

# Change of Presidential Term

(Below is an extract from the Congressional Record of Dec. 23, 1920, containing a report of the resolution introduced by Senator Ashurst of Arizona proposing an amendment to the Constitution changing the dates of presidential inaugurations and the convening of congress.—Ed.)

Mr. Ashurst. I introduce a joint resolution, which I ask may be read at length, and after it is read I should like to take about three minutes to make a brief explanation of it.

The joint resolution (S. J. Res. 228) proposing an amendment to the Constitution of the United States was read the first time by its title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:

"Section 1. The terms of the President and Vice President of the United States shall commence on the third Monday in January following the election of presidential and vice presidential electors.

"Sec. 2. The presidential and vice presidential electors, composing the Electoral College, shall assemble in the States by which they are appointed and cast their votes for President and Vice President on the second Monday of December following their appointment, and the vote so cast, duly certified, shall be filed with the President of the Senate before the first Monday in January next thereafter, and the congress shall meet in joint session on the second Monday in January following and open and count the same: Provided, That congress may alter all the dates fixed in this section, in its discretion.

"Sec. 3. The terms of Senators and Representatives shall commence on the first Monday in January following their election.

"Sec. 4. There shall be held two regular sessions of congress, convening on the first Monday of January each year.

"Sec. 5. This amendment shall not take effect until after the 4th day of March of the year 1925."

Mr. Ashurst. Mr. President, no other country permits so long a time to elapse between an election and the installation of the new servants as does the United States. In a Democratic republic as soon as possible the will of the people as expressed at the polls should be carried into effect.

Under the present system four months elapse before the new congress and the new president are inaugurated.

My proposed amendment to the Constitution simply provides that the electors chosen in November and composing the Electoral College shall meet in their respective States on the second Monday in December and there cast their votes; that the new congress elected in the previous November shall meet on the first Monday in January; that the messengers shall bring the returns from the various States to the President of the Senate and file them before the first Monday in January the new congress, sitting in joint session, shall canvass the electoral vote and declare the result; and that on the third Monday in January the President and Vice President shall be inaugurated.

In most of the States the governor is inaugurated in January; the new legislature meets in January. Moreover, under the present system a repudiated House of Representatives would have the power in certain cases to choose a President. This should be changed.

This is not a new subject. I am not entitled to any credit for novelty of ideas respecting the same. I have simply reintroduced a joint resolution which was reported from the Judiciary Committee in 1914. This joint resolution was before the Senate Committee on the Judiciary and was discussed for months. A comprehensive statement favoring the resolution was prepared in February, 1914, signed by the following members of the Committee on the Judiciary: Senators John K. Shields, Knute Nelson, now the chairman of the Judiciary Committee, Albert B. Cummins, W. E. Chilton, Duncan U. Fletcher, and one Henry F. Ashurst.

This, therefore, is not a new matter which I have suddenly presented to the country and the

Senate. I ask unanimous consent that at this time I may include in the Record, as a part of my remarks, the views which those members of the Committee on the Judiciary held on this subject in 1914.

The Presiding Officer. Without objection, it is so ordered.

The report referred to is as follows:

(Senate report 212, part 2, Sixty-third Congress, second session.)

The minority recommends that the resolution, omitting formal parts, be amended so as to read as follows:

## Article XVIII.

SECTION 1. The terms of the President and Vice President of the United States shall commence on the third Monday in January following the election of presidential and vice presidential electors.

SEC. 2. The presidential and vice presidential electors, composing the Electoral College, shall assemble in the States by which they are appointed and cast their votes for President and Vice President on the second Monday in December following their appointment, and the vote cast, duly certified, shall be filed with the President of the Senate before the first Monday in January next thereafter, and the Congress shall meet in joint session on the second Monday in January following and open and count the same: Provided, That Congress may alter all the dates fixed in this section, in its discretion.

SEC. 3. The terms of Senators and Representatives shall commence on the first Monday in January following their election.

SEC. 4. There shall be held two regular sessions of Congress, convening on the first Monday of January each year.

SEC. 5. The terms of said officers who may be in office at the time of the adoption of this amendment are hereby changed to conform herewith.

