section 1, which has since been replaced by the 12th Amendment.
In examination of the syllogism, the reasoning was found to be fallacious. According to the criteria listed above, specifically No. 3, the middle term of the syllogism must be distributed in at least one of the premises. Such was not the case in the above syllogism.

In the same speech the following syllogism was constructed.

For the major premise, the Senator stated:

Mr. President, I have said repeatedly in the Chamber that one of the main criteria, if not the main criterion, for the orderly transition of executive authority is acceptance by the people. With all due respect to the Senator from South Carolina, since we have been involved in this discussion, I have repeatedly consulted people in my State and other States that I have visited, who were the members of the electoral college from their State. To date, I have found one person who knew one member of the electoral college. 133

From this exposition, the minor premise was:

I believe that the people of the United States would accept a judgement made by this body and our colleagues in the House. 134

From these two statements, the conclusion inferred was to the effect that "we have met the needed criteria in this proposal." 135

In the final speech of July 6, 1965, the following syllogism was discovered. In this instance, the Senator implied as the major premise that if changes were made in the amendment, the amendment would be better than before. As the minor premise, the Senator stated:

... several changes were made, in connection with which we tried to compromise with our friends in the House. 136
From this exposition, the conclusion was drawn: "I believe that we have a better amendment now, in most respects, than when it left the Senate."^137

The reasoning used in reaching the conclusions stated earlier as footnotes 135 and 136 was found to be valid in that all tests were found to be upheld.

**Style**

According to Thonsen and Baird, "style is an instrument of communication, inextricably woven with the other parts of rhetoric." It refers chiefly to the way in which the speaker "clothed his ideas with language."^138 Style can be analyzed by examining speeches using the classical qualities of correctness, clearness, appropriateness, and vividness.^139 As mentioned earlier in this chapter, there was no positive way to determine the authenticity of the texts used in this analysis; therefore, the conclusions drawn may not be completely faultless.

**Correctness**

Thonsen and Baird state that "correctness refers chiefly to the word choice or usage."^140 Correctness is that word choice which insures accuracy in developing the speaker's thought.^141 Aristotle, in his Rhetoric, listed criteria for the analysis of correctness as:

1. Proper use of connecting words.
2. Use of specific rather than generalized words.
3. Avoidance of ambiguity.
4. Accurate classification of nouns as to the gender.
5. Correct expression of plurality, fewness and unity.142
The critical concept considered was: How effective was the choice and usage of words?

Considering the above criteria, the Senator did use proper connecting words. In the three speeches under examination, there was no evidence of the incorrect use of connecting words.

In considering Aristotle's second criterion, the use of specific rather than generalized words, no errors of this type were found in the speech of September 28, 1964. However, there were three violations of this criterion in the speech of February 19, 1965. An example was

Another reason for the proposal was that we desired to try to prevent a back and forth ping-pong sort of situation in which the Vice-President and the Cabinet would make a declaration.\textsuperscript{143}

In the speech of July 6, 1965, no errors of generalized wording were detected.

A third method of insuring correctness in word choice is the avoidance of ambiguity, the third criterion listed above. A means to insure ambiguity is to neglect the economy of words. It was common for the Senator to repeat the same word in a sentence. To illustrate this point, the following examples were taken from one paragraph in the speech of September 28, 1964:

I introduced a proposed constitutional amendment in which I provided... but I must admit that I... but I should like to remind Senators that I...\textsuperscript{144}

A second means by which the Senator's rhetoric could have been ambiguous occurred later in the same speech:
They do not have the force of law. They could be subjected to serious constitutional challenge. They open the door for possible usurpation of power from the President.\textsuperscript{145}

The repetition of the word they was perhaps ambiguous as there was no apparent noun reference. The use of this type of word, though not common in the Senator's speeches, could have led, perhaps, to a faulty interpretation on the part of the audience.

In the speeches of February 19, 1965, and July 6, 1965, no apparent errors of ambiguity were detected. As recorded in the Record, the speeches under consideration contained no evident errors concerning classification of nouns as to gender or the fourth criterion of correctness.

