
HINDS' PRECEDENTS
OF THE
HOUSE OF REPRESENTATIVES
OF THE
UNITED STATES

INCLUDING REFERENCES TO PROVISIONS
OF THE CONSTITUTION, THE LAWS, AND DECISIONS
OF THE UNITED STATES SENATE

By
ASHER C. HINDS, LL. D.
Clerk at the Speaker's Table

VOLUME III

PUBLISHED BY AUTHORITY OF THE ACT OF CONGRESS
APPROVED MARCH 4, 1907

WASHINGTON
GOVERNMENT PRINTING OFFICE
1907

20th 2007

Chapter LX.

THE ELECTORAL COUNTS, 1877 TO 1905.

1. Preliminary inquiry in 1877. Section 1953.
2. The count in 1877. Section 1954.
3. The count of 1881. Section 1957.
4. The count from 1885 to 1893. Sections 1958-1960.
5. The counts from 1897 to 1905. Sections 1961-1963.

1953. The proceedings preliminary to the electoral count of 1877.

In 1877, for the first time, the electoral count was made in accordance with an act passed by the two Houses and signed by the President.

In 1877 the privileges, powers, and duties of the two Houses, respectively, in connection with the electoral count were carefully examined.

A commission consisting of Members of the House and Senate and certain members of the judiciary was provided by law to settle disputed questions relating to the electoral count of 1877.

In 1877 the House and Senate appointed committees to act jointly to devise a method of counting the electoral vote.

An example of a joint report signed by Members of the two Houses.

On December 14, 1876,¹ Mr. J. Proctor Knott, of Kentucky, from the Committee on the Judiciary, reported the following preamble and resolutions:²

Whereas there are differences of opinion as to the proper mode of counting the electoral votes for President and Vice-President, and as to the manner of determining questions that may arise as to the legality and validity of the returns made of such votes by the several States; and

Whereas it is of the utmost importance that all differences of opinion and all doubt and uncertainty upon these questions should be removed, to the end therefore that the votes may be counted and the result declared by a tribunal whose authority none can question and whose decision all will accept as final: Therefore

Resolved, That a committee of seven Members of this House be appointed by the Speaker, to act in conjunction with any similar committee that may be appointed by the Senate, to prepare and report without delay such a measure, either legislative or constitutional, as may in their judgment be best calculated to accomplish the desired end, and that said committee have leave to report at any time.

¹ Second session Forty-fourth Congress, Journal, pp. 78, 101; Record, p. 197.

² The foundation for this report was a resolution relating to the electoral votes, introduced by Mr. George W. McCrary, of Iowa, on December 7. Journal, p. 45; Record, p. 91.

Resolved, That a committee of seven Members be appointed by the Speaker of this House to ascertain and report what are the privileges, powers, and duties of the House of Representatives in counting the votes for President and Vice-President of the United States, and that said committee have leave to report at any time.

The resolutions and preamble were agreed to by the House.

On December 18 a message was received announcing that the Senate had agreed to the following resolution:

Resolved, That the message of the House of Representatives on the subject of the Presidential election be referred to a select committee of seven Senators, with power to prepare and report, without unnecessary delay, such a measure, either of legislative or other character, as may in their judgment be best calculated to accomplish the lawful count of the electoral vote, and best disposition of all questions connected therewith, and a due declaration of the result, and that said committee have power to confer and act with the committee of the House of Representatives named in said message, and report by bill or otherwise.

On December 22¹ the Speaker appointed as the committee to consult with the Senate committee and provide for counting the electoral vote: Messrs. Henry B. Payne, of Ohio; Eppa Hunton, of Virginia; Abram S. Hewitt, of New York; William M. Springer, of Illinois; George W. McCrary, of Iowa; George F. Hoar, of Massachusetts, and George Willard, of Michigan.

The following were appointed members of the Committee on the Powers, Privileges, and Duties of the House: Messrs. J. Proctor Knott, of Kentucky; William A. J. Sparks, of Illinois; J. Randolph Tucker, of Virginia; Levi Maish, of Pennsylvania; Horatio C. Burchard, of Illinois; Julius H. Seelye, of Massachusetts, and James Monroe, of Ohio. Later, on January 12, 1877,² Messrs. David Dudley Field, of New York, and William Lawrence, of Ohio, were added.³

On January 12,⁴ Mr. Knott, from his committee, reporting in part, presented the following:

Resolved, First. That the Constitution of the United States does not confer upon the President of the Senate the power to examine and ascertain the votes to be counted as the electoral votes for President and Vice-President of the United States.

Second. The only power which the Constitution of the United States confers upon the President of the Senate in respect to the electoral votes for President and Vice-President of the United States is to receive the sealed lists transmitted to him by the several electoral colleges, to keep the same safely, and to open all the certificates or those purporting to be such in the presence of the Senate and the House of Representatives.

Third. That the Constitution of the United States does confer upon the Senate and the House of Representatives the power to examine and ascertain the votes to be counted as the electoral votes.

Fourth. That in execution of their power in respect to the counting of the electoral vote the House of Representatives is at least equal with the Senate.

Fifth. That in the counting of the electoral votes no vote can be counted against the judgment and determination of this House of Representatives.

Sixth. That the committee have leave to set again and report hereafter further matter for the consideration of the House.

¹ Journal, p. 137.

² Journal, pp. 215, 216; Record, pp. 608, 613.

³ On January 8 and on January 16 resolutions were adopted enlarging the powers of the committee so as to investigate alleged disabilities of electors and to send for persons and papers. Journal, pp. 178, 240; Record, pp. 489, 666.

⁴ Journal, p. 215; Record, p. 609. House Report No. 100.

In support of their resolutions the committee gave no reasons.¹ The minority,² after giving their views at length,³ submitted the following propositions, as expressing more accurately the nature of the constitutional count, and privileges, powers, and duties of the House in relation to it:

1. That the count required to be made upon opening the certificates is a ministerial duty.

2. That the so-called twenty-second joint rule is not now in force, so as to require the proceedings at the count to be conducted under its provisions.

3. That it is the duty and privilege of the House to attend with the Senate at the opening of the certificates transmitted to the President of the Senate by the electors appointed by the several States and to appoint tellers to make lists of and register and compute the votes as declared.

4. That the House, conjointly with the Senate, has power to examine the votes upon opening the certificates and to agree with the Senate upon a mode of doing so.

5. That the privileges, the powers, and the duties of the House of Representatives, in the matter of the electoral votes for President and Vice-President, are no more and no less than those of the Senate.

The minority conclude by recommending these resolutions:

Resolved, First, That it is the power and duty of the House, conjointly with the Senate, to provide by law or other constitutional method a mode for fairly and truly ascertaining and properly counting the electoral vote of each State, so as to give effect to the choice of each State in the election of President and Vice-President.

Resolved, Second, That in the absence of legislative provision on the subject or authoritative direction from the Senate and House of Representatives, the President of the Senate, upon opening the certificates, declares and counts the electoral votes for President and Vice-President of the United States.

The minority gave, in support of their conclusions, a history of the proceedings in the various countings of electoral votes since the formation of the Government.

The report was debated on January 18, and thereafter until January 25, when the bill to regulate the count was taken up. On January 31 the report was postponed, the bill having meanwhile passed, and the questions involved being disposed of thereby.⁴

The committee appointed by the Speaker "to act in conjunction with any similar committee that may be appointed by the Senate," reported on January 18, 1877.⁵ The report is in the form of a joint report, beginning "The committees of the Senate and House of Representatives, appointed under the following several resolutions, etc., beg leave to report to their respective Houses." At the conclusion the report is signed by Messrs. H. B. Payne, of Ohio; Eppa Hunton; of Virginia; Abram S. Hewitt, of New York; William M. Springer, of Illinois; George W.

¹ Second session Forty-fourth Congress, House Report No. 100.

² Part 2 of Report No. 100. Also Record, pp. 856-858.

³ Those signing the minority views were Messrs. Horatio C. Burchard, of Illinois; Julius H. Seelye, of Massachusetts; James W. McDill, of Iowa, and William Lawrence, of Ohio.

⁴ Record, p. 1155; Journal, p. 347; Record, pp. 724-735, 773-779, 833-858, 914-922, 1155; Journal, p. 347.

⁵ Second session Forty-fourth Congress, House Report No. 108; Journal, p. 255. This bill was H. R. 4454, but the bill actually acted on by the House was S. 1153. Also see Record, pp. 730-731.

McCrary, of Iowa; George F. Hoar, of Massachusetts, and George Willard, of Michigan, "House committee," and by George F. Edmunds, of Vermont; Frederick T. Frelinghuysen, of New Jersey; Roscoe Conkling, of New York; A. G. Thurman, of Ohio; T. F. Bayard, of Delaware, and M. W. Ransom, of North Carolina, "Senate committee."

