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THE
ELECTORS' MANUAL.

Constitutional Provisions

AND

STATUTES OF THE UNITED STATES

RELATING TO

PRESIDENTIAL ELECTIONS,
ELECTIONS OF SENATORS AND REPRESENTATIVES,
CITIZENSHIP,
AND THE ELECTIVE FRANCHISE.

WITH

AN APPENDIX

SHOWING THE METHOD OF COUNTING THE ELECTORAL VOTES FOR
PRESIDENT AND VICE-PRESIDENT.

BY

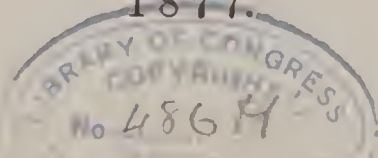
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AND EDITOR OF "PATENT CASES DETERMINED IN THE SUPREME
COURT OF THE UNITED STATES."

"It has been a current observation that where annual elections end, tyranny begins."—STORY.

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PART I.

PROVISIONS OF THE CONSTITUTION OF THE UNITED STATES HAVING REFERENCE TO ELECTIONS AND CITIZENSHIP.

1. *House of Representatives; how and by whom Chosen.*—The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. Art. 1, sec. 2, cl. 1.

2. *Qualifications of Representative.*—No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen. Art. 1, sec. 2, cl. 2.

3. *Representatives; how Apportioned.*—Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three. Art. 1, sec. 2, cl. 3.

4. *Vacancies Filled.*—When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies. Art. 1, sec. 2, cl. 4.

5. *Senators; how and by whom Chosen.*—The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; and each senator shall have one vote. Art. 1, sec. 3, cl. 1.

6. *Classification of Senators; State Executive to make Temporary Appointments.*—Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the

expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies. Art. 1, sec. 3, cl. 2.

7. *Qualifications of Senator.*—No person shall be a senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen. Art. 1, sec. 3, cl. 3.

8. *Manner of Election of Senators.*—The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law, make or alter such regulations, except as to the places of choosing senators. Art. 1, sec. 4, cl. 1.

9. *Each House shall be the Judge of its Own Members.*—Each house shall be the judge of the elections, returns, and qualifications of its own members. Art. 1, sec. 5, cl. 1.

10. *Presidential Term.*—The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows. Art. 2, sec. 1, cl. 1.

11. *Appointment of Electors.*—Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector. Art. 2, sec. 1, cl. 2.

12. *Day for choosing Electors.*—The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States. Art. 2, sec. 1.

13. *Qualification of President.*—No person except a natural-born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States. Art. 2, sec. 1.

14. *Death, Resignation or Removal of President.*—In 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. Art. 2, sec. 1.

15. *Manner of choosing President and Vice-President.*—The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person

voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the 4th day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States. Amendment, art. 12.

16. *Citizenship*.—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. Amendment, art. 14, sec. 1.

17. *Apportionment of Representatives*.—Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, are in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. Amendment, art. 14, sec. 2.

18. *Ineligible Persons*.—No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability. Amendment, art. 14, sec. 3.

19. *Power of Congress to Enforce Article 14*.—The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. Amendment, art. 14, sec. 5.

20. *Right to Vote*.—The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. Amendment, art. 15, sec. 1.

21. *Power of Congress to Enforce Article 15*.—The Congress shall have power to enforce this article by appropriate legislation. Art. 15, sec. 2.

PART II.

REVISED STATUTES OF THE UNITED STATES HAVING REFERENCE TO ELECTIONS.

CHAPTER I.

PRESIDENTIAL ELECTIONS.

22. *Time of Appointing Electors*.—SEC. 131. Except in case of a presidential election prior to the ordinary period, as specified in sections one hundred and forty-seven to one hundred and forty-nine, inclusive, when the offices of President and Vice-President both become vacant, the electors of President and Vice-President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice-President. 1 Mar., 1792, c. 8, s. 1, v. 1, p. 239. 23 Jan., 1845, c. 1, v. 5, p. 721.

23. *Number of Electors*.—SEC. 132. The number of electors shall be equal to the number of senators and representatives to which the several States are by law entitled at the time when the President and Vice-President to be chosen come into office; except, that where no apportionment of representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of senators and representatives. 1 Mar., 1792, c. 8, s. 1, v. 1, p. 239.

24. *Vacancies in Electoral College.*—SEC. 133. Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote. 23 Jan., 1845, c. 1, v. 5, p. 721.

25. *Failure to make a Choice on the Appointed Day.*—SEC. 134. Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such manner as the legislature of such State may direct. 23 Jan., 1845, c. 1, v. 5, p. 721.

26. *Meeting of Electoral College.*—SEC. 135. The electors for each State shall meet and give their votes upon the first Wednesday in December in the year in which they are appointed, at such place, in each State, as the legislature of such State shall direct. 1 Mar., 1792, c. 8, s. 2, v. 1, p. 239.

27. *List of Names of Electors to be Furnished to Them.*—SEC. 136. It shall be the duty of the executive of each State to cause three lists of the names of the electors of such State to be made and certified, and to be delivered to the electors on or before the day on which they are required, by the preceding section, to meet. 1 Mar., 1792, c. 8, s. 3, v. 1, p. 240.

28. *Manner of Voting.*—SEC. 137. The electors shall vote for President and Vice-President, respectively, in the manner directed by the Constitution. 26 Mar., 1804, c. 50, s. 1, v. 2, p. 295.

29. *Certificates to be Made and Signed.*—SEC. 138. The electors shall make and sign three certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President, and the other of the votes for Vice-President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State. 1 Mar., 1792, c. 8, ss. 2, 3, v. 1, p. 239. 26 Mar., 1804, c. 50, s. 1, v. 2, p. 295.

30. *Certificates to be Sealed and Indorsed.*—SEC. 139. The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such State given for President, and of all the votes given for Vice-President, are contained therein. 1 Mar., 1792, c. 8, s. 2, v. 1, p. 239. 26 Mar., 1804, c. 50, s. 1, vol. 2, p. 295.

31. *Transmission of the Certificates.*—SEC. 140. The electors shall dispose of the certificates thus made by them in the following manner:

One. They shall, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of and deliver to the President of the Senate, at the seat of government, before the first Wednesday in January then next ensuing, one of the certificates.

Two. They shall forthwith forward by the post-office to the President of the Senate, at the seat of government, one other of the certificates.

Three. They shall forthwith cause the other of the certificates to be delivered to the judge of that district in which the electors shall assemble. 1 Mar., 1792, c. 8, s. 2, v. 1, p. 239. 26 Mar., 1804, c. 50, s. 1, v. 2, p. 259.

32. *When Secretary of State shall send for District Judge's List.*—SEC. 141. Whenever a certificate of votes from any State has not been received at the seat of government on the first Wednesday of January

indicated by the preceding section, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of the votes from that State has been lodged, and such judge shall forthwith transmit that list to the seat of government. 1 Mar., 1792, c. 8, s. 4, v. 1, p. 240.

33. *Counting the Electoral Votes in Congress.*—SEC. 142. Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors, and the certificates, or so many of them as have been received, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice-President ascertained and declared, agreeable to the Constitution. 1 Mar., 1792, c. 8, s. 5, v. 1, p. 240.

34. *Provision for Absence of President of the Senate.*—SEC. 143. In case there shall be no President of the Senate at the seat of government on the arrival of the persons intrusted with the certificates of the votes of the electors, then such persons shall deliver such certificates into the office of the Secretary of State, to be safely kept, and delivered over as soon as may be to the President of the Senate. 1 Mar., 1792, c. 8, s. 6, v. 1, p. 240.

35. *Mileage of Messengers.*—SEC. 144. Each of the persons appointed by the electors to deliver the certificates of votes to the President of the Senate shall be allowed, on the delivery of the list intrusted to him, twenty-five cents for every mile of the estimated distance, by the most usual road, from the place of meeting of the electors to the seat of Government of the United States. 1 Mar., 1792, c. 8, s. 7, v. 1, p. 240.

36. *Forfeiture for Messenger's Neglect of Duty.*—SEC. 145. Every person who, having been appointed, pursuant to subdivision one of section one hundred and forty or to section one hundred and forty-one, to deliver the certificates of the votes of the electors to the President of the Senate, and having accepted such appointment, shall neglect to perform the services required from him, shall forfeit the sum of one thousand dollars. 1 Mar., 1792, c. 8, s. 8, v. 1, p. 240.

37. *Vacancy in both Offices.*—SEC. 146. In case of removal, death, resignation, or inability of both the President and Vice-President of the United States, the President of the Senate, or, if there is none, then the Speaker of the House of Representatives, for the time being, shall act as President until the disability is removed or a President elected. 1 Mar., 1792, c. 8, s. 9, v. 1, p. 240.

38. *Notification of Vacancies to be Published.*—SEC. 147. Whenever the offices of President and Vice-President both become vacant, the Secretary of State shall forthwith cause a notification thereof to be made to the executive of every State, and shall also cause the same to be published in at least one of the newspapers printed in each State. 1 Mar., 1792, c. 8, s. 10, v. 1, p. 240.

39. *Requisites of the Notification.*—SEC. 148. The notification shall specify that electors of a President and Vice-President of the United States shall be appointed or chosen in the several States, as follows:

First. If there shall be the space of two months yet to ensue between the date of such notification and the first Wednesday in December then next ensuing, such notification shall specify that the electors shall be ap-

pointed or chosen within thirty-four days preceding such first Wednesday in December.

Second. If there shall not be the space of two months between the date of such notification and such first Wednesday in December, and if the term for which the President and Vice-President last in office were elected will not expire on the third day of March next ensuing, the notification shall specify that the electors shall be appointed or chosen within thirty-four days preceding the first Wednesday in December in the year next ensuing. But if there shall not be the space of two months between the date of such notification and the first Wednesday in December then next ensuing, and if the term for which the President and Vice-President last in office were elected will expire on the third day of March next ensuing, the notification shall not specify that electors are to be appointed or chosen. 1 Mar., 1792, c. 8, s. 10, v. 1, p. 240.

40. *Time of holding Election to fill Vacancy.*—SEC. 149. Electors appointed or chosen upon the notification prescribed by the preceding section shall meet and give their votes upon the first Wednesday of December specified in the notification. 1 Mar., 1792, c. 8, s. 10, v. 1, p. 240

41. *Regulations for Quadrennial Election made applicable to Election to fill Vacancies.*—SEC. 150. The provisions of this title, relating to the quadrennial election of President and Vice-President, shall apply with respect to any election to fill vacancies in the offices of President and Vice-President, held upon a notification given when both offices become vacant. 1 Mar., 1792, c. 8, s. 10, v. 1, p. 240.

42. *Resignation or Refusal of Office.*—SEC. 151. The only evidence of a refusal to accept, or of a resignation, of the office of President or Vice-President, shall be an instrument in writing, declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered into the office of the Secretary of State. 1 Mar., 1792, c. 8, s. 11, v. 1, p. 241.

CHAPTER II.

ELECTION OF SENATORS.

43. *When Senators to be Elected.*—SEC. 14. The legislature of each State which is chosen next preceding the expiration of the time for which any senator was elected to represent such State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a senator in Congress. 25 July, 1866, c. 245, s. 1, v. 14, p. 243.

44. *Mode of Election.*—SEC. 15. Such election shall be conducted in the following manner: Each house shall openly, by a viva-voce vote of each member present, name one person for senator in Congress from such State, and the name of the person so voted for, who receives a majority of the whole number of votes cast in each house, shall be entered on the

journal of that house by the clerk or secretary thereof; or if either house fails to give such majority to any person on that day, the fact shall be entered on the journal. At twelve o'clock meridian of the day following that on which proceedings are required to take place as aforesaid, the members of the two houses shall convene in joint assembly, and the journal of each house shall then be read, and if the same person has received a majority of all the votes in each house, he shall be declared duly elected senator. But if the same person has not received a majority of the votes in each house, or if either house has failed to take proceedings as required by this section, the joint assembly shall then proceed to choose, by a viva-voce vote of each member present, a person for senator, and the person who receives a majority of all the votes of the joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected. If no person receives such majority on the first day, the joint assembly shall meet at twelve o'clock meridian of each succeeding day during the session of the legislature, and shall take at least one vote, until a senator is elected. 25 July, 1866, c. 245, s. 1, v. 14, p. 243.

45. *Vacancy Occurring before Meeting of Legislature.*—SEC. 16. Whenever on the meeting of the legislature of any State a vacancy exists in the representation of such State in the Senate, the legislature shall proceed, on the second Tuesday after meeting and organization, to elect a person to fill such vacancy, in the manner prescribed in the preceding section for the election of a senator for a full term. 25 July, 1866, c. 245, s. 2, v. 14, p. 243.

46. *Vacancy during Session of Legislature.*—SEC. 17. Whenever during the session of the legislature of any State a vacancy occurs in the representation of such State in the Senate, similar proceedings to fill such vacancy shall be had on the second Tuesday after the legislature is organized and has notice of such vacancy. 25 July, 1866, c. 245, s. 2, v. 14, p. 243.

47. *Election of Senators Certified* —SEC. 18. It shall be the duty of the executive of the State from which any Senator has been chosen, to certify his election, under the seal of the State, to the president of the Senate of the United States. 25 July, 1866, c. 245, s. 3, v. 14, p. 244.

48. *Countersign of Certificate.*—SEC. 19. The certificate mentioned in the preceding section shall be countersigned by the secretary of state of the State. 25 July, 1866, c. 245, s. 3, v. 14, p. 244.

CHAPTER III.

APPORTIONMENT AND ELECTION OF REPRESENTATIVES.

49. *Number and Apportionment of Representatives.*—SEC. 20. After the third day of March, eighteen hundred and seventy-three, the House of

Representatives shall be composed of two hundred and ninety-two members, to be apportioned among the several States as follows :

| | | | |
|---------------------------|----|--------------------------|----|
| Maine, | 5 | Kentucky, | 10 |
| New Hampshire, | 3 | Tennessee, | 10 |
| Vermont, | 3 | Indiana, | 13 |
| Massachusetts, | 11 | Illinois, | 19 |
| Rhode Island, | 2 | Missouri, | 13 |
| Connecticut, | 4 | Arkansas, | 4 |
| New York, | 33 | Michigan, | 9 |
| New Jersey, | 7 | Florida, | 2 |
| Pennsylvania, | 27 | Texas, | 6 |
| Delaware, | 1 | Iowa, | 9 |
| Maryland, | 6 | Wisconsin, | 8 |
| Virginia, | 9 | California, | 4 |
| North Carolina, | 8 | Minnesota, | 3 |
| South Carolina, | 5 | Oregon, | 1 |
| Georgia, | 9 | Kansas, | 3 |
| Alabama, | 8 | West Virginia, | 3 |
| Mississippi, | 6 | Nevada, | 1 |
| Louisiana, | 6 | Nebraska, | 1 |
| Ohio, | 20 | | |

2 Feb., 1872, c. 11, s. 1, v. 17, p. 28.

50. *Representatives Assigned to New States.*—SEC. 21. Whenever a new State is admitted to the Union, the representatives assigned to it shall be in addition to the number two hundred and ninety-two. 23 May, 1850, c. 11, s. 25, v. 9, p. 432. *Conway v. United States*, 1 Penn. & H., 68.

51. *Reduction of Representation under Amendment 14.*—SEC. 22. Should any State deny or abridge the right of any of the male inhabitants thereof, being twenty-one years of age, and citizens of the United States, to vote at any election named in the amendment to the Constitution, article fourteen, section two, except for participation in the rebellion or other crime, the number of representatives apportioned to such State shall be reduced in the proportion which the number of such male citizens shall have to the whole number of male citizens twenty-one years of age in such State. 2 Feb., 1872, c. 11, s. 6, v. 17, p. 29.

52. *Elections by Districts.*—SEC. 23. In each State entitled under this apportionment to more than one representative, the number to which such State may be entitled in the forty-third and each subsequent Congress shall be elected by districts composed of contiguous territory, and containing as nearly as practicable an equal number of inhabitants, and equal in number to the number of representatives to which such State may be entitled in Congress, no one district electing more than one representative; but in the election of representatives to the forty-third Congress in any State to which an increased number of representatives is given by this apportionment, the additional representative or representatives may be elected by the State at large, and the other representatives by the districts as now prescribed by law, unless the legislature of the State shall otherwise provide before the time fixed by law for the election of representatives therein. 2 Feb., 1872, c. 11, s. 2, v. 17, p. 28. 30 May, 1872, c. 239, v. 17, p. 192.

53. *Representative from California in Forty-fourth Congress.*—SEC. 24. On the first Wednesday in September, in the year eighteen hundred and seventy-four, there shall be elected in each congressional district in the

State of California one representative to represent said State in the forty-fourth Congress. 3 March, 1873, c. 239, v. 17, p. 578.

54. *Time of Election*.—SEC. 25. The Tuesday next after the first Monday in November, in the year eighteen hundred and seventy-six, is established as the day, in each of the States and territories of the United States, for the election of representatives and delegates to the forty-fifth Congress; and the Tuesday next after the first Monday in November, in every second year thereafter, is established as the day for the election, in each of said States and territories, of representatives and delegates to the Congress commencing on the fourth day of March next thereafter. [See §§ 1863, 1905, 1906.] 2d Feb., 1872, c. 11, s. 3, v. 17, p. 28. March 3, 1875, a law passed modifying this section "So as not to apply to any State that has not yet changed its day of election, and whose constitution must be amended in order to effect a change in the day of election of State officers in said State." All the representatives in Congress are now elected on the first Tuesday after the first Monday in November, except in the States of Indiana, Maine, and Ohio, and for alternate Congresses in Iowa.

55. *Vacancies*.—SEC. 26. The time for holding elections in any State, district, or territory for a representative or delegate to fill a vacancy, whether such vacancy is caused by a failure to elect at the time prescribed by law, or by the death, resignation, or incapacity of a person elected, may be prescribed by the laws of the several States and territories respectively. 2 Feb., 1872, c. 11, s. 4, v. 17, p. 29.

56. *Votes by Ballot*.—SEC. 27. All votes for representatives in Congress must be by written or printed ballot; and all votes received or recorded contrary to this section shall be of no effect. But this section shall not apply to any State voting otherwise whose election for representatives occurs previous to the regular meeting of its legislature next after the twenty-eighth day of February, eighteen hundred and seventy-one. [See §§ 5511-5515, 5520.] 28th Feb., 1871, c. 99, s. 19, v. 16, p. 440. 30 May, 1872, c. 239, v. 17, p. 192.

CHAPTER IV.

CITIZENSHIP.

57. *Who are Citizens?*—SEC. 1992. All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States. 9 April, 1866, c. 31, s. 1, v. 14, p. 27.

58. *Citizenship of Children of Citizens Born Abroad*.—SEC. 1993. All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States. 10 Feb, 1855, c. 71, s. 1, v. 10, p. 604. 14 April, 1802, c. 28, s. 4, v. 2, p. 155.

59. *Citizenship of Married Women.*—SEC. 1994. Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen. 10 Feb., 1855, c. 71, s. 2, v. 10, p. 604. *Kelly v. Owen*, 7 Wallace, 496.

60. *Of Persons Born in Oregon.*—SEC. 1995. All persons born in the district of country formerly known as the Territory of Oregon, and subject to the jurisdiction of the United States on the 18th May, 1872, are citizens in the same manner as if born elsewhere in the United States. 18 May, 1872, c. 172, s. 3, v. 17, p. 134.