Problems were discovered in all three speeches regarding the fifth criterion: correct expression of plurality, fewness, and unity. In the opening address of September 28, 1964, four such errors were present. An example was

It will be recalled that in Atlantic City recently, when President Johnson selected our distinguished colleague, the Senator from Minnesota (Mr. Humphrey) as his running mate for Vice-President, he said—and I believe that this is a feeling shared by all of us, Republicans and Democrats alike—that the Vice-Presidential candidate should be the man best qualified to be President of the United States, should that unhappy day come and the office of the President be vacated by tragedy.\textsuperscript{146}

Again in the second speech of February 19, 1965, three examples of the misuse of fewness were found. One example located was:

It is my judgment that a constitutional amendment—passed by two-thirds of the House of Representatives, and subsequently ratified by three-fourths of the State
legislatures, with all of the attendant publicity—would be much better accepted by the people of America, and they would be more aware of its provisions, than a law which passed both Houses of Congress by majority vote.\textsuperscript{147}

A third example was observed in the speech of July 6, 1965. In this speech, this was the only example detected:

Now we get to the point to which the Senator from Tennessee has correctly alluded; namely, the question of a President who, although physically able, is not the man, from a substantive point who was previously elected to that office and thus arises the difficult problem of mental disability.\textsuperscript{148}

In all three of these speeches, the Senator's use of descriptive words and phrases to probable excess may have led to an incorrect interpretation of meaning.

When applying the standards of criticism regarding the correctness of style, the Senator's word choice was found to be correct. Deviations from the correct manner were noted, but the speeches seemingly were delivered with an attempt towards correct word choice.

Clearness

Clearness is also concerned with the choice of words and their arrangement, because it is an attempt at avoiding ambiguity of meaning. As recorded in Thonnson and Baird, George Campbell related three basic deterrents to clearness:

1. Obscuring meaning by faulty arrangement of words, long sentences, pun, use of technical terms, and complicated sentence structure.
2. Double meanings: varied or various interpretations of meaning.
3. Failure of a speaker to convey his meaning.\textsuperscript{149}
The critical question examined here was: Was the Senator's rhetoric clear?

As stated above in the first criterion, the use of a long sentence structure can lead to obscurity of meaning. In this sense, the speech of introduction could have been unclear. (in this particular speech.) Five examples of sentences of over forty words each were present. In this speech, the use of a long and involved sentence structure was conspicuous:

Third--and I feel most important of all--in a democratic system such as that in which we live today, by submitting the name of the proposed nominee to the office of Vice-President to the Congress, we would be assured that the representatives of the people of our land, the Representatives and Senators who deal daily with problems of crisis and decision, would have the final determination as to who the Vice-President should be. 150

A second example of this structure occurred later in the same speech:

One of the major difficulties confronting us in solving the problems of filling a vacancy in the office of Vice-President, or finding a workable way to deal with Presidential inability is not that suggestions, ideas, and legislative proposals were scarce, but rather that we had so many of them that it was impossible to obtain a consensus--a majority opinion--and have it brought to the floor of the Senate for consideration by this great body. 151

The same error was found in the speech of February 19, 1965. Only three examples of the Senator's use of long sentence structure were detected. An example of this type of structure was:

I close by saying that it seems to me we are making a general policy determination which was articulated so well by my colleague, the Senator from North Carolina
(Mr. Ervin), as to whether we are going to open Pandora's box to permit a blanket check provision to be given to Congress to provide laws in these vital areas at some later date. 152

There were no instances of the Senator's use of long sentence structure discovered in the third address of July 6, 1965.

Problems of double meanings—varied or various interpretation of meaning—were also detected in conjunction with the second criterion listed above. Errors of this nature again were found in only two of the addresses being examined. In the speech of September 28, 1964, some words which appeared in the recordings could have had a double meaning. The terms were either very vague or they could have had multiple definitions. Examples found included "democratic system," "Nation," "powers and duties," and "American."

In the speech of July 6, 1965, the same type of error was found. In this instance words and phrases were discovered which may have contained a double meaning. Such words as "the court," "physically able," "American," "the body," and "authority" were used. Because these words and phrases could have been interpreted in more than one way, the Senator's clearness in regard to the second criterion could be questioned.

In most cases, the Senator's ability to convey his meaning in a clear manner was found to be acceptable. However, in the speech of February 19, 1965, some problems were found relating to the third criterion of clearness. In this case, the Senator used a type of language which may have deviated from the common
style of that used in the Senate. Such words as "pshaw," "colloquy," and "dialtory" were examples of this possible stylistic error.

The Senator seemed to have some difficulty in expressing himself clearly. There were stylistic errors that may have contributed to the obscurity of meaning or false interpretation. The use of a long sentence structure in the opening address was the obvious deterrent to the clarity of Senator Bayh's speeches.

Appropriateness

Appropriateness is the adaptation of the word choice to the particular circumstances surrounding the speech. Thonssen and Baird state that "style should generally be appropriate to the nature of the address, to the particular audience addressed, to the type of oratory, and to the speaker himself."153

To evaluate the Senator's appropriateness of style, the critical idea was: How effectively was the language adapted to the situation and to the audience?

