

Chapter I.

THE MEETING OF CONGRESS.

1. Provisions of Constitution and Statutes. Sections 1 and 2.
 2. Assembling of the First Congress as fixing beginning of terms. Section 3.¹
 3. Time of assembling as governed by proclamation, law, and Constitution. Sections 4-13.
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1. The Constitution provides for the annual meeting of Congress.—Section 4, Article I of the Constitution, provides:

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Also, in section 3 of Article II, the further provision is made that the President of the United States “may, on extraordinary occasions, convene both Houses, or either of them.”²

2. In certain exigencies the President may convene Congress at a place other than the seat of government.

The District of Columbia is the seat of government.

Section 34 of the Revised Statutes, reenacting the law of April 3, 1794 (1 Stat. L., p. 353), provides:

Whenever Congress is about to convene and from the prevalence of contagious sickness or the existence of other circumstances, it would, in the opinion of the President, be hazardous to the lives or health of the Members to meet at the seat of government, the President is authorized, by proclamation, to convene Congress at such other place as he may judge proper.³

¹The term of the Member must be coincident with the term of the Congress (see sec. 388 of this volume); but in the earlier practice this was not necessarily so as to a Delegate from a Territory (see sec. 403 of this volume).

²Congress has frequently met on a day other than the first Monday in December, being convened sometimes by a law and sometimes by the President. (See Journals of the House for the First, Second, Fifth, Eighth, Tenth, Eleventh, Twelfth, Thirteenth, Twenty-fifth, Twenty-seventh, Thirty-fourth, Thirty-seventh, Fortieth, Forty-first, Forty-second, Forty-fifth, Forty-sixth, Fifty-third, and Fifty-fifth Congresses.) Sometimes Congress, having been convened before the first Monday in December, has continued its session to and beyond that day, and having adjourned sine die has not, if it was a first session, convened again until the first Monday of the next December. (See Journals of the House for the Second, Eighth, Tenth, Eleventh, and Twelfth Congresses.) A Congress expires on March 3 of the odd year, and its successor may be convened on the next day, March 4 (See Journal of House for Fortieth Congress), although by the Constitution it would naturally not meet until the first Monday of the succeeding December.

³The act of July 16, 1790 (1 Stat. L., p. 130) had provided that the seat of government should be transferred to the District of Columbia by the first Monday of December, 1800.

3. By resolution of the Continental Congress the First Congress under the Constitution met on March 4, 1789.

The term of a Congress begins on the fourth of March of the odd-numbered years, and extends through two years.

A Member elected to fill a vacancy serves no longer time than the remainder of the term of the Member whose place he takes.

The House sometimes appoints a committee to act with a similar committee from the Senate in relation to some question of moment.

On April 30, 1790,¹ the House agreed to the following:

Resolved, That a committee of this House be appointed, to join with a committee to be appointed by the Senate, to consider and report their opinion on the question when, according to the Constitution, the terms for which the President, Vice-President, Senators, and Representatives have been respectively chosen, shall be deemed to have commenced.

Messrs. Egbert Benson, of New York; George Clymer, of Pennsylvania; Benjamin Huntingdon, of Connecticut; Andrew Moore, of Virginia, and Daniel Carroll, of Maryland, were appointed a committee.

To these the Senate joined² Messrs. Oliver Ellsworth, of Connecticut; Rufus King, of New York; and Robert Morris, of Pennsylvania.

On May 18³ the House agreed to report as follows:

That the terms for which the President, Vice-President, Senate, and House of Representatives of the United States were respectively chosen, did, according to the Constitution, commence on the fourth of March, 1789. And so the Senators of the first class, and the Representatives, will not, according to the Constitution, be entitled, by virtue of the same election by which they hold seats in the present Congress, to seats in the next Congress, which will be assembled after the third of March, 1791. And further, that whenever a vacancy shall happen in the Senate or House of Representatives, and on election to fill such vacancy, the person elected will not, according to the Constitution, be entitled, by virtue of such election, to hold a seat beyond the time for which the Senator or Representative in whose stead such person shall have been elected, would, if the vacancy had not happened, have been entitled to hold a seat.

The committee recommended the passage of a law regulating the choice of electors, etc.

This report had been previously agreed to in the Senate.⁴

The first session of the First Congress assembled, as shown by the Journal of the House—

on Wednesday, the fourth of March, 1789, pursuant to a resolution of the late Congress, made in conformity to the resolutions of the Federal Convention of the 17th of September, 1787.

