

AMENDMENT XII.^a

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 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;— * * *

^aThe 12th amendment to the Constitution of the United States was proposed to the legislatures of the several States by the Eighth Congress on December 12, 1803, in lieu of the original third paragraph of the first section of the second article, and was declared in a proclamation of the Secretary of State, dated the 25th of September, 1804, to have been ratified by the legislatures of three-fourths of the States. The dates of ratification were: North Carolina, December 21, 1803; Maryland, December 24, 1803; Kentucky, December 27, 1803; Ohio, December 30, 1803; Virginia, December 31, 1803; Pennsylvania, January 5, 1804; Vermont, January 30, 1804; New York, February 10, 1804; New Jersey, February 22, 1804; Rhode Island, March 12, 1804; South Carolina, May 15, 1804; Georgia, May 19, 1804; New Hampshire, June 15, 1804. Ratification was completed on June 15, 1804. The amendment was subsequently ratified by Tennessee on July 27, 1804. The amendment was rejected by Delaware, January 18, 1804; Massachusetts, February 3, 1804; and by Connecticut at its session begun May 10, 1804.

The electoral count occurs in the Hall of the House (III, 1819) at 1 p.m. on the sixth day of January succeeding every meeting of electors (3 U.S.C. 15), but for the 1957 count the date was changed to Monday, January 7 (P.L. 436, 84th Cong.) and for the 1989 count the date was changed to Wednesday, January 4 (P.L. 100-646). While a law prescribes in detail the procedure at the count, the two Houses by concurrent resolution provide for the meeting to count the vote, for the appointment of tellers and for the declaration of the state of the vote (III, 1961). Under the law governing the proceedings, the two Houses divide to consider objections to the counting of any electoral vote (3 U.S.C. 15; Jan. 6, 1969, pp. 145-47); and when they have divided, a motion in the House to lay the objection on the table is not in order (Jan. 6, 1969; pp. 169-72). The Vice President-elect, as Speaker of the House, has participated in the ceremonies (VI, 446); and the Vice President, himself a candidate for the Presidency, has presided over proceedings and announced the election of his opponent in the election held the preceding November (Jan. 6, 1961, pp. 288-91). See Deschler's Precedents, vol. 3, ch. 10 for discussion of the electoral college and the counting of electoral votes by the House and Senate.

* * * 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 fourth day of March next following,

§ 221. Elections of President and Vice-President by the House and Senate in certain cases.

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.

§ 222. History of original provision for failure of electoral college to choose. The 20th amendment to the Constitution has clarified some of the provisions of the 12th amendment. In 1801 (III, 1983), the House of Representatives chose a President under article II, section 1, clause 3 (see § 152a, *supra*), the constitutional provision superseded by the 12th amendment.

§ 223. Occasions of election by House and Senate after 1803. In 1825 the House elected a President under the 12th amendment (III, 1985); and in 1837 the Senate elected a Vice-President (III, 1941).

AMENDMENT XIII.^a

§ 224. Prohibition of slavery and involuntary servitude. SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall

^aThe 13th amendment to the Constitution of the United States was proposed to the legislatures of the several States by the 38th Congress, on February 1, 1865, and was declared, in a proclamation of the Secretary of State, dated the 18th of December 1865, to have been ratified by the legislatures of twenty-seven of the thirty-six States. The dates of