In his speeches, Senator Bayh attempted to adjust to his audience by, first of all, explaining in simple terms the problem at hand. In this way, the greatest amount of understanding could be reached in the shortest amount of time. This is witnessed in his opening address of September 28, 1964:

Mr. President, the first of our problems is that there is a vacancy in the office of Vice-President.154

In the second speech of February 19, 1965, the Senator again
adjusted to his audience through the use of simple terms in explaining the problem at hand. The Senator stated:

I believe that the most important ingredient in a constitutional amendment such as this is general public acceptance of a formula which we provide.\textsuperscript{155}

This procedure was employed again in the third speech of July 6, 1965. In this speech the Senator stated: "I believe what we have is a better amendment now, in most respects, than when it left the Senate."\textsuperscript{156} With the appearance of this same device in all three of the speeches examined, it could be assumed that this might have been an effort on the part of the Senator to adapt his speeches to the situation and to the specific audience.

The second device used by the Senator, who was apparently trying to adapt to his audience, was the rhetorical question. By using this device, the Senator could elicit a type of vicarious participation from his audience. There were examples of this in two of the speeches under consideration. In the speech of introduction, five examples of rhetorical questioning were discerned. A typical example appeared when the Senator was speaking of the development of the office of Vice-President. From the information presented, the Senator asked, "Why have a Vice-President?"\textsuperscript{157} At this point, no apparent answer to the question was supplied by Senator Bayh. In this manner he may have adapted his remarks to the audience in attendance.

A second example of rhetorical questioning was discovered in the speech of July 6, 1965. In this address, the Senator asked three rhetorical questions. One of these occurred when
he spoke of the conference report of the joint session of the Houses of Congress: "Is the conference report the best piece of legislation we can get and is it needed?"

A third method enlisted by Senator Bayh to adapt to his audience was the use of a language common to the situation. In the following examples, the speaking pattern of the Senator was in correlation with other speech patterns found in the Congressional Record. In his apparent attempt to be understood, the Senator did not deviate from the pattern considered to be normal for this speaking situation. However, at times he almost touched a point of triteness in his language. A typical example appeared in the speech of September 28, 1964: "Today, I am happy to report that there is a vast grassroots feeling of urgency."\[159\] Another example was found in his speech of February 19, 1965. As mentioned earlier in footnote 152, the reference to the opening of Pandora's box might be considered trite. There were no examples of the use of trite language in the speech of July 6, 1965.

In all three speeches, the Senator seemed to adapt his style to his audience by using three basic methods: (1) simplicity in explaining the problem at hand, (2) the use of rhetorical questions, and (3) his use of common language. The effect of his attempts to adapt to the audience could possibly have been strengthened by avoiding the use of trite language.
Vividness

Thonsen and Baird described vividness or ornament as "a certain elevation or grandeur in discourse." Achieving vividness depends upon the manner in which the words are handled and assimilated into sentences and figurative elements. It can also include the use of imagery as a "manifestation of sublimity in discourse, a heightened effect giving an individual stamp to oratory." The critical question to be considered here was: How effectively did the Senator use vividness and imagery?

As stated earlier in this chapter, Senator Bayh addressed himself to the audience by the use of common language. By using the concept of attempting to draw mental pictures for the audience, the Senator may have reincarnated the past and projected into the future. This stylistic device was exemplified in the speech of September 28, 1964, when the Senator reviewed the development of the office of Vice-President. In the examination of the other two speeches there was no example of the apparent use of this stylistic device.

In his speech of introduction, the Senator also used, to a degree, the device of repetition. There were only three examples of this in all three speeches. A typical example occurred when the Senator repeated the word problems, possibly for special emphasis:

The problems are not insoluble. They are not new problems. One of the major difficulties confronting us is in solving the problems....
The third method of vividness used by the Senator was descriptive language. Examples of this device were located in all three speeches. In his speech of introduction, there were four examples. As the Senator stated:

Our obligation to deal also with the question of Presidential inability is crystal clear. In this instance, there is a constitutional gap, or a blind spot. We must fill this gap if we are to protect our Nation from the possibility of floundering in the sea of public confusion and uncertainty.\textsuperscript{104}

A second example of the use of descriptive language was found in the same speech: "These are some of the vexing problems which are presented by the superficial manner in which Presidential inability is referred to. \ldots\textsuperscript{165}

In his speech of February 19, 1965, the Senator used only two examples of descriptive language. One of those examples was:

\ldots which is specifically provided for in the resolution in a case in which a President of the United States might have a heart attack and be in an oxygen tent at a time when missiles might be moving to Cuba or some other area of the world.\textsuperscript{166}

The speech of July 6, 1965, contained only two examples of the Senator's use of descriptive language. One of these was:

I have said, and I say again, that we are greatly indebted to him for his seasoning and his willingness to compromise. Although there were many cooks, we had a paddle large enough so that we could all get our hands on it and stir.\textsuperscript{167}

In answering the critical question stated at the opening of this section, it can be concluded that the Senator did not make effective use of vividness and imagery. For the most part, the language
used was basically one dimensional and colorless. The language also appeared to be flat, vague, and basically non-descriptive.

