REMARKS BY PATRICK LEAHY[*]

I've served with almost 400 senators,[1] and there's a small handful of them that were truly really great. Birch Bayh goes on that list no matter how I write it.

I remember as a very new senator, there was a small group sitting around with Birch Bayh and Senator Ted Kennedy. Ted made a comment about how Birch had saved his life when he'd pulled him out of a burning airplane.[2] Birch said, "Well, anybody would have done that." I still remember Senator Kennedy turning to him and saying, "No. You are the only person brave enough to risk your life to save mine. I'll never forget it." I'll never forget that conversation either.

When I got a chance to sit on the Senate Committee on the Judiciary with Birch,[3] I realized he was a senator's senator. He could work with Republicans and Democrats, and he followed the rules that all senators followed back then—not enough do today—he always kept his word. He could sit down with people from the far right to the far left and say, "How do we work something out?"

He became the first senator since the Founding Fathers of this country to put through two constitutional amendments.[4] One that everybody takes for granted today, but was so revolutionary at the time, and that's to lower the voting age to eighteen.[5] The other, which we didn't think we would probably ever need but ended up needing almost immediately, was to allow for the appointment of a vice president with congressional approval when there's a vacancy.[6] He had seen what happened when President John F. Kennedy was

1. *See Longest-Serving Senators*, U.S. SENATE, https://senate.gov/senators/longest_serving_senators.htm [https://perma.cc/QK4YCWJB] (last visited June 22, 2020).
2. *See* 155 CONG. REC. S9202 (daily ed. Sept. 10, 2009) (statement of Sen. Dick Durbin).
3. *See* Interview, *A Modern Father of Our Constitution: An Interview with Former Senator Birch Bayh*, 79 FORDHAM L. REV. 781, 781 (2011).
4. *See id*. at 782; *see also* Opinion, Jesse Wegman, *The Man Who Changed the Constitution, Twice*, N.Y. TIMES (Mar. 14, 2019), https://www.nytimes.com/2019/03/14/opinion/birch-bayh-constitution.html?auth=link-dismiss-google1tap [https://perma.cc/YV2E-WADJ].
5. U.S. CONST. amend. XXVI.
6. U.S. CONST. amend. XXV.

assassinated. Lyndon B. Johnson was there, but there was no ability to have a vice president.[7] They had to rely on the Speaker of the House and President pro tempore of the Senate but not a vice president.[8] Ironically, the first person to be named as a vice president was Gerald Ford, who then became president.[9] Unelected as vice president, unelected as president.[10] This would have created an enormous constitutional crisis in this country had it not been for Birch Bayh.

I think every day when I look at his picture, every day when I look at books mentioning him, every day when I think about him as I go into some of the committees: we should have more senators like him. Fortunately, we've had some very good men and women in the Senate. But only a tiny, tiny handful are as great of a senator as he was.

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7. *See* Interview*, supra* note 3, at 788–89.

8. Presidential Succession Act of 1947, Pub. L. No. 80-199, 61 Stat. 380 (codified as amended at 3 U.S.C. § 19).

9*. See Gerald R. Ford, 40th Vice President (1973-1974)*, U.S. SENATE, https://www.senate.gov/about/officers-staff/vice-president/VP_Gerald_Ford.htm [https://perma.cc/8FCP-82YT] (last visited June 22, 2020).

10*. See id*.; *see also* Interview*, supra* note 3, at 799.