61. *Rights as Citizens Forfeited for Desertion, etc.*—SEC. 1996. All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost-marshal within sixty days after the issuance of the proclamation by the President, dated the 11th day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof. 3 March, 1865, c. 79, s. 21, v. 13, p. 490.

62. *Certain Soldiers and Sailors not to Incur the Forfeitures of the last section.*—SEC. 1997. No soldier or sailor, however, who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be held to be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office, in consequence of his desertion. 19 July, 1867, c. 28, v. 15, p. 14.

63. *Avoiding the Draft.*—SEC. 1998. Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeitures of section nineteen hundred and ninety-six. 3 March, 1865, c. 79, s. 21, v. 13, p. 490.

64. *Right of Expatriation Declared.*—SEC. 1999. Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic. 27 July, 1868, c. 249, s. 1, v. 15, p. 223.

65. *Protection to Naturalized Citizens in Foreign States.*—SEC. 2000. All naturalized citizens of the United States, while in foreign countries, are

entitled to and shall receive from this government the same protection of persons and property which is accorded to native-born citizens. 27 July, 1868, c. 249, s. 2, v. 15, p. 224.

66. *Release of Citizens Imprisoned by Foreign Governments to be Demanded.*—SEC. 2001. Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress. 27 July, 1868, c. 249, s. 3, v. 15, p. 224.

CHAPTER V.

THE ELECTIVE FRANCHISE.

67. *Bringing Armed Troops to Places of Election.*—SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls. [See §§ 5528, 5529, 5532.] 25 Feb., 1865, c. 52, s. 1, v. 13, p. 437.

68. *Interference with Freedom of Elections by Officers of Army or Navy.*—SEC. 2003. No officer of the army or navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. [See §§ 5530-5532.] 25 Feb., 1865, c. 52, s. 1, v. 13, p. 437.

69. *Race, Color, or Previous Condition not to Affect the Right to Vote.*—SEC. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding. 31 May, 1870, c. 114, s. 1, v. 16, p. 140. 2 Abb. U. S., 120. *McKay v. Campbell*, 1 Saw., 374.

70. *Nor the Performance of any Prerequisite.*—SEC. 2005. When, under the authority of the constitution or laws of any State, or the laws of any

territory, any act is required to be done as a prerequisite or qualification for voting, and by such constitution or laws persons or officers are charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States the same and equal opportunity to perform such prerequisite, and to become qualified to vote. 31 May, 1870, c. 114, s. 2, v. 16, p. 140. *McKay v. Campbell*, 1 Saw., 374.

71. *Penalty for Refusing to give Full Effect to Preceding Section.*—SEC. 2006. Every person or officer charged with the duty specified in the preceding section, who refuses or knowingly omits to give full effect to that section, shall forfeit the sum of five hundred dollars to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just. 31 May, 1870, c. 114, s. 2, v. 16, p. 140.

72. *What shall Entitle a Person to Vote.*—SEC. 2007. Whenever under the authority of the constitution or laws of any State, or the laws of any territory, any act is required to be done by a citizen as a prerequisite to qualify or entitle him to vote, the offer of such citizen to perform the act required to be done shall, if it fail to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing to vote, and being otherwise qualified, shall be entitled to vote in the same manner and to the same extent as if he had in fact performed such act. 31 May, 1870, c. 114, s. 3, v. 16, p. 140.

73. *Penalty for Wrongfully Refusing to Receive a Vote.*—SEC. 2008. Every judge, inspector, or other officer of election whose duty it is to receive, count, certify, register, report, or give effect to the vote of such citizen, who wrongfully refuses or omits to receive, count, certify, register, report, or give effect to the vote of such citizen upon the presentation by him of his affidavit, stating that such offer and the time and place thereof, and the name of the officer or person whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall forfeit the sum of five hundred dollars to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just. 31 May, 1870, c. 114, s. 3, v. 16, p. 140.

74. *For Unlawfully Hindering a Person from Voting.*—SEC. 2009. Every officer or other person, having powers or duties of an official character to discharge under any of the provisions of this title, who by threats, or any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall forfeit the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just. 31 May, 1870, c. 114, s. 4, v. 16, p. 141. 10 June, 1872, c. 415, s. 1, v. 17, p. 349.

75. *Remedy for Deprivation of Office.*—SEC. 2010. Whenever any person is defeated or deprived of his election to any office, except elector of President or Vice-President, representative or delegate in Congress, or member of a State legislature, by reason of the denial to any citizen who may offer to vote, of the right to vote, on account of race, color or previous condition of servitude, his right to hold and enjoy such office, and the emoluments thereof, shall not be impaired by such denial; and the person so defeated or deprived may bring any appropriate suit or proceeding to recover possession of such office, and in cases where it appears that the sole question touching the title to such office arises out of the denial of the right to vote to citizens who so offered to vote, on account of race, color, or previous condition of servitude, such suit or proceeding may be instituted in the circuit or district court of the United States of the circuit or district in which such person resides. And the circuit or district court shall have, concurrently with the State courts, jurisdiction thereof, so far as to determine the rights of the parties to such office by reason of the denial of the right guaranteed by the fifteenth article of amendment to the Constitution of the United States, and secured herein. [See §§ 563, 629.] 31 May, 1870, c. 114, s. 23, v. 16, p. 146. *Ex parte Warmouth*, 17, Wall., 64.

76. *In Cities or Towns of over 20,000 Inhabitants, etc., upon written application of two Citizens, the Circuit Judge to open Court.*—SEC. 2011. Whenever, in any city or town having upward of twenty thousand inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any congressional district, there are ten citizens thereof, of good standing, who, prior to any registration of voters for an election for representative or delegate in the Congress of the United States, or prior to any election at which a representative or delegate in Congress is to be voted for, may make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town, county or parish, is situated, their desire to have such registration, or such election, or both, guarded and scrutinized, the judge, within not less than ten days prior to the registration, if one there be, or, if no registration be required, within not less than ten days prior to the election, shall open the circuit court at the most convenient point in the circuit. 28 Feb., 1871, c. 99, s. 2, v. 16, p. 433. 10 June, 1872, c. 415, s. 1, v. 17, p. 348.

77. *Supervisors of Election.*—SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and commission, from day to day and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting precinct in such city or town, or for such election district or voting precinct in the congressional district, as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting precinct in the county or parish, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election. [See §§ 5521–5522.] *Ibid.*

78. *Court to be kept Open.*—SEC. 2013. The circuit court, when opened by the judge as required in the two preceding sections, shall therefrom

and thereafter, and up to and including the day following the day of election, be always open for the transaction of business under this title, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time; and a judge sitting at chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court. Ibid.

79. *District Judge may Perform Duties of Circuit Judge.*—SEC. 2014. Whenever, from any cause, the judge of the circuit court in any judicial circuit is unable to perform and discharge the duties herein imposed, he is required to select and assign to the performance thereof, in his place, such one of the judges of the district courts within his circuit as he may deem best; and upon such selection and assignment being made, the district judge so designated shall perform and discharge, in the place of the circuit judge, all the duties, powers, and obligations imposed and conferred upon the circuit judge by the provisions hereof. 28 Feb., 1871, c. 99, s. 3, v. 16, p. 434.

80. *Construction of Preceding Section.*—SEC. 2015. The preceding section shall be construed to authorize each of the judges of the circuit courts of the United States to designate one or more of the judges of the district courts within his circuit to discharge the duties arising under this title. 10 June, 1872, c. 415, s. 1, v. 17, p. 349.

81. *Duties of Supervisors of Elections.*—SEC. 2016. The supervisors of election, so appointed, are authorized and required to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a representative or delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section two thousand and twenty-six, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any name. 28 Feb., 1871, c. 99, s. 4, v. 16, p. 434.

82. *Attendance at Elections.*—SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of representatives or delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot-boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State,

territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll-books, registry lists, and tallies or check books, whether the same are required by any law of the United States, or any State, territorial, or municipal law, are kept. 28 Feb., 1871, c. 99, s. 5, v. 16, p. 434.

83. *To Personally Scrutinize and Count each Ballot.*—SEC. 2018. To the end that each candidate for the office of representative or delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section two thousand and twenty-five, has been designated as the chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof, and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known. 28 Feb., 1871, c. 99, s. 5, v. 16, p. 434.

84. *Their Positions.*—SEC. 2019. The better to enable the supervisors of election to discharge their duties, they are authorized and directed, in their respective election districts or voting precincts, on the day of registration, on the day when registered voters may be marked to be challenged, and on the day of election, to take, occupy, and remain in such position, from time to time, whether before or behind the ballot-boxes, as will, in their judgment, best enable them to see each person offering himself for registration or offering to vote, and as will best conduce to their scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are required to place themselves in such position, in relation to the ballot-boxes, for the purpose of engaging in the work of canvassing the ballots, as will enable them to fully perform the duties in respect to such canvass provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed. [See § 5521.] 28 Feb., 1871, c. 99, s. 6, v. 16, p. 435.

85. *When Molested.*—SEC. 2020. When in any election district or voting precinct in any city or town, for which there have been appointed supervisors of election for any election at which a representative or delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations, and powers conferred upon them by law, the supervisors of election shall make prompt

report, under oath, within ten days after the day of election, to the officer who, in accordance with the provisions of section two thousand and twenty-five, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into all the facts; and he shall have power to subpoena and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such representative or delegate was voted for, he shall file with the clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made. [See § 5522.] 28 Feb., 1871, c. 99, s. 7, v. 16, p. 435.

86. *Special Deputies.*—SEC. 2021. Whenever an election at which representatives or delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct. 28 Feb., 1871, c. 99, s. 8, v. 16, p. 436.

87. *Duties of Marshals.*—SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offences prohibited herein, or who commits any offence against the laws of the United States; but no person shall be arrested without process for any offence not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offence committed on the day of registration. [See §§ 5521, 5522] 28 Feb., 1871, c. 99, s. 8, v. 16, p. 436.

88. *Persons arrested to be taken forthwith before a Judge, etc.*—SEC. 2023. Whenever any arrest is made under any provision of this title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offences alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States. 28 Feb., 1871, c. 99, s. 9, v. 16, p. 436.

89. *Assistance of Bystanders.*—SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offence for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or posse comitatus of his district. 28 Feb., 1871, c. 99, s. 12, v. 16, p. 437.

90. *Chief Supervisors of Elections.*—SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the first day of May, in the year eighteen hundred and seventy-one, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed. [See § 627.] 28 Feb., 1871, c. 99, s. 13, v. 16, p. 437.

91. *Their Duties.*—SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section two thousand and twelve, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts or voting precincts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this title, and all certificates, returns, reports, and records of every kind and nature contemplated or made requisite by the provisions hereof, save where otherwise herein specially directed. [See § 627.] 28 Feb., 1871, c. 99, s. 13, v. 16, p. 437.

92. *Marshals to forward Complaint to Chief Supervisors.*—SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, con-

cerning, or affecting the election of representatives or delegates in the Congress of the United States, from time to time, and, with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed. *Ibid.*

93. *Supervisors and Deputy Marshals to be Qualified Voters, etc.*—SEC. 2028. No person shall be appointed a supervisor of election or a deputy marshal, under the preceding provisions, who is not, at the time of his appointment, a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed. 10 June, 1872, c. 415, s. 1, v. 17, p. 349.

94. *Certain Supervisors not to make Arrests, etc.*—SEC. 2029. The supervisors of election appointed for any county or parish in any congressional district, at the instance of ten citizens, as provided in section two thousand and eleven, shall have no authority to make arrests, or to perform other duties than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making of a return thereof. 10 June, 1872, c. 415, s. 1, v. 17, p. 349.

95. *No more Marshals or Deputy Marshals to be appointed than now authorized.*—SEC. 2030. Nothing in this title shall be construed to authorize the appointment of any marshals or deputy marshals in addition to those authorized by law, prior to the tenth day of June, eighteen hundred and seventy-two. 10 June, 1872, c. 415, s. 1, v. 17, p. 349.

96. *Pay of Supervisors*—SEC. 2031. There shall be allowed and paid to the chief supervisor, for his services as such officer, the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section two thousand and twenty, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. And there shall be allowed and paid to each supervisor of election, and each special deputy marshal who is appointed and performs his duty under the preceding provisions, compensation at the rate of five dollars per day for each day he is actually on duty, not exceeding ten days; but no compensation shall be allowed, in any case, to supervisors of election, except to those appointed in cities or towns of twenty thousand or more inhabitants. And the fees of the chief supervisors shall be paid at the treasury of the United States, such accounts to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge. 28 Feb., 1871, c. 99, s. 14, v. 16, p. 438. 10 June, 1872, c. 415, s. 1, v. 17, p. 349.

APPENDIX.

METHOD OF COUNTING THE ELECTORAL VOTES FOR
PRESIDENT AND VICE-PRESIDENT, FROM
1789 TO 1873.

FIRST TERM, 1789 TO 1793.

Whole number of States participating in the election, 10. Owing to the facts that only eleven States had ratified the Constitution, and that the legislature of New York had failed to pass a law providing for the appointment of electors, only ten States participated in this election.

Electoral Vote.—George Washington, 69; John Adams, 34; John Jay, 9; R. H. Harrison, 6; John Rutledge, 6; John Hancock, 4; George Clinton, 3; Samuel Huntingdon, 2; John Nulton, 2; James Armstrong, 1; Edward Telfair, 1; Benjamin Lincoln, 1. At this time the electors voted for two persons. The candidate receiving the largest number of votes was to be President, and the one having the next highest number of votes was to be Vice-President. It was requisite that the President should have received a majority of the whole number of votes.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, First Congress, First Session, pp. 7 and 8.—April 6, 1789.—The Senate proceeded by ballot to the choice of a president for the sole purpose of opening and counting the votes for President of the United States.

John Langdon, Esq., was elected.

Ordered, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a president is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States; and that the Senate is now ready, in the Senate chamber, to proceed in the presence of the House to discharge that duty; and that the Senate have appointed one of their members to sit at the clerk's table to make a list of the votes as they shall be declared, submitting it to the wisdom of the House to appoint one or more of their members for the like purpose—who reported that he had delivered the message.

Mr. Baudinot, from the House of Representatives, communicated the following verbal message to the Senate:

Mr. President: I am directed by the House of Representatives to inform the Senate that the House is ready forthwith to meet the Senate to attend the opening and counting of the votes of the electors of the President and Vice-President of the United States.

Ordered, That Mr. Patterson be the teller on the part of the Senate.

After the business of the joint convention was completed, and the House of Representatives had withdrawn,

Mr. Madison came from the House of Representatives with the following verbal message:

Mr. President: I am directed by the House of Representatives to inform the Senate that the House have agreed that the notifications of the election of the President and of the Vice-President of the United States should be made by such persons, and in such manner, as the Senate shall be pleased to direct.

Whereupon the Senate appointed Charles Thomson, Esq., to notify George Washington, Esq., of his election to the office of President of the United States of America, and Mr. Sylvanus Bourn to notify John Adams, Esq., of his election to the office of Vice-President of the said United States.

SECOND TERM, 1797 TO 1801.

Whole number of States participating in the election, 15.

Electoral Vote.—Whole number of electors, 132. George Washington, 132; John Adams, 77; George Clinton, 50; Thomas Jefferson, 4; Aaron Burr, 1.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Second Congress, Second Session, pp. 480, 484, 486, 487.—February 5, 1793.—A message was received in the Senate, from the House of Representatives, by Mr. Beckley, their clerk:

Mr. President: The House of Representatives have resolved that a committee be appointed, to join such committee as may be appointed by the Senate, to ascertain and report a mode of examining the votes for President and Vice-President, and of notifying the persons who shall be elected of their election; and for regulating the time, place, and manner of administering the oath of office to the President, and have appointed a committee on their part.

February 6, 1793.—The Senate proceeded to the consideration of the said resolution and concurred therein, and appointed Messrs. Izard, King, and Strong, the committee on the part of the Senate.

February 11, 1793.—Mr. King, from the joint committee, reported:

That the two houses shall assemble in the Senate chamber on Wednesday next, at 12 o'clock; that one person shall be appointed a teller, on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice President, and, together with a list of the votes, be entered on the journals of the two houses.

And the report was agreed to.

February 12, 1793.—On motion,

Ordered, That Mr. King be appointed on the part of the Senate a teller of the votes for President and Vice-President of the United States, conformable to the report of the joint committee agreed to on the 11th instant.

February 14, 1793.—Mr. King, from the joint committee appointed on the 6th instant to report a mode of notifying the person who should be elected President of the United States, submitted the following resolve:

Resolved, That a committee be appointed, to join such committee as shall be appointed by the House of Representatives, to wait on the President and notify him of his unanimous re-election to the office of President of the United States.

And the report was adopted.

Ordered, That Messrs. King, Izard, and Strong be the committee on the part of the Senate.

Ordered, That the Secretary acquaint the House of Representatives therewith, and desire the appointment of a joint committee on their part.

THIRD TERM, 1797 TO 1801.

Whole number of States participating in the election, 16.

Electoral Vote.—Whole number of electors, 138. John Adams, 71; Thomas Jefferson, 68; Aaron Burr, 30; Samuel Adams, 15; Oliver Ellsworth, 11; George Clinton, 7; John Jay, 5; James Iredell, 3; George Washington, 2; John Henry, 2; S. Johnson, 2; Charles C. Pinckney, 1.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Fourth Congress, Second Session, pp. 315, 316, 317, 323.—January 30, 1797.—On motion,

That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode for examining the votes for President and Vice-President, and of notifying the persons elected of their election, and for regulating the time, place, and manner of administering the oath of office to the President.

It was agreed that the motion lie until to-morrow.

January 31, 1797.—The Senate resumed the consideration of the motion made yesterday, respecting the mode of counting the votes for President and Vice-President of the United States.

Whereupon,

Resolved, That Messrs. Sedgwick, Laurance, and Read, be a joint committee on the part of the Senate, with such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President, and notifying the persons elected of their election, and for regulating the time, place, and manner of administering the oath of office to the President.

Ordered, That the Secretary carry this resolution to the House of Representatives, and desire their concurrence.

February 1, 1797.—The House of Representatives concurs.

February 2, 1797.—Mr. Sedgwick, from the joint committee, reported that, in their opinion, the following resolution ought to be adopted, viz.:

That the two houses shall assemble in the chamber of the House of Representatives on Wednesday next, at 12 o'clock; that one person be appointed a teller, on the part of the Senate, to make a list of the votes,

as they shall be declared. That the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President, and, together with a list of votes, be entered on the journals of the two houses.

On motion,

It was agreed to adopt the report, and that Mr. Sedgwick be the teller of the votes on the part of the Senate.

February 3, 1797.—The House of Representatives concurs.

February 10, 1797.—On motion,

Ordered, That the resolution this day agreed to by the House of Representatives relative to the ratification of the election of the Vice-President-elect be referred to Messrs. Mason, Hillhouse, and Sedgwick, to consider and report thereon to the Senate.

Mr. Mason reported from the committee as appointed, and the report being read, was amended and adopted, as follows:

Resolved, That the President of the United States be requested to cause to be transmitted to Thomas Jefferson, Esq., of Virginia, Vice-President-elect of the United States, notification of his election to that office; and that the President of the Senate do make out and sign a certificate in the words following:

Be it known, That the Senate and House of Representatives of the United States of America, being convened in the city of Philadelphia, on the second Wednesday of February, in the year of our Lord one thousand seven hundred and ninety-seven, the underwritten Vice-President of the United States and President of the Senate did, in presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and for a Vice-President; by which it appears that Thomas Jefferson, Esq., was duly elected, agreeable to the Constitution, Vice-President of the United States of America.