The committee say that after "a full and free conference with each other thereon" they report an accompanying bill,¹ in substance providing:

1. Provisions for the meeting of the two Houses, as required by the Constitution and the general course of proceeding, and the declaration of the result.

2. Provisions for the disposition of questions arising in respect of States from which only one set of certificates has been received; that each House shall consider the question, and shall only decide against a vote by concurrent affirmative action.

3. Provisions for so-called double returns from a State; that such conflicting returns and papers shall be submitted to the consideration of a commission, composed of equal numbers of Members of the Senate and of the House of Representatives and of the Supreme Court of the United States; that this commission shall be organized and sworn, and have power to consider and decide according to the Constitution and law what is the constitutional vote of the State in question, and that such decision shall govern the disposition of the subject unless both Houses shall determine otherwise.

4. It is provided that the act shall not affect either way the question of the right of resort to the judicial courts of the United States by the persons concerned as claimants to the offices in question.

The bill² provided that the judges on the commission should be those then assigned to the first, third, eighth, and ninth circuits, and a fifth to be selected by those four. The Members from the House and Senate were to be elected in each body by viva voce vote. The bill also provided carefully for the meetings of the two Houses, the preserving of order, the seating of Members and officers of the joint convention, the conduct of debate, appointment of tellers, etc. Many of the details were arranged in accordance with the old custom of the two Houses as presented by the former joint rule No. 22.³

On January 25 the House received the bill from the Senate, debated it, passed it on the succeeding day, and on January 29 notice of its approval by the President was received.⁴

Proceedings under the terms of the bill began thereafter.

1954. Proceedings of the electoral count of 1877.

In 1877 objections to the counting of the electoral vote of a State were referred by law from the joint meeting to the Electoral Commission.

¹ 19 Stat. L., p. 229. See also Journal, p. 306, for text of bill.

² For full text see 19 Stat. L., p. 229.

³ For terms of this rule see Journal, second session Forty-fourth Congress, p. 722; also section 1951 (footnote) of this volume.

⁴ Second session Forty-fourth Congress, Journal, pp. 301, 306-309, 323, Record, pp. 930-982, 997-1050, 1094.

In 1877 the Speaker appointed the tellers for the electoral count without special authority from the House, and named them all from the majority party, a course which was followed by the President pro tempore.

The question of taking recesses arose under the law providing for a continuous legislative day during the electoral count of 1877.

On February 1, 1877,¹ the Speaker appointed Messrs. Philip Cook, of Georgia, and William H. Stone, of Missouri, tellers on the part of the House for the electoral count.

Mr. John A. Kasson, of Iowa, having made the point that the minority was not represented in this appointment, the Speaker said that he had made the appointment under the authority of the House, and had communicated with the President of the Senate, who would appoint the two tellers of that body from the majority. The proceedings of the Senate show that the President pro tempore² of that body had intended to appoint one Republican and one Democratic teller, but upon receiving the message announcing the appointment of two Democrats in the House, he appointed two Republicans.

Also on February 1,³ by unanimous consent, the Speaker laid before the House a letter from the President of the Electoral Commission, stating that the members had met, taken the oath, and were ready for the performance of their duties.

Very soon thereafter the House passed a resolution directing the Clerk to inform the Senate that the House was 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.

The Senate having attended, the returns of the States were opened by the President of the Senate in alphabetical order, and read and counted by the tellers in accordance with the law, when the State of Florida was reached. There being more than one paper purporting to be a certificate of the vote of that State, these papers, together with objections presented to the counting of the vote of Florida, were referred to the Electoral Commission.

On February 10,⁴ the Speaker laid before the House a communication from the President of the Electoral Commission announcing that it had considered the matters submitted, and had transmitted its decision to the Senate. The House, which under the terms of the act had not adjourned since February 1 (recesses having been taken), directed the Clerk to inform the Senate that the House would be prepared to receive them at 1 o'clock for the purpose of proceeding further with the count of the electoral vote.

Messrs. Eugene Hale, of Maine, and James Wilson, of Iowa, objected that under the terms of the law—"whereupon the two Houses shall again meet"—the meeting should be at once and should not be put off until 1 o'clock; but the motion for the recess was agreed to nevertheless.⁵

¹Journal, p. 352; Record, pp. 1189, 1194.

²T. W. Ferry, of Michigan, President pro tempore.

³Journal, pp. 353-357; Record, pp. 1195-1198.

⁴Journal, pp. 413-417; Record, pp. 1478-1486.

⁵Record, p. 1478.

The Senate having attended, the President of the Senate, having taken the Speaker's chair, announced that the joint meeting had resumed its session, and presented the report of the Commission, which was signed by a majority, and it was read by the Secretary of the Senate.¹

Thereupon, the Presiding Officer having asked for objections, Mr. David Dudley Field, of New York, presented objections, duly signed in accordance with the requirements of law, to the decision of the Commission.

The Presiding Officer having asked for further objections, and none being presented, the Senate thereupon withdrew to their Chamber, and the House resumed its session.

Then Mr. William P. Lynde, of Wisconsin, at 1.18 p. m. (Saturday, Feb. 10), moved that the House take a recess until 10 o'clock a. m., Monday morning, February 12.

Mr. Eugene Hale, of Maine, made the point of order that, under the provisions of the electoral law, a recess could not be taken.

After debate the Speaker overruled the point of order, saying:²

The gentleman from New York (Mr. George G. Hoskins) alluded to that portion of section 5, which reads: "Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared."

The Chair thinks that portion of the act has no pertinency whatever to the question now before the House. The portion of the act to which the Chair desires first to direct the attention of the House is embraced in section 4, which reads as follows:

"That when the two Houses separate to decide upon the objection that may have been made to the counting of an electoral vote or votes from any State, or upon objection to a report of said Commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours it shall be the duty of each House to put the main question without further debate."³

Under that directory clause of the act, the Chair thinks that at no later time than the time when the motion was made would such motion to take a recess be in order. That is to say, if the debate had been entered upon, then the clause of the law last quoted is clear and distinct that a vote shall be taken.

The Chair would also direct attention to that portion of section 5 which reads as follows:

"And no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this act, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next day, Sunday excepted, at the hour of 10 o'clock in the forenoon."⁴

It is the fact that this is the first time when a question has arisen such as is alluded to and spoken of in that clause of the act. The question having arisen now for the first time, the Chair thinks it is competent for this House, if in their judgment it shall be expedient, to now take a recess, but only until the next day at 10 o'clock in the forenoon, Sunday excepted.

Mr. Hale having appealed, the appeal was laid on the table—ayes 156, noes 76.
The motion to take a recess was then agreed to—yeas 162, nays 107.

¹ Journal, pp. 416-420; Record, pp. 1481-1486.

² Record, p. 1486. The Speaker again ruled a recess in order on February 20. Journal, p. 491; Record, p. 1704.

³ In all the respects affected by this ruling this section is the same as section 6 of the present law. Although differing in phraseology the two are substantially the same, except that debate is limited to five-minute speeches. See section 1922 of this work, and also 24 Stat. L., p. 375.

⁴ This is identical with the present section of law, except that the word "calendar" has been inserted before "day."

1955. Proceedings of the electoral count of 1877, continued.

The electoral law of 1877 providing for putting "the main question without debate," the Speaker held that this admitted any motions pertaining to the main question.

During the electoral count of 1877 the Speaker held that the House alone might not refer a matter to the Electoral Commission.

During the electoral count of 1877 the President pro tempore declined to entertain a motion that the joint meeting take a recess.

During the electoral count of 1877, when the proceedings were prescribed by law, the Speaker ruled that a motion interfering with the promptness of those proceedings was dilatory.

On February 12,¹ after the recess, the House met and Mr. David Dudley Field, of New York, submitted the following:

Ordered, That the counting of the electoral votes from the State of Florida shall not proceed in conformity with the decision of the Electoral Commission, but that the votes of Wilkinson Call, James E. Yonge, Robert B. Hilton, and Robert Bullock be counted as the votes from the State of Florida for President and Vice-President of the United States.

Mr. Eugene Hale, of Maine, moved an amendment to provide that the counting of the votes should proceed in conformity with the report of the Commission.

Mr. J. Proctor Knott, of Kentucky, then offered an amendment in the nature of a substitute, providing, after reciting in a lengthy preamble certain alleged conditions, that "the decision of the said Commission, and the grounds thereof," be "remanded and recommitted to the same Commission with the request that the same be so corrected and explained to this House," etc.