**Effect of the Rhetoric**

Measuring the effect of the rhetoric used by Senator Bayh in his attempt to gain the passage of the proposed Twenty-fifth Amendment to the Constitution of the United States involved the process of measuring the ability he used in obtaining the goal of his speeches. Thonssen and Baird stated that one method of judging the effect of a speech is by examining the immediate response. Because this Constitutional Amendment was enacted so recently, the process set forth in the Amendment has yet to be put into practice. Although a primary aspect, the Senator's speeches may not have been the sole reason for the Amendment's passage. Nevertheless, some conclusions can be drawn as to the effect of his rhetoric.

The Senator stated that he had one goal in mind when he introduced this legislation: to relieve the Constitution of an apparent defect. If it is true, as Thonssen and Baird state, that the effect of the rhetoric can be determined in part by examining the immediate response, then the speeches of the Senator may have played a part in the passage of the Amendment. This conclusion was drawn from the fact that the proposed legislation was passed by both Houses of Congress, ratified by the separate States, and admitted to the Constitution as a formal Amendment. Since the defect in the Constitution has been relieved,
the primary goal of Senator Bayh's speeches was accomplished even though it can not be definitely established that the goal was achieved through rhetoric.

Summary

From the available texts of the speeches delivered by the Senator, three speeches were chosen to be analyzed: (1) the introduction of the proposed legislation, (2) a progress report, and (3) a concluding address. All selected texts were taken from the Congressional Record. These speeches were selected because they seemed to represent the chronological span of the Senator's speaking ability on this particular subject in the Senate Chambers.

The subsequent analysis consisted of examining the speeches using three of the criteria provided in the original five canons of rhetoric: Arrangement, Invention, and Style. Arrangement was the first canon analyzed. It was found that the Senator organized his speeches in a variety of methods, but he primarily relied on the topical form of arrangement. His transitions between main points and his thesis statements were found to be relatively clear and easily detected. The conclusions used consisted primarily of a summary followed by a concluding remark.

In considering Invention, the Senator's speeches were analyzed in terms of his ethical proof, his emotional proof,
and his logical proof. It was found through examination that the ethos of the Senator may have aided his persuasion. The Senator's use of emotional proof, though not extensive, met the criteria established and, therefore, possibly could have been of assistance. The reasoning used by Senator Bayh was determined to be sufficient at times and deficient at others. For the most part, the reasoning used was questionable, and the generalizations and conclusions drawn in some instances were found to be faulty.

The word choice, or style, used by the Senator was in most cases found to be correct, appropriate, and clear; however, the word choice used was not vivid.

Because the rhetoric used by the Senator could not be determined as the sole reason for the passage of the Twenty-fifth Amendment, the effect of the rhetoric could not be decisively determined.
FOOTNOTES


2 Ibid.

3 Ibid.


5 Current Biography, p. 20.

6 Ibid.

7 Ibid.


10 Letter from Senator Bayh, undated but received November 16, 1969.


12 Letter from The Indianapolis Star, February 7, 1970.


15 Letter from Senator Bayh, April 22, 1970.

16 Lester Thonssen and A. Craig Baird, Part V.

17 These five canons were first recorded by Cicero and have since been used as classical divisions for organizing rhetorical theory. Cicero's De Oratore, trans. J. S. Watson (Philadelphia: David McKay, 1897), p. 116.

19Tbid.

20Tbid., p. 393

21Tbid.

22Tbid.


26Thonssen and Baird, p. 394.

27Tbid.


29Thonssen and Baird, p. 395.

30Congressional Record, September 28, 1964, p. 22983.

31Tbid., p. 22986.

32Tbid.

33Congressional Record, February 19, 1965, p. 3271.

34Tbid.

35Congressional Record, July 6, 1965, p. 15593.


37Thonssen and Baird, p. 397.

38Congressional Record, September 28, 1964, p. 22986.

39Tbid.