In witness whereof, I have hereunto set my hand and seal this 10th day of February, 1797.

Ordered, That the secretary lay this resolution before the President of the United States.

FOURTH TERM, 1801 to 1805.

Whole number of States participating in the election, 16.

Electoral Vote.—Whole number of electors, 188. Thomas Jefferson, 73; Aaron Burr, 73; John Adams, 65; Charles C. Pinckney, 64; John Jay, 1.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Sixth Congress, Second Session, pp. 118, 123, 124, 125, 126, 127.—January 23, 1801.—The following message was received from the House of Representatives by Mr. Oswald, their clerk:

Mr. President: The House of Representatives have passed a resolution for the appointment of a committee, on their part, with such as may be

appointed on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice-President, and of notifying the persons who shall be elected of their election; and to regulate the time, place, and manner of administering the oath of office to the President; in which they desire the concurrence of the Senate.

Tuesday, January 27, 1801.—The Senate concurred in the foregoing resolution, and appointed Messrs. Morris, Tracy, and Bingham to be the committee on the part of the Senate.

Monday, February 9, 1801.—Mr. Morris, from the joint committee, appointed the 27th of January last to ascertain and report the mode of examining the votes for President and Vice-President of the United States, reported that the committee could come to no agreement.

On the same day the Senate adopted the following resolution:

Resolved, That the Senate will be ready to receive the House of Representatives in the Senate chamber on Wednesday next, at 12 o'clock, for the purpose of being present at the opening and counting the votes for President of the United States; that one person be appointed a teller on the part of the Senate, to make a list of the votes for President of the United States as they shall be declared, and that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the journals; and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the journal shall be deemed a sufficient declaration thereof.

Ordered, That the secretary notify the House of Representatives of this resolution.

Tuesday, February 10, 1801.—The following message was received from the House of Representatives by Mr. Oswald, their clerk:

Resolved, That this House will attend in the chamber of the Senate on Wednesday next, at 12 o'clock, for the purpose of being present at the opening and counting of the votes for President and Vice-President of the United States; that Messrs. Rutledge and Nicholas be appointed tellers, to act jointly with the teller appointed on the part of the Senate, to make a list of the votes for President and Vice-President of the United States as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the journals; and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the journals shall be deemed a sufficient declaration thereof.

On motion,

Ordered, That Mr. Wells be a teller, on the part of the Senate, for the purpose expressed in the above resolution, and the secretary notify the House of Representatives accordingly.

February 11, 1801.—The two Houses of Congress assembled in the Senate chamber, and the certificates of the electors of sixteen States were, by the Vice-President, opened and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the Vice-President.

Whereupon,

The Vice-President declared that the result of the votes, as delivered by the tellers, was—

| | |
|--|----|
| That Thomas Jefferson had | 73 |
| That Aaron Burr had | 73 |
| That John Adams had | 65 |
| That Charles Cotesworth Pinekney had | 64 |
| That John Jay had | 1 |

That the whole number of electors who had voted were one hundred and thirty-eight, of which number Thomas Jefferson and Aaron Burr had a majority; but the number of those voting for them being equal, no choice was made by the people, and that consequently the remaining duties devolved on the House of Representatives.

On which the House of Representatives repaired to their own chamber.

February 18, 1801.—A message from the House of Representatives by Mr. Oswald, their clerk:

Mr. President: The House of Representatives have chosen Thomas Jefferson, of Virginia, President of the United States for the term commencing on the 4th day of March next.

February 18, 1801.—On motion,

Resolved, That the President of the United States be requested to cause to be transmitted to Aaron Burr, Esq., of New York, Vice-President of the United States, notification of his election to that office, and that the President of the Senate do make out and sign a certificate in the words following, viz.:

Be it known, That the Senate and House of Representatives of the United States of America, being convened at the city of Washington, on the second Wednesday of February, A. D. 1801, the underwritten, Vice-President of the United States and President of the Senate, did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for President; whereupon it appeared that Thomas Jefferson, of Virginia, and Aaron Burr, of New York, had a majority of the votes of the electors, and an equal number of votes; in consequence of which the House of Representatives proceeded to a choice of a President, and have this day notified to the Senate that Thomas Jefferson has by them been duly chosen President; by all of which it appears that Aaron Burr, Esq., of New York, is duly elected, agreeably to the Constitution, Vice-President of the United States of America.

In witness whereof, I have hereunto set my hand and seal this 18th day of February, 1801.

• THOMAS JEFFERSON.

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States, with this resolution.

FIFTH TERM, 1805 TO 1809.

Whole number of States, 17.

Electoral Vote.—Whole number of electors, 176. For President, Thomas Jefferson, 162; Charles C. Pinekney, 14.

For Vice-President, George Clinton, 162; Rufus King, 14.

The Constitution having been amended, at this election the President and Vice-President were voted for separately.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Second Session, pp. 450, 451, 452, and 454.

—February 12, 1805.—On motion,

Resolved, That the Senate will be ready to receive the House of Representatives in the Senate chamber on Wednesday, the 13th instant, February, at noon, for the purpose of being present at the opening and counting of the votes for President and Vice-President of the United States. That one person be appointed a teller on the part of the Senate, to make a list of votes for President and Vice-President of the United States as they shall be declared, and that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, which shall be entered on the journals, and if it shall appear that a choice hath been made agreeably to the Constitution, such entry on the journals shall be deemed a sufficient declaration thereof.

Ordered, That the secretary do carry this resolution to the House of Representatives.

On the same day the House passed and sent to the Senate the following resolution:

That a committee be appointed, on the part of the House of Representatives, to join such committee as may be appointed on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice-President, and of notifying the persons who shall be elected of their election, and to regulate the time, place, and manner of administering the oath of office to the President.

February 13, 1805, the House of Representatives passed the following resolution:

That they will attend in the chamber of the Senate this day at noon, for the purpose of being present at the opening and counting the votes for President and Vice-President of the United States, and have appointed tellers to act jointly with the teller who may be appointed on the part of the Senate to make a list of the votes for President and Vice-President of the United States, as they shall be declared.

On motion,

Ordered, That Mr. Smith, of Maryland, be a teller of the votes given for President and Vice-President of the United States on the part of the Senate.

Ordered, That the secretary acquaint the House of Representatives therewith.

February 14, 1805.—On motion,

Resolved, That the President of the United States be requested to cause to be transmitted to George Clinton, Esq., of New York, Vice-President-elect of the United States, notification of his election to that office; and that the President of the Senate do make out and sign a certificate in the words following, viz.:

Be it known, That the Senate and House of Representatives of the United States, being convened in the city of Washington, on the second Wednesday in February, in the year of our Lord one thousand eight

hundred and five, the underwritten Vice-President of the United States and President of the Senate did, in the presence of the Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and Vice-President of the United States; whereupon, it appeared that Thomas Jefferson, of Virginia, had a majority of the votes of the electors as President, and George Clinton, of New York, had a majority of the votes of the electors as Vice-President; by all which it appears that Thomas Jefferson, of Virginia, has been duly elected President, and George Clinton, of New York, has been duly elected Vice-President of the United States, agreeably to the Constitution.

In witness whereof, I have hereunto set my hand and seal the 14th day of February, 1805;

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States, with this resolution. [Senate Journal, Eighth Congress, Second Session, pp. 450, 451, 452, 454.]

SIXTH TERM, 1809 TO 1813.

Whole number of States, 17.

Electoral Vote.—Whole number of electors, 175. For President, James Madison, 122; George Clinton, 6; C. C. Pinkney, 47.

For Vice-President, George Clinton, 113; James Madison, 3; James Monroe, 3; John Langdon, 9; Rufus King, 47.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Tenth Congress, Second Session, pp. 333, 339, 340, 341, 342.—February 3, 1809.—Mr. Smith, of Maryland, submitted the following motion, which was read and agreed to:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President, and of notifying the persons elected of their election; and for regulating the time, place, and manner of administering the oath of office to the President.

Ordered, That Messrs. Smith, of Maryland, and Gaillard, be the committee on the part of the Senate.

Ordered, That the Secretary notify the House of Representatives accordingly.

February 6, 1809.—The following message was received from the House of Representatives by Mr. Magruder, their clerk:

Mr. President: The House of Representatives concur in the resolution of the Senate for the appointment of a joint committee to ascertain and report a mode of examining the votes for President and Vice-President, and of notifying the persons elected of their election; and for regulating the time, place, and manner of administering the oath of office to the President, and have appointed a committee on their part.

February 7, 1809.—Mr. Smith, of Maryland, from the joint committee to ascertain and report a mode of examining the votes for President and

Vice-President, etc., reported in part the following resolution, which was read and agreed to :

Resolved, That the two houses shall assemble in the chamber of the House of Representatives on Wednesday next, at 12 o'clock ; that one person be appointed a teller on the part of the Senate, to make a list of the votes as they shall be declared ; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President, and together with a list of the votes, to be entered on the journals of the two houses.

Ordered, That Mr. Smith, of Maryland, be appointed teller on the part of the Senate, agreeably to the foregoing resolution.

On the 7th of February, the Senate received a message from the House of Representatives, notifying the Senate of their concurrence in the above resolution.

February 8, 1809.—After the counting of the votes the President of the Senate declared James Madison elected President of the United States for four years, commencing with the fourth day of March next, and George Clinton, Vice-President of the United States for four years, commencing with the fourth day of March next.

On motion by Mr. Smith, of Maryland,

Resolved, That the President of the United States be requested to cause to be delivered to James Madison, Esq., of Virginia, now Secretary of State of the United States, a notification of his election to the office of President of the United States, and to be transmitted to George Clinton, Esq., of New York, Vice-President of the United States, notification of his election to that office ; and that the President of the Senate do make out and sign a certificate in the words following, viz. :

Be it known, That the Senate and House of Representatives of the United States of America, being convened in the city of Washington on the second Wednesday in February, in the year of our Lord one thousand eight hundred and nine, the underwritten, President of the Senate *pro tempore*, did, in the presence of the said Senate and House of Representatives, open all the certificates, and count all the votes of the electors for a President and Vice-President of the United States. Whereupon it appeared that James Madison, of Virginia, had a majority of the votes of the electors as President, and George Clinton, of New York, had a majority of the votes of the electors as Vice-President, by all of which it appears that James Madison, of Virginia, has been duly elected President, and George Clinton, of New York, has been duly elected Vice-President of the United States, agreeably to the Constitution.

In witness whereof, I have hereunto set my hand and caused the seal of the Senate to be affixed this — day of February, 1809.

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States with this resolution.

SEVENTH TERM, 1813 TO 1817.

Whole number of States, 18.

Electoral Vote.—Whole number of electors, 217. For President, James Madison, 128; De Witt Clinton, 89.

For Vice-President, Elbridge Gerry, 131; Jared Ingersoll, 86.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Twelfth Congress, Second Session, pp. 253, 254, 255, 257.—February 8, 1813.—On motion of Mr. Gaillard,

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

Ordered, That Messrs. Gaillard and Smith, of New York, be the committee on the part of the Senate.

Ordered, That the secretary notify the House of Representatives.

February 9, 1813.—The following message was received from the House of Representatives, by Mr. Magruder, their clerk:

Mr. President: The House of Representatives concur in the resolution of the Senate for the appointment of a joint committee to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election, and have appointed a committee on their part.

On the same day Mr. Gaillard, from the committee, reported the following resolution, which was agreed to:

Resolved, That the two Houses shall assemble in the chamber of the House of Representatives on Wednesday next, at 12 o'clock; that one person be appointed a teller, on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two houses, assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President, and, together with a list of the votes, be entered on the journals of the two houses.

On motion,

Ordered, That Mr. Gaillard be appointed a teller of the ballots, on the part of the Senate, agreeably to the foregoing resolution.

Ordered, That the secretary notify the House of Representatives accordingly.

February 10, 1813.—House of Representatives concur, and appoint tellers.

February 11, 1813.—On motion by Mr. Smith, of New York,

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States, and to notify him of his re-election to the office of President of the United States.

Ordered, That Messrs. Smith, of New York, and Franklin, be the committee on the part of the Senate.

Ordered, That the seeretary notify the House of Representatives accordingly.

On motion by Mr. Franklin,

Resolved, That the President of the United States be requested to cause to be transmitted to Elbridge Gerry, Esq., of Massachusetts, Vice-President-elect of the United States, notification of his election to that office; and that the President of the Senate do make and sign a certificate in the following words, to wit:

Be it known, That the Senate and House of Representatives of the United States of America, being convened in the city of Washington on the second Wednesday of February, in the year of our Lord one thousand eight hundred and thirteen, the underwritten President of the Senate *pro tempore* did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and Vice-President of the United States; whereupon it appeared that James Madison, of Virginia, had a majority of the votes of the electors as President, and Elbridge Gerry, of Massachusetts, had a majority of the votes of the electors as Vice-President; by all which it appears that James Madison, of Virginia, has been duly elected President, and Elbridge Gerry, of Massachusetts, has been duly elected Vice-President of the United States, agreeably to the Constitution.

In witness whereof, I have herewith set my hand and caused the seal of the Senate to be affixed, this — day of February, 1813.

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States, with this resolution.

EIGHTH TERM, 1817 TO 1821.

Whole number of States, 19.

Electoral Vote.—Whole number of electors, 217. For President, James Monroe, 183; Rufus King, 34.

For Vice-President, Daniel D. Tompkins, 183; John E. Howard, 22; James Ross, 5; John Marshall, 4; Robert E. Harper, 3.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Fourteenth Congress, Second Session, pp. 211, 225, 226, 231.—February 10, 1817.—On motion of Mr. Macon,

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

Ordered, That Mr. Macon and Mr. Tait be the committee on the part of the Senate.

Ordered, That the seeretary notify the House of Representatives accordingly.

February 11, 1817.—Mr. Macon, from the joint committee, reported the following resolution, which was read and agreed to:

Resolved, That the two houses shall assemble in the chamber of the House of Representatives on Wednesday next, at 12 o'clock; that one person be appointed teller on the part of the Senate, to make a list of votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the votes, and

the persons elected, to the two houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President, and, together with a list of the votes, be entered on the journals of the two houses.

Ordered, That Mr. Maeon be appointed teller on the part of the Senate, agreeably to the foregoing resolution.

Ordered, That the secretary notify the House of Representatives accordingly.

February 13, 1817.—On motion of Mr. Maeon,

Resolved, That the President of the United States be requested to cause to be delivered to James Monroe, Esq., of Virginia, now Secretary of State of the United States, a notification of his election to the office of President of the United States; and to be transmitted to Daniel D. Tompkins, Esq., of New York, a notification of his election to the office of Vice-President of the United States; and that the President of the Senate do make out and sign a certificate in the words following, viz.:

Be it known, That the Senate and House of Representatives of the United States of America, being convened in the city of Washington on the second Wednesday in February, in the year of our Lord one thousand eight hundred and seventeen, the underwritten, President of the Senate *pro tempore*, did, in the presenee of the said Senate and House of Representatives, open all the certificates, and count all the votes of the electors for President and Vice-President of the United States; whereupon it appeared that James Monroe, of Virginia, had a majority of the electors as President, and Daniel D. Tompkins, of New York, had a majority of the votes of electors as Vice-President. By all of which it appears that James Monroe, of Virginia, has been duly elected President, and Daniel D. Tompkins, of New York, has been duly elected Vice-President of the United States, agreeably to the Constitution.

In witness whereof, I have hereunto set my hand, this — day of February, one thousand eight hundred and seventeen.

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States, with this resolution.

A dispute arising in reference to the vote of the State of Indiana, the Senate withdrew. The House came to decision before the Senate; the Senate thereupon took no action, but returned to the hall of the House of Representatives, and the counting of the votes was completed. [Annals of Congress, Fourteenth Congress, Second Session, p. 944.]

NINTH TERM, 1821 TO 1825.

Whole number of States, 24.

Electoral Vote.—Whole number of electors, 232. For President, James Monroe, 231; John Quincy Adams, 1.

For Vice-President—Daniel D. Tompkins, 218; Richard Stockton, 8; Robert G. Harper, 1; Richard Rush, 1; Daniel Rodney, 1.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Sixteenth Congress, Second Session, pp. 169, 172, 187, 189.—February 6, 1821.—Mr. Barbour submitted the following resolution for consideration:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

February 7, 1821.—The Senate agreed to the resolution, and appointed Mr. Barbour and Mr. Macon the committee on the part of the Senate.

February 13, 1821.—Mr. Barbour, from the joint committee, reported the following resolutions, which were read, considered, and agreed to :

Resolved, That the two houses shall assemble in the chamber of the House of Representatives on Wednesday next, at 12 o'clock, and the President of the Senate shall be the presiding officer ; that one person be appointed a teller on the part of the Senate, to make a list of the votes as they shall be declared ; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of votes, be entered on the journals of the two houses.

Resolved, That if any objection be made to the votes of Missouri, and the counting or omitting to count which shall not essentially change the result of the election, in that case they shall be reported by the President of the Senate in the following manner: Were the votes of Missouri to be counted, the result would be for A B, for President of the United States, — votes. If not counted, for A B, for President of the United States, — votes. But in either event A B is elected President of the United States. And in the same manner for Vice-President.

Ordered, That the secretary notify the House of Representatives accordingly.

February 14, 1821.—Mr. Barbour was appointed teller.

February 14, 1821.—The two houses, agreeably to the joint resolution, assembled in the Representatives' chamber, and the certificates of the electors of the several States, beginning with the State of New Hampshire, were, by the President of the Senate, opened and delivered to the tellers appointed for the purpose, by whom they were read, except the State of Missouri ; and when the certificate of the electors of that State was opened, and objection was made by Mr. Livermore, as member of the House of Representatives from the State of New Hampshire, to counting said votes, whereupon

On motion by Mr. Williams, of Tennessee, the Senate returned to their own chamber.

A message from the House of Representatives by Mr. Dougherty, their clerk :

Mr. President: The House of Representatives is *now* ready to receive the Senate in the chamber of the House of Representatives, for the purpose of continuing the enumeration of the votes of the electors for President and Vice-President, according to the joint resolutions agreed upon between the two Houses.

On motion by Mr. Barbour,

Resolved, That the Senate proceed to meet the House of Representatives in order to conclude the counting of the votes for President and

Vice-President of the United States, according to the last of the joint resolutions adopted for that purpose.

Whereupon, the two Houses having assembled again in the Representatives' chamber, the certificate of the electors of the State of Missouri was, by the President of the Senate, delivered to the tellers, who read the same, and who, having examined and ascertained the whole number of votes, presented a list thereof to the President of the Senate. Senate Journal, Sixteenth Congress, Second Session, pp. 169, 172, 187, 189.

TENTH TERM, 1825 TO 1829.

Whole number of States, 24

Electoral Vote.—Whole number of electors, 261. For President, Andrew Jackson, 99; John Quincy Adams, 84; William H. Crawford, 41; Henry Clay, 37.