Mr. Hale made the point of order that under the terms of the law the substitute was not in order, and Mr. James Wilson, of Iowa, the further point of order that nothing could be referred to the Commission without concurrent action of the two Houses.

After debate the Speaker said:²

The gentleman from Maine, in making his point of order, refers the Chair to two portions of the law—a part of the second section which he read—as follows:

"Whereupon the two Houses shall again meet, and such decision shall be read and entered in the Journal of each House, and the counting of the vote shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five Members of the House of Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern."

And the whole of the fourth section as follows:

"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 upon objection to a report of said Commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without further debate."³

That portion of the law read which really relates to the question of order raised by the gentleman from Maine, it occurs to the Chair, is embraced in the following clause:

"But after such debate shall have lasted two hours it shall be the duty of each House to put the main question without further debate."

¹ Journal, pp. 420-424; Record, pp. 1488-1502.

² Journal, p. 422; Record, p. 1492.

³ This clause is substantially the same as that of the present law, except that the time of debate is fixed at ten minutes instead of five. (See section 1922 of this work.)

Upon the question involved in that point of order the Chair will presently rule. But in stating that proposition another point of order has cropped out. In fact, the gentleman from Iowa, Mr. Wilson, indicates his purpose to raise the point of order whether it is competent for this House, either under the law or under the rules of the House, to commit to an outside commission which is embraced in the proposition of the gentleman from Kentucky. The Chair therefore desires in a measure to consider this subject in its two aspects; because, of course, the gentleman from Iowa, as soon as the point of order of the gentleman from Maine shall have been decided, will be entitled to raise his point of order. The language of the law is:

"It shall be the duty of each House to put the main question without further debate."

The Chair thinks the amendment or substitute of the gentleman from Kentucky could not be excluded under that language. The main question, in law and parliamentary proceedings, embraces all questions upon which the previous question can be seconded¹ and the main question ordered; and in any proceeding in this House, therefore, it would be competent for the main question to embrace, first, the original proposition, next, an amendment to the original proposition to perfect the matter of it, and, third, a substitute for both. The Chair overrules the point of order. * * *

The Chair is unable to find anything in the law which permits a recommittal of the question back to the Commission. Nay, more; the Chair continues to hold, as it has been intimated he has heretofore ruled, that it is not competent for one House to refer a bill or any matter to an outside commission. The Chair therefore sustains the point of order made by the gentleman from Iowa.

After two hours of debate the question was put on Mr. Hale's amendment, which was disagreed to. The resolution of Mr. Field was then agreed to.

The House having ordered the Clerk to—

inform the Senate of the action of the House and that the House is now ready to meet the Senate in this Hall to proceed with the counting of the electoral votes for President and Vice-President—

the Senate, at 2 o'clock and 25 minutes p. m., attended in the Hall of the House.²

The President of the Senate, having taken the Speaker's chair and announced that the joint meeting of Congress for counting the electoral votes for President and Vice-President resumed its session, he further announced that the two Houses separately had considered and determined the objection submitted by Mr. Field to the decision of the Commission upon the certificates from the State of Florida.

The Secretary of the Senate thereupon read the decision of the Senate thereon, and the Clerk of the House read the decision of the House.

The Presiding Officer thereupon announced that, the two Houses not concurring in ordering otherwise, the decision of the Commission would stand unreversed and the counting of the electoral votes would now proceed, in conformity with the decision of the Commission.

The tellers thereupon announced that the State of Florida cast 4 votes for Rutherford B. Hayes, of Ohio, for President, and 4 votes for William A. Wheeler, of New York, for Vice-President.

Certificates of other States were then opened, and the votes counted without objection until the State of Louisiana was reached. Thereupon proceedings took place similar to those in the case of Florida, and the question was referred to the Commission, as in the case of Florida.

On Saturday, February 17, 1877,³ a letter was received from the President of the Commission informing the House that it had reached a decision and had transmitted it to the President of the Senate.

¹ The demand for the previous question no longer requires a second.

² Journal, pp. 424-430; Record, pp. 1503-1505.

³ Journal, p. 465; Record, p. 1665.

Mr. L. Q. C. Lamar, of Mississippi, offered a resolution, which was agreed to—yeas 152, nays 111—directing the Clerk to notify the Senate that the House would receive the Senate at 11 a. m. Monday for the purpose of proceeding with the count. This resolution was adopted, after the point of order had been made that the Secretary of the Senate was at the door with a message relating to the subject under consideration.

Louisiana having been disposed of in accordance with the provisions of the law, the count proceeded until Michigan was reached. While the joint convention was sitting in the case of Michigan the subject of a recess was mentioned, whereat the Presiding Officer¹ said:²

The Chair can not entertain a motion to take a recess.

The case of Michigan was determined by the two Houses without reference to the Electoral Commission.

Michigan and Nevada having been counted, Oregon was reached, and on February 24, 1877, the House was considering the report of the Electoral Commission on the vote of that State. A motion for a recess until 10 o'clock on Monday morning having been voted down, Mr. Lafayette Lane, of Oregon, moved that a recess be taken until 9.30 o'clock Monday.

Mr. Eugene Hale, of Maine, made the point of order that the privilege of the House to take a recess had been exhausted by the first motion for a recess, and that the second motion was dilatory.

The Speaker sustained the point of order, saying:³

The Chair is unable to classify it in any other way. Therefore he rules that when the Constitution of the United States directs anything to be done, or when the law under the Constitution of the United States enacted in obedience thereto directs any act by this House, it is not in order to make any motion to obstruct or impede the execution of that injunction of the Constitution and the laws.

The Oregon case having been settled after reference to the Commission, and the Pennsylvania case by the two Houses, objection was made in the joint convention to the certificate from Rhode Island, and the two Houses, on February 26, separated to reach a determination.

The House having been called to order, a motion was made for a recess, and decided in the negative.

Mr. Fernando Wood, of New York, having moved to reconsider this vote and lay that motion on the table, and an inquiry having been made in relation thereto, the Speaker said:⁴

The Chair recognizes as in order the motion to reconsider the vote by which the House refused to take a recess. The gentleman from New York makes that motion and then moves to lay it on the table, the evident object being to prevent a vote being taken on the motion to reconsider. It is well known in parliamentary practice as a clinching motion to prevent further delay.

¹ T. W. Ferry, of Michigan, President pro tempore of the Senate.

² Record, p. 1720.

³ Journal, p. 531; Record, pp. 1906, 1907. Also Journal, p. 574, for a similar ruling.

⁴ Journal, p. 548; Record, p. 1939.

1956. Proceedings of the electoral count of 1877, continued.

Construction of the law providing for putting the main question without debate during the electoral count.

In the joint meeting for the electoral count of 1877 a Member of the House raised a question as to the presence of a quorum of the Senate, but it was disregarded by the President pro tempore.

During the electoral count of 1877 a Member of the House was permitted, by unanimous consent, to make to the joint meeting a statement relating to an unofficial return.

In 1877 the President pro tempore declined to receive an unofficial certificate of the electoral vote of Vermont, presented in the joint meeting by a Member of the House.

In the joint meeting for the electoral count of 1877 the President pro tempore declined to entertain either a resolution or an appeal.

The two Houses having separated to pass on an objection raised during the electoral count of 1877, the Speaker decided that the right to prior recognition belonged to the Member who had raised the objection in the joint meeting.

The House having reached a determination as to the counting of the vote of the disputed elector in Rhode Island, Mr. James Wilson, of Iowa, moved that the Senate be notified of the action of the House, and that the House was ready to meet that body in joint session.¹

Mr. J. Proctor Knott, of Kentucky, moved an amendment which provided that the time when the House should be ready to meet the Senate should be 10 a. m. the next day.

Mr. George W. McCrary, of Iowa, made the point of order that the law provided that the Houses should "immediately again meet."²

The Speaker said:

The Chair thinks the law does bear the construction which the gentleman from Iowa puts upon it, that when the two Houses have voted they shall immediately again meet. The Senate has notified the House of its action in the case of the Rhode Island elector, and that it is ready to meet this House in joint meeting. The House has voted on the same question, and the only remaining duty under the law is for the two Houses to meet immediately. The amendment of the gentleman from Kentucky is therefore ruled out.

The question arising in relation to the Rhode Island elector having been decided without reference to the Commission, the count proceeded until South Carolina was reached. A question arising, it was referred to the Commission, whose report was before the joint convention on February 28, 1877.³ During the proceedings of the joint convention while the actions of the two Houses separately were being announced, Mr. Thomas L. Jones, a Member of the House from Kentucky, raised a question as to whether or not a quorum of the Senate were present.