40Tbid., p. 22987

41Tbid.
42 Congressional Record, February 19, 1965, p. 3270.
43 Ibid.
44 Ibid.
45 Congressional Record, July 6, 1965, p. 15593.
46 Ibid.
47 Ibid.
48 Congressional Record, September 28, 1964, p. 22987.
49 Congressional Record, February 19, 1965, p. 3271.
50 Congressional Record, July 6, 1965, p. 15594.
52 Thonssen and Baird, pp. 334-5.
53 Ibid., p. 384.
54 Ibid., p. 387.
55 Congressional Record, September 28, 1964, p. 22983.
56 Ibid., p. 22983.
57 Ibid., p. 22986.
58 Ibid., p. 22987.
60 Ibid., p. 3277.
61 Congressional Record, July 6, 1965, p. 15534.
62 Thonssen and Baird, p. 387.
64 Congressional Record, February 19, 1965, p. 3277.
65 Congressional Record, July 6, 1965, p. 15593.
66 Ibid., p. 15594.
67 Ibid.
68 Thonssen and Baird, p. 387
69 Congressional Record, September 28, 1964, p. 22987.
70 Ibid., p. 22988.
71 Congressional Record, February 19, 1965, p. 3277.
72 Ibid., p. 3279.
73 Ibid., p. 3274.
74 Ibid., p. 3275.
75 Congressional Record, July 6, 1965, p. 15594.
76 Ibid., p. 15593.
77 Ibid., p. 15593-94.
79 Ibid., p. 361.
80 Ibid., p. 361-62.
81 Ibid., p. 362.
82 Congressional Record, September 28, 1963, p. 22987.
83 Congressional Record, February 19, 1964, p. 3271.
84 Congressional Record, July 6, 1964, p. 15595.
85 Congressional Record, September 28, 1963, p. 22983.
86 Congressional Record, February 19, 1964, p. 3271.
87 Congressional Record, July 6, 1964, p. 15595.
89 Congressional Record, September 28, 1963, p. 22987.
90 Congressional Record, February 19, 1964, p. 3271.
91 Congressional Record, July 6, 1964, p. 11594.
92 Thonssen and Baird, p. 348.

93 Ibid., p. 334.

94 Ibid., p. 334-35.

95 Ibid., p. 335-36.

96 Congressional Record, September 28, 1964, p. 22986.

97 Ibid., p. 22987.


99 Ibid.

100 Congressional Record, July 6, 1965, p. 15593.

101 Ibid.

102 Ibid.

103 Thonssen and Baird, p. 341.

104 Ibid.

105 Ibid., p. 342.

106 Congressional Record, September 28, 1964, p. 22983.

107 Ibid.

108 Ibid., p. 22983-86.


110 Congressional Record, July 6, 1965, p. 15593.

111 Ibid., p. 15594.


113 Congressional Record, September 28, 1964, p. 22986.

114 Ibid., p. 22987.

115 Ibid.
117 Ibid.
118 Congressional Record, July 6, 1965, p. 15594.
119 Ibid., p. 15593.
120 Brembeck and Howell, p. 194.
121 Thonssen and Baird, p. 346-47.
122 Ibid., p. 347.
123 Congressional Record, September 28, 1964, p. 22986.
124 Ibid.
125 Ibid., p. 22987.
126 Ibid.
127 Ibid.
128 Ibid.
129 Ibid.
130 Ibid.
131 Ibid.
133 Ibid.
134 Ibid., p. 3274.
135 Ibid.
136 Congressional Record, July 6, 1965, p. 15593.
137 Ibid.
139 Ibid., p. 410.
140 Ibid.
141 Ibid., p. 412.
142 Ibid., p. 410.
143 Congressional Record, February 19, 1965, p. 3284.
144 Congressional Record, September 28, 1964, p. 22987.
145 Ibid.
146 Ibid.
147 Ibid.
150 Congressional Record, September 28, 1964, p. 22988.
151 Ibid.
152 Congressional Record, February 19, 1965, p. 3271.
153 Thonssen and Baird, pp. 415-16.
154 Congressional Record, September 28, 1964, p. 22986.
156 Congressional Record, July 6, 1965, p. 15593.
157 Congressional Record, September 28, 1964, p. 22986.
158 Congressional Record, July 6, 1965, p. 15593.
159 Congressional Record, September 28, 1964, p. 22983.
160 Thonssen and Baird, p. 416.
161 Ibid.
162 Congressional Record, September 28, 1964, p. 22986.
163 Ibid., p. 22983.
164 Ibid., p. 22987.
165Ibid.

166Congressional Record, February 19, 1965, p. 3271.

167Congressional Record, July 6, 1965, p. 15595.

168Thonssen and Baird, p. 455.
CHAPTER IV

SUMMARY AND CONCLUSIONS

Summary

The Constitution of the United States was amended in 1966. The purpose of this study has been to determine the effectiveness of the rhetoric of the Amendment's chief sponsor Senator Birch E. Bayh.