For Vice-President, John C. Calhoun, 182; Nathan Sanford, 30; Nathaniel Macon, 24; Andrew Jackson, 13; Martin Van Buren, 9; Henry Clay, 2.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, 18th August, Second Session, pp. 124, 135, 145, 150, 153.—February 1, 1825.—On motion by Mr. Tazewell,

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

Mr. Tazewell, Mr. Vandyke, and Mr. King, of Alabama, were appointed of the said committee on the part of the Senate.

Ordered, That the secretary notify the House of Representatives thereof.

February 4, 1825.—The House of Representatives concurs in the above resolution.

February 8, 1825.—Mr. Tazewell, from the committee, reported, *in part*, the agreement of the joint committee to the following resolution:

Resolved, That the two houses shall assemble in the chamber of the House of Representatives on Wednesday, the 9th day of February, 1825, at 12 o'clock; that one person be appointed teller on the part of the Senate, and two persons be appointed tellers on the part of the House, to make a list of the votes as they shall be declared; that the result shall be delivered to the president of the Senate, who shall announce to the two houses assembled as aforesaid, the state of the vote, and the person or persons elected, if it shall appear that a choice hath been made agreeably to the Constitution of the United States; which annunciation shall be deemed a sufficient declaration of the person or persons elected, and, together with a list of the votes, shall be entered on the journals of the two houses.

The said report was read and considered.

Whereupon,

Resolved, That the Senate concur therein.

February 9, 1825.—The two Houses of Congress, agreeably to the

joint resolution, assembled in the chamber of the House of Representatives, and the certificates of the electors of the several States were, by the President of the Senate, opened and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the President of the Senate.

The whole number of the electors appointed to vote for President and Vice-President of the United States being 261, of which 131 make a majority.

The President of the Senate then stated the result of the votes for President of the United States as delivered by the tellers to be :

| | | |
|--|-----------|----|
| For Andrew Jackson, of Tennessee, | | 99 |
| For John Quincy Adams, of Massachusetts, | | 84 |
| For William H. Crawford, of Georgia, | | 41 |
| For Henry Clay, of Kentucky, | | 37 |

The President of the Senate declared that no person had a majority of the votes of the whole number of electors appointed to vote for President of the United States, for the term of four years, commencing with the 4th day of March, 1825; that the three persons having the highest number of votes are, Andrew Jackson, of Tennessee, John Quincy Adams, of Massachusetts, and William H. Crawford, of Georgia, and that consequently the remaining duties devolve on the House of Representatives.

He further declared, that John C. Calhoun, of South Carolina, had a majority of the votes of the whole number of electors appointed, and was duly elected Vice-President of the United States for the term of four years, commencing with the 4th day of March, 1825.

February 11, 1825.—On motion by Mr. Tazewell,

Resolved, That the President of the United States be requested to cause to be transmitted to John C. Calhoun, of South Carolina, Vice-President-elect of the United States, notification of his election to that office, and that the president of the Senate do make and sign a certificate in the following words, viz :

Be it known, That the Senate and House of Representatives of the United States of America, being convened at the city of Washington on the second Wednesday of February, in the year of our Lord one thousand eight hundred and twenty-five, the underwritten, president of the Senate, *pro tempore*, did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for a President and for a Vice-President of the United States; whereupon, it appeared that John C. Calhoun, of South Carolina, had a majority of the votes of the electors as Vice-President; by all which it appears that John C. Calhoun, of South Carolina, has been duly elected Vice-President of the United States, agreeably to the Constitution.

In witness whereof, I have hereunto set my hand this — day of February, 1825.

And that the President of the Senate do cause the certificate aforesaid to be laid before the President of the United States, with this resolution.

February 10, 1825.—The Senate received a notice from the House of

Representatives on the 9th instant, that they had chosen John Quincy Adams to be President of the United States, for the constitutional term of four years, commencing on the fourth day of March, 1825. [Senate Journal, Eighteenth Congress, Second Session, pp. 124, 135, 145, 150, 153.]

ELEVENTH TERM, 1829 TO 1833.

Whole number of States, 24.

Electoral Vote.—Whole number of electors, 261. For President, Andrew Jackson, 178; John Quincy Adams, 83.

For Vice-President, John C. Calhoun, 171; Richard Rush, 83; William Smith, 7.

Popular Vote.—For President, Jackson, 650,028; Adams, 512,158.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Twentieth Congress, Second Session, pp. 103, 109, 111, 113, 119, 121.—February 2d, 1829.—On motion of Mr. Tazewell,

Resolved, That a committee be appointed to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes of President and Vice-President of the United States, and of notifying the persons elected of their election.

Ordered, That Mr. Tazewell, Mr. Sandford, and Mr. Webster be the committee on the part of the Senate.

Ordered, That the secretary ask the concurrence of the House of Representatives in said resolution.

February 5, 1829.—The Senate receives notice of the House of Representatives having concurred in the foregoing resolution.

February 9, 1829.—Mr. Tazewell, from the joint committee, made the following report:

That the joint committee, in part execution of the duties with which they were charged by the two Houses of Congress, have agreed to the following resolution, in which resolution they recommend the Senate to concur:

Resolved, That the two houses shall assemble in the chamber of the House of Representatives on Wednesday, the 11th day of February, 1829, at 12 o'clock; that one person be appointed teller on the part of the Senate, and two persons be appointed tellers on the part of the House, to make a list of votes for President and Vice-President of the United States, as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce to the two houses, assembled as aforesaid, the state of the vote, and the person or persons elected, if it shall appear that a choice hath been made agreeably to the Constitution of the United States; which annunciation shall be deemed a sufficient declaration of the person or persons elected, and, together with a list of the votes, shall be entered upon the journals of the two houses.

On motion of Mr. Tazewell,

The Senate proceeded to consider the said report and resolution by unanimous consent; and

Resolved, That they concur therein.

February 11, 1829.—Mr. Tazewell, from the joint committee, reported that the joint committee, in *further* execution of the duties with which they were charged by the two Houses of Congress, have agreed to the following resolution, in which resolution their committee recommend to the Senate to concur :

Resolved, That a committee of one member of the Senate be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by that House, to wait on Andrew Jackson, of Tennessee, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1829.

The Senate proceeded to consider the said resolution ; and

Resolved, That they concur therein.

Ordered, That Mr. Tazewell be the committee on the part of the Senate. [Senate Journal, Twentieth Congress, Second Session, pp. 103, 109, 111, 113, 119, 121.]

TWELFTH TERM, 1833 TO 1837.

Whole number of States, 24.

Electoral Vote.—Whole number of electors, 288. For President, Andrew Jackson, 219 ; Henry Clay, 49 ; John Floyd, 11 ; William Wirt, 7.

For Vice-President, Martin Van Buren, 189 ; John Sargent, 49 ; William Wilkins, 30 ; Henry Lee, 11 ; Amos Ellmaker, 7.

Popular Vote.—For President, Andrew Jackson, 687,502 ; Clay, 550,189. Wirt and Floyd combined, 33,108.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Twenty-second Congress, Second Session, pp. 150, 156, 159, 164, 178.—February 1, 1833.—The following motion, submitted by Mr. Grundy, was considered and agreed to :

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

Ordered, That Mr. Grundy, Mr. Rives, and Mr. Wright be the committee on the part of the Senate.

Ordered, That the secretary request the concurrence of the House of Representatives in said resolution.

February 5, 1833.—House of Representatives concur.

February 6, 1833.—Mr. Grundy, from the joint committee, made the following report :

That the joint committee, in *part* execution of their duties, have agreed to the following resolution, in which resolution they ask the concurrence of the Senate :

Resolved, That the two Houses shall assemble in the chamber of the House of Representatives, on Wednesday, the 13th day of February, 1833, at one o'clock ; that one person be appointed teller on the part of the Senate, and two persons be appointed tellers on the part of the House,

to make a list of the votes for President and Vice-President of the United States, as they shall be declared; that the results shall be delivered to the President of the Senate, who shall announce to the two houses assembled, as aforesaid, the state of the vote, and the person or persons elected, if it shall appear that a choice hath been made, agreeably to the Constitution of the United States; which annunciation shall be deemed a sufficient declaration of the person or persons elected; and, together with a list of the votes, shall be entered on the journals of the two houses.

On motion by Mr Grundy,

The Senate proceeded by unanimous consent to consider the said report and resolution.

Resolved, That they concur therein.

Ordered, That Mr. Grundy be the teller on the part of the Senate.

Ordered, That the secretary notify the House of Representatives accordingly.

February 7, 1833.—The House of Representatives adopt the report.

February 13, 1833.—Mr. Grundy, from the same committee, reported the following resolution:

Resolved, That a committee of one member of the Senate be appointed to join a committee of two members of the House of Representatives, to be appointed by that house, to wait on Andrew Jackson, of Tennessee, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March next; and, also, to notify Martin Van Buren, of New York, that he has been duly elected Vice-President of the United States for four years, commencing with the 4th day of March next.

The Senate proceeded to consider the said resolution, and

Resolved, That they concur therein.

Ordered, That Mr. Grundy be the committee on the part of the Senate.

Ordered, That the secretary request the concurrence of the House of Representatives in said resolution. [Senate Journal, Twenty-second Congress, Second Session, pp. 150, 156, 159, 164, 178.]

THIRTEENTH TERM, 1837 TO 1841.

Whole Number of States, 26.

Electoral Vote.—Whole number of electors, 294. For President, Martin Van Buren, 170; William H. Harrison, 73; Hugh L. White, 26; Daniel Webster, 14; William R. Mangum, 11.

For Vice-President, Richard M. Johnson, 147; Francis Granger, 77; John Tyler, 47; William Smith, 23.

Popular Vote.—For President, Van Buren, 762,149; all others combined, 736,736.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Twenty-sixth Congress, Second Session, pp. 169, 184, 203, 216, 227, 228, 229.—January 27, 1837.—The following motion, submitted by Mr. Grundy, was considered:

Resolved, That a committee be appointed, to join such committee as

may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes of President and Vice-President of the United States, and of notifying the persons of their election.

On motion by Mr. Clay,

The resolution was amended by inserting at the end thereof: and, also, to inquire into the expediency of ascertaining whether any votes were given at the recent election contrary to the prohibition contained in the second section of the second article of the Constitution; and, if any such votes were given, what ought to be done with them; and whether any and what provision ought to be made for securing the faithful observance, in future, of that section of the Constitution.

The motion, as amended, was then agreed to.

On motion by Mr. Grundy:

Ordered, That the Vice-President appoint the committee.

Mr. Grundy, Mr. Clay, and Mr. Wright were appointed accordingly.

February 1, 1837.—The Senate receives notice that the House concurs in the above resolution.

February 4, 1837.—Mr. Grundy, from the committee, submitted a report,* in part, accompanied by the following resolutions:

Resolved, That the two houses shall assemble in the chamber of the House of Representatives on Wednesday next, at 12 o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of votes, be entered on the journals of the two houses.

Resolved, That, in relation to the votes of Michigan, if the counting or omitting to count them shall not essentially change the result of the election, they shall be reported by the President of the Senate in the following manner: Were the votes of Michigan to be counted, the result would be, for A B, for President of the United States — votes; if not counted, for A B, for President of the United States — votes; but in either event A B is elected President of the United States; and in the same manner for Vice-President.

The Senate proceeded to consider the resolutions by unanimous consent, and a division of the question being called for, the first resolution was agreed to.

On the question to agree to the second,

It was determined in the affirmative—yeas 34, nays 9.

So the resolutions were agreed to.

On motion by Mr. Grundy,

Ordered, That the President so appoint the teller in conformity thereto, on the part of the Senate; and

Mr. Grundy was appointed.

* Senate Doc., No. 144, vol. ii, Second Session, Twenty-fourth Congress.

Ordered, That the secretary notify the House of Representatives accordingly.

February 7, 1837.—The Senate receives notice that the House of Representatives has agreed to the foregoing resolution.

February 8, 1837.—Both Houses met in joint convention.

After the counting of the votes, the President of the Senate made the following announcement:

That it therefore appeared that, were the votes of Michigan to be counted, the result would be, for Martin Van Buren, of New York, for President of the United States, 170 votes; if not counted, for Martin Van Buren, of New York, for President of the United States, 167 votes; but in either event, Martin Van Buren, of New York, is elected President of the United States; and thereupon he declared that Martin Van Buren, of New York, having a majority of the whole number of electoral votes, is duly elected President of the United States for four years, commencing with the 4th day of March, 1837.

That it also appeared that, were the votes of Michigan to be counted, the highest number of votes for Vice-President of the United States would be 147; and, if not counted, the highest number would be 144 votes; but, in either event, no person had a majority of the electoral votes as Vice-President of the United States; he thereupon declared that, no person having a majority of the whole number of electoral votes as Vice-President of the United States, an election to that office had not been effected; that Richard M. Johnson, of Kentucky, and Francis Granger, of New York, were the two highest on the lists of electoral votes; and that it devolved on the Senate of the United States, as provided in the Constitution, to choose from these persons a Vice-President of the United States.

The Senate then returned to their chamber.

Mr. Grundy, from the committee, reported:

That the joint committee, in further execution of the duties with which they were charged by the two Houses of Congress, have agreed to the following resolution, in which their committee recommend the Senate to concur.

Resolved, That a committee of one member of the Senate be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by that House, to wait on Martin Van Buren, of New York, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1837.

The Senate proceeded, by unanimous consent, to consider the said resolution, and concurred therein.

It was agreed that the president appoint the committee; and

Mr. Grundy was appointed accordingly.

Ordered, That the secretary request the concurrence of the House of Representatives in said resolution.

Mr. Grundy submitted the following motion for consideration:

Whereas, Upon counting the electoral votes in the presence of both Houses of Congress, given at the late election for President and Vice-President of the United States, it appears that no person has received

for the office of Vice-President of the United States a majority of the votes of the whole number of electors appointed; and it also appearing that Richard M. Johnson, of Kentucky, and Francis Granger, of New York, have the two highest numbers on the list of those voted for to fill the office of Vice-President: Therefore,

Resolved, That the Senate do now proceed to choose a Vice-President from the said Richard M. Johnson and Francis Granger, they having the two highest numbers on the list; and the manner of voting shall be as follows: The secretary of the Senate shall call the names of the senators in alphabetical order, and each senator will, when his name is called, name the person for whom he votes; and if a majority of the whole number of senators shall vote for either the said Richard M. Johnson or Francis Granger, he shall be declared by the presiding officer of the Senate constitutionally elected Vice-President of the United States for four years, commencing the 4th day of March, 1837.

The Senate proceeded, by unanimous consent, to consider the motion; and

Resolved, That they concur therein.

The secretary having called the names of the Senators, respectively, in alphabetical order, the result was as follows:

For Richard M. Johnson, of Kentucky:

Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Dana, Ewing of Illinois, Fulton, Grundy, Hendricks, Hubbard, King of Alabama, King of Georgia, Linn, Lyon, McKean, Moore, Morris, Mouton, Nicholas, Niles, Norvell, Page, Parker, Rives, Robinson, Ruggles, Sevier, Strange, Tallmadge, Tipton, Walker, Wright.

For Francis Granger, of New York:

Messrs. Bayard, Clay, Clayton, Crittenden, Davis, Ewing of Ohio, Kent, Knight, Prentiss, Robbins, Southard, Spence, Swift, Tomlinson, Wall, Webster.

It appeared, therefore, that the whole number of votes were 49, and that of these, *thirty-three* votes were given in favor of Richard M. Johnson, of Kentucky, and sixteen votes in favor of Francis Granger, of New York.

The president of the Senate thereupon declared Richard M. Johnson, of Kentucky, constitutionally elected Vice-President of the United States for four years, commencing on the 4th day of March, 1837.

The following motion was submitted by Mr. Grundy, considered by unanimous consent, and agreed to:

Resolved, That a committee of three members be appointed to wait on Richard M. Johnson, of Kentucky, and to notify him that he has been this day duly chosen by the Senate, in pursuance of the Constitution of the United States, Vice-President of the United States for four years, commencing with the 4th day of March, 1837.

It was agreed that the president appoint the committee. Mr. Grundy, Mr. Robinson, and Mr. Niles were appointed accordingly. [Senate Journal, Twenty-sixth Congress, Second Session, pp. 169, 184, 203, 216, 227, 228, 229.]

FOURTEENTH TERM, 1841 TO 1845.

Whole number of States, 26.

Electoral Vote.—For President, William H. Harrison, 234; Martin Van Buren, 60.

For Vice-President, John Tyler, 234; R. M. Johnson, 48; L. W. Tazewell, 11; James K. Polk, 1.

Popular Vote.—Harrison, 1,274,783; Van Buren, 1,128,702; James G. Birney, 7609.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Twenty-sixth Congress, Second Session, pp. 140, 149, 157, 173.—January 28, 1841.—Mr. Preston submitted the following motion:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

Ordered, That the committee consist of three members, to be appointed by the Vice-President; and

Mr. Preston, Mr. Hubbard, and Mr. Huntington were accordingly appointed.

Ordered, That the secretary request the concurrence of the House of Representatives in this resolution.

February 1, 1841.—A message from the House of Representatives announces their concurrence in the above resolution.

February 2, 1841.—Mr. Preston, from the joint committee, reported the following resolution:

Resolved, That the two houses will assemble in the chamber of the House of Representatives on Wednesday, the 10th instant, at 12 o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the president of the Senate, who shall announce the state of the vote, and the persons elected, to the two houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of votes, be entered on the journals of the two houses.

The Senate proceeded to consider the resolution, by unanimous consent, and agreed thereto.

On motion,

Ordered, That the teller be appointed by the Vice-President; and

Mr. Preston was accordingly appointed.

Ordered, That the secretary notify the House of Representatives thereof.

February 10, 1841.—Mr. Preston, from the joint committee, submitted the following report:

That the joint committee, in further execution of the duties with

which they were charged by the two houses, have agreed to the following resolution, in which they recommend the Senate to concur:

Resolved, That a committee of one member of the Senate be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by the House, to wait on William Henry Harrison, of Ohio, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1841.

The Senate proceeded, by unanimous consent, to consider the resolution; and

Resolved, That they concur therein.

On motion,

It was agreed that the Vice-President appoint the committee; and Mr. Preston was accordingly appointed.

Ordered, That the secretary notify the House of Representatives thereof.

Mr. Preston submitted the following resolution:

Resolved, That the president of the Senate do cause John Tyler, of Virginia, to be notified that he has been duly elected Vice-President of the United States for four years, commencing with the 4th day of March, 1841.

The Senate proceeded, by unanimous consent, to consider the resolution; and

Resolved, That they concur therein.

FIFTEENTH TERM, 1845 TO 1849.

Whole number of States, 26.

Electoral Vote.—Whole number of electors, 275. For President, James K. Polk, 170; Henry Clay, 105.

For Vice-President, George M. Dallas, 170; Theodore Frelinghuysen, 105.

Popular Vote.—For President, James K. Polk, 1,335,834; Clay, 1,297,033; Frelinghuysen, 105.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Twenty-eighth Congress, Second Session, pp. 128, 136, 144, 196, 164.—February 3, 1845.—Mr. Walker submitted the following resolution, which was considered, by unanimous consent, and agreed to:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

On motion by Mr. Walker,

Ordered, That the committee be appointed by the president *pro tempore*; and

Mr. Walker, Mr. Woodbury, and Mr. Dayton were appointed.

Ordered, That the secretary request the concurrence of the House of Representatives therein.

February 5, 1845 —A message announces the concurrence of the House of Representatives in the resolution.