¹ Journal, p. 549; Record, p. 1945.

² These are the words of the present law. See section 1918 of this work.

³ Journal, pp. 570, 571; Record, p. 2021.

Mr. N. P. Banks, of Massachusetts, made the point that this was a question not for the convention but for the Senate alone.

Although Mr. Jones protested against continuing without the ascertainment of the question raised by him, the Presiding Officer disregarded his protest and inquiry,¹ saying that debate was not in order.

The vote of South Carolina having been counted, and the count having proceeded, Vermont was reached, and the certificate from that State was read.

Pending the presentation of objections to the counting of this vote, Mr. Abram S. Hewitt, of New York, was permitted by unanimous consent to make a statement in relation to a package purporting to contain the electoral vote of Vermont, which had been sent to him and which he tendered to the Presiding Officer.

The Presiding Officer having stated that his duty was only to receive and open and have read certificates received up to and on the first Thursday of February, the package tendered by Mr. Hewitt was not received.¹

Thereupon Mr. William M. Springer, of Illinois, proposed to offer a resolution in relation to "a question arising under this act," quoting the words of the electoral act.

The Presiding Officer stated that if the Member from Illinois submitted an objection to the certificate the Chair would entertain it, but could not entertain a resolution. The Chair further held that he could not permit anything to be read except a properly signed objection.²

Mr. Springer having appealed, the Presiding Officer declined to entertain the appeal.³

Objections having been offered and read, Mr. Springer, demanded the reading by the tellers of the return referred to by Mr. Hewitt, which had been presented with the objections.

The Presiding Officer declined to have the return read, or to consider it as a second return received by him within the meaning of the law relating to reference to the Electoral Commission.

The joint convention having dissolved, and the House on March 1⁴ having reassembled, Mr. Earley F. Poppleton, of Ohio, claiming the floor as an objector in the joint convention, and being recognized, presented a preamble reciting the facts attending the presentation of the package by Mr. Hewitt in the joint convention, alleging that the package, although made a part of the objection, had not been opened by the Presiding Officer in the convention, but had been retained by him; and resolving as follows:

That the refusal of the President of the Senate to open, in the presence of the Senate and House of Representatives, said sealed package purporting to be the electoral vote of the State of Vermont, was a violation of law and of the privileges of this House, and that until said package shall be opened pursuant to law in the presence of the two Houses of Congress, the counting of the votes can not further proceed,

¹ Record, p. 2021.

² The provisions of law in regard to objections were the same as at present. Compare sec. 1 of act of 1877 (19 Stat. L., p. 227) with present law. See section 1918 of this work.

³ Record, p. 2022.

⁴ Journal, p. 587; Record, p. 2031.

according to the Constitution and law now in existence for the counting of said electoral votes for President and Vice-President of the United States.

Further, that the Clerk of this House inform the Senate of the adoption of the foregoing preamble and resolution, and request the Senate to meet this House in joint session, to the end that said package purporting to be a certificate of the electoral vote of Vermont be opened by the President of the Senate, and that the proceedings thereafter be held according to law.

Mr. Fernando Wood, of New York, made the point of order that under the provisions of the electoral law¹ no business of any kind was in order except to proceed to consider the objections made in the joint convention.

After the debate the Speaker said:²

The Chair desires to say that, with great respect for all the parties concerned, he considers that a grave mistake and wrong was committed yesterday in the joint meeting of the two Houses in this, that the presiding officer refused to receive, even for opening and reading for information, a package which had all the surroundings of an authentic and duly attested paper in relation to an electoral vote of the State of Vermont. The Chair, in one aspect of this case, thinks that he would be called upon to rule that the action of the presiding officer of the joint convention on yesterday was wrong. He does not think that he possesses that power; neither in a technical sense, as he understands it, does he believe that the action of the joint convention can be reviewed in this House in the manner proposed. And yet there is above all a fact upon which this matter rests, and that fact is, whether this House shall have possession of that paper; and to that extent, and that extent only, the resolution offered by the gentleman from Ohio, in so far as it requests the return of that paper from the Senate, which, as the allegation in the preamble stated, was taken away from here in an undue manner, that this proposition is in order.

Mr. Poppleton having modified his resolution in accordance with the decision of the Chair, Mr. Fernando Wood, of New York, submitted as an amendment, in the nature of a substitute, this proposition:

That the vote of Henry N. Sollace, claiming to be an elector from the State of Vermont, be not counted.

Mr. J. Proctor Knott, of Kentucky, offered as a further substitute, which was considered as pending, a resolution that the House require that the President of the Senate open the package in the presence of the two Houses; that the same, if found to be a certificate as purported, be submitted to the Electoral Commission, and that the House would not meet the Senate to proceed with the counting of the electoral vote until the Senate should join in this order.

After debate, interrupted by great confusion, had proceeded for a time Mr. Abram S. Hewitt, of New York, rising in his place, announced that a messenger had just approached him and tendered him the package in question. Mr. Hewitt said he did not know who the messenger was, but he was present, standing near the Speaker. As to the message, Mr. Hewitt said it was not his, and he had no custody of it.

The Speaker said that if there was no objection on the part of the House the Chair would receive the package.³

¹ The provisions of that law were identical with those of the present law, and are that when the objections are made the Senate shall withdraw, and the Speaker shall submit the objections to the House. See section 1918 of this work.

² Journal, p. 590; Record, p. 2032.

³ Record, p. 2037

Objection being made, Mr. William D. Kelley, of Pennsylvania, asked that the messenger be interrogated as to whence the package came.

The Chair ruled that this would not be in order.

The question being taken on the resolution proposed by Mr. Knott, it was disagreed to, yeas 116, nays 148.¹ A resolution similar to Mr. Knott's, except as to the declaration that the House would not meet the Senate to proceed with the electoral count, was next presented and decided in the negative, yeas 115, nays 147, the previous question having been ordered.

Mr. Ansel T. Walling, of Ohio, moved that the pending resolution be laid on the table.

Mr. George W. McCrary, of Iowa, made the point of order that the motion was not in order under the electoral law.

The Speaker, after declaring that an order for the main question to be put did not preclude a motion to lay on the table,² said:

The law³ reads as follows:

"But after such debate shall have lasted two hours, it shall be the duty of each House to put the main question without debate."

Now, the Chair thinks that any motions which are allowed by the rules of the House, and which pertain to the main question, are allowable at any period of the progress of the main question.⁴

The motion to lay on the table being entertained and decided in the negative, a motion was made to reconsider the latter vote.

Mr. Fernando Wood having made the point of order that the motion was dilatory, the Speaker overruled the point of order, holding it to be a motion which, under the rules, pertained to the main question.⁵

The resolution offered by Mr. Fernando Wood as an amendment was then agreed to, yeas 208, nays 17; and then the resolution of Mr. Poppleton as thus amended was agreed to, after the Speaker had ruled out of order as dilatory both a motion to excuse a Member from voting and an appeal from that decision.⁶

At this point Mr. William J. O'Brien, of Maryland, claimed the floor to submit a resolution notifying the Senate of the action of the House.

The Speaker quoted the law—

When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the question submitted.⁷

and stated that as the House had been notified of the action of the Senate, he should consider the terms of the act mandatory and ministerial, and should direct the Clerk to notify the Senate that the House was now ready to meet the Senate.

The vote of Vermont was next counted in the joint convention under the provisions of the law, and the count proceeded until Wisconsin was reached. Objec-

¹ Journal, p. 591; Record, p. 2048.

² At this time the motion to lay on the table was admitted after the previous question was ordered. Later, Speaker Randall reversed the practice, and it has so remained.

³ The clause of the law here quoted is identical with the present law. See section 1922 of this work.

⁴ Journal, p. 595; Record, pp. 2050, 2051.

⁵ Record, p. 2051.

⁶ Journal, pp. 601, 602; Record, p. 2053.

⁷ These are the exact terms of the present law. See section 1918 of this work.

tion being made to the vote of that State, the two Houses separated, and the House resumed its session.¹

Question arising as to right to recognition, the Speaker said that he was bound in reality to recognize the gentleman who in the joint convention had presented the objection.

Mr. Roger Q. Mills, of Texas, having proposed as a question of privilege a preamble and resolution, reciting that through fraudulent returns Messrs. Tilden and Hendricks were not receiving by the electoral count the majority to which they were entitled, and providing that the House should proceed immediately, in obedience to the Constitution, to choose a President, the Speaker² held that the only way in which this proposition could be offered would be in the form of an amendment in the nature of an objection. In the first place, the Chair would have to recognize the gentleman making the objection in joint convention to offer the usual motion in relation to the objection.