The amendments of the resolution recommended are the substitution, in the first section, of the "third" Monday instead of the "second" Monday in January for the commencement of the terms of the President and Vice President; the substitution of the "second" Monday for the "first" Monday in December for the meeting of electors for President and Vice President; and provisions that the vote shall be filed with the President of the Senate before the first Monday in January, and that Congress shall meet on the second Monday thereafter and open and count the vote, and authorizing Congress to change these dates; and the addition of section 4, providing for a change in the terms of the President and Vice President and Senators and Representatives in office when the constitutional amendment is adopted and becomes effective, so that they will expire with the commencement of the terms of their successors, under the proposed amendment to the Constitution.

The Constitution, Article II, section 1, ordains that the President and Vice President shall hold office for the term of four years, but does not provide when the terms shall commence. The only recognition of the 4th of March succeeding the day of a presidential election as the day of the commencement of the terms of the President and Vice President is the provision in the twelfth amendment to the Constitution, effective September 25, 1904, that—

if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the 4th day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

This would probably be construed to be a provision that the term of the President expired on the 4th of March after a presidential election—that a vacancy then exists—in which event the then Vice President succeeded to the office.

The time when the presidential electors should be elected, and the date on which they shall meet and give their vote is, by Article II, section 1, of the Constitution, left to the discretion of Congress, with the restriction that the day of voting shall be the same throughout the United States. An act was passed February 3, 1887, requiring them to meet and give their vote on the second Monday in January next after their appointment, in such place in each State as the legislature thereof shall direct; with vote, duly certified, to be delivered to the President of the Senate before the first Wednesday in February,

and be canvassed by Congress, in joint session, on the second Wednesday in February thereafter.

The Constitution, while providing that Representatives shall hold their offices for two years (Art. I, sec. 2) and Senators for six years (Art. I, sec. 3), does not provide when the terms shall commence.

The commencement of the terms of the first President and Vice President, and of the Senators and Representatives composing the first Congress, was fixed by a resolution of Congress adopted September 13, 1788, providing "that the first Wednesday in March next (which happened to be the 4th day of March) be the time for commencing proceedings under the Constitution."

Congress has provided (act of Mar. 1, 1792, Rev. Stat., sec. 152) that the terms of the President and Vice President shall commence on the 4th day of March next succeeding the day on which the votes of the electors have been given, but there seems to be no statute enacted since the adoption of the Constitution fixing the commencement of the terms of Senators and Representatives.

The Constitution is proposed to be amended by the resolution as follows:

1. The terms of the President and Vice President, by the first section, are made to commence on the third Monday in January instead of the 4th day of March succeeding the election of electors.

2. The electors are required, by the second section, to meet and cast their vote on the second Monday in December succeeding their appointment; the vote to be filed with the President of the Senate before the first Monday in January thereafter, and the Congress to meet, in joint session, to open and count the same on the second Monday in January succeeding. The Congress, however, is authorized to change these dates.

The provisions of this section are entirely new, the present Constitution having left these matters entirely to the discretion of Congress, are for the purpose of preventing confusion in putting the first section into effect.

3. The terms of Senators and Representatives are, by the third section, made to commence on the first Monday in January following their election.

This provision is new, and although there is no provision in the present Constitution fixing when the terms of Senators and Representatives shall commence, yet those providing that their terms shall be six and two years entitle those now in office and hereafter to be elected, to hold for two years after the 4th of March succeeding their election, the day when the first Senators and Representatives were qualified under the Constitution, and their terms can not be changed without a constitutional provision.

4. The fourth section merely changes the second paragraph of section 4 of Article I of the Constitution, in effect, so as to provide that Congress shall meet each year, commencing on the first Monday of January instead of the first Monday in December.

5. The provisions of section 5 are temporary, and for the purpose merely of putting into effect the material provisions of shortening the terms of the President and Vice President, and Senators and Representatives, to the extent of the periods between the dates fixed by the resolution for the commencement of the terms of these officers hereafter, and the 4th of March succeeding said dates.

Under the present law Congress does not convene in regular session until 13 months after the election of its Members. There was some reason for such a provision at the time of the formation of our Government, as it then took a long time to ascertain the results of elections, and to reach the Capitol from remote parts of the country. But there is no excuse whatever now, since the most distant States of the Union are within a few days' travel of Washington City.

Senators heretofore have been elected by the legislatures of the States in January, and sometimes not until February or March. But since the adoption of the seventeenth amendment to the Constitution, by which Senators are to be elected by the people, probably at the November election, it becomes very opportune for Congress to convene in January following. The convening of Congress on the first Monday of December, as at present, is very inopportune, as adjournment for the Christmas holidays is always taken and many Members go to their