The primary goal of the Senator in his speeches on the Amendment was to gain the passage of this proposed legislation. Analysis of the methods he used in attempting to obtain this goal constituted the bulk of this study.

The texts of three speeches were selected for appraisal. These included the opening address, a progress report, and the speech Bayh delivered before the United States Senate calling for the passage of the Amendment. This selection was made on the assumption that these speeches should be representative of the strategy used by the Senator in his attempts to have the proposed measure adopted. Lester Thonssen and A. Craig Baird's Speech Criticism was used as the standard for establishing the criteria used to judge the effectiveness of the speeches. The speeches were analyzed in order to judge Bayh's rhetorical effectiveness in regard to the canons of invention, arrangement, and style.
In all three speeches, the thesis statements designated the organizational pattern to be used. This pattern of organization was topical. The thesis statements of all three speeches were easily recognizable and led to simplicity in recognizing the main points of each speech. Transitions were also handled in a smooth and orderly manner. The conclusions used by the Senator in all cases consisted of a brief summary and a concluding remark.

The Senator's ethical proof was found not to be a deterrent to the primary goal of his speeches and may have aided his persuasion. The Senator did perhaps praise his audience to a degree that may have hindered his ethos.

Emotional proof was not a primary tool of the Senator. He did, however, make use of this emotional proof to some degree.

The logical proof in these speeches appeared weak because of insufficient research resources. Rather, the Senator preferred to proceed mainly on the basis of exposition. His generalizations rested primarily upon his own authority; therefore, the conclusions drawn from that evidence may have been questionable.

In most cases, the Senator reasoned inductively to a generalization and then arrived deductively at a conclusion. For the most part the evidence used to reach the generalization was found to be inadequate, and the reasoning from that generalization to the specific conclusion was frequently fallacious.
In those syllogisms found fallacious, the primary fallacy was that of a nondistributed middle term.

Correctness and clearness seemed to be the strongest qualities of style in the speeches. At times the speeches seemed to be inappropriate to the situation. The weakest quality of style used by the Senator appeared to be vividness. The speeches were found to be one-dimensional, flat, and basically uninteresting in language.

Some judgement was made as to the effect of the Senator's rhetoric. As the proposed legislation was passed, it was apparent that the speeches of the Senator did not prevent the achievement of the primary goal. His rhetoric may have had a positive effect in that passage.

Conclusions

Several conclusions can be drawn from this evaluation of the effectiveness that the rhetoric of Senator Bayh had in his speaking for the passage of the proposed Amendment. Regarding the effectiveness of the Senator's rhetoric, it can be concluded that:

1. The arrangement used by the Senator in all speeches met the established criteria.

2. The emotional proof used by the Senator was particularly weak compared to the established criteria.

3. The Senator's ethical proof met the criteria cited and was particularly prominent in his persuasion.
4. The Senator's use of research resources was insufficient and, therefore, the generalizations drawn from this evidence were found to be questionable.

5. The deductive reasoning used by the Senator was found, in part, to be fallacious.

6. Senator Bayh's style was lacking in vividness. In other respects, it satisfied the stylistic requirements of the established criteria.

7. The primary goal enumerated by the Senator was accomplished: the passage of the Twenty-fifth Amendment to the Constitution of the United States. However, it can not be concluded that this goal was necessarily achieved as a result of the Senator's rhetoric.

Recommendations for Future Study

This study must be interpreted in terms of severe restrictions and limitations. This is primarily due to its incompleteness in terms of the total possible factors influencing the passage of the Twenty-fifth Amendment. It can, in all probability, never be established what part the rhetoric of one man had in the total process of persuasion. Nevertheless, additional studies on this topic might bring us nearer the goal.

If the rhetoric of the other members of the Senate supporting this legislation were studied, it might add to an understanding of the total concept of persuasion operative in the passage of this Amendment.

A study to determine the shift of opinion on this legislation could also be made to determine whether or not the Senator's rhetoric actually played a decisive role.
BIBLIOGRAPHY

Books


Government Publications


U.S. Congress. Senate. Senator Bayh speaking for the proposed Amendment to the Constitution. S. J. Res. 139, 88th Cong., 1st sess., November 14, 1963. Congressional Record, CIX.


Letters


Personal letter to The Indianapolis Star. February 5, 1970.


APPENDIX A

Correspondence
October 23, 1969

The Honorable Birch E. Bayh
Old Senate Office Building
Washington, D.C.