The House acted on the objections to the vote of Wisconsin; and, the convention having reassembled, that vote was counted.³

The Presiding Officer thereupon announced the conclusion of the counting of the electoral votes of the thirty-eight States of the Union in conformity with the act entitled, "An act," etc., and directed the tellers to ascertain and report the result.

The Hon. William B. Allison, a Senator from the State of Iowa, one of the tellers, thereupon announced the result by States and the totals.

The Presiding Officer thereupon said:

The whole number of electors appointed to vote for President and Vice-President is.....	369
Of which a majority is.....	185

The state of the vote for President of the United States as delivered by the tellers, and as determined under the act of Congress approved January 29, 1877, is:

For Rutherford B. Hayes, of Ohio.....	185
For Samuel J. Tilden, of New York.....	184

The state of the vote for Vice-President of the United States as delivered by the tellers, etc., is:

For William A. Wheeler, of New York.....	185
For Thomas A. Hendricks, of Indiana.....	184

Wherefore I do declare:

That Rutherford B. Hayes, of Ohio, 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 4th day of March, 1877.

And that William A. Wheeler, of New York, having received a majority of the whole number of electoral votes, is duly elected Vice-President of the United States for four years, commencing on the 4th day of March, 1877.⁴

¹ Journal, p. 607; Record, p. 2055.

² Record, pp. 2055, 2056.

³ Journal, pp. 612, 613; Record, p. 2068.

⁴ The existing law provides that after the ascertainment of the result it shall be delivered to the President of the Senate "who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected," etc. (24 Stat. L., p. 373; also sec. 1918 of this work.) The former joint rule, which, however, was not in force in 1877, provided that the President of the Senate should "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," etc. Journal second session Forty-fourth Congress, p. 723.

The Presiding Officer further stated that the count of the electoral vote for President and Vice-President of the United States being now completed, the joint meeting of the two Houses of Congress is now dissolved, and the Senate will accordingly return to their Chamber.

1957. Proceedings at the electoral count of 1881.

The State of Georgia having cast her vote on a day different from that prescribed by law, an alternative announcement was made at the counting of the electoral vote.

In 1881 the Senate determined that its President had no authority to decide on the reception or rejection of electoral votes.

In the Forty-sixth Congress, previous to and preparatory to the count of the electoral vote in 1881, the Senate passed and sent to the House a proposition for a joint rule to regulate fully and in detail the proceedings of the count.¹ The proposition was debated in the House² at considerable length, there being opposition because of a belief that a law would be better than a joint rule. Finally, on January 26, 1881,³ it became evident from the obstructive tactics invoked in the House that the joint rule could not be agreed to. On February 2, 1881,⁴ after full debate the Senate agreed to the following resolution:

Resolved by the Senate (the House of Representatives concurring), 1. That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 9th of February, 1881, at 12 o'clock meridian, pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be the presiding officer; that two persons be appointed tellers 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.

2. That if it shall appear that any votes of electors for President or Vice-President of the United States have been given on a day other than that fixed for casting such votes by act of Congress, in pursuance of the Constitution of the United States, if the counting or omitting to count such votes 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 electors cast on the — day of —, 1880, to be counted, the result would be for A. B. for President of the United States — votes, and for C. D. for President of the United States — votes; if not counted, the result would be for A. B. for President of the United States — votes, and for C. D. for President of the United States — votes; but in either event — is elected President of the United States. And in the same manner for Vice-President.⁵

On February 5, 1881,⁶ after debate, the resolution was agreed to by the House,

¹ The law governing the count in 1877 had applied only to that occasion. The debates in the Senate on this joint rule went quite fully into the legal questions involved. See Congressional Record, second session Forty-sixth Congress, pp. 3652-3662, 3682-3704, for Senate debate and form of rule.

² Record, pp. 4386-4401, 4487-4501, 4505-4507, of second session Forty-sixth Congress.

³ Third session Forty-sixth Congress, Journal, pp. 264-271.

⁴ Third session Forty-sixth Congress, Record, pp. 1129-1141.

⁵ The doubtful return referred to was expected from the State of Georgia; and as was stated in the debate in the House (Record, p. 1257) the resolution was drawn in accordance with precedents of 1821, 1837, and 1857.

⁶ Journal pp. 335-336, Record, pp. 1257-1262.

the yeas and nays being taken on the second branch and resulting, yeas 160, nays 77.¹

On February 9,² the two Houses met in joint convention, the Vice-President presiding, and the votes were opened and tabulated by the tellers. As Georgia had cast her vote on the second Wednesday of December, a day different from that prescribed by law, two tabulations were made, one including and the other not including Georgia's eleven votes. Then Mr. Allen G. Thurman, of Ohio, one of the tellers, made the announcement of the state of the votes, stating that in either event Messrs. Garfield and Arthur were elected.

The President of the Senate (the Vice-President) then announced the state of the votes, and declared the same to be as follows:

Wherefore I do declare that James A. Garfield, of the State of Ohio, having received a majority of the votes of the whole number of electors appointed, is duly elected President of the United States for four years, commencing on the 4th day of March, 1881.

"A similar declaration was made in regard to the Vice-President-elect.

1958. Proceedings at the electoral count of 1885.

At the electoral count of 1885 the President pro tempore, in announcing the result, disclaimed any authority in law to declare any legal conclusion whatever.

In 1885 there was no question as to the electoral count, and the two Houses adopted a concurrent resolution which was simply the first branch of the resolution of 1881. As the resolution originated in the House,³ it provided for one teller on the part of the Senate and two on the part of the House. The Senate amended so that there might be two Senate tellers.⁴ The House agreed to this,⁵ and so the resolution took on the exact form of the first portion of the resolution of 1881. When the electoral count occurred, on February 11, 1885,⁶ the Presiding Officer,⁷ after announcing the state of the vote, said:

Wherefore, I do declare that Grover Cleveland, of the State of New York, has received a majority of the votes of the whole number of electors appointed as they appear in the certificates read by the tellers, and so appears to have been elected President of the United States for four years, commencing on the 4th day of March, 1885; and that Thomas A. Hendricks, etc., * * * And the President of the Senate makes this declaration only as a public statement in the presence of the two Houses of Congress of the contents of the papers opened and read on this occasion, and not as possessing any authority in law to declare any legal conclusion whatever.

¹ Some of the opposition in the House arose from belief that the President of the Senate was the proper authority to make the count. On February 4, 1881, after extended debate, by vote of 42 to 1, the Senate agreed to a concurrent resolution stating that the "President of the Senate is not invested by the Constitution" with "the right to count the votes of electors" so as to determine what votes shall be received and counted or what votes shall be rejected. (Record, 3d sess. 46th Cong., pp. 1160-1174, 1205-1211.) This resolution was received in the House February 4, but does not seem to have been acted on. Journal, p. 330; Record, p. 1237.

² Journal, pp. 358-360; Record, pp. 1386, 1387.

³ Second session Forty-eighth Congress, Journal, p. 381; Record, p. 1053.

⁴ Record, p. 1073.

⁵ Journal, p. 452; Record, p. 1220. Mr. James F. Clay, of Kentucky, who had charge of the resolution in the House, said that up to 1868 the Senate had had two tellers in only two instances. There was no objection, however, to the amendment of the Senate.

⁶ Journal, p. 521; Record, p. 1533.

⁷ George F. Edmunds, of Vermont.

1959. The electoral counts of 1889 and 1893.

In 1893 a question was raised as to the constitutional force of the electoral act of 1887.

For the electoral count of 1889,¹ provisions for which had been made in the general statute of February 3, 1887,² the House and Senate nevertheless adopted the usual concurrent resolution in the form used in 1885. The count was made without unusual incident.

1960. For the electoral count of 1893³ the form of the concurrent resolution was continued the same. While it was being considered in the Senate, the point was made⁴ that the language of the statute made all necessary provisions without the necessity of adopting the customary concurrent resolution. Mr. George F. Hoar, of Massachusetts, explained that this question had arisen four years before, not long after the passage of the law, and it had been decided best to pass the resolution in order to avoid a constitutional question which might arise. The provision of the Constitution that each House may prescribe the rules of its own proceedings had been sometimes thought to prevent Congress from enacting by law provisions for directing either House as to the time or mode of its proceeding without the special assent of the particular House in the particular Congress.

The count of 1893 proceeded without unusual incident.

1961. The electoral count of 1897.

The two Houses by concurrent resolution provide for the meeting to count the electoral vote, for the appointment of tellers, and for the declaration of the state of the vote.

The House by resolution makes a special disposition of the galleries for the electoral count.