The late Congress, which was the Continental Congress, it being ascertained that the required number of States had ratified the Constitution, had on September 13, 1788—⁵

Resolved, That the first Wednesday in January next be the day for appointing electors in the several States, which, before the said day, shall have ratified the said Constitution; that the first Wednesday in February next be the day for the electors to assemble in their respective States and vote for a President, and that the first Wednesday in March next be the time and the present seat of Congress the place for commencing proceedings under the said Constitution.

¹ Second session First Congress. Journal, p. 207 (Gales & Seaton, ed.); Annals, p. 1603.

² Annals, p. 1006.

³ Journal, p. 218 (Gales & Seaton, ed.); Annals, p. 1638.

⁴ Journal, p. 216 (Gales & Seaton, ed.); Annals, p. 1010.

⁵ Journal of Continental Congress, edition of 1823, Vol. IV, p. 866.

4. It being desirable that the hour of the first meeting of a Congress should be later than 12 m., the purpose was effected by a joint resolution.—

In 1869 a law provided that the next Congress should, as had the current Congress, meet on the 4th day of March. As the 4th day of March, 1869, would be the day of the inauguration, Congress passed a joint resolution providing that the time for the regular meeting of the House of Representatives should be postponed from 12 o'clock meridian on March 4, 1869, to the hour of 3 o'clock in the afternoon of the same day.¹

5. The First Congress by law appointed for its second meeting a day later than the day fixed by the Constitution.

The First Congress having met once in each of its two years of existence, a doubt existed as to whether or not it would legally meet again on the day appointed by the Constitution.

Instance wherein Congress in adjourning fixed by resolution the time of meeting of the next session on the constitutional day.

Instances of laws fixing the time of annual meeting of Congress.

The First Congress met on March 4, 1789,² in accordance with the terms of a resolution of the Continental Congress.³ This session continued until September 29, 1789. Before adjourning the following law was enacted, being approved September 29, 1789:

That after the adjournment of the present session, the next meeting of Congress shall be on the first Monday in January next.⁴

Thus it will be observed that the law fixed a date later than the first Monday in December specified by the Constitution. The second session extended from January 4, 1790, until August 12, 1790.⁵ The third session began on the constitutional day, the first Monday of December, 1790, but apparently some doubt existed as to whether the Constitution would require a meeting on that day, for, on August 10,⁶ near the close of the second session, the House Journal has this entry:

A message from the Senate by Mr. Otis, their Secretary:

Mr. Speaker: The Senate have come to a resolution that the resolution of the 6th instant, authorizing the Speaker of the House of Representatives and President of the Senate to close the present session by adjourning their respective Houses on this day be repealed, and that instead thereof they be authorized to adjourn their respective Houses on the 12th instant, to meet again on the first Monday in December next; to which they desire the concurrence of this House.

And then he withdrew.

The House proceeded to consider the said resolution, and, the same being read, was agreed to.

The journal of December 6, 1790,⁷ the first day of the third session, has these introductory words in reference to the date: "On which day, being the day appointed by adjournment of the two Houses for the meeting of the present session."

¹ Third session, Fortieth Congress, Journal, pp. 404, 405, 486; Globe, pp. 1425, 1582.

² First session, First Congress, Journal, p. 3 (Gales & Seaton ed.).

³ Journal of Continental Congress, edition of 1823, Vol. IV, p. 866.

⁴ 1 Stat. L., p. 96.

⁵ Journal, pp. 134, 298.

⁶ Journal, pp. 296, 297.

⁷ Journal, p. 330.

6. Early Congresses, having by law met on a day earlier than the constitutional day, remained in continuous session to a time beyond that day.

In 1797 the Congress assembled on the day constitutionally provided by law, although it had already held a session that year.

The early laws fixing the time for the meeting of Congress specified the day but not, the hour.

At the last session of the First Congress the following law was enacted, being approved March 2, 1791:¹

That after the third day of March next, the first annual meeting of Congress shall be on the fourth Monday of October next.

Accordingly the first session of the Second Congress met October 24, 1791,² and it continued in session until May 8, 1792. No attention was paid to Monday, December 5, 1791 (the day appointed for the assembling of Congress ordinarily), the sessions of the House proceeding uninterruptedly over that period.

At this first session of the Second Congress this law³ was enacted, being approved May 5, 1792:

That after the adjournment of the present session, the next annual meeting of Congress shall be on the first Monday in November next.

Accordingly the second session met on November 5, 1792,⁴ and continued in session through Monday, December 3, 1792, the day prescribed by the Constitution.