Dear Sir:

As partial fulfillment for the degree of Master of Arts from South Dakota State University, I am required to write a thesis concerning the field of Speech. For my thesis I would like to do a rhetorical analysis of your speeches in connection with the passage of the twenty-fifth Amendment of the Constitution of the United States of America. If possible, could you or your office supply me with any information as to how I might get copies of speeches, transcripts, or notes which might be of assistance in my research. I have been a resident of Indiana for the past twenty-three years and have recently graduated from Ball State University. Thank you for your time and consideration.

Respectively yours,

Michael L. Brubaker

cc
Mr. Michael L. Brubaker  
Department of Speech  
South Dakota State University  
Brookings, South Dakota  57006  

Dear Michael:  

Thank you for your letter of October 23 requesting information regarding my speeches in connection with the 25th Amendment.  

I just returned today from several days absence from the office and therefore I am unable at this time to determine how helpful I can be to you. However, as soon as I have had an opportunity to have our files checked, I will be pleased to let you know what is available.  

We are always pleased to hear from hoosiers who are residing in other states. I hope you will be kind enough to let me hear from you, Michael, from time to time regarding your impressions of national issues from a South Dakota point of view.  

Best wishes,  

[Signature]

Birch Bayh, Chairman  
Subcommittee on Constitutional Amendments
Mr. Michael L. Brubaker
Department of Speech
South Dakota State University
Brookings, South Dakota 57006

Dear Mike:

I regret to inform you that speeches on the 25th Amendment are simply not in abundance. After the amendment's introduction, I spoke a great deal until its ratification, but most of these speeches were "off the cuff."

For a bit of information about my activities with the amendment, I have enclosed a few press releases, some newsletters and some hearing transcript, which may be of help to you in the preparation of your thesis.

Also, just about a year ago, my book, One Heartbeat Away, was published. This book is devoted entirely to the 25th Amendment -- its inception, adoption by the Congress, and ratification by the states. This was my first attempt as an author, which is very evident, but aside from the book's dryness, it is a very factual account of the four-year struggle in the making of an amendment.

Good luck with your paper, Mike.

Sincerely,

[Signature]

Birch Bayh
United States Senator
November 20, 1969

The Honorable Birch Bayh
Old Senate Office Building
Washington, D. C.

Senator Bayh:

First of all, let me thank you for the information you supplied for the research in connection with my thesis. I realize that you are quite busy and therefore I am quite honored to have a bit of your time. However, I was wondering if you were planning to be in Indiana during the Christmas break. I will be in Indianapolis from December 21 through January 4 and would like very much to meet with you for a few moments if you were to be in the State. If this does not coincide with your schedule, I well understand; but I would relish the idea of talking with you. Well, I had not planned to take this much of your time. Thank you again for your cooperation.

Sincerely,

Michael L. Brubaker
Mr. Michael L. Brubaker  
Department of Speech  
South Dakota State University  
Brookings, South Dakota  57006  

Dear Michael:  

Thanks very much for your letter. Unfortunately, I will not be in Indianapolis until sometime towards the end of January. I am disappointed we won't have the opportunity to visit during your vacation but hope we will have the chance to get together in the not-too-distant future. 

In the meantime, please let me know if there is anything I can do to be of service. Once again, thank you for your thoughtfulness. 

With every good wish for a happy holiday season, I am  

Sincerely,  

[Signature]  
Birch Bayh  
United States Senator
January 30, 1970

The Honorable Birch Bayh
Old Senate Office Building
Washington, D. C.

Senator Bayh:

Earlier this month I wrote in the hopes of gaining some further information concerning the locations which you spoke for the ratifications of the twenty-fifth Amendment. Hopefully, these occasions were to the legislatures of the various States of the Union and therefore there will be copies of these in the Legislative Records.

To this date I have not received any reply to this request and was wondering as to the progress of the search. I realize that you are quite busy and I don't want to be too requiring of your time, but this information would be a great asset. Thank you again for the information.

Sincerely,

Michael L. Brubaker
Mr. Mike L. Brubaker  
Department of Speech  
South Dakota State University  
Brookings, South Dakota 57006  

Dear Mike:

The information you requested in your two most recent letters can be found in my book, One Heartbeat Away. A copy of this book should be available at the South Dakota State University Library.

Sincerely,

Birch Bayh  
United States Senator
February 5, 1970

The Indianapolis Star
307 North Pennsylvania Street
Indianapolis, Indiana

Dear Sirs:

At this time, I am in the process of gathering various texts of
the speeches of Senator Birch Bayh in connection with the twenty-fifth
amendment to the Constitution of the United States. Through my
research, I have found that Senator Bayh spoke to a joint session of
the Indian Legislature on October 20, 1965. Does your newspaper have
a copy of the text of this speech and if so, how may I procure a copy?
Any information you could supply would be greatly appreciated. Thank
you for your time and trouble.