While the Speaker has at times appointed the tellers for the electoral count as of his own authority, yet the best considered opinion is that the function belongs to the House itself. (Footnote.)

The usage as to preliminary messages between the two Houses when they are about to assemble in joint meeting for the count of the electoral vote. (Footnote.)

On February 2, 1897,⁵ Mr. David B. Henderson, of Iowa, from the Committee on Rules, presented and the House agreed to this resolution:

Resolved, That on Wednesday, February 10, the whole of the gallery, except that which is designated as executive, diplomatic, and reporters' galleries, and two sections of the east end of the public gallery, shall be reserved for the use of the families of Senators, Members of the House of Representatives, Delegates, and their visitors.

The Doorkeeper shall strictly enforce this order.

The Speaker shall issue to each Senator, Member of the House of Representatives, and Delegate two cards of admission, and only persons holding these cards shall be admitted.

¹ Second session Fiftieth Congress, Journal, pp. 359, 491; Record, pp. 1254, 1860.

² 24 Stat. L., p. 373.

³ Second session Fifty-second Congress, Journal, pp. 46, 61.

⁴ Record, p. 228.

⁵ Second session Fifty-fourth Congress, Record, p. 1462.

Then Mr. Henderson presented, also from the Committee on Rules,¹ the following resolution, which was agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 10th day of February, 1897, at 1 o'clock in the afternoon, pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be the Presiding Officer; that two persons be appointed tellers 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,² 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.³

This resolution was agreed to in the Senate on February 3.⁴

On February 5, 1861, a motion was made that the Speaker be authorized to appoint the tellers on the part of the House.

On February 8,⁵ in the House, the Speaker⁶ said:

The Chair is not entirely certain that he has authority to appoint the tellers on the part of the House to count the electoral vote, but in accordance with what seems to be the custom he will make the appointment and submit it to the House. The appointments which the Chair will make, if the House does not object, will be the gentleman from Ohio, Mr. Grosvenor, and the gentleman from Tennessee, Mr. Richardson. If there be no objection, these will be considered as the tellers to count the electoral vote.⁷

There was no objection.

Also on this day the Speaker laid before the House letters from the Secretary of State transmitting copies in full of the certificates of ascertainment of the electors

¹ The jurisdiction of this resolution belongs more properly to the Committee on Election of President, Vice-President, and Representatives in Congress. See section 1963 of this chapter.

² This form has since been changed to conform to the law, which provides that the Presiding Officer shall announce only the state of the vote.

³ This is the form adopted for the two preceding counts. Its general terms are taken from former joint rule 22. See second session Forty-seventh Congress, Journal, pp. 678, 679.

⁴ Record, p. 1480.

⁵ Record, p. 1662.

⁶ Thomas B. Reed, of Maine, Speaker.

⁷ In 1879 Speaker Randall appointed tellers without consulting the House (second session Forty-fourth Congress, Journal, p. 352; Record, pp. 1189, 1194), even appointing the two of the same political party. On February 7, 1881, Mr. Speaker Randall again appointed tellers without asking the House for confirmation. The proceeding took place under a concurrent resolution embodying in this respect the same provision as the above resolution and the same as the present law. (Third session Forty-sixth Congress, Journal, p. 346; Record, p. 1315.) On February 10, 1885, Speaker pro tempore J. S. C. Blackburn again appointed tellers without question under similar terms of the concurrent resolution. (Second session Forty-eighth Congress, Journal, p. 509; Record, p. 1500.) On February 11, 1888, under terms of the concurrent resolution the same as in previous years, and the law existing as at present Mr. Speaker Carlisle expressed doubts as to his right to appoint and asked the approval of the House. (Second session Fiftieth Congress, Journal, p. 470; Record, p. 1751.) On February 1, 1893, Mr. Speaker Crisp expressed similar doubts and asked the approval of the House. (Second session Fifty-second Congress, Journal, p. 65; Record, p. 1059.)

On February 10, 1873, the Speaker appointed the tellers called for by the joint rule 22, without consulting the House, saying "It is the duty of the Speaker to nominate two Representatives." The joint rule provided that two tellers "shall be appointed * * * on the part of the House of Representatives." (Third session Forty-second Congress, Journal, p. 358; Globe, p. 1236. James G. Blaine, of Maine, Speaker.)

appointed in the different States. These documents were ordered to lie on the Speaker's table.¹

On February 10, at three minutes before 1 o'clock, the Doorkeeper announced the Vice-President and the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms, and headed by the Vice-President of the United States and the Secretary of the Senate, the Members and officers of the House rising to receive them.²

The Vice-President took his seat as presiding officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

Senators Blackburn and Lodge, the tellers appointed on the part of the Senate, and Representatives Grosvenor and Richardson, the tellers appointed on the part of the House, took their places at the Clerk's desk.

The Vice-President announced:

The Senate and House of Representatives are now in joint session, pursuant to law, for the purpose of opening and counting the votes of the electors for President and Vice-President of the United States. The certificate of the State of Alabama will be read by the tellers.

After the reading of the first certificate, on motion of Senator John Sherman, of Ohio, and by unanimous consent, the formal reading of the remaining certificates was omitted.

The tellers, having made up their report and officially certified it, delivered it to the Vice-President, who announced it, and said:

This announcement of the state of the vote by the President of the Senate is by law a sufficient declaration that William McKinley, of the State of Ohio, is elected President of the United States, and that Garret A. Hobart, of the State of New Jersey, is elected Vice-President of the United States, each for the term beginning March 4, 1897, and will be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

The count of the electoral votes having been completed and the result declared, the joint meeting of the two Houses is dissolved, and the Senate will now return to its Chamber.

The Senate then retired from the Hall (at 1 o'clock and 55 minutes p. m.), when the Speaker resumed the chair, and the House was again called to order.³

¹ Second session Fifty-fourth Congress, Record, p. 1643. These copies are transmitted to the House in accordance with the provisions of section 3 of the act of February 3, 1887. (24 Stat. L., p. 373.)

² Previous to the arrival of the Senate a message was received from that body announcing that it had taken order to proceed to the House to take part in the count. (Second session Fifty-fourth Congress, Journal, p. 163; Record, p. 1711.) This order had been adopted in the Senate on the preceding day. (Record p. 1672.) The House sent no message to the Senate.

On February 8, 1893, the day of the count the Senate adopted an order that the Senate should attend in the Hall of the House. (Second session Fifty-second Congress, Record, p. 1314.) It does not appear that this order was sent to the House by message, or that the House sent any message to the Senate. (Journal, pp. 80, 81.)

On February 13, 1889, the question of adopting an order that the Senate proceed to the House to participate in the count caused debate over the fact that the House proposed to send to the Senate no notification of its readiness to receive the Senate. It was stated that the law governing the electoral count was for the first time in force, and therefore it did not seem necessary or proper for the Senate to await the usual invitation. So the Senate adopted the order that it attend in the Hall of the House, without awaiting a message from that body. (Second session Fiftieth Congress, Record, pp. 1816, 1817.)

³ Second session Fifty-fourth Congress, Record, p. 1715.

1962. The electoral count of 1901.

In 1901 the concurrent resolution providing for the electoral count was changed in form to meet the requirements of the electoral law.

In 1901 the Speaker, with the assent of the House, appointed the tellers for the electoral count.

Form of the duplicate reports made by the tellers at the electoral count.

On January 22, 1901,¹ the following resolution, which had been received from the Senate, was, under the rule, referred to the Committee on Rules:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 13th day of February, 1901, at 1 o'clock in the afternoon, pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be the presiding officer; that two persons be appointed tellers 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.

On January 31² Mr. John Dalzell, of Pennsylvania, reported the resolution back from the committee, with the recommendation that it be amended by striking out all after the resolving clause and inserting the following:

That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 13th day of February, 1901, at 1 o'clock in the afternoon, pursuant to the requirement of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer; that two tellers shall be previously 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, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, 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.

Mr. Dalzell explained that the amendment was intended to conform to the provisions of the electoral law of 1887. The original resolution, sent from the Senate, was in the form used prior to the enactments of the law. By oversight it had been continued from count to count, although some of its provisions, notably that relating to the announcement of the result, were at variance with the provisions of the law.

The amendment was agreed to without division.

On February 1³ the amendment was agreed to by the Senate.

On February 7, 1901,⁴ the Speaker laid before the House duplicates of the

¹ Second session Fifty-sixth Congress, Journal, p. 144; Record, pp. 1312, 1316.

² Journal, p. 178; Record, p. 1736.

³ Record, p. 1765.