7. The first session of the Third Congress met on the constitutional day, December 2, 1793,⁵ but it was provided by law that the second session should meet on the first Monday in November.⁶ So accordingly it met on November 3, 1794⁷ and continued in session without interruption through Monday, December 1, the constitutional day.

Both sessions of the Fourth Congress met on the days appointed by the Constitution.⁸

The act of March 3, 1797,⁹ provided that the next meeting of Congress should be on "the [first?] Monday of November in the present year;" but the President convened the Fifth Congress in extraordinary session on May 15, 1797.¹⁰ This session lasted until July 10. Then, on Monday, November 13, 1797,¹¹ the "day appointed by law," as the Journal says, the regular session began. This continued through Monday, December 4, the constitutional day, without interruption.

The third session of the Fifth Congress met on the day appointed by the Constitution.

¹ Stat. L., p. 198.

² First session Second Congress, Journal, p. 433 (Gales & Seaton ed.).

³ 1 Stat. L., p. 267.

⁴ Second session Second Congress, Journal, p. 609.

⁵ First session Third Congress, Journal, p. 3.

⁶ 1 Stat. L., p. 370.

⁷ Second session Third Congress, Journal, p. 223.

⁸ Journal, pp. 364, 606.

⁹ 1 Stat. L., p. 507.

¹⁰ First session Fifth Congress, Journal, p. 3.

¹¹ The statute says first Monday, but the House met November 13, which was the second Monday.

8. The first session of the Sixth Congress met on the day appointed by law; but the act of May 13, 1800,¹ convened the second session on the third Monday of November, 1800. It met on that day and continued in session through Monday, December 1, 1800,² the day appointed by the Constitution.

The second sessions of both the Tenth and Eleventh Congresses were convened by law; but in neither of these laws nor in any of the previous laws convening Congress was the hour of meeting specified in the law.

9. On May 22, 1809,³ the day appointed by law⁴ for the meeting of the session, the first session of the Eleventh Congress convened, and remained in session until June 28, 1809. At this session the following law⁵ was passed:

That after the adjournment of the present session, the next meeting of Congress shall be on the fourth Monday of November next.

On November 27, 1809,⁶ in accordance with the law, the Congress met in its second session, and continued in session until May 1, 1810. When the first Monday in December, 1809, arrived (the day prescribed by the Constitution for the meeting of Congress ordinarily) the House continued its session without any recognition of the day.⁷

The second sessions of both the Fifteenth and Sixteenth Congresses were convened by law on a day earlier than the constitutional day, and remained in sessions through that day. Neither of these laws specified the hour of meeting.

10. Early Congresses, convened either by proclamation or law on a day earlier than the constitutional day, remained in continuous session to a time beyond that day.

In the later but not the earlier practice the fact that Congress has met once within the year does not make uncertain the constitutional mandate to meet on the first Monday of December.

Instances wherein Congress has been convened by proclamation or by law.

Instance wherein a law convening Congress specified the hour as well as the day.

At the second session of the Seventh Congress, by the act approved March 3, 1803,⁸ it was provided:

That after the adjournment of the present session, the next meeting of Congress shall be on the first Monday of November next.

But by proclamation of the President the Eighth Congress was convened on October 17, 1803,⁹ and remained in session until March 27, 1804. The session

¹ 2 Stat. L., p. 85.

² Second session Sixth Congress, Journal, p. 733.

³ First session Eleventh Congress, Journal, pp. 3, 102 (Gales & Seaton ed.).

⁴ 2 Stat. L., p. 514. This law, passed by the Tenth Congress, provided: "That after the adjournment of the present session, the next meeting of Congress shall be on the fourth Monday of May next."

⁵ 2 Stat. L., p. 549.

⁶ Second session Eleventh Congress, Journal, pp. 105, 428.

⁷ See also journals of the First, Second, Third, Fifth, Sixth, Eighth, and Tenth Congresses, when sessions were convened before the arrival of the constitutional day.

⁸ 2 Stat. L., p. 242.

⁹ First session Eighth Congress, Journal, p. 401.

continued without break through Monday, November 7,¹ the day appointed by law, and through Monday, December 5,² the day appointed by the Constitution.

The second session of the Eighth Congress met November 5, 1804,³ in accordance with a law approved March 26, 1804,⁴ and continued in session through and beyond Monday, December 3, 1804, the day appointed by the Constitution.