Sincerely,

Michael Brubaker
Department of Speech
SDSU
Brookings, South Dakota 57006

MLB/cjt
Mr. Brubaker:

I am enclosing a copy of a story we carried on 31st 1965, in regard to the Bayh speech.

We do not have a copy of the text of the speech. Have you tried Senator Bayh's office in Washington?

Cordially,

Richard E. Cady
Assistant City Editor
January 30, 1970

Honorable Birch Bayh
Chamber of Commerce Building
320 N. Meridian Street
Indianapolis, Indiana

Senator Bayh:

On January 6, 1970 I wrote for some information concerning a speech you gave to the joint session of the Indiana Legislature on October 20, 1965 concerning the ratification of the twenty-fifth amendment to the Constitution of the United States. Since that time I have received no reply as to the availability of that speech. Could you please let me know as to the progress of that request?

I would also like to take a minute to thank your office for the excellent cooperation which it is giving me in my research for my thesis. Thank you for the time and trouble this must be.

I do hope that we will get a chance to meet in the near future.

Sincerely,

Michael L. Brubaker

MLB/mb
cc
February 3, 1970

United States Government Printing Office
Washington, D. C.

Dear Sirs:

I am at this time in the process of writing a rhetorical analysis on the speaking of Senator Birch Bayh of Indiana. To complete this assignment I need a copy of the following publications: September 28, 1964, pages 22982-23002; and September 29, 1964, pages 23056-23061.

At the present time, I am in doubt as to where to send this request and hope that if this address is incorrect you office can advise me as to where to send for the needed information. Thank you for your time and trouble.

Sincerely,

M. L. Brubaker
Department of Speech
South Dakota State Univ.
Brookings, S. D.
57006
March 3, 1970

The Honorable Birch Bayh
Old Senate Office Building
Washington, D. C.

Senator Bayh:

I am sorry for the lapse of communication from me but I have been quite quasy in the preparation of the thesis. I am coming along quite well as I have finished the second chapter dealing with the historical background of the Amendment. That is indeed an accomplishment I feel.

I have at the present time procured the texts from the Congressional Record and from your book, One Heartbeat Away. I am awaiting any word from your Indianapolis Office as to the availability of the address you made to the joint session of the Indiana House and Senate in October of 1965. What I need to know is the following: Are the records of your speeches and debates in Congress accurately recorded in the Congressional Record? It is imperative that I know this before I can proceed any further.

Well, I have taken enough of your valuable time. Thank you so much again for your cooperation in the preparation of this thesis.

Sincerely,

Michael L. Brubaker
April 13, 1970

The Honorable Birch Bayh
1205 New Senate Office Building
Washington, D.C. 20510

Dear Senator Bayh:

I must apologize for the lapse of communication from this area in the past month or so as I have been kept quite busy. At the present, I am about one-third of the way completed with the thesis and hopefully I will complete the project by June 1. However, at the present time, there are a few items which are pertinent to the advancement of this paper. I need to know whether the transcripts of your speeches as recorded in the Congressional Record are, to the best of your knowledge, accurate and were these speeches delivered from manuscript or were they extemporized? Secondly, what speech classes, if any, did you have in your educational background? And finally, did you have any debate experience in high school or college?

The answers to these questions are essential to my research and a speedy reply would be greatly appreciated. Thank you for your valuable time.

Sincerely,

Michael L. Brubaker
Department of Speech
South Dakota State University
Brookings, South Dakota 57006

ML: LIA
June 15, 1970

The Honorable Birch Bayh
1205 New Senate Office Building
Washington, D. C. 20510

Senator Bayh:

Greetings from South Dakota! I am yet in the process of completing my thesis and just today heard that you would soon be in South Dakota for the State Democratic Convention. If you had any spare time for a "fellow Hoosier", I would very much like to meet and talk with you for a few moments. I realize that your duties require practically the sum total of your time and if you find this meeting impossible, I will understand. If a few moments could be spared, please advise me as to the time and location that best fits your schedule. I look forward to seeing you.

Sincerely,

Michael L. Drubaker

LJA
April 22, 1970

Mr. Michael L. Brubaker
Department of Speech
South Dakota State University
Brookings, South Dakota 57006

Dear Mr. Brubaker:

Thank you for your most recent letter.

The Congressional Record contains an accurate account of the speeches I made in connection with the 25th Amendment. The majority of these speeches were delivered from a manuscript.

You will also be interested to know that I was a member of a debate team during college.

I appreciate your taking the time to write me again.

Sincerely,

Birch Bayh
United States Senator