

any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 5 of this title to have been appointed, if the determination in said section provided for shall have been made, or by such successors or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section 5 of this title, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its law; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the executive of the State, under the seal thereof, shall be counted. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

(June 25, 1948, ch. 644, 62 Stat. 675.)

COUNTING OF ELECTORAL VOTES

1996—Pub. L. 104-296, §2, Oct. 11, 1996, 110 Stat. 3558, provided that: "The meeting of the Senate and House of Representatives to be held in January 1997 pursuant to section 15 of title 3, United States Code, to count the electoral votes for President and Vice President cast by the electors in December 1996 shall be held on January 9, 1997 (rather than on the date specified in the first sentence of that section)."

1989—Pub. L. 100-646, Nov. 9, 1988, 102 Stat. 3341, provided: "That in carrying out the procedure set forth in section 15 of title, 3, United States Code, for 1989, 'the fourth day of January' shall be substituted for 'the sixth day of January' in the first sentence of such section."

1985—Pub. L. 98-456, Oct. 9, 1984, 98 Stat. 1748, provided: "That, in carrying out the procedure set forth in section 15 of title 3, United States Code, for 1985, 'the seventh day of January' shall be substituted for 'the sixth day of January' in the first sentence of such section."

§ 16. Same; seats for officers and Members of two Houses in joint meeting

At such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this subchapter, 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 calendar day, Sunday excepted, at the hour of 10 o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House.

(June 25, 1948, ch. 644, 62 Stat. 676.)

§ 17. Same; limit of debate in each House

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 other question arising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not more than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate.

(June 25, 1948, ch. 644, 62 Stat. 676.)

§ 18. Same; parliamentary procedure at joint meeting

While the two Houses shall be in meeting as provided in this chapter, the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw.

(June 25, 1948, ch. 644, 62 Stat. 676; Sept. 3, 1954, ch. 1263, §3, 68 Stat. 1227.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "chapter" for "subchapter".

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

(a)(1) If, by reason of death, resignation, removal from office, inability, or failure to qual-

ify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro tempore of the Senate shall, upon his resignation as President pro tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term, except that—

(1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice-President-elect to qualify, then he shall act only until a President or Vice President qualifies; and

(2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall act only until the removal of the disability of one of such individuals.

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, Secretary of Education, Secretary of Veterans Affairs.

(2) An individual acting as President under this subsection shall continue so to do until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

(e) Subsections (a), (b), and (d) of this section shall apply only to such officers as are eligible to the office of President under the Constitution. Subsection (d) of this section shall apply only to officers appointed, by and with the advice and consent of the Senate, prior to the time

of the death, resignation, removal from office, inability, or failure to qualify, of the President pro tempore, and only to officers not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.

(f) During the period that any individual acts as President under this section, his compensation shall be at the rate then provided by law in the case of the President.

(June 25, 1948, ch. 644, 62 Stat. 677; Pub. L. 89-174, §6(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 89-670, §10(a), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91-375, §6(b), Aug. 12, 1970, 84 Stat. 775; Pub. L. 95-91, title VII, §709(g), Aug. 4, 1977, 91 Stat. 609; Pub. L. 96-88, title V, §508(a), Oct. 17, 1979, 93 Stat. 692; Pub. L. 100-527, §13(a), Oct. 25, 1988, 102 Stat. 2643.)

AMENDMENTS

1988—Subsec. (d)(1). Pub. L. 100-527 inserted reference to Secretary of Veterans Affairs.

1979—Subsec. (d)(1). Pub. L. 96-88 substituted "Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare" and inserted reference to Secretary of Education.

1977—Subsec. (d)(1). Pub. L. 95-91 inserted reference to Secretary of Energy.

1970—Subsec. (d)(1). Pub. L. 91-375 struck out "Postmaster General," after "Attorney General,".

1966—Subsec. (d)(1). Pub. L. 89-670 inserted reference to Secretary of Transportation.

1965—Subsec. (d)(1). Pub. L. 89-174 inserted reference to Secretary of Health, Education, and Welfare and Secretary of Housing and Urban Development.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 16(a), formerly section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89-670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-174 effective upon expiration of first period of sixty calendar days following Sept. 9, 1965 or on earlier date specified by Executive order, see section 11(a) of Pub. L. 89-174 set out as an Effective Date note under section 3531 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 871.

§ 20. Resignation or refusal of office

The only evidence of a refusal to accept, or of a resignation of the office of President or Vice