No law changed the constitutional date for the first meeting of the Tenth Congress, but it was convened by proclamation of the President on October 26, 1807,⁵ and remained in session until April 2, 1808, without any break for the constitutional day of meeting, Monday, December 7.⁶

A law approved April 22, 1808,⁷ provided that the second session of the Tenth Congress should meet November 7, 1808, and it did so meet and continued in session through Monday, December 5,⁸ the day appointed by the Constitution.

The first session of the Twelfth Congress was convened by proclamation of the President on November 4, 1811,⁹ and continued in session until July 6, 1812, no change in the ordinary proceedings occurring on Monday, December 2, 1811,¹⁰ the day appointed by the Constitution for the assembling of Congress ordinarily.

By act approved July 6, 1812,¹¹ the time for the meeting of the next session was fixed on “as the first Monday of November next,” and on that day the House assembled and continued in session through Monday, December 7, 1812, the day appointed by the Constitution.¹¹

The first and second sessions of the Thirteenth Congress were called by law, the second session adjourning on April 18, 1814. At this second session a law was passed and approved April 18, 1814,¹² fixing “the last Monday in October next” for the next meeting of Congress. But the President, by proclamation, convened the session before that day, on September 19, 1814,¹³ and it continued in session through Monday, October 21, the day appointed by law, and Monday, December 5, the day appointed by the Constitution.¹⁴

11. The first session of the Thirteenth Congress met, in accordance with law,¹⁵ on May 24, 1813, and ended August 2, 1813. At this session the following law was passed, being approved on July 27, 1813:¹⁶

¹ Journal, p. 438.

² Journal, p. 467; Annals, p. 641. Nathaniel Macon, of North Carolina, was Speaker.

³ Second session Eighth Congress, Journal, pp. 3, 29.

⁴ 2 Stat. L., p. 293.

⁵ First session Tenth Congress, Journal, p. 4.

⁶ Journal, p. 66; Annals, p. 1058. Joseph B. Varnum of Massachusetts, was Speaker.

⁷ 2 Stat. L., p. 490.

⁸ Second session Tenth Congress, Journal, p. 374.

⁹ First session Twelfth Congress, Journal, pp. 3, 49. Henry Clay, of Kentucky, was Speaker.

¹⁰ First session Twelfth Congress, Annals, p. 395.

¹¹ 2 Stat. L., pp. 781, 782; second session Twelfth Congress, Journal, pp. 537, 575.

¹² 3 Stat. L., p. 128.

¹³ Third session Thirteenth Congress, Annals, p. 750.

¹⁴ Journal, third session, pp. 447, 509, 562. Langdon Cheves, of South Carolina, Speaker.

¹⁵ 2 Stat. L., p. 804.

¹⁶ 3 Stat. L., p. 48.

That after the adjournment of the present session, the next meeting of Congress shall be on the first Monday of December next.

When the second session assembled on Monday, December 6, 1813, the Journal records that it was "the day appointed by law," rather than the day appointed by the Constitution.¹

In the Twenty-fifth, Twenty-seventh, Thirty-fourth, Thirty-seventh, Forty-sixth, Fifty-third, and Fifty-fifth Congresses special sessions were called by the President; but in no case was it thought necessary by law to fix the next meeting after the special session, but the provision of the Constitution was left to operate.²

The Fortieth, Forty-first, and Forty-second Congresses were convened in accordance with the terms of the following law, approved January 22, 1867:³

That in addition to the present regular times of meeting of Congress, there shall be a meeting of the Fortieth Congress of the United States, and of each succeeding Congress thereafter, at twelve o'clock meridian,⁴ on the fourth day of March, the day on which the term begins for which the Congress is elected, except that when the fourth day of March occurs on Sunday, then the meeting shall take place at the same hour on the next succeeding day.⁵

At no one of the special sessions called by this law was it thought necessary to provide by law for the next session to begin on the constitutional day (the first Monday of December), but the Congress convened that day in obedience to the Constitution.

12. One Congress having by law provided a time for the meeting of the next Congress, that Congress nevertheless met at an earlier day on call of the President.

Early sessions of Congress convened by law.

An early instance wherein the proclamation of the President convening Congress was not printed in the Journal.

On March 3, 1797,⁶ the President approved the following law:

That after the end of the present session, the next meeting of Congress shall be on the first Monday of November, in the present year.