February 7, 1845.—Mr. Walker, from the joint committee, reported *in part* the following resolution :

Resolved, That the two houses will assemble in the chamber of the House of Representatives on Wednesday, the 12th day of February, 1845, at 12 o'clock; that one person be appointed teller on the part of the Senate, and two persons be appointed tellers on the part of the House, to make a list of the votes for President and Vice-President of the United States as they shall be declared; that the result shall be delivered to the President of the Senate, who will announce to the two Houses, assembled as aforesaid, the state of the vote and the person or persons elected, if it shall appear that a choice hath been made agreeably to the Constitution of the United States; which annunciation shall be deemed sufficient declaration of the persons elected; and that the said proceedings, together with a list of the votes, be entered on the journals of the two houses.

The Senate proceeded to consider the resolution by unanimous consent, and

Resolved, That they concur therein.

On motion by Mr. Walker,

Ordered, That the teller on the part of the Senate be appointed by the president *pro tempore*; and

Mr. Walker was appointed.

Ordered, That the secretary notify the House of Representatives accordingly.

February 8.—The House of Representatives concur.

February 12, 1845.—Mr. Walker, from the joint committee, reported the following resolution :

Resolved, That a committee of one member of the Senate, to be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by that body, to wait on James K. Polk, of Tennessee, and inform him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1845; and also to wait on George M. Dallas, of Pennsylvania, and inform him that he has been duly elected Vice-President of the United States for four years, commencing with the 4th day of March, 1845.

The Senate proceeded, by unanimous consent, to consider the resolution; and

Resolved, That they concur.

Ordered, That the committee on the part of the Senate be appointed by the president *pro tempore*; and

Mr. Walker was appointed.

Ordered, That the secretary notify the House of Representatives accordingly. [Senate Journal, Twenty-eighth Congress, Second Session, pp. 128, 136, 144, 149, 164.]

SIXTEENTH TERM, 1849 TO 1853.

Whole number of States, 30.

Electoral Vote.—For President, Zachary Taylor, 163; Lewis Cass, 127.

For Vice-President, Millard Fillmore, 163; William O. Butler, 127.
Popular Vote.—Taylor, 1,362,031; Cass, 1,222,445; Van Buren, 291,455.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from the Senate Journal, Thirtieth Congress, Second Session, pp. 169, 181, 214.—January 31, 1849.—Mr. Clayton submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election.

On motion,

Ordered, That the committee be appointed by the Vice-President; and Mr. Clayton, Mr. Davis, of Mississippi, and Mr. Davis, of Massachusetts were appointed the committee.

Ordered, That the secretary request the concurrence of the House of Representatives in the resolution.

Mr. Clayton, from the joint committee, reported *in part* the following resolution:

Resolved, That the two houses will assemble in the chamber of the House of Representatives on Wednesday, the fourteenth instant, at twelve o'clock, and the President of the Senate shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two houses.

The Senate proceeded to consider the resolution by unanimous consent, and the resolution was agreed to.

On motion,

Ordered, That the teller on the part of the Senate be appointed by the Vice-President; and

Mr. Clayton was appointed.

Mr. Clayton being excused, Mr. Davis, of Mississippi, was appointed in his stead.

Ordered, That the secretary notify the House of Representatives thereof.

February 14, 1849.—After the counting of the votes, Mr. Davis, of Mississippi, from the joint committee, submitted the following resolution:

Resolved, That a committee of one member be appointed on the part of the Senate, to join a committee of two members on the part of the House of Representatives, to wait upon Zachary Taylor, of Louisiana, and inform him that he has been duly elected President of the United States for four years, to commence on the 4th day of March, 1849; and also to wait on Millard Fillmore, of New York, and inform him that he has been duly elected Vice-President of the United States for four years, to commence on the 4th day of March, 1849.

The Senate, by unanimous consent, proceeded to consider the resolution, and the resolution was agreed to.

Ordered, That the secretary request the concurrence of the House of Representatives therein. [Senate Journal, Thirtieth Congress, Second Session, pp. 169, 181, 214.]

SEVENTEENTH TERM, 1853 TO 1857.

Whole number of States, 31.

Electoral Vote.—Whole number of electors, 296. For President, Franklin Pierce, 254; Winfield Scott, 42.

For Vice-President, William R. King, 254; William A. Graham, 42.

Popular Vote.—For President, Franklin Pierce, 1,590,490; Winfield Scott, 1,378,589; John P. Hale, 157,296.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Thirty-second Congress, Second Session, pp. 146, 158, 165, 182.—January 31, 1853.—Mr. Hunter submitted the following resolution, which was considered, by unanimous consent, and agreed to:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes of President and Vice-President of the United States, and of notifying the persons elected of their election.

On motion by Mr. Hunter,

Ordered, That the committee be appointed by the president *pro tempore*; and

Mr. Hunter, Mr. Bright, and Mr. Pearce were appointed.

Ordered, That the secretary notify the House of Representatives thereof.

February 2, 1853.—The House of Representatives concurs.

February 4, 1853.—Mr. Hunter, from the joint committee, reported the following resolution:

Resolved, That the two houses will assemble in the chamber of the House of Representatives on Wednesday, the 9th instant, at 12 o'clock, and the President of the Senate *pro tempore* shall be the presiding officer; and one person shall be appointed teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate *pro tempore*, who shall announce the state of the vote and the persons elected to the two houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two houses.

The Senate proceeded to consider the resolution, by unanimous consent; and

The resolution was agreed to.

Ordered, That the teller on the part of the Senate be appointed by the president *pro tempore*; and

Mr. Hunter was appointed.

Ordered, That the secretary of the Senate notify the House of Representatives thereof.

February 9, 1853.—Mr. Hunter, from the joint committee, reported the following resolution :

Resolved, That a committee of one member of the Senate be appointed by that body to join a committee of two members of the House of Representatives, to be appointed by the House, to wait on Franklin Pierce, of New Hampshire, and notify him that he has been duly elected President of the United States for four years, to commence on the 4th day of March, 1853.

The Senate proceeded, by unanimous consent, to consider the said resolution ; and

The resolution was agreed to.

On motion,

Ordered, That the committee on the part of the Senate be appointed by the president *pro tempore* ; and

Mr. Hunter was appointed.

Ordered, That the secretary notify the House of Representatives thereof.

Mr. Hunter submitted the following resolution, which was considered by unanimous consent, and agreed to :

Resolved, That the President of the Senate do cause William R. King, of Alabama, to be notified that he has been duly elected Vice-President of the United States for four years, to commence on the 4th day of March, 1853.

EIGHTEENTH TERM, 1857 TO 1861.

Whole number of States, 31.

Electoral Vote.—For President, James Buchanan, 174 ; John C. Fremont, 109 ; Millard Fillmore, 8.

For Vice-President, John C. Breckinridge, 174 ; William L. Dayton, 109 ; Andrew J. Donaldson, 8.

Popular Vote.—Buchanan, 1,832,232 ; Fremont, 1,341,514 ; Fillmore, 874,907.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extract from Senate Journal, Thirty-fourth Congress, Third Session, pp. 148, 157, 160, 189, 190, 191, 196, 197.—February 2, 1857.—Mr. Bigler submitted the following resolution, which was considered, by unanimous consent, and agreed to :

Resolved, That a committee be appointed, to consist of three members, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode for examining the votes for President and Vice-President of the United States, and to notify the persons elected of their election.

On motion by Mr. Bigler,

Ordered, That the committee be appointed by the president *pro tempore* ; and

Mr. Bigler, Mr. Benjamin, and Mr. Foote were appointed.

Ordered, That the secretary notify the House of Representatives thereof.

February 3, 1857.—The House of Representatives concurs.

February 4, 1857.—Mr. Bigler, from the joint committee, made the following report :

Resolved, That the two houses will assemble in the chamber of the House of Representatives on Wednesday, the 11th instant, at twelve o'clock, and the president *pro tempore* shall be the presiding officer; that one person shall be appointed teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate *pro tempore*, who shall announce the state of the vote and the persons elected to the two houses assembled; which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two houses.

The Senate proceeded to consider the resolution, by unanimous consent; and

The resolution was agreed to.

On motion by Mr. Bigler,

Ordered, that the teller on the part of the Senate be appointed by the president *pro tempore*; and

Mr. Bigler was appointed.

Ordered, That the secretary notify the House of Representatives thereof.

February 11, 1857.—Upon opening the electoral votes, it was found that the vote of the State of Wisconsin had been east on the day following the time appointed by law, but that the result would not be affected by either omitting or counting the vote; so that the President *pro tempore* of the Senate declared James Buchanan duly elected President, and John C. Breckinridge, Vice-President of the United States.

Several resolutions were offered in regard to the vote of Wisconsin, but they were unaeted upon by the Senate. On the 12th of February, the following resolution was received from the House of Representatives.

Resolved, That two members of the House be appointed by that body, to join a committee of one member of the Senate, to be appointed by that body, to wait on James Buchanan, of Pennsylvania, and inform him that he has been duly elected President of the United States for four years, commencing on the 4th day of March, 1857; and also to inform John C. Breckinridge, of Kentucky, that he has been duly elected Vice-President of the United States for four years from the 4th of March, 1857.

Ordered, That Mr. George W. Jones, of Tennessee, and Mr. T. B. Florence, of Pennsylvania, be the committee on the part of the House. The Senate proceeded to consider the said resolution; and

Resolved, That the Senate concur therein.

On motion by Mr. Weller,

Ordered, That the committee on the part of the Senate be appointed by the president *pro tempore*; and

Mr. Weller was appointed.

Ordered, That the secretary notify the House of Representatives thereof. [Senate Journal, Thirty-fourth Congress, Third Session, pp. 148, 157, 160, 189, 190, 191, 196, 197.]

NINETEENTH TERM, 1861 TO 1865.

Whole number of States, 33.

Electoral Vote.—Whole number of electors, 303. For President, Abraham Lincoln, 180; John C. Breckinridge, 72; John Bell, 39; Stephen A. Douglass, 12.

For Vice-President, Hannibal Hamlin, 180; Joseph Lane, 72; Edward Everett, 39; H. V. Johnson, 12.

Popular Vote.—Abraham Lincoln, 1,857,610; S. A. Douglass, 1,365,976; Breckinridge, 847,953; Bell, 590,601.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Thirty-sixth Congress, Second Session, pp. 174, 178, 187, 225.—February 1, 1861.—Mr. Trumbull submitted the following resolution for consideration :

Resolved, That a committee be appointed by the President of the Senate, to consist of three members, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode for examining the votes for President and Vice-President of the United States, and notify the persons chosen of their election.

February 2, 1861.—The Senate proceeded to consider the resolution ; and

The resolution was agreed to.

The Vice-President appointed Mr. Trumbull, Mr. Foote, and Mr. Latham the committee on the part of the Senate.

Ordered, That the secretary notify the House of Representatives thereof.

February 4, 1861.—House of Representatives concurs.

February 5, 1861.—Mr. Trumbull, from the joint committee, reported in part the following resolution, which was considered by unanimous consent and agreed to :

Resolved, That the two houses will assemble in the chamber of the House of Representatives on Wednesday, the 13th day of February, 1861, at 12 o'clock, and the president of the Senate shall be the presiding officer ; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of votes as they shall be declared ; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two houses.

On motion by Mr. Trumbull,

Ordered, That the teller on the part of the Senate be appointed by the Vice-President ; and

The Vice-President appointed Mr. Trumbull.

Ordered, That the secretary notify the House of Representatives thereof.
February 13, 1861.—Mr. Trumbull, from the joint committee, reported the following resolution :

Resolved, That a committee of one member of the Senate be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by that house, to wait on Abraham Lincoln, of Illinois, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th day of March, 1861; and also to notify Hannibal Hamlin, of the State of Maine, that he has been duly elected Vice-President of the United States for four years, commencing with the 4th day of March, 1861.

The Senate proceeded to consider the said resolution, by unanimous consent; and

The resolution was agreed to.

Ordered, That the Vice-President appoint the committee on the part of the Senate; and

Mr. Trumbull was appointed.

Ordered, That the secretary request the concurrence of the House of Representatives in the said resolution.

TWENTIETH TERM, 1865 TO 1869.

States participating in the election, 25.

Electoral Vote.—Whole number of electors, 233. For President, Abraham Lincoln, 212; George B. McClellan, 21.

For Vice-President, Andrew Johnson, 212; George H. Pendleton, 21.

Popular Vote.—For President, Lincoln, 2,223,035; McClellan, 1,811,754.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Thirty-eighth Congress, Second Session, pp. 105, 112, 139, 150.—January 27, 1865.—Mr. Trumbull submitted the following resolution, which was considered, by unanimous consent, and agreed to :

Resolved, That a committee, consisting of three members, be appointed by the President of the Senate, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and notifying the persons chosen of their election.

The Vice-President appointed Mr. Trumbull, Mr. Conness, and Mr. Wright the committee on the part of the Senate.

Ordered, That the secretary request the concurrence of the House of Representatives in the foregoing resolution.

January 30, 1865.—The House of Representatives concurs in the foregoing resolution.

February 6, 1865.—Mr. Trumbull, from the joint committee, submitted as a report, in part, the following resolution; which was considered, by unanimous consent, and agreed to :

Resolved, By the Senate (the House of Representatives concurring therein), That the following be added to the joint rules of the two houses, namely :

The two Houses shall assemble in the hall of the House of Representatives, at the hour of one o'clock P.M., on the second Wednesday in February next succeeding the meeting of the electors of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer. One teller shall be appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers having read the same in the presence and hearing of the two houses then assembled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected; which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with the list of the votes, be entered on the journals of the two houses.

If upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two houses, which being obtained, the two houses shall immediately reassemble, and the presiding officer shall then announce the decision of the question submitted; and upon any such question there shall be no debate in either house. And any other question pertinent to the object for which the two houses are assembled may be submitted and determined in like manner.

At such joint meeting of the two houses seats shall be provided as follows: for the President of the Senate, the Speaker's chair; for the Speaker, a chair immediately upon his left; for Senators, in the body of the hall upon the right of the presiding officer; for the representatives, in the body of the hall not occupied by the senators; for the tellers, secretary of the Senate, and clerk of the House of Representatives, at the clerk's desk; for the other officers of the two houses, in front of the clerk's desk, and upon either side of the Speaker's platform.

Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared, and no recess shall be taken unless a question shall have arisen in regard to the counting of any such votes, in which case it shall be competent for either house, acting separately in the manner hereinbefore provided, to direct a recess not beyond the next day, at the hour of one o'clock P.M.

Ordered, That the secretary request the concurrence of the House of Representatives in the foregoing resolution.

February 7, 1865.—The House of Representatives concurs.

February 8, 1865.—After the counting of the votes had been completed, and the Senate returned to their chamber, Mr. Trumbull, from the joint committee, offered the following resolution:

Resolved, That a committee of one member of the Senate be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by that house, to wait on Abraham Lincoln, of Illinois, and to notify him that he has been duly re-elected President of the United States for four years, commencing with the 4th day of March, 1865; and also to notify Andrew Johnson, of Tennessee, that he has been duly elected Vice-President of the United States for four years, commencing with the 4th day of March, 1865.

Ordered, That the committee on the part of the Senate be appointed by the Vice-President; and

The Vice-President appointed Mr. Trumbull.

Ordered, That the secretary request the concurrence of the House of Representatives in this resolution. [Senate Journal, Thirty-eighth Congress, Second Session, pp. 105, 112, 139, 150.]

TWENTY-FIRST TERM, 1869 TO 1873.

Whole number of States voting, 34.

Electoral Vote.—Whole number of electors, 294. For President, Ulysses S. Grant, 214; Horatio Seymour, 80.

For Vice-President, Schuyler Colfax, 214; Blair, 80.

Popular Vote.—For President, Grant, 3,021,020; Seymour, 2,716,475.

ACTION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Extracts from Senate Journal, Fortieth Congress, Third Session, pp. 99, 202, 204, 209, 210, 219, 220, 224, 225, 235, 236, 237, 238, 239, 240, 241, 246.—February 6, 1869.—Mr. Edmunds submitted the following resolution:

Whereas, The question whether the State of Georgia has become, and is, entitled to representation in the two Houses of Congress is now pending and undetermined; and whereas, by the joint resolution of Congress passed July 20, 1868, entitled "A resolution excluding from the electoral college votes of States lately in rebellion, which shall not have been re-organized," it was provided that no electoral votes from any of the States lately in rebellion should be received or counted for President or Vice-President of the United States until, among other things, such State should have become entitled to representation in Congress pursuant to acts of Congress in that behalf: therefore,

Resolved, By the Senate (the House of Representatives concurring), That on the assembling of the two houses on the second Wednesday of February, 1869, for the counting of the electoral votes for President and Vice-President, as provided by law and the joint rules, if the counting or omitting to count the electoral votes, if any, which may be presented as of the State of Georgia shall not essentially change the result, in that case they shall be reported by the President of the Senate in the following manner: Were the votes presented as of the State of Georgia to be counted, the result would be, for — for President of the United States, — votes; if not counted, for — for President of the United States, — votes; but in either case, — is elected President of the United States; and in the same manner for Vice-President.

February 8, 1869.—The Senate resumed the consideration of the above resolution; and, on the question to agree to the resolution,

It was determined in the affirmative—yeas 34, nays 11.

So the resolution was agreed to, as follows:

Whereas, The question whether the State of Georgia has become, and is, entitled to representation in the two houses of Congress is now pending and undetermined; and whereas, by the joint resolution of Congress passed July 20, 1868, entitled "A resolution excluding from the electoral college votes of States lately in rebellion, which shall not have been re-organized," it was provided that no electoral votes from any of the States lately in rebellion should be received or counted for President or Vice-President of the United States until, among other things, such State should have become entitled to representation in Congress pursuant to acts of Congress in that behalf: Therefore,

Resolved, By the Senate (the House of Representatives concurring), That on the assembling of the two houses on the second Wednesday of February, 1869, for the counting of the electoral votes for President and Vice-President, as provided by law and the joint rules, if the counting or omitting to count the electoral votes, if any, which may be presented as of the State of Georgia shall not essentially change the result, in that case they shall be reported by the President of the Senate in the following manner: Were the votes presented as of the State of Georgia to be counted, the result would be, for — for President of the United States, — votes; if not counted, for — for President of the United States, votes; but in either case, — is elected President of the United States; and in the same manner for Vice-President.

Ordered, That the secretary request the concurrence of the House of Representatives therein.

February 9, 1869.—The House of Representatives concurs.

January 13, 1869.—Mr. Conkling submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the President of the Senate be authorized to appoint the teller on the part of the Senate, provided for in the twenty-second joint rule of the two houses, to receive and count the votes for President and Vice-President.

February 5, 1869.—The president *pro tempore* appointed Mr. Conkling the teller on the part of the Senate to count the electoral votes for President and Vice-President of the United States.

February 10, 1869.—At the joint meeting of the two houses, objection being made by a member of the House to the counting of the votes of the State of Louisiana, the Senate returned to their chamber for the purpose of considering the same, and after discussion adopted the following resolution:

Resolved, That the votes of the State of Louisiana for President and Vice-President be counted.

Ordered, That the secretary inform the House of Representatives of the decision of the Senate on the objection raised to the counting of the electoral vote of the State of Louisiana for President and Vice-President of the United States.