⁴ Second session Fifty-sixth Congress, Record, p. 2101; Journal, p. 201.

certificates of the various States of their election of electors of President and Vice-President of the United States. They were, by unanimous consent, ordered to lie on the Speaker's table until after the electoral count, then to be delivered to the care of the file clerk of the House.

Also on February 7 the Speaker, asking the assent of the House, appointed Messrs. Charles H. Grosvenor, of Ohio, and James D. Richardson, of Tennessee, tellers on the part of the House for the proceedings of the electoral count.

On February 12¹ a message from the Senate announced that they had agreed to the following:

Ordered, That at ten minutes before 1 o'clock on Wednesday, February 13, 1901, the Senate proceed to the Hall of the House of Representatives to take part in the count of the electoral votes for President and Vice-President of the United States.

On February 13² at 1 o'clock the Doorkeeper announced the President pro tempore and the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms, and headed by its President pro tempore and the Secretary of the Senate, the members and officers of the House rising to receive them.

The President pro tempore of the Senate took his seat as Presiding Officer of the Joint Convention of the two Houses, the Speaker of the House occupying the chair on his left.

Senators Chandler and Caffery, the tellers appointed on the part of the Senate, and Representatives Grosvenor and Richardson, the tellers appointed on the part of the House, took their places at the Clerk's desk.

The President pro tempore³ announced:

The two Houses of Congress are in joint convention, pursuant to the requirements of the Constitution and laws of the United States, to open the credentials and count the votes of the several States for President and Vice-President. Following precedents well established on former occasions, unless there shall be a demand for it in any case, the mere formal papers will not be read by the tellers. On ascertaining that the credentials are authentic and in correct form, they will simply give the lists of the votes of the several States.

If there be no objection to the counting of the electoral vote of the State of Alabama, the tellers will receive the credentials and make a list of the vote.

The President pro tempore thereupon opened the certificates of the various States in their alphabetical order, and passed them to the tellers,⁴ who announced the result.

The President pro tempore then announced:

Gentlemen of the convention, the certificates having all been opened and read, the tellers will make ascertainment of the result and report the same to the President pro tempore of the Senate.

¹ Journal, p. 223; Record, p. 2347.

² Journal, p. 226; Record, p. 2371.

³ William P. Frye, of Maine, President pro tempore.

⁴ The tellers sat those from the Senate on the right and those from the House on the left of the presiding officer. The returns were passed to the tellers in turn, beginning with the Senate teller on the extreme right.

Thereupon Senator William E. Chandler, of New Hampshire, one of the tellers, announced:

Mr. President, the tellers report the following as the result of the ascertainment of the count of the electoral vote:

The whole number of the electors appointed to vote for President of the United States is 447, of which a majority is 224.

William McKinley, of the State of Ohio, has received for President of the United States 292 votes.

William Jennings Bryan, of the State of Nebraska, has received 155 votes.

The state of the vote for Vice-President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice-President of the United States is 447, of which a majority is 224.

Theodore Roosevelt, of the State of New York, has received 292 votes.

Adlai E. Stevenson, of the State of Illinois, has received 155 votes.

The report of the tellers¹ is as follows:

"The undersigned, William E. Chandler and Donelson Caffery, tellers on the part of the Senate, and Charles H. Grosvenor and James D. Richardson, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice-President of the United States for the term beginning March 4, 1901:

State.	Number of elect-oral votes to which each State is entitled.	For President.		For Vice-President.	
		William McKinley, of Ohio.	William Jennings Bryan, of Nebraska.	Theodore Roosevelt, of New York.	Adlai E. Stevenson, of Illinois.
Alabama.....	11	.....	11	.....	11
Arkansas.....	8	.....	8	.....	8
California.....	9	9	.....	9	.....
Colorado.....	4	.....	4	.....	4
Connecticut.....	6	6	.....	6	.....
Delaware.....	3	3	.....	3	.....
Florida.....	4	.....	4	.....	4
Georgia.....	13	.....	13	.....	13
Idaho.....	3	.....	3	.....	3
Illinois.....	24	24	.....	24	.....
Indiana.....	15	15	.....	15	.....
Iowa.....	13	13	.....	13	.....
Kansas.....	10	10	.....	10	.....
Kentucky.....	13	.....	13	.....	13
Louisiana.....	8	.....	8	.....	8
Maine.....	6	6	.....	6	.....
Maryland.....	8	8	.....	8	.....
Massachusetts.....	15	15	.....	15	.....
Michigan.....	14	14	.....	14	.....
Minnesota.....	9	9	.....	9	.....
Mississippi.....	9	.....	9	.....	9
Missouri.....	17	.....	17	.....	17
Montana.....	3	.....	3	.....	3
Nebraska.....	8	8	.....	8	.....
Nevada.....	3	.....	3	.....	3
New Hampshire.....	4	4	.....	4	.....

¹ This report of the tellers is made and signed in duplicate, one copy remaining to be entered on the Journal of the House and the other being taken by the Secretary of the Senate for entry on the Journal of the Senate. The tabulation is not ordinarily read at length to the joint meeting.

* State.	Number of elect-oral votes to which each State is entitled.	For President.		For Vice-President.	
		William McKinley, of Ohio.	William Jennings Bryan, of Nebraska.	Theodore Roosevelt, of New York.	Adlai E. Stevenson, of Illinois.
New Jersey.....	10	10		10	
New York.....	36	36		36	
North Carolina.....	11		11		11
North Dakota.....	3	3		3	
Ohio.....	23	23		23	
Oregon.....	4	4		4	
Pennsylvania.....	32	32		32	
Rhode Island.....	4	4		4	
South Carolina.....	9		9		9
South Dakota.....	4	4		4	
Tennessee.....	12		12		12
Texas.....	15		15		15
Utah.....	3	3		3	
Vermont.....	4	4		4	
Virginia.....	12		12		12
Washington.....	4	4		4	
West Virginia.....	6	6		6	
Wisconsin.....	12	12		12	
Wyoming.....	3	3		3	
Total.....	447	292	155	292	155

“ WM. E. CHANDLER,

“ DONELSON CAFFERY,

“ *Tellers on the part of the Senate.*

“ JAMES D. RICHARDSON,

“ C. H. GROSVENOR,

“ *Tellers on the part of the House of Representatives.*”

The President pro tempore then announced:

The state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for President of the United States is 447, of which a majority is 224.

William McKinley, of the State of Ohio, has received for President of the United States 292 votes; William Jennings Bryan, of the State of Nebraska, has received 155 votes.

The state of the vote for Vice-President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice-President of the United States is 447, of which a majority is 224.

Theodore Roosevelt, of the State of New York, has received 292 votes;

Adlai E. Stevenson, of the State of Illinois, has received 155 votes.

This announcement of the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, each for the term beginning March 4, 1901, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

Gentlemen, the purposes for which this joint convention was called having been accomplished, the Presiding Officer now declares it dissolved, and the Senate will return to its Chamber.

The Senate then retired from the Hall (at 2 o'clock and 3 minutes p. m.), the Speaker resumed the chair, and the House was again called to order.

1963. Proceedings in relation to the electoral count of 1905.—On December 8, 1904,¹ in the Senate, Mr. Julius C. Burrows, of Michigan, submitted the following resolution, which was referred to the Committee on Privileges and Elections:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 8th day of February, 1905, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer; that two tellers shall be previously 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, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, 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 January 5, 1905,² Mr. Burrows reported the resolution from the committee, and it was agreed to by the Senate.

On January 9, 1905,³ this resolution having been received in the House, was referred from the Speaker's table to the Committee on Election of President, Vice-President, and Representatives in Congress.

On January 16,⁴ Mr. Joseph H. Gaines, of West Virginia, from that committee, reported the resolution and it was agreed to by the House.

Thereupon Mr. Gaines, from the same committee, reported the following resolutions, which were severally agreed to:

Resolved, That pursuant to Senate concurrent resolution No. 84, to which this House has agreed, the Speaker be, and he is hereby, authorized and directed to appoint two tellers on the part of the House of Representatives to perform the duties devolving upon such tellers by the act of Congress of February 3, 1887, and said concurrent resolution of the Senate No. 84, upon the assembling of the two Houses of Congress to count the electoral votes, on February 8, 1905.

Resolved, That on Wednesday, February 8, the whole of the gallery, except that which is designated as executive, diplomatic, and reporters' galleries, and two sections of the east end of the public gallery, shall be reserved for the use of the families of Senators, Members of the House of Representatives, Delegates, and their visitors.

The Doorkeeper shall strictly enforce this order.

The Speaker shall issue to each Senator, Member of the House of Representatives, and Delegate two cards of admission, and only persons holding these cards shall be admitted.