But on the 25th of March, 1797, the President (John Adams) by proclamation convened Congress to meet on May 15, 1797, to consider "divers weighty matters."⁷

Some question arose in the House as to the effect this extra session would have on the session provided for by law, and a conference with the Senate on the subject was proposed by the House, but declined by the Senate.⁸

¹ Second session Thirteenth Congress, Journal, p. 159.

² See Statutes at Large, vols. 5, 11, 12, 21, 28, and 30.

³ 14 Stat. L., p. 378.

⁴ This is the first time that the hour of meeting is specified in a law providing for a meeting of Congress.

⁵ Repealed by law of the Forty-second Congress.

⁶ Second session Fourth Congress, 1 Stat. L., p. 587. The following sessions were, as to date of beginning, fixed by law: Those beginning on first Mondays of January, 1790, of October, 1791, of November, 1792, of November, 1794, of November, 1797. See 1 Stat. L., pp. 96, 198, 267, 370, 507.

⁷ First session Fifth Congress; Annals, p. 50. This proclamation does not appear in the House Journal.

⁸ First session Fifth Congress, Journal, pp. 50, 52 (Gales & Seaton ed.); Annals, pp. 28, 377.

On the first Monday of November the regular session met as provided by law.¹

13. The statutes provide that in case of the removal, death, resignation, or inability of both President and Vice President during a recess of

¹On January 29, 1904 (second session Fifty-eighth Congress, Record, pp. 1401, 1402), the urgent deficiency appropriation bill was under consideration in Committee of the Whole House on the state of the Union, and the committee were considering the question of the mileage of Members and the constitutional question involved therein.

In the course of the debate Mr. Allan L. McDermott, of New Jersey, raised an incidental question:

“My understanding of the Constitution is that there are two kinds of sessions of Congress. One what might be called the President’s session, the other the constitutional session. The constitutional session has this provision in the Constitution, that neither House shall adjourn for more than three days without the consent of the other. Now, the session of Congress which I may designate as the Presidential session is under the control of the Executive. I call the gentleman’s attention to page 23, section 3, of the book that he has in his hand.

“On extraordinary occasion on which the President may convene both Houses in case of disagreement between them in respect to the time of adjournment, he may adjourn them to such time as he shall think proper. Now, if there has not been in its relation to the Executive any change in the session—in other words, if it is not another sitting as contemplated by the Constitution—then the President can adjourn Congress to-day to such time as he think fit, if there be a disagreement.

“* * * The President has no power to intervene unless the session is an extraordinary one. In other words, the President’s session is to be held until they agree to adjourn, or until he tells them to adjourn. The question can not arise at a regular session. The President of the United States can not adjourn Congress as it is now constituted. We can remain in session for two years, from one session to another, and he can not adjourn it. Therefore the session which is called by the President of the United States has a constitutional distinction from that session which is called by the Constitution itself.” (Mr. McDermott later elaborated his discussion of this question. See Appendix of Record, p. 72.)

On January 30 (Record, pp. 1411, 1412), the debate continuing, Mr. Charles E. Littlefield, of Maine, said:

“I wish to say just a word with reference to the suggestion very pertinently and forcefully made last evening by the distinguished gentleman from New Jersey [Mr. McDermott], and that is with reference to the question as to whether the clause providing that the President may adjourn Congress from time to time is limited in its operations to a special or extraordinary or Presidential session, so called. If so limited, beyond any question it would create a constitutional distinction between the two sessions, which undoubtedly would settle the question pending.

“Since the adjournment last evening I have taken occasion to examine Madison’s Journal of the Constitutional Convention, and the Federalist, upon that precise point, for the purpose of ascertaining what light, if any, might be derived from that source, and I should be glad to give the committee the benefit of the investigation.

“I find in the report of the committee on detail, made on August 6, 1787, that the clause in question appears in Article X, section 2, which reads as follows:

“Sec. 2. He shall from time to time give information to the Legislature of the state of the Union. He may recommend to their consideration such measures as he shall judge necessary and expedient. He may convene them on extraordinary occasions. In cases of disagreement between the two Houses with regard to the time of adjournment he may adjourn them to such time as he thinks proper. He shall take care that the laws of the United States be duly and faithfully executed. He shall commission all the officers of the United States, and shall appoint officers in all cases not otherwise provided for by this Constitution. He shall receive ambassadors, and may correspond with the supreme executive of the several States. He shall have power to grant reprieves and pardons, but his pardons shall not be pleadable in bar of an impeachment. He shall be Commander in Chief of the Army and Navy of the United States and of the militia of the several States.