A message from the House of Representatives, by Mr. McPherson, its clerk :

Mr. President : I am directed to inform the Senate that the House of Representatives, upon the objection made in joint convention of the two houses, against counting the vote of the State of Louisiana for President and Vice-President of the United States, has voted in favor of counting the votes.

Whereupon,

The Senate returned to the House of Representatives, and the president having announced to the two houses the decision of the Senate on the objection to counting the vote of the State of Louisiana, the opening, reading, and counting of the certificates of the electors of the several States for President and Vice-President were resumed ; and

The certificates of all the States, except the State of Georgia, having been read by the tellers,

The President of the Senate opened and delivered to the tellers the certificate of the electors of the said State of Georgia ; which having been read,

Objection was made to the counting of the votes of the electors of the State of Georgia by a member of the House of Representatives, giving his reasons therefor.

The Senate withdrew to its chamber for the purpose of considering the same, and the objections having been read by the secretary, after discussion the following resolution was adopted : yeas, 31 ; nays, 26.

Resolved, That, under the special order of the two houses respecting the electoral vote from the State of Georgia, the objections made to the counting of the votes of the electors for the State of Georgia are not in order.

The President of the Senate then directed the secretary to communicate to the House of Representatives the decision of the Senate on the objections to counting the electoral vote of the State of Georgia.

Whereupon,

The Senate returned to the House of Representatives, and the President of the Senate having announced to the two houses the decision of the Senate upon the objections raised to counting the electoral vote of the State of Georgia, directed the tellers to report the state of the vote for President and Vice-President.

Whereupon,

The tellers delivered to the President of the Senate a list of the votes.

The President of the Senate having announced that the business for which the two houses had assembled was completed,

The Senate returned to its chamber.

Mr. Morton submitted the following resolution ; which was considered, by unanimous consent, and agreed to :

Resolved, That a committee of one member of the Senate be appointed by this body, to join a committee of two members of the House of Representatives, to be appointed by that house, to wait on Ulysses S. Grant, of Illinois, and to notify him that he has been duly elected President of the United States for four years, commencing on the 4th of March, 1869 ; and also to notify Schuyler Colfax, of Indiana, that he has been duly

elected Vice-President of the United States for four years, commencing on the 4th of March, 1869.

Ordered, That the committee on the part of the Senate be appointed by the president *pro tempore*; and

The president *pro tempore* appointed Mr. Morton.

Ordered, That the secretary request the concurrence of the House of Representatives in the foregoing resolution. [Senate Journal, Fortieth Congress, Third Session, pp. 99, 202, 204, 209, 210, 219, 220, 224, 225, 235, 236, 237, 238, 239, 240, 241, 246.]

TWENTY-SECOND TERM, 1873 TO 1877.

Whole number of States, 37.

Electoral Vote.—Whole number of electors, 366. For President, Ulysses S. Grant, 286; B. Gratz Brown, 18; Thomas A. Hendricks, 42; Charles J. Jenkins, 2; David Davis, 1. For Vice-President, Henry Wilson, 286; B. Gratz Brown, 47; Nathaniel P. Banks, 1; George W. Julian, 5; Alfred H. Colquitt, 5; John M. Palmer, 3; Thomas E. Bramlette, 3; William S. Groesbeck, 1; Willis B. Machen, 1. The three votes of Georgia for Horace Greeley, of New York, for President, were excluded. The electoral votes of Louisiana and Arkansas were not counted.

The following extracts from the debates and proceedings of the Third Session of the Forty-second Congress will illustrate the method of counting the vote under the twenty-second joint rule of the two houses:

House of Representatives, February 12th, 1873.

COUNTING OF ELECTORAL VOTE.

Mr. Dawes. I offer the following resolution:

Resolved, That the clerk inform the Senate that this House is now ready to receive that body, for the purpose of proceeding to open and count the votes of the electors of the several States for President and Vice-President of the United States.

Mr. Bingham. Is not the hour fixed by the rule at one o'clock?

Mr. Dawes. The hour at which the proceedings should commence is fixed by the rule. But it will take a little time to make the preliminary arrangements.

The resolution was adopted.

Mr. Dawes moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

* * * * *

At one o'clock P.M. the doorkeeper announced the Senate of the United States.

The Senate entered the hall, preceded by its sergeant-at-arms and headed by the Vice-President and the secretary of the Senate, the members and officers of the House rising to receive them. The Senators took the seats set apart for them in the eastern section of the hall.

The Vice-President took his seat as presiding officer of the joint con-

vention of the two houses, the Speaker occupying a chair on the left of the Vice-President.

Senator Sherman, of Ohio, the teller appointed on the part of the Senate, and Messrs. Dawes, of Massachusetts, and Beck, of Kentucky, the two tellers appointed on the part of the House, took their seats at the clerk's desk, at which the secretary of the Senate and clerk of the House also occupied seats.

The Vice-President. The Senate and House of Representatives having met under the provisions of the Constitution for the purpose of opening, determining, and declaring the votes cast for President and Vice-President of the United States for the term of four years, commencing on the fourth of March next, and it being my duty, in the presence of both houses thus convened, to open the votes, I now proceed to discharge that duty.

The Vice-President then proceeded to open and hand to the tellers the votes of the several States for President and Vice-President of the United States, commencing with the State of Maine.

Senator Sherman (one of the tellers) read in full the certificate of the vote of the State of Maine, giving seven votes for Ulysses S. Grant, of Illinois, for President of the United States, and seven votes for Henry Wilson, of Massachusetts, for Vice-President of the United States.

Senator Trumbull. I think the Governor's certificate should be read as the evidence of the election of the electors.

The Vice-President. The tellers will report the certificate.

Senator Sherman (as one of the tellers) read the certificate of the Governor of Maine.

Senator Trumbull. I would inquire if that certificate bears the signature of the Executive of the State of Maine?

Senator Sherman. The signature of Sydney Perham, as Governor, is in the centre of the paper, under the great seal of the State.

Senator Trumbull. It is not material where it is, if the signature of the Executive is there.

The Vice-President. The chair will state that upon several occasions of the counting of the electoral vote, after the first certificate had been read in full, the reading in full of the subsequent certificates has been dispensed with by general consent, unless some Senator or Representative in a particular case called for the reading of the entire certificate. If no person objects, therefore, the tellers will report the material part of the subsequent certificates, subject, however, to the demand of any Senator or Representative that the document shall be read in full.

Senator Trumbull. I desire that the certificate of the Executive to the election of the electors should be once read in each case. I wish to take up no unnecessary time, but I think it important, as some question may possibly arise on that subject, that the certificate of the Executive should be read.

The Vice-President. That point will be regarded as made, and the tellers will take notice of it accordingly.

Mr. Dawes (one of the tellers) read the certificate of the Governor of New Hampshire as to the election of electors of President and Vice-

President of the United States, and announced the electoral votes of the State for those two officers.

Senator Hamlin. I beg to suggest to the Senator from Illinois [Mr. Trumbull] whether it will not answer his purpose entirely if the tellers should announce the fact that the certificates of election of electors are signed by the Governor and countersigned by the Secretary of State? That method of proceeding will be an economy of time, and at the same time it will reach the result which the Senator wishes to accomplish.

Senator Trumbull. Mr. President, it will be entirely satisfactory to me if the tellers will examine the papers in each case and see whether the proper certificates of the Executive of the State accompanies the list of votes, and will announce that fact with reference to each certificate. Where there is any variation they will, of course, bring it to the notice of the joint convention. It should be understood, of course, that the reading of the certificate in full may be demanded in any case.

The Vice-President. If there be no objection the tellers will merely state the fact in regard to the attestation of the Governor, subject to a demand by any Senator or Representative for the reading of the certificate in full.

The tellers proceeded to announce the electoral votes of the several States, it being mentioned in each case that the certificate of the election of the electors was signed by the Governor and countersigned by the Secretary of State. When the State of Georgia was reached,

Mr. Beck, of Kentucky (one of the tellers), announced the electoral vote for President as follows :

B. Gratz Brown, of Missouri, six votes; Horace Greeley, of New York, three votes; Charles J. Jenkins, of Georgia, two votes.

The vote for Vice-President was announced, as follows :

B. Gratz Brown, of Missouri, five votes; Alfred H. Colquitt, of Georgia, five votes; Nathaniel P. Banks, of Massachusetts, one vote. [Laughter.]

Mr. Hoar. I desire to make the point that the three votes reported by the tellers as having been cast for Horace Greeley, of New York, cannot be counted, because the person for whom they purport to have been cast was dead at the time of the assembling of the electors in that State.

The Vice-President. The gentleman from Massachusetts [Mr. Hoar] having made the point which has been stated by him, the chair will read from the twenty-second joint rule of the two houses :

"If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two houses, which being obtained, the two houses shall immediately reassemble, and the presiding officer shall then announce the decision of the question submitted; and upon any such question there shall be no debate

in either house. And any other question pertinent to the object for which the two houses are assembled may be submitted and determined in like manner."

On previous occasions, since this rule has been in operation, it has been required that an objection to the counting of any vote should be in writing, so that it might be submitted to both houses for their decision in their separate chambers. The gentleman from Massachusetts will submit his point in writing, and the chair will have it stated from the clerk's desk.

Senator Conkling. While the gentleman from Massachusetts is reducing his point to writing, I suggest to the chair that either by the point being withheld for the present (this particular return being laid aside), or otherwise, we can avoid the necessity of separating at this moment. Gentlemen know that a separation, to deliberate upon another point or two, is quite likely to occur; and I suggest that if this question can be passed over in one form or another for the moment, we can complete the reading of all the returns upon which there is no question; and then upon the two or three questions which may remain for decision, one single separation of the joint convention and one coming together will suffice.

The Vice-President. If there is no objection, the gentleman from Massachusetts will be understood as reserving the point which he has made, to be presented at the close of the counting, or whenever the two houses may be required under the rule to meet in their respective chambers. Will that suit the gentleman from Massachusetts?

Mr. Hoar. I have no objection.

The Vice-President. It will be understood as so reserved.

The tellers resumed the reading of the certificates. When the vote of the State of Mississippi was announced,

Mr. Senator Sherman (one of the tellers) said: As the form in this case is somewhat different from the others, I will read the certificate of the Governor:

"On this Wednesday, the 4th day of December, 1872, at the city of Jackson, in the State of Mississippi, the electors thereof assembled for the purpose of voting for President and Vice-President of the United States; and they accordingly voted with the following result, to wit:

"For President of the United States, Ulysses S. Grant, of Illinois, eight votes.

"For Vice-President of the United States, Henry Wilson, of Massachusetts, eight votes."

The tellers call attention to the fact that the electors do not certify that they voted by ballot.

Senator Trumbull. I observed that. I think this is a question of sufficient importance to receive the consideration of the two houses. I object to the vote of Mississippi being counted, for the reason that it does not appear that the electors voted by ballot. I will reduce the objection to writing, and let it lie until the two houses separate upon other questions, if it be agreeable to the convention.

The Vice-President. The Senator from Illinois [Mr. Trumbull] objects to counting the vote of the electors of the State of Mississippi, on

the ground there is no certificate that they voted by ballot, but for the present he reserves that point.

Senator Trumbull. At the suggestion of a Senator, who thinks it would be a bad precedent when an objection is raised to pass it over and go through with a vote in a matter of such grave importance as this, I will present the question now.

Senator Sherman (one of the tellers). The tellers direct me to read another paper from the State of Mississippi.

Senator Trumbull. If there are any other papers, I should like to hear them all read.

Senator Sherman (one of the tellers), then read a certificate, stating that the electors of the State of Mississippi had assembled for the purpose of giving their votes for President and Vice-President of the United States, and that A. T. Morgan, one of the electors, not being present, they had duly appointed J. J. Spellman to fill said vacancy, under the revised code of the State of Mississippi of 1871, to which was appended the great seal of the State of Mississippi, and the signature of James Lynch, Secretary of State of Mississippi.

The Vice-President. If the gentleman from Massachusetts has reduced to writing the point which he made, it will be now presented to the convention.

Mr. Hoar. I have reduced it to writing, and will send it up to the clerk's desk.

The Vice-President. Under the twenty-second joint rule the presiding officer now submits to the Senate and House of Representatives in joint convention the objection of the gentleman from Massachusetts [Mr. Hoar]. It will be reported.

The secretary of the Senate read as follows:

"Mr. Hoar objects, the votes reported by the tellers as having been cast by the electors of the State of Georgia for Horace Greeley, of New York, cannot legally be counted, because said Horace Greeley, for whom they appear to have been cast, was dead at the time said electors assembled to cast their votes and was not a person within the meaning of the Constitution, this being a historical fact of which the two houses may take notice."

The Vice-President. Two copies will be made of this objection, one for the Senate, and one for the House of Representatives, to be submitted to each house after the Senate repairs to its chamber.

The Senator from Illinois [Mr. Trumbull] makes the following point, which the presiding officer now submits to the two bodies in joint convention.

The secretary of the Senate read as follows:

"Mr. Trumbull objects to counting the votes cast for President and Vice-President by the electors in the State of Mississippi, for the reason it does not appear from the certificate of said electors that they voted by ballot."

Senator Trumbull. I should like to have read again the certificate of the Governor of Mississippi, both the original and supplemental papers.

The Vice-President. That will be done.

Senator Trumbull. It is suggested by my colleague, it would be well,

as these papers cannot be before both houses when we separate, that for the information of both houses the papers be read in full at this time.

The Vice-President. The chair will state in this case, as in all other cases, there are two copies in possession of the presiding officer, one sent by mail, and one brought by messenger. In this case they appear to be the same.

The papers were again read.

The Vice-President. The presiding officer will state that in the duplicate copies sent by messenger the Governor's certificate does not appear to have been included; but the substantial point made by the senator from Illinois [Mr. Trumbull] lies against both papers, that they do not state the electors voted by ballot.

Mr. Potter. Mr. President, I desire to inquire, because we could not understand here as reported by the tellers, whether the supplemental certificate, as I may call it, from the State of Mississippi, in respect of the elector elected to supply and take the place of the elector who is absent, is signed by the Governor or not?

The Vice-President. It is signed by the Secretary of State only.

Mr. Potter. Then, Mr. President, I desire to object to one vote of the State of Mississippi, because the certificate declaring that J. J. Spellman was appointed an elector in the stead of A. T. Morgan, absent, by the electoral college of that State, in accordance with the laws of that State, is not signed by the Governor of that State.

The Vice-President. It has been suggested that perhaps it may not be exactly correct, under the Constitution, for the President of the Senate, to leave in possession of the house any official document in his possession pertaining to the electoral vote. But as the tellers have reported in every instance that, besides the document which was delivered to the Vice-President by messenger, a duplicate came by mail, unless there is objection the chair will leave in the possession of the House of Representatives, for reference and consultation by its members, the document which was transmitted to him by mail, retaining in his official possession the document which was transmitted by messenger. The gentleman from New York [Mr. Potter] desires to modify his objection.

Mr. Potter. At the suggestion of a member of the house who has seen the certificate of the State of Mississippi to which I have referred, I ask leave to make an addition to the objection I have offered.

The Vice-President. The objection of the gentleman from New York [Mr. Potter] will be read as modified:

The clerk read as follows:

"Mr. Potter objects to one vote of the State of Mississippi, because the certificate declaring that J. J. Spellman was appointed an elector in the stead of A. T. Morgan, absent, by the electoral college of that State, in accordance with the laws of that State, is not signed by the Governor of that State.

"And, further, that the certificate of the Secretary of State read, does not certify anything of his own knowledge, but only states he has been so notified as he certifies."

The Vice-President. Three questions having arisen in regard to the

counting of the votes for President and Vice-President, the Senate will now withdraw to their chamber.

The Senate accordingly retired.

* * * * * * * *

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Sympson, one of its clerks, informed the House that the Senate had passed the following resolutions:

Resolved, That the electoral votes of Georgia cast for Horace Greeley be counted.

Resolved, That the vote cast by James J. Spellman, one of the electors for the State of Mississippi, be counted.

Resolved, That the electoral vote of the State of Mississippi be counted.

The message further announced that the Senate is ready again to meet the House, that the counting of the electoral votes may be proceeded with.

COUNTING OF ELECTORAL VOTES.

Mr. Dawes. I offer the following resolution:

Resolved, That a message be sent to the Senate, to inform that body that the House is ready to receive the Senate, to proceed again with the counting of the electoral votes.

The resolution was agreed to.

Mr. Dawes moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

At three o'clock and thirty-five minutes P.M. the Senate in a body re-entered the hall.

The Vice-President (having resumed the chair). The chair will read a part of the twenty-second rule:

"And no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two houses; which being obtained, the two houses shall immediately reassemble, and the presiding officer shall then announce the decision of the question submitted."

Upon the first point raised by the Representative from Massachusetts (Mr. Hoar) the Senate decided as follows:

Resolved, That the electoral votes of Georgia, cast for Horace Greeley, be counted.

The House of Representatives decided as follows:

Resolved, That the votes reported by the tellers as having been cast by the electors of the State of Georgia for Horace Greeley, of New York, as President of the United States, ought not to be counted, the said Horace Greeley having died before said votes were cast.

Upon this question there is a non-concurrence of the two houses.

On the question submitted by the Senator from Illinois (Mr. Trumbull)

in regard to the votes of the State of Mississippi, the Senate adopted the following resolution :

Resolved, That the electoral vote of the State of Mississippi be counted.

And the House of Representatives adopted the following resolution :

Resolved, That in the judgment of this House the eight votes reported by the tellers as cast by the electors in and for the State of Mississippi ought to be counted as reported by them.

On this question the votes of the two houses are concurrent.

On the third point raised by the Representative from New York (Mr. Potter), which was in regard to the election of one elector from Mississippi, the Senate adopted the following resolution, which is covered also by its action on the full vote of the State :

Resolved, That the vote cast by James J. Spellman, one of the electors for the State of Mississippi, be counted.

The House of Representatives adopted the following resolution :

Resolved, That the electors of the State of Mississippi having been appointed in the manner directed by the legislature of that State, and in accordance with the provisions of the Constitution of the United States, were legally elected, and that the vote of the State as cast by them should be counted, and that the certificate of the Governor of that State of the electoral vote cast, and the certificate of the Secretary of State of that State in regard to the choice of electors, is in compliance with the Constitution and laws of the United States.

Therefore, by the twenty-second joint rule, there being a non-concurrence between the two houses upon the three votes cast in the State of Georgia for Horace Greeley, for President of the United States, they cannot be counted. And in accordance with the same joint rule, the votes of the State of Mississippi will be counted. The tellers resumed the counting of the votes.

* * * * *

Senator West. I object to the reception by the Senate and House of Representatives of the electoral vote of Louisiana as certified to by the Governor of that State, upon the ground that said certificate was not made in pursuance of law.

Mr. Sheldon. I also object to the counting of the votes cast by T. C. Manning, C. H. Weed, A. S. Herron, Hugh J. Campbell, L. Bush, A. Thomas, J. C. Moncure, and L. V. Reeves, of Louisiana, for B. Gratz Brown, of Missouri, for Vice-President, for the reason that the certificate of the Governor showing them to have been chosen electors is not signed by the person who was at that time Assistant Secretary of State for the State of Louisiana, and for the further reason that at the time said certificate was executed there had not been made any count, canvass, or return of the votes cast by the people of Louisiana for electors by any lawful authority, and the said certificate was made by the Governor without any authentic knowledge of the result of the election by the people of said State, which facts are fully established by the testimony taken by the Senate Committee on Privileges and Elections, and are stated in their report to the Senate.

