

COMMENCEMENT OF THE TERMS OF OFFICE

TWENTIETH AMENDMENT

SECTIONS 1–6. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the

persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

PURPOSE OF THE AMENDMENT

In its report on the proposed Twentieth Amendment, the Senate Committee on the Judiciary suggested several reasons for its passage and ratification. It said in part:

“[W]hen our Constitution was adopted there was some reason for such a long intervention of time between the election and the actual commencement of work by the new Congress. . . . Under present conditions [of communication and transportation] the result of elections is known all over the country within a few hours after the polls close, and the Capital City is within a few days’ travel of the remotest portions of the country. . . .”

“Another effect of the amendment would be to abolish the so-called short session of Congress. . . . Every other year, under our Constitution, the terms of Members of the House and one-third of the Members of the Senate expire on the 4th day of March. . . . Experience has shown that this brings about a very undesirable legislative condition. It is a physical impossibility during such a short session for Congress to give attention to much general legislation for the reason that it requires practically all of the time to dispose of the regular appropriation bills. . . . The result is a congested condition that brings about either no legislation or illy considered legislation. . . .”

“If it should happen that in the general election in November in presidential years no candidate for President had received a majority of all the electoral votes, the election of a President would then be thrown into the House of Representatives and the memberships of the House of Representatives called upon to elect a President would be the old Congress and not the new one just elected by the people. It might easily happen that the Members of the House of Representative, upon whom devolved the solemn duty of electing a Chief Magistrate for 4 years, had themselves been repudiated at

the election that had just occurred, and the country would be confronted with the fact that a repudiated House, defeated by the people themselves at the general election, would still have the power to elect a President who would be in control of the country for the next 4 years. It is quite apparent that such a power ought not to exist, and that the people having expressed themselves at the ballot box should through the Representatives then selected, be able to select the President for the ensuing term. . . .”

“The question is sometimes asked, Why is an amendment to the Constitution necessary to bring about this desirable change? The Constitution [before this amendment] does not provide the date when the terms of Senators and Representatives shall begin. It does fix the term of Senators at 6 years and of Members of the House of Representatives at 2 years. The commencement of the terms of the first President and Vice President and of Senators and Representatives composing the First Congress was fixed by an act of [the Continental] Congress adopted September 13, 1788, and that act provided ‘that the first Wednesday in March next to be the time for commencing proceedings under the Constitution.’ It happened that the first Wednesday in March was the 4th day of March, and hence the terms of the President and Vice President and Members of Congress began on the 4th day of March. Since the Constitution provides that the term of Senators shall be 6 years and the term of Members of the House of Representatives 2 years, it follows that this change cannot be made without changing the terms of office of Senators and Representatives, which would in effect be a change of the Constitution. By another act (the act of March 1, 1792) Congress provided that the terms of President and Vice President should commence on the 4th day of March after their election. It seems clear, therefore, that an amendment to the Constitution is necessary to give relief from existing conditions.”¹

As thus stated, the exact term of the President and Vice President was fixed by the Constitution, Art. II, § 1, cl. 1, at 4 years, and became actually effective, by resolution of the Continental Congress, on the 4th of March 1789. Since this amendment was declared adopted on February 6, 1933, § 1 in effect shortened, by the interval between January 20 and March 4, 1937, the terms of the President and Vice President elected in 1932.

Similarly, it shortened, by the intervals between January 3 and March 4, the terms of Senators elected for terms ending March 4, 1935, 1937, and 1939; and thus temporarily modified the Seventeenth Amendment, fixing the terms of Senators at 6 years. It also

¹ S. REP. No. 26, 72d Cong., 1st Sess. 2, 4, 5, 6 (1932).

shortened the terms of Representatives elected to the Seventy-third Congress, by the interval between January 3 and March 4, 1935, and temporarily modified Article I, § 2, clause 1, fixing the terms of Representatives at 2 years.

Section 1 further modifies the Twelfth Amendment in its reference to March 4 as the date by which the House must exercise its choice of a President.

Section 2 supersedes clause 2 of § 4 of Article I. The setting of an exact hour for meeting constitutes a recognition of the long practice of Congress, which in 1867 was for the first time enacted into permanent law,² only to be repealed in 1871.³

When the 3d of January fell on Sunday (in 1937), Congress did by law appoint a different day for its assemblage.⁴

Pursuant to the authority conferred upon it by § 3 of this amendment, Congress shaped the Presidential Succession Act of 1948⁵ to meet the situation which would arise from the failure of both President elect and Vice President elect to qualify on or before the time fixed for the beginning of the new Presidential term.

² Ch. 10, 14 Stat. 378.

³ Ch. 21, § 30, 17 Stat. 12. *See* 1 A. HINDS' PRECEDENTS OF THE HOUSE OF REPRESENTATIVES § 11 (1907).

⁴ Ch. 713, 49 Stat. 1826.

⁵ Ch. 644, 62 Stat. 672, as amended, 3 U.S.C. § 19. *See also* the discussion of "Presidential Succession" under the Twenty-fifth Amendment, *infra*.