On January 20⁵ the Speaker laid before the House the following communication from the Senate; which was read, and ordered to lie on the table:

IN THE SENATE OF THE UNITED STATES,

January 20, 1905.

The President pro tempore appointed Mr. Burrows and Mr. Bailey as the tellers on the part of the Senate to count the electoral votes for President and Vice-President of the United States.

Attest:

CHARLES G. BENNETT, *Secretary.*

¹ Third session Fifty-eighth Congress, Record, p. 64.

² Record, p. 459.

³ Record, p. 586.

⁴ Record, p. 918.

⁵ Record, p. 1156.

The Speaker¹ said:

In pursuance of the House resolution, the Chair appoints Mr. Gaines, of West Virginia, and Mr. Gordon Russell, of Texas, as the tellers of the House to count the electoral vote for President and Vice-President of the United States.

On February 7,² on motion of Mr. Gaines, of West Virginia, the House agreed to the following:

Resolved, That on Wednesday, February 8, the whole of the gallery, except that which is designated as executive, diplomatic, and reporters' galleries, shall be reserved for the use of the families of Senators, Members of the House of Representatives, Delegates, and their visitors.

The Doorkeeper shall strictly enforce this order.

On February 8,³ in the House, seats were provided for the Senators at the right of the Presiding Officer; and then at 1 o'clock the Doorkeeper announced the President pro tempore and the Senate of the United States.

The Senate entered the Hall, preceded by their Sergeant-at-Arms, and headed by their President pro tempore and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The President pro tempore of the Senate⁴ took his seat as Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

The President pro tempore of the Senate said:

The two Houses of Congress, pursuant to the requirements of the Constitution and laws of the United States, are now in joint convention for the purpose of opening the certificates and counting the votes of the several States for President and Vice-President. Under well-established precedents, unless demand shall be made in any case, the reading of the formal portions of the certificates will be dispensed with. After ascertainment has been had that the certificates are authentic and correct in form, the tellers will count and make a list of the votes of the States. If there be no objection, the Presiding Officer will now open the certificate of the State of Alabama. Will the tellers please take their places at the desk?

Senators Burrows and Bailey, the tellers appointed on the part of the Senate, and Representatives Gaines, of West Virginia, and Russell, the tellers appointed on the part of the House, took their places at the Clerk's desk.

The President pro tempore of the Senate announced:

The tellers will count and make a list of the vote of the State of Alabama.

Mr. Burrows (one of the tellers) said:

Mr. President, the certificate of the electoral vote of the State of Alabama seems to be regular in form and authentic, and it appears therefrom that Alton B. Parker, of the State of New York, received 11 votes for President, and that Henry G. Davis, of West Virginia, received 11 votes for Vice-President.

The President pro tempore of the Senate said:

If there be no objection, the Chair will now open and pass to the tellers the certificate showing the vote of the State of Arkansas, and the tellers will count and make a list of the votes of that State.

The tellers then proceeded to announce the electoral votes of the several States, in their alphabetical order.

¹ Joseph G. Cannon, of Illinois, Speaker. ³ Record, pp. 2089, 2090.

² Record, p. 2052.

⁴ William P. Frye, of Maine, President pro tempore.

The President pro tempore of the Senate said:

Gentlemen of the convention, the certificates of all the States have now been opened and read, and the tellers will make final ascertainment of the result and report the same to the President pro tempore of the Senate.

Mr. Burrows (one of the tellers) said:

Mr. President, the tellers report the result of the ascertainment of the count of the electoral vote as follows:

The whole number of the electors appointed to vote for President of the United States is 476, of which a majority is 239.

Theodore Roosevelt, of the State of New York, has received for President of the United States 336 votes.

Alton Brooks Parker, of the State of New York, has received 140 votes.

The state of the vote for Vice-President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice-President of the United States is 476, of which a majority is 239.

Charles Warren Fairbanks, of the State of Indiana, has received 336 votes.

Henry Gassaway Davis, of the State of West Virginia, has received 140 votes.

This announcement of the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, each for the term beginning March 4, 1905, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

The report of the tellers is as follows:

The undersigned, Julius C. Burrows and Joseph Weldon Bailey, tellers on the part of the Senate, and Joseph H. Gaines and Gordon Russell, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice-President of the United States for the term beginning March 4, 1905:

State.	Number of electoral votes to which each State is entitled.	For President.		For Vice-President.	
		Theodore Roosevelt, of New York.	Alton Brooks Parker, of New York.	Charles Warren Fairbanks, of Indiana.	Henry Gassaway Davis, of West Virginia.
Alabama.....	11	.....	11	.....	11
Arkansas.....	9	.....	9	.....	9
California.....	10	10	.....	10	.....
Colorado.....	5	5	.....	5	.....
Connecticut.....	7	7	.....	7	.....
Delaware.....	3	3	.....	3	.....
Florida.....	5	.....	5	.....	5
Georgia.....	13	.....	13	.....	13
Idaho.....	3	3	.....	3	.....
Illinois.....	27	27	.....	27	.....
Indiana.....	15	15	.....	15	.....
Iowa.....	13	13	.....	13	.....
Kansas.....	10	10	.....	10	.....
Kentucky.....	13	.....	13	.....	13
Louisiana.....	9	.....	9	.....	9
Maine.....	6	6	.....	6	.....
Maryland.....	8	1	7	1	7
Massachusetts.....	16	16	.....	16	.....
Michigan.....	14	14	.....	14	.....

State.	Number of elect-oral votes to which each State is entitled.	For President.		For Vice-President.	
		Theodore Roosevelt, of New York.	Alton Brooks Parker, of New York.	Charles Warren Fairbanks, of Indiana.	Henry Gassaway Davis, of West Virginia.
Minnesota.....	11	11	.....	11	.....
Mississippi.....	10	.....	10	.....	10
Missouri.....	18	18	.....	18	.....
Montana.....	3	3	.....	3	.....
Nebraska.....	8	8	.....	8	.....
Nevada.....	3	3	.....	3	.....
New Hampshire.....	4	4	.....	4	.....
New Jersey.....	12	12	.....	12	.....
New York.....	39	39	.....	39	.....
North Carolina.....	12	.....	12	.....	12
North Dakota.....	4	4	.....	4	.....
Ohio.....	23	23	.....	23	.....
Oregon.....	4	4	.....	4	.....
Pennsylvania.....	34	34	.....	34	.....
Rhode Island.....	4	4	.....	4	.....
South Carolina.....	9	.....	9	.....	9
South Dakota.....	4	4	.....	4	.....
Tennessee.....	12	.....	12	.....	12
Texas.....	18	.....	18	.....	18
Utah.....	3	3	.....	3	.....
Vermont.....	4	4	.....	4	.....
Virginia.....	12	.....	12	.....	12
Washington.....	5	5	.....	5	.....
West Virginia.....	7	7	.....	7	.....
Wisconsin.....	13	13	.....	13	.....
Wyoming.....	3	3	.....	3	.....
Total.....	476	336	140	336	140

J. C. BURROWS,

J. W. BAILEY,

Tellers on the part of the Senate.

JOSEPH H. GAINES,

GORDON RUSSELL,

*Tellers on the part of the House of Representatives.***The President pro tempore of the Senate said:**

The report of the state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for President of the United States is 476, of which a majority is 239.

Theodore Roosevelt, of the State of New York, has received for President of the United States 336 votes;

Alton Brooks Parker, of the State of New York, has received 140 votes.

The state of the vote for Vice-President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice-President of the United States is 476, of which a majority is 239.

Charles Warren Fairbanks, of the State of Indiana, has received 336 votes;

Henry Gassaway Davis, of the State of West Virginia, has received 140 votes.

This announcement of the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, each for the term beginning March 4, 1905, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives. [Applause.]

Gentlemen of the convention, the purposes for which this joint convention has been called having been accomplished, the Presiding Officer dissolves the joint convention, and the Senate will return to their Chamber.

The Senate retired from the Hall (at 1 o'clock and 50 minutes p. m.), the Speaker resumed the chair, and the House was again called to order.

The Senate returned¹ to its Chamber at 1 o'clock and 55 minutes p. m., and the President pro tempore resumed the chair.

Mr. Burrows, one of the tellers appointed on behalf of the Senate in pursuance of the concurrent resolution of the two Houses to ascertain the result of the election for President and Vice-President of the United States, said:

Mr. President, the tellers on the part of the Senate report to the Senate the following as the result of the ascertainment and counting of the electoral vote for President and Vice-President of the United States for the term beginning March 4, 1905, in order that the report may be entered upon the Journal of the Senate.

The report was then submitted as given in the House, the same having been made and signed in duplicate.

¹ Record, p. 2062.