Senator Carpenter. I object to the counting of the votes given for U. S. Grant for President and Henry Wilson, Vice-President, by the electors of Louisiana, because there is no proper return of votes cast by the electors of the State of Louisiana, and because there is no State government in said State which is republican in form, and because no canvass or counting of the votes cast for electors in the State of Louisiana at the election held in November last had been made prior to the meeting of the electors.

Mr. Potter. I object to counting the electoral votes from the State of Louisiana as cast for Ulysses S. Grant for President and Henry Wilson for Vice-President, for the reason that there is no certificate from the executive authority of that State as required by the act of Congress of 1792, certifying that the persons who cast such votes were appointed electors of said State, but that on the contrary it appears by the certificate of the Governor of said State that the persons appointed electors were not the persons who cast such votes for U. S. Grant and Henry Wilson, but were persons who cast their votes not for said Grant and Wilson, but for no person as President, and for B. Gratz Brown as Vice-President.

Mr. Stevenson. I object to counting the votes from the State of Louisiana, because it does not sufficiently appear that the electors were elected according to law.

Senator Boreman. I object to counting any votes from the State of Louisiana for reasons set forth in the report of the Committee on Privileges and Elections submitted to the Senate on the 10th instant, and printed as Report No. 417 of Forty-second Congress, third session.

Senator Trumbull. I object to the counting of the votes cast by the persons in the first certificate read, for the reason that their election is not certified to by the proper officers; that Bovee, who signed the certificate of their election, was not Secretary of State at the time of making said certificate, nor in possession of the office of Secretary of State nor of the seal of said State; and for the further reason that the certificate of said Bovee is untrue in fact, as appears by the admissions of said Bovee before the committee of the Senate.

The Vice-President. There have been seven objections made in regard to receiving the votes of Louisiana, some of them against receiving any vote from that State. The chair would suggest that in taking up these objections the two houses might act first upon those which lie to the counting of the vote of Louisiana at all.

Objection was made.

The Vice-President. Objection being made, each house will proceed to consider the objections made in such order as they may happen to be presented to that house. If no further objections be made to the vote of Louisiana, the seven that have been made will be filed, and copies furnished to the two branches of Congress.

No further objections were made.

Senator Rice. I object to the counting of the votes of the State of Arkansas, because the official returns in said State, made according to the laws of said State, show that the persons certified to by the Secretary

of State as elected, were not elected as electors for President and Vice-President at the election held November 5, 1872; and secondly, because the returns read by the tellers are not certified according to law.

The Senate retired from the hall.

The House was again called to order.

* * * * *

At seven o'clock and forty-five minutes P.M. the Senate in a body re-entered the hall.

The Vice-President having resumed the chair, said: The objection made by the Senator from Arkansas to the counting of the electoral vote of that State as declared by the tellers, having been considered by the two houses, the Senate has resolved as follows:

Resolved, That the electoral vote of Arkansas should not be counted.

And the House has resolved as follows:

Resolved, That the electoral vote of the State of Arkansas, as reported by the tellers, be counted.

There being a non-concurrence of the two houses on this question, the vote of Arkansas, in accordance with the provisions of the twenty-second joint rule, will not be counted. That rule provides that—

“No question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two houses.”

The several objections made on various grounds to the counting of the electoral votes from Louisiana having been considered by the two houses, the Senate has resolved as follows:

Resolved, That all objections presented having been considered, no electoral vote purporting to be that of the State of Louisiana be counted.

And the House has resolved as follows:

Resolved, That, in the judgment of this house, none of the returns reported by the tellers as electoral votes of the State of Louisiana should be counted.

On this question there is a concurrence of the houses; and the electoral votes of Louisiana will not be counted. The tellers will now announce the result of the vote.

Senator Sherman (one of the tellers) announced the result as follows:

LIST OF VOTES FOR PRESIDENT AND VICE-PRESIDENT OF THE UNITED STATES FOR THE CONSTITUTIONAL TERM TO COMMENCE ON THE 4TH OF MARCH, 1873.

| STATES. | Number of Electoral votes. | FOR PRESIDENT. | | | | | | FOR VICE-PRESIDENT. | | | | | | | | |
|--------------------|----------------------------|--------------------------------|------------------------------|------------------------------|----------------------------------|---------------------------------|---------------------------|---------------------------------|------------------------------|---------------------------------------|-------------------------------|---------------------------------|------------------------------|-----------------------------------|--------------------------------|--------------------------------|
| | | Ulysses S. Grant, of Illinois. | Horace Greeley, of New York. | B. Gratz Brown, of Missouri. | Thomas A. Hendricks, of Indiana. | Charles J. Jenkins, of Georgia. | David Davis, of Illinois. | Henry Wilson, of Massachusetts. | B. Gratz Brown, of Missouri. | Nathaniel P. Banks, of Massachusetts. | George W. Julian, of Indiana. | Alfred H. Colquitt, of Georgia. | John M. Palmer, of Illinois. | Thomas E. Bramlette, of Kentucky. | William S. Groesbeck, of Ohio. | Willis B. Machen, of Kentucky. |
| Maine..... | 7 | 7 | ..... | ..... | ..... | ..... | ..... | 7 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| New Hampshire..... | 5 | 5 | ..... | ..... | ..... | ..... | ..... | 5 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Vermont..... | 5 | 5 | ..... | ..... | ..... | ..... | ..... | 5 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Massachusetts.... | 13 | 13 | ..... | ..... | ..... | ..... | ..... | 13 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Rhode Island.... | 4 | 4 | ..... | ..... | ..... | ..... | ..... | 4 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Connecticut..... | 6 | 6 | ..... | ..... | ..... | ..... | ..... | 6 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| New York..... | 35 | 35 | ..... | ..... | ..... | ..... | ..... | 35 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| New Jersey..... | 9 | 9 | ..... | ..... | ..... | ..... | ..... | 9 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Pennsylvania..... | 29 | 29 | ..... | ..... | ..... | ..... | ..... | 29 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Delaware..... | 3 | 3 | ..... | ..... | ..... | ..... | ..... | 3 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Maryland..... | 8 | ..... | ..... | ..... | 8 | ..... | ..... | ..... | 8 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Virginia..... | 11 | 11 | ..... | ..... | ..... | ..... | ..... | 11 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| North Carolina.. | 10 | 10 | ..... | ..... | ..... | ..... | ..... | 10 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| South Carolina.. | 8 | 7 | ..... | ..... | ..... | ..... | ..... | 7 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Georgia*..... | 11 | ..... | ..... | 6 | ..... | 2 | ..... | ..... | 5 | 1 | ..... | 5 | ..... | ..... | ..... | ..... |
| Alabama..... | 10 | 10 | ..... | ..... | ..... | ..... | ..... | 10 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Louisiana†..... | 8 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Ohio..... | 22 | 22 | ..... | ..... | ..... | ..... | ..... | 22 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Kentucky..... | 12 | ..... | ..... | 4 | 8 | ..... | ..... | ..... | 8 | ..... | ..... | ..... | ..... | 3 | ..... | 1 |
| Tennessee..... | 12 | ..... | ..... | ..... | 12 | ..... | ..... | ..... | 12 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Indiana..... | 15 | 15 | ..... | ..... | ..... | ..... | ..... | 15 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Illinois..... | 21 | 21 | ..... | ..... | ..... | ..... | ..... | 21 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Missouri..... | 15 | ..... | ..... | 8 | 6 | ..... | 1 | ..... | 6 | ..... | 5 | ..... | 3 | ..... | 1 | ..... |
| Arkansas†..... | 6 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Mississippi..... | 8 | 8 | ..... | ..... | ..... | ..... | ..... | 8 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Michigan..... | 11 | 11 | ..... | ..... | ..... | ..... | ..... | 11 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Florida..... | 4 | 4 | ..... | ..... | ..... | ..... | ..... | 4 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Texas..... | 8 | ..... | ..... | ..... | 8 | ..... | ..... | ..... | 8 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Iowa..... | 11 | 11 | ..... | ..... | ..... | ..... | ..... | 11 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Wisconsin..... | 10 | 10 | ..... | ..... | ..... | ..... | ..... | 10 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| California..... | 6 | 6 | ..... | ..... | ..... | ..... | ..... | 6 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Minnesota..... | 5 | 5 | ..... | ..... | ..... | ..... | ..... | 5 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Oregon..... | 3 | 3 | ..... | ..... | ..... | ..... | ..... | 3 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Kansas..... | 5 | 5 | ..... | ..... | ..... | ..... | ..... | 5 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| West Virginia... | 5 | 5 | ..... | ..... | ..... | ..... | ..... | 5 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Nevada..... | 3 | 3 | ..... | ..... | ..... | ..... | ..... | 3 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Nebraska..... | 3 | 3 | ..... | ..... | ..... | ..... | ..... | 3 | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Total..... | 366 | 286 | .... | 18 | 42 | 2 | 1 | 286 | 47 | 1 | 5 | 5 | 3 | 3 | 1 | 1 |

* The three votes of Georgia for Horace Greeley, of New York, for President, were excluded.

† The electoral votes of Louisiana and Arkansas were not counted.

The Vice-President. The whole number of electors to vote for President and Vice-President of the United States, as reported by the tellers, is 366, of which the majority is 184. Of these votes 349 have been counted for President and 352 for Vice-President of the United States. The result of the vote for President of the United States, as reported by the tellers, is, for Ulysses S. Grant, of Illinois, 286 votes; for B. Gratz Brown, of Missouri, 18 votes; for Thomas A. Hendricks, of Indiana, 42 votes; for Charles J. Jenkins, of Georgia, 2 votes; and for David Davis, of Illinois, 1 vote. The result of the vote as reported by tellers for Vice-President of the United States is, for Henry Wilson, of Massachusetts, 286 votes; for B. Gratz Brown, of Missouri, 47 votes; for Nathaniel P. Banks, of Massachusetts, 1 vote; for George W. Julian, of Indiana, 5 votes; for Alfred H. Colquitt, of Georgia, 5 votes; for John M. Palmer, of Illinois, 3 votes; for Thomas E. Bramlette, of Kentucky, 3 votes; for William S. Groesbeck, of Ohio, 1 vote; and for Willis B. Machen, of Kentucky, 1 vote.

Whereupon, I do declare that Ulysses S. Grant, of the State of Illinois, having received a majority of the whole number of electoral votes, is duly elected President of the United States for four years, commencing on the fourth day of March, 1873; and that Henry Wilson, of the State of Massachusetts, having received a majority of the whole number of electoral votes for Vice-President of the United States, is duly elected Vice-President of the United States for four years, commencing the fourth of March, 1873.

The object for which the House and Senate have assembled in joint convention having been accomplished, the Senate will retire to its chamber.

The Senate accordingly retired from the hall of the House of Representatives.

The Speaker then resumed the chair, and called the House to order.

ACTION OF THE FORTY-THIRD AND FORTY-FOURTH CONGRESS UPON THE BILL REPORTED BY SENATOR MORTON FOR COUNTING THE ELECTORAL VOTE.

Forty-third Congress, Second Session.

1875, February 6.—Mr. Morton, from the Committee on Privileges and Elections, reported the following bill (S. 1251), which was passed to a second reading:

IN SENATE.

Be it enacted, etc., That the two Houses of Congress shall assemble in the hall of the House of Representatives, at the hour of one o'clock, on the last day of January next succeeding the meeting of the electors of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer; one teller shall be appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers, having read the same in the presence and hearing of the two houses then assem-

bled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two houses. If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw, and said question shall be submitted to the body for its decision; and the Speaker of the House of Representatives shall, in like manner, submit said question to the House of Representatives for its decision; and no electoral vote or votes from any State, to the counting of which objections have been made, shall be rejected except by the affirmative vote of the two houses. When the two houses have voted, they shall immediately reassemble, and the presiding officer shall then announce the decision of the question submitted. And any other question pertinent to the object for which the two houses are assembled may be submitted and determined in like manner.

SEC. 2. That if more than one return shall be received by the President of the Senate from a State, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State, all such returns shall be opened by him in the presence of the houses when assembled to count the votes; and that return from such State shall be counted which the two houses acting separately shall decide to be the true and valid return.

SEC. 3. That when the two houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or for the decision of any other question pertinent thereto, each senator and representative may speak to such objection or question ten minutes, and not oftener than once: *Provided*, That after such debate has lasted two hours, it shall be in the power of a majority of each house to direct that the main question shall be put without further debate.

SEC. 4. At such joint meeting of the two houses, seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the senators in the body of the hall upon the right of the presiding officer; for the representatives, in the body of the hall not provided for the senators; for the tellers, secretary of the Senate, and clerk of the House of Representatives, at the clerk's desk; for the other officers of the two houses, in front of the clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the electoral votes are all counted, and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, in which case it shall be competent for either house, acting separately, in the manner hereinbefore provided, to direct a recess not beyond the next day at the hour of ten o'clock in the forenoon.

February 25.—Mr. Thurman moved to strike out "one teller," and insert "two tellers," in section one; which was agreed to. And also to

insert after the clause "electoral votes" in the first section, the following:

Which certificates shall be opened, presented, and acted upon in the alphabetical order of the names of the States, beginning with the letter A.

Which was agreed to.

Also to strike out the last sentence of section one; which was agreed to.

Also to strike out the words "or for the decision of any other question pertinent thereto," in section three; which was agreed to.

Mr. Merrimon moved to strike out of section one, the words, "the two houses of Congress," and insert "the Senate and House of Representatives;" which was agreed to. Also to amend in section one, by inserting after the words "one o'clock," the letters, "P.M.;" which was agreed to.

Mr. Wright moved to amend the bill in section two, after the word "return," where it first occurs, in the last clause, by inserting the word "only," and after the word "shall" inserting "each;" so as to read: "And that return only from such State shall be counted which the two houses, acting separately, shall each decide to be the true and valid return;" which was agreed to.

Mr. Edmunds moved to amend by striking out all after the enacting clause and inserting the following:

That within not more than ten and not less than three days next prior to the last Monday in January next following any election for President or Vice-President, the Senate shall appoint four senators and the House of Representatives shall appoint four members, and such eight persons shall constitute a Committee upon Elections of President and Vice-President. A majority of said committee shall be a quorum thereof, and the concurrence of such majority shall be necessary in any action thereof. Each member of such committee shall, before he enters upon the duties by this act imposed on such committee, take and subscribe the following oath:

"I, ———, do solemnly swear that I will faithfully and impartially perform all the duties imposed upon me by the act entitled 'An act to provide for and regulate the counting of votes for President and Vice-President;' so help me God."

And such oaths of senators shall be filed in the archives of the Senate, and of members of the House of Representatives in the archives of the House.

SEC. 2. That Congress shall be in session on the last Monday in January next after any election for President and Vice-President shall have occurred; and the Senate and House of Representatives shall meet in the hall of the House of Representatives, at one o'clock, afternoon of that day, and from day to day (Sundays excepted), at the same hour, until the duties required by this act shall have been performed; the President of the Senate shall preside, and whenever the Senate shall withdraw, from time to time, the Speaker of the House shall resume his chair; having so met, the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and papers, purporting to be certificates of votes given at the last preceding election for President and for Vice-President, respectively, and which shall have come to his possession; and the votes shall then be counted in the manner and with effect hereinafter provided.

SEC. 3. That when the certificates of votes for President of the United States shall be opened by the President of the Senate, in the presence of the Senate and House of Representatives, as provided in the Constitution and by this act, the same shall, with the votes therein contained or stated, be then and there delivered to the committee provided for in section one of this act; which committee shall forthwith proceed to examine the same, and shall count the votes which shall appear to have been legally given and duly certified and returned. And said committee shall report in writing as soon as may be to said meeting their proceedings, the state of the votes, and what persons, if any, have been pursuant to law elected President and Vice-President respectively; and if, on such report, any question shall be made by any senator or member of the House of Representatives touching the legal validity of any vote or votes so delivered to said committee, or touching any action of said committee, the Senate shall withdraw, and each house shall proceed to consider the question; and if the two houses concur in the decision thereof, their judgment shall stand, and the report of such committee shall be modified accordingly; but if they do not so concur, the report of such committee shall stand; and if such committee shall be equally divided in opinion, the vote in question shall be counted unless both houses concur in rejecting the same. And the persons so declared elected shall respectively be deemed entitled to exercise the functions of their offices.

SEC. 4. That section 142 of the Revised Statutes of the United States, and all provisions inconsistent with this act are hereby repealed.

Which was disagreed to.

Mr. Eaton moved the indefinite postponement of the bill, which was disagreed to; yeas 14, nays 31 (not voting 28), as follow:

Yeas, Messrs. Bayard, Carpenter, Conkling, Cooper, Davis, Dennis, Eaton, Goldthwaite, Hager, Kelly, McCreery, Merrimon, Ransom, Stockton, 14.

Nays, Messrs. Boreman, Boutwell, Chandler, Clayton, Conover, Cragin, Dorsey, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Hamlin, Harvey, Hitecock, Ingalls, Jones of Nevada, Logan, Mitchell, Morrill of Vermont, Morton, Oglesby, Patterson, Pease, Sargent, Scott, Spencer, Sprague, Stewart, Washburn, West, Windom, 31.

The bill was then ordered to be engrossed and read a third time, and passed, yeas 28, nays 20 (not voting 25), as follow:

Yeas, Messrs. Allison, Boreman, Boutwell, Chandler, Clayton, Conover, Cragin, Dorsey, Ferry of Michigan, Flanagan, Frelinghuysen, Hamilton of Texas, Harvey, Hitecock, Logan, Mitchell, Morrill of Vermont, Morton, Oglesby, Patterson, Pease, Ramsey, Sargent, Sherman, Speneer, Washburn, West, Wright, 28.

Nays, Messrs. Bayard, Bogy, Carpenter, Conkling, Cooper, Davis, Dennis, Eaton, Edmunds, Goldthwaite, Hager, Jones of Nevada, Kelly, Merrimon, Ransom, Saulsbury, Sprague, Stewart, Stockton, Windom, 20.

IN HOUSE.

No action was taken.

Forty-fourth Congress, First Session.

IN SENATE.

1875, December 8.—Mr. Morton offered the same bill precisely, as is printed above; which was referred to the Committee on Privileges and Elections.

1876, March 3.—It was reported without amendment.

March 21.—The Senate being as in committee of the whole, Mr. Cooper moved to add to the second section these words :

And if the two houses do not agree as to which return shall be counted, then that vote shall be counted which the House of Representatives, voting by States in the manner provided by the Constitution when the election devolves upon the house, shall decide to be the true and valid return.

Mr. Frelinghuysen moved to strike out all after the word “agree” in the first line, and substitute the following :

The difference shall be immediately referred to the Chief Justice of the Supreme Court, the presiding officer of the Senate, and the Speaker of the House, whose decision shall be final. If the Chief Justice is absent or unable to attend, the senior associate justice of the Supreme Court present in the capitol or other place of meeting shall act in his place.

Which was disagreed to, yeas 20, nays 29, as follow :

Yeas, Messrs. Allison, Anthony, Bruce, Burnside, Cameron of Pennsylvania, Conkling, Dawes, Ferry of Michigan, Frelinghuysen, Hamlin, Howe, Logan, McMillan, Morrill of Vermont, Morton, Paddock, Robertson, Sharon, West, Windom, 20.

