

counted; but the action of the House being announced before a conclusion was reached the Senate concluded that action on their part was unnecessary.¹

In the House a resolution was submitted by Mr. Solomon P. Sharp, of Kentucky, in these terms:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the votes of the electors for the State of Indiana for a President and Vice-President of the United States were properly and legally given and ought to be counted.*²

Mr. John W. Taylor, of New York, moved to substitute for the text of the above the following:

That the votes of the electors of the State of Indiana for President and Vice-President of the United States, having been given previous to the admission of that State into the Union, ought not to be received and counted.

After debate the resolution was postponed indefinitely.

The House then ordered that a message be sent to the Senate to inform them that the House was again ready to receive them and continue opening the certificates and counting the votes of the electors, etc.

The Senate having again attended, the Speaker informed them that the House had not seen it necessary to come to any resolution or take any order on the subject which had produced the separation of the two Houses.³

The President of the Senate then opened the certificate of the State of Indiana, and the votes were counted.

The tellers then reported, and the President of the Senate made report of the state of the vote and announced the election of James Monroe, of Virginia, as President, and Daniel D. Tompkins, of New York, as Vice-President.

1936. Proceedings at the electoral count of 1821.

At the electoral count of 1821 arrangement was made for an alternative announcement in case objection should be made to the electoral vote of Missouri, which would not change the result.

At the electoral count of 1821 the Members of the House arose and stood uncovered when the Senate entered the Hall.

At the electoral count of 1821 a committee was appointed to receive the President and Members of the Senate at the door and conduct them to their seats.

Committees of the two Houses acting jointly to devise a plan for the electoral count of 1821, reported different propositions, whereat misunderstandings arose.

The two Houses, by simple and separate resolutions, sometimes appoint committees to confer and report.

On February 6, 1821,⁴ in the Senate, Mr. James Barbour, of Virginia, presented a resolution that a committee be appointed "to join such committee as may be

¹ Annals, p. 945 (footnote).

² Question was made as to the concurrent form of this resolution, because it gave to the Senate a participation in the power; but it was urged on the other hand that it was necessary to take the sense of the two Houses. Annals, p. 946.

³ Annals, p. 949.

⁴ Second session Sixteenth Congress, Annals, pp. 267, 288.

appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election." This resolution was agreed to on February 7, and Messrs. Barbour and Nathaniel Macon, of North Carolina, were appointed the committee on the part of the Senate.

In the House, on February 8,¹ this resolution was agreed to, and Messrs. Henry Clay, of Kentucky; John Sergeant, of Pennsylvania, and Solomon Van Rensselaer, of New York, were appointed of the committee on the part of the House.

On February 13² Mr. Barbour reported in the Senate from the joint committee two resolutions, the first being as follows:

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

This resolution was agreed to by the Senate and was transmitted to the House.³ But in the House⁴ the Senate text was not considered; but Mr. Clay, from the joint committee, reported a resolution similar in some respects, but differing very essentially in others:

Resolved, That the two Houses shall assemble in the Chamber of the House of Representatives, on Wednesday, the 14th of February, 1821, at 12 o'clock, and the President of the Senate shall be the presiding officer of the Senate, seated on the right of the Speaker of the House, who shall be the presiding officer of the House; that two persons be appointed tellers on the part of the House, to make a list of the votes, etc.

The remainder of the resolution follows verbatim the similar portion of the Senate resolution.

In the debate over the adoption of this resolution the features of allowing the Speaker a place as joint presiding officer and omitting to allow a teller to the Senate do not seem to have been noticed. Later, during the proceedings of the count, the feature relating to the Speaker was discussed, and the debates⁵ have this explanation of the change made in the resolution from the form adopted by the Senate:

This alteration was made because it was known that the House of Representatives would not have agreed to the other course, and a collision might have arisen between the two Houses. It may be added that the Senate were not aware, when they came into the Hall, of the change of the arrangement, but supposed it to stand as they had voted it. Their retirement from the Chamber arose from the President of the Senate having learned these facts after he was seated in his place in the Hall. He would otherwise, it is supposed, have gone on to proclaim the result immediately after Mr. Livermore's objection, as prescribed in the resolution.

At the time he presented the resolution Mr. Clay explained⁶ that—

as convenience rendered it necessary for the Senate to meet this House here in its own Hall, it was due that body, by courtesy and propriety, that the President should be invited to preside, he being the officer designated by the Constitution to perform a certain duty appertaining to the occasion which called the two Houses together.

¹ Journal, p. 206; Annals, p. 1058.

² Annals, pp. 341, 342.

³ Journal, p. 230.

⁴ Journal, p. 230; Annals, pp. 1147, 1148.

⁵ Annals, p. 1162.

⁶ Annals, p. 1147.

The resolution was agreed to by the House.

The second resolution was as follows in both the House and Senate forms:¹

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

Missouri had not been formally admitted to the Union; and this resolution was debated at length in both Houses. It was finally agreed to in both Houses, the vote in the House being yeas 90, nays 67.

The records do not indicate by what method the tellers on the part of the House were appointed.²

On February 14³ the usual message having been sent to the Senate to inform them of the readiness of the House to proceed with the count, Mr. Clay proposed informally⁴ and the House, by general consent, determined that the Members should rise and stand uncovered to receive the Senate, and that seats on the right hand of the Chair should be set apart for the Senators.

Mr. Clay offered this resolution:

Resolved, That a committee be appointed to receive the President and Members of the Senate at the door of this House, and to conduct the President of the Senate to the Speaker's chair, and the Senators to the seats assigned for their use.

Objection being made on the ground that it had been usual for the Speaker to receive the President of the Senate and invite him to a seat beside him, Mr. Clay said it was true that the resolution proposed an innovation, but his experience in the chair had convinced him that the regulation would obviate embarrassments.