“He shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during his continuance in office. Before he shall enter on the duties of his Department he shall take the following oath or affirmation: “I, ———, solemnly swear (or affirm) that I will faithfully execute the office of President of the United States of America.” He shall be removed from his

Congress, the Secretary who acts as President shall convene Congress in extraordinary session.

office on impeachment by the House of Representatives, and conviction in the Supreme Court of treason, bribery, or corruption. In case of his removal, as aforesaid, death, resignation, or disability to discharge the powers and duties of his office, the President of the Senate shall exercise those powers and duties until another President of the United States be chosen, or until the disability of the President be removed (Journal of Constitutional Convention (Madison). Scott, Forseman & Co., editors, vol. 11, p. 457.)

“This is the first time the clause appears in the proceedings of the convention. It appears in a section defining the powers and duties of the President with the clause authorizing the convening of Congress in an extraordinary session, where they would naturally be expected to appear. It will be observed that the two propositions are found in separate and distinct sentences. One sentence reads:

“He may convene them on extraordinary occasions.’

“And the other—

“In case of disagreement between the two Houses with regard to the time of adjournment, he may adjourn them to such time as he thinks proper.’

“In this section the argument of juxtaposition as a reason why the clause in question is a limitation upon the so-called ‘Presidential session’ clearly fails.

“In the report on the committee on style, which had no power to change any substantive provision of the Constitution and only had the power to perfect the language and arrangement, made on September 12, 1787, these two independent sentences are grouped together, making two clauses of one sentence in Article II, section 3 (ibid., 709), reading as follows:

“He may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, etc.’—

“transposing the first sentence and slightly varying the second. Article X, section 2, down to and including the clause ‘He shall commission all officers of the United States,’ in the report of the committee on detail, appears in the report of the committee on style, in Article II, as section 3. The substance of the remainder of section 2, considerably transposed and with considerable change of verbiage, is found in sections 1 and 2 of Article II, in the report of the committee on style.

“Under these conditions the argument of juxtaposition seems entitled to but little weight. There is nothing said, so far as I can find in the debates in the convention, upon the construction of this clause—simply the report of the committee on detail, and later on the report of the committee on style.

“In the *Federalist*, in No. 68, written by Mr. Alexander Hamilton, who was also a member of the committee on style, reporting the Constitution in the language in which it now stands, this clause is referred to and construed. This is the great paper in which Mr. Hamilton is defining the powers and the limitations upon the power of the President of the United States, and with reference to this specific point he says:

“Fourthly. The President can only adjourn the National Legislature in the single case of disagreement about the time of the adjournment,’

“I ask the Chair to note this. If this clause is limited to a special session, it is a very important and significant limitation. Mr. Hamilton is undertaking to define in this paper the limitations upon the Presidential power, and he fails to cite this important and significant limitation. Therefore it is a fair inference that in his judgment—he having made the report or taken a part in the report of the committee on style, and responsible for the language as it now stands—it was not limited in its operation to a special session, but applied generally. His first illustration of an analogous power is that ‘the British monarch may prorogue or even dissolve Parliament.’ This illustration, of course, can not be confined to special sessions, but applies to all sessions. Further, by way of illustration, he says:

“The governor of New York may also prorogue the legislature of this State for a limited time; a power which, in certain situations, may be employed to very important purposes,—

“Applicable, apparently, to every session.

“Of course it is not conclusive, but it is significant, and if the Chair please, I point to the fact that while Hamilton elaborates the proposition, he in no sense intimates that it is confined in its application to a special session of Congress. If it is true that this clause is confined to special sessions, it is a most important limitation, and should have been emphasized rather than omitted by Hamilton. To hold that Hamilton omitted it is to impeach either his intelligence or candor, neither of which can be done successfully.”

The act of January 19, 1886,¹ provides that “in case of removal, death, resignation, or inability of both the President and Vice-President of the United States,” then the Secretary of State, or if there be none, or in case of his removal, death, resignation, or inability, then the Secretary of the Treasury, and so on to the Secretary of War, the Attorney-General, the Postmaster-General, the Secretaries of the Navy and Interior, shall act as President if they be eligible and not under impeachment; and it is further provided—

That whenever the powers and duties of the office of President of the United States shall devolve upon any of the persons named herein, if Congress be not then in session, or if it would not meet in accordance with law within twenty days thereafter, it shall be the duty of the person upon whom said powers and duties shall devolve to issue a proclamation convening Congress in extraordinary session, giving twenty days’ notice of the time of meeting.

¹24 Stat. L., p. 1.