Nays, Messrs. Bayard, Bogy, Booth, Boutwell, Christianey, Cooper, Davis, Eaton, Goldthwaite, Gordon, Ingalls, Johnson, Jones of Florida, Kelly, Kernan, Key, McCreery, McDonald, Maxey, Merrimon, Mitchell, Norwood, Randolph, Ransom, Saulsbury, Stevenson, Thurman, Whyte, Withers, 29.

Mr. Johnston moved to strike out all after the word “and” in the first line, and substitute the following :

If the Senate should vote for counting one certificate and the House of Representatives another, the joint meeting of the two houses shall finally determine which shall be counted by States, the representation from each State, including the senators therefrom, having one vote, but if the representation of any State shall be equally divided, its vote shall not be counted.

Which was disagreed to. Yeas 11, nays 39, as follow :

Yeas, Messrs. Allison, Bogy, Davis, Johnston, Kelly, McCreery, Ransom, Sargent, Saulsbury, Thurman, Withers, 11.

Nays, Messrs. Booth, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christianey, Cockrell, Conkling, Cooper, Dawes, Dennis, Eaton, Edmunds, Ferry of Michigan, Frelinghuysen, Gordon, Hamilton, Hitecock, Howe, Ingalls, Jones of Florida, Key, Logan, McDonald, McMillan, Maxey, Merrimon, Mitchell, Morton, Norwood, Oglesby, Paddock, Randolph, Robertson, Sharon, West, White, Windom, Wright, 39.

The amendment of Mr. Cooper was then disagreed to. Yeas 13, nays 35, as follow :

Yeas, Messrs. Bogy, Caperton, Cooper, Davis, Gordon, Johnston, Kelly, McCreery, McDonald, Ransom, Saulsbury, Thurman, Withers, 13.

Nays, Messrs. Allison, Booth, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Cockrell, Conkling, Dawes, Dennis, Eaton, Edmunds, Ferry of Michigan, Frelinghuysen, Hamilton, Hitchcock, Howe, Ingalls, Jones of Florida, Key, Logan, McMillan, Maxey, Merrimon, Mitchell, Morton, Oglesby, Paddock, Robertson, Sargent, West, Whyte, Windom, Wright, 35.

Mr. Maxey moved to amend the bill by adding to section two the words :

But if the two houses fail to agree as to which of the returns shall be counted, then the President of the Senate shall decide which is the true and valid return, and the same shall then be counted.

Which was disagreed to. Yeas 7, nays 38, as follow :

Yeas, Messrs. Bogy, Cameron of Pennsylvania, Hamlin, Maxey, Robertson, Sargent, Withers, 7.

Nays, Messrs. Allison, Anthony, Bayard, Booth, Boutwell, Burnside, Cameron of Wisconsin, Caperton, Christiancy, Conkling, Dawes, Dennis, Eaton, Edmunds, English, Ferry of Michigan, Frelinghuysen, Goldthwaite, Gordon, Hamilton, Howe, Ingalls, Johnston, Jones of Florida, Jones of Nevada, Kelly, Key, McCreery, McDonald, Merrimon, Mitchell, Morrill of Maine, Morton, Norwood, Oglesby, Sharon, Whyte, Wright, 38.

March 23.—Mr. Randolph moved to add these new sections.

SEC. —. To insure each State the count of the electoral vote, except it shall be rejected as provided for in section one of this act, it is declared the duty of each house of Congress to record its votes by ayes and noes upon all questions as to which are the true and valid returns of a State; and it shall be the duty of the presiding officer of each house to immediately forward to the other a true and detailed return of such vote.

SEC. —. Should it then appear that the two houses have failed to agree as to which are the true and valid returns, they shall immediately re-assemble, and the President of the Senate shall announce those returns as valid which shall have received a majority of all the votes cast in both houses of Congress, considered as if in joint meeting assembled.

SEC. —. Should it occur that the aggregate vote of both houses be equally divided upon the question, then, and in that event only, the President of the Senate shall give the casting vote.

Which was disagreed to. Yeas 12, nays 37, as follow :

Yeas, Messrs. Bayard, Caperton, Cooper, Davis, Gordon, Johnston, McCreery, Randolph, Ransom, Saulsbury, Thurman, Withers, 12.

Nays, Messrs. Bogy, Boutwell, Burnside, Cameron of Wisconsin, Christiancy, Conkling, Cragin, Dawes, Dennis, Dorsey, Eaton, Edmunds, Ferry of Michigan, Frelinghuysen, Goldthwaite, Hamlin, Howe, Jones of Florida, Kelly, Key, Logan, McDonald, McMillan, Merrimon, Mitchell, Morrill of Maine, Morton, Oglesby, Paddock, Patterson, Sargent, Spencer, Wadleigh, West, Whyte, Windom, Wright, 37.

March 24.—Mr. Bayard moved to add to section two these words:

And if the two houses do not agree as to which return shall be counted, then that vote shall be counted which the House of Representatives, voting by States in the manner provided by the Constitution when the election devolves upon the House, shall decide to be the true and valid return.

Which was disagreed to. Yeas 18, nays 34, as follow:

Yeas, Messrs. Bayard, Bogy, Caperton, Cooper, Davis, Goldthwaite, Johnston, Kelly, Key, McCreery, McDonald, Maxey, Randolph, Ransom, Saulsbury, Thurman, Wallace, Withers, 18.

Nays, Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christianey, Conkling, Dawes, Dennis, Dorsey, Eaton, Edmunds, English, Ferry of Michigan, Frelinghuysen, Hamilton, Hamlin, Howe, Jones of Nevada, Logan, McMillan, Merrimon, Mitchell, Morrill of Maine, Morton, Oglesby, Paddock, Patterson, Sargent, Sherman, Whyte, Windom, Wright, 34

Mr. Wright moved to add, in section two, after the word "return," where it first occurs in the last clause of the section, the words "and that only;" which was agreed to.

Other amendments by Mr. Burnside and Mr. Whyte were offered, and rejected, without a record of yeas and nays, and they are not inserted.

The bill, as amended on motion of Mr. Wright, was then passed. Yeas 32, nays 26, as follow:

Yeas, Messrs. Allison, Anthony, Booth, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Christianey, Dawes, Dorsey, Ferry, Frelinghuysen, Hamilton, Hamlin, Hitchcock, Ingalls, Jones of Nevada, Key, Logan, McMillan, Merrimon, Mitchell, Morrill of Maine, Morton, Oglesby, Paddock, Patterson, Sargent, Sherman, Spencer, Thurman, Windom, Wright, 32.

Nays, Messrs. Bayard, Bogy, Caperton, Coekrell, Conkling, Cooper, Davis, Dennis, Eaton, Edmunds, English, Goldthwaite, Howe, Johnston, Jones of Florida, Kelly, McCreery, McDonald, Maxey, Randolph, Ransom, Saulsbury, Stevenson, Wallace, Whyte, Withers, 26.

Mr. Thurman moved to reconsider this vote, which was postponed.

April 19.—The motion to reconsider was agreed to. Yeas 31, nays 23, as follow:

Yeas, Messrs. Bayard, Bogy, Caperton, Coekrell, Conkling, Cooper, Davis, Dawes, Dennis, Eaton, Edmunds, English, Goldthwaite, Gordon, Hamilton, Howe, Kelly, Kernan, Key, McCreery, Maxey, Merrimon, Norwood, Paddock, Randolph, Ransom, Saulsbury, Stevenson, Thurman, Wallace, Withers, 31.

Nays, Messrs. Anthony, Booth, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Clayton, Cragin, Ferry, Frelinghuysen, Hamlin, Harvey, Ingalls, Jones of Nevada, Logan, McMillan, Morrill of Maine, Morrill of Vermont, Morton, Oglesby, Robertson, Sargent, Windom, 23. (McPherson, 198.)

THE JOINT RULES.

In Senate.

1876, January 20.—This resolution was adopted :

Resolved by the Senate (the House of Representatives concurring), That the joint rules of the Senate and House of Representatives in force at the close of the last session of Congress, excepting the twenty-second joint rule, be, and the same are hereby, adopted as the joint rules of the two houses for the present session.

[The twenty-second rule provides the mode for counting and declaring the electoral vote for President and Vice-President.] (McPherson, 198.)

DISQUALIFICATIONS OF ELECTORS.

Several postmasters having been chosen electors at the Presidential election of 1836, Mr. Henry Clay, on the 28th of January, 1837, moved that the joint committee to count the votes for President and Vice-President be required; "also to inquire into the expediency of ascertaining whether any votes were given at the recent election contrary to the prohibition contained in the second section of the second article of the Constitution, and if any such votes were given what ought to be done with them; and whether any and what provision ought to be made for securing a faithful observance in future of that section of the Constitution."

The members of the joint committee to discharge the duties required by Mr. Clay's resolution were Felix Grundy, Silas Wright, and Henry Clay, on the part of the Senate, and Francis Thomas, Churchill C. Cambreling, John Reed, Henry W. Connor, and Francis S. Lyon, on the part of the House.

The action of the two houses may be gathered from the following extracts from *Gales & Seaton's Register of Debates in Congress*:

Extract from Gales & Seaton's Register of Debates in Congress, volume 13, part 1; page 617.

SENATE, JANUARY 27, 1837.

Mr. Grundy moved to lay the bill on the table, for the purpose of taking up and acting on the resolution submitted by him for the appointment of a joint committee to count the votes for President and Vice-President.

The motion having been agreed to, and Mr. Grundy's resolution being before the Senate,

Mr. Grundy said he had no objection to the inquiry proposed by the amendment, and he thought that some such provision as that proposed by the senator from Kentucky would be very proper. He had seen in the public papers a statement charging that some of the electors who voted in the late presidential election held offices under the General Government, and had made inquiries for the purpose of ascertaining the truth of the matter. The information he had been able to collect related to two cases only, and as to these the report had been founded altogether upon a misapprehension.

Mr. Clay, after a few remarks, offered the following amendment: "And also to inquire into the expediency of ascertaining whether any votes were given at the recent election contrary to the prohibition contained in the second section of the second article of the Constitution, and if any such votes were given what ought to be done with them; and whether any and what provision ought to be made for securing a faithful observance, in future, of that section of the Constitution."

Mr. Hubbard expressed his entire concurrence in the objects of the amendment proposed by the senator from Kentucky. He wished a strict inquiry to be instituted and measures to be adopted to guard against the occurrence of such a violation of the Constitution as the senator from Kentucky referred to. As it had been stated that two of the electors of his State (New Hampshire) held offices under the General Government, and were consequently ineligible, he was happy to state to the Senate that there was no foundation whatever for the report.

The amendment of Mr. Clay was then adopted, and the resolution thus amended was agreed to.

Mr. Hubbard moved that the committee be appointed by the chair; which, by unanimous consent, was agreed to, and Messrs. Grundy, Clay, and Wright were selected.

The Senate thereupon adjourned.

Extract from Gales & Seaton's Register of Debates in Congress, volume 13, part 1, page 698.

SENATE, FEBRUARY 4, 1837.

Mr. Grundy, from the select committee appointed to consider and report on the mode of examining and counting the votes for President and Vice-President, etc., and whether any votes have been given by persons not competent under the Constitution, made a special report thereon.

The report states that in all instances not more than four or five electors have been chosen in some of the States who are officers of the General Government (deputy postmasters), and that such votes are in the opinion of the committee not in conformity with the provisions of the Constitution; but at the same time the few votes thus given will not vary the result of the election, as it was not contemplated by any one that the appointment of one ineligible elector would vitiate the vote of his State.

Extracts from Gales & Seaton's Register of Debates in Congress, volume 13, part 2, page 1583.

HOUSE OF REPRESENTATIVES.

A message was received from the Senate informing the House of its concurrence in the report of the joint committee appointed to consider and report upon the mode of counting the votes for President and Vice-President of the United States.

Mr. Thomas moved that the House concur with the Senate in the report and resolution thereto appended, as reported by him to this House on Saturday evening, as follows:

The committee on the part of the House of Representatives appointed

to join such committee as might be appointed on the part of the Senate, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, of notifying the persons elected of their election, and also to inquire into the expediency of ascertaining whether any votes were given at the recent election contrary to the prohibition contained in the second section of the second article of the Constitution, and if any such votes were given what ought to be done with them, and whether any and what provision ought to be made for securing the faithful observance in future of that section of the Constitution, report: That the short period at which they were appointed before the day on which the votes for President and Vice-President of the United States have to be counted, has prevented them from investigating the facts submitted to their examination as fully as might have been done had more time been allowed. The correspondence which has taken place between the chairman of the committee and the heads of different departments of the executive branch of the government accompanies this report, from which it appears that Isaac Waldron, who was an elector in New Hampshire, was at the time of his appointment as elector, president of a deposit bank at Portsmouth, and was appointed and acting as pension agent, without compensation, under the authority of the United States. That in two cases persons with the same names as the individuals who were appointed and voted as electors in the State of North Carolina, held the offices of deputy postmaster under the General Government. It also appears that in New Hampshire there is one case. In Connecticut there is one case. In North Carolina there is one case in which, from the report of the Postmaster-General, it is probable that at the time of the appointment of electors in these States respectively, the electors or persons of the same names were deputy postmasters. The committee have not ascertained whether the electors are the same individuals who held or are presumed to have held the offices of deputy postmasters at the time when the appointment of electors was made, and this is less to be regretted, as it is confidently believed that no change in the result of the election of either President or Vice-President would be effected by the ascertainment of the fact in either way, as five or six votes only would in any event be extracted from the whole number; for the committee cannot adopt the opinion entertained by some that a single illegal vote would vitiate the whole electoral vote of the college of electors in which it was given, particularly in cases where the vote of the whole college has been given to the same persons.

The committee are of the opinion that the second section of the second article of the Constitution, which declares that no senator or representative, or person holding office of trust or profit under the United States, shall be appointed an elector, ought to be carried in its whole spirit into rigid execution, in order to prevent officers of the General Government from bringing their official power to influence the election of President and Vice-President of the United States. This provision of the Constitution, it is believed, excludes and disqualifies deputy postmasters from appointment of electors, and this disqualification relates to the time of the appointment, and that a resignation of the office of deputy postmas-

ter after his appointment as elector would not entitle him to vote as elector under the Constitution.

Should a case occur in which it became necessary to ascertain and determine upon the qualification of electors of President and Vice-President of the United States, the important question would be presented, What tribunal under the Constitution would be competent to decide? Whether the respective colleges of electors in the different States should decide upon the qualification of their own members, or Congress should exercise the power, is a question which the committee are of the opinion ought to be settled by a permanent provision upon the subject.

Mr. Mereer was understood to make an inquiry of the chairman [Mr. Thomas] in relation to the fact, whether any votes have been given by persons not competent, under the Constitution of the United States, to vote as electors of President and Vice-President.

Mr. Thomas said a few words in explanation: The Committee on Investigation had found that there were three individuals in North Carolina, one in New Hampshire, and one in Connecticut, elected to the electoral college, who bore the same name with those of individuals who were deputy postmasters under the General Government; and the impression on the minds of the committee was, that they were consequently the same individuals.

The committee, he said, came to the conclusion that, whether these votes were counted or not, the general result would not be affected, and they did not feel themselves authorized to recommend their rejection. The chief reason was, that it would be a very delicate power to be exercised on the part of Congress to determine upon the qualification of electors of President and Vice-President of the United States. It was with the committee also a matter of considerable doubt whether, if such an inquiry should be gone into, it did not belong to the electoral college itself to judge of the qualifications of its own members. The committee, however, had expressed a very decided disapprobation of any officer of the General Government participating in the manner these gentlemen had done in the election of President and Vice-President of the United States; and they have proposed a remedy by either giving power to reject to the college or to Congress, as might be deemed most expedient.

Mr. Cambreling stated, in addition what had been omitted by the gentleman from Maryland, that it appeared, from examining the lists of re-appointments of deputy postmasters, that the gentlemen referred to had probably all resigned before they gave their votes for President and Vice-President.

Mr. Thomas had not adverted to that fact, because the committee came unanimously to the conclusion, that they were not eligible at the time they were elected, and therefore the whole proceeding was vitiated *ab initio*.

REPORTS OF COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES,

*Relative to the Mode of Electing the President and Vice-President ;
Relative to Disputed Votes, etc.*

SENATE.

Report from Mr. Benton, from the Select Committee to whom were referred the several resolutions proposing amendments to the Constitution as regards the choice of the President and Vice-President of the United States. (19th Cong., 1st sess., Senate Doc. No. 22.)

Report of the Committee on the Judiciary on the joint resolution (S. R. 22) in relation to the number of electoral votes which each State will be entitled to in the presidential election of 1852. (Senate Report No. 116, 32d Cong., 1st sess.)

Report of the Committee on the Judiciary on S. 428, "supplementary to the several acts in force relative to the election of President and Vice-President." (Manner of proceeding in case a vacancy should from any cause occur in the office of President. Senate Report No. 260, 34th Cong., 1st sess.)

HOUSE OF REPRESENTATIVES.

Report submitted by Mr. Nicholas, January 22, 1801, on the several propositions to amend the Constitution in relation to the election of the President and Vice-President and members of the House of Representatives. (See Amer. State Papers, Miscellaneous, vol. 1, p. 216.)

Report of the Select Committee to "inquire into the expediency of recommending to the several States the propriety of amending the Constitution of the United States in such a manner that the mode of electing members of the House of Representatives may be uniform throughout the United States; also, that the mode of choosing electors of President and Vice-President of the United States may be, in like manner, uniform; and also, that the election of said officers may in no event devolve upon the House of Representatives," have had under consideration the subjects committed to their charge, and ask leave to submit the following report, with the accompanying resolutions. (House Reports of Committees, 18th Cong., 1st sess., No. 8.)

Report of Mr. Thomas, of Maryland, from the joint committee of the two houses, appointed to ascertain and report a mode of examining the votes for President, etc., on the resolution directing them to inquire into the expediency of ascertaining whether any votes were given at the recent election contrary to the provisions of the second section of the second article of the Constitution, and if any such votes were given, what ought to be done with them; and whether any and what provision ought to be made for securing the faithful observance in future of that section of the Constitution. (H. R. Reports, 24th Cong., 2d sess., Vol. 1, No. 191. See also Senate Doc. same Cong. and sess., No. 144.)

Report of the Select Committee to whom were referred various amendments to the Constitution relative to the election of the President and Vice-President of the United States. (H. R. Reports of Committees, 24th Cong., 2d sess., Vol. 2, No. 296.)

THE
ELECTORS' MANUAL.

Constitutional Provisions

AND

STATUTES OF THE UNITED STATES

RELATING TO

PRESIDENTIAL ELECTIONS,
ELECTIONS OF SENATORS AND REPRESENTATIVES,
CITIZENSHIP,
AND THE ELECTIVE FRANCHISE.

WITH

AN APPENDIX

SHOWING THE METHOD OF COUNTING THE ELECTORAL VOTES FOR
PRESIDENT AND VICE-PRESIDENT.

BY

CHARLES SIDNEY WHITMAN,

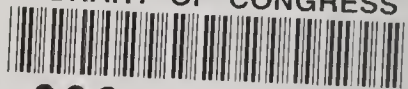
AUTHOR OF "PATENT LAWS AND PRACTICE OF OBTAINING LETTERS PATENT,"
AND EDITOR OF "PATENT CASES DETERMINED IN THE SUPREME
COURT OF THE UNITED STATES."

"It has been a current observation that where annual elections end, tyranny begins."—STORY.

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