The resolution was then agreed to, and Mr. Clay and Mr. Mark L. Hill, of Massachusetts, were appointed the committee.

1937. Proceedings at the electoral count of 1821, continued.

In 1821 the electoral vote of Missouri was objected to on the ground that the State was not in the Union, but as the vote was not material to the result the objection was tabled.

In the electoral counts of 1817 and 1821, when a Member of the House objected to the electoral vote of a State, it appears that the House alone acted on the objection.

In the electoral count of 1821 all debate and proceedings not prescribed in the joint rule were held out of order in the joint meeting.

At the electoral count of 1821 the Speaker was made, so far as the action of the House could control, presiding officer of the House portion of the joint meeting, and he did in fact so preside.

The Senate having attended, the count proceeded with the usual forms until

¹ Journal, pp. 230, 231; Annals, pp. 342, 1147-1152.

² Journal, p. 232.

³ Journal, pp. 232, 233; Annals, pp. 1154-1166.

⁴ Annals, p. 1154.

the votes of the electors of Missouri were announced by the President of the Senate and handed to the tellers.

Thereupon Mr. Arthur Livermore, of New Hampshire, a Representative, rose and—

objected to the counting of any votes given by Missouri for President and Vice-President of the United States of America, because Missouri is not a State in this Union.

A motion was then made by a Member of the Senate that the Senate do now withdraw to its Chamber; and, the question having been put, was decided in the affirmative, and the Senate retired.

It does not appear that the Senate took any action on the objection.¹

In the House Mr. John Floyd, of Virginia, submitted this resolution:

Resolved, That Missouri is one of the States of this Union, and her votes for President and Vice-President of the United States ought to be received and counted.

After lengthy debates² the resolution was, on motion of Mr. Clay, laid on the table.

Then a resolution was sent to the Senate informing them of the readiness of the House to continue the enumeration of the votes of the electors, etc.

The Senate having appeared and taken seats, the President of the Senate, in the presence of both Houses, proceeded to open the certificate of the electors of the State of Missouri, which he delivered to the tellers, by whom it was read and recorded.

And the votes of all the States having been thus counted, registered, and the lists thereof compared, they were delivered to the President of the Senate, by whom they were read.

The President of the Senate having announced the state of the vote, in accordance with the directions of the resolution, and being about to declare the persons elected, Mr. Floyd, of Virginia, addressed the Chair, and inquired whether the votes of Missouri were or were not counted.

Mr. John Randolph, of Virginia, also arose and was addressing the Chair, when the Speaker³ pronounced Mr. Randolph to be out of order and invited him to take his seat.

There was a demand from the floor that Mr. Randolph be allowed to proceed, and Mr. Floyd asked of the Chair whether or not he was in order.

The Speaker determined that he was not in order at this time, the only business at the present time being that prescribed by the rules.

Order being restored, the President of the Senate proceeded to declare the persons elected President and Vice-President of the United States—James Monroe, of Virginia, and Daniel D. Tompkins, of New York.

As the President of the Senate concluded, Mr. Randolph addressed the Chair, but was required to take his seat.

On motion of a Member of the Senate, the Senate retired.

¹ Second session Sixteenth Congress, Journal of Senate p. 190. Also in 1817 when a Member of the House objected to the vote of Indiana the Senate concluded that action on its part was unnecessary.

² Annals, pp. 1154-1163.

³ John W. Taylor, of New York, Speaker.

The House being called to order,¹ Mr. Randolph offered these resolutions:

Resolved, That the electoral votes of the State of Missouri have this day been counted, and do constitute a part of the majority of 231 votes given for President and of 218 votes given for Vice-President,

Resolved, That the whole number of electors appointed and of votes given for President and Vice-President has not been announced by the presiding officer of the Senate and House of Representatives, agreeably to the provision of the Constitution of the United States, and that therefore the proceeding has been irregular and illegal.

The resolutions went over to the succeeding day, when the House declined to consider them.

1938. Proceedings at the electoral count of 1825.

The electoral college having failed to choose a President of the United States in 1825, the House proceeded to elect in accordance with the Constitution.

On February 8, 1825,² the report of the joint committee appointed "to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election," was made in the Senate in form of the following resolution:

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

It was stated in the course of the discussion that this was precisely the resolution agreed to on similar occasions from 1805 to 1817, inclusive. The committee on the part of the Senate would have preferred in some respects a different arrangement, but they were overruled by the committee on the part of the House.

Senator John H. Eaton, of Tennessee, proposed this amendment:

If any objection shall arise to the vote or votes of any State, it shall be filed in writing and entered on the Journals of the Senate and House of Representatives; but the two Houses shall not separate until the entire votes are counted and reported, which report shall be liable to be controlled and altered by the decision to be made by the two Houses, after their separation, relative to any objections that may be made and entered on the Journals; provided no objection taken shall be considered valid unless concurred in by the two Houses.

Senators Robert Y. Hayne, of South Carolina, and Martin Van Buren, of New York, opposed this proposition on the ground that the House had failed to act on the bill passed at the preceding session to arrange for all possible contingencies, and it was now too late to take action. So the amendment was disagreed to, and the resolution as reported was agreed to.

In the House³ the same day the resolution was also agreed to.

On February 9,⁴ after the message had been sent to inform the Senate of the readiness of the House to proceed with the count, the Senate appeared, and the

¹ Journal, pp. 235, 239; Annals, pp. 1166, 1167.

² Second session, Eighteenth Congress, Debates, p. 515.

³ Journal, p. 216, Debates, p. 516.

⁴ Journal, pp. 219-221; Debates, p. 526.