

THE ELECTION OF 1876
A LATE 19th CENTURY CONSTITUTIONAL CRISIS

#21

Candidates for President:

Republican – Rutherford Hayes, Governor of Ohio

Democrat – Samuel Tilden, Governor of New York

Popular vote: Tilden 4,300,590 Hayes 4,036,298

Electoral votes needed to win the Presidency – 185

Electoral vote after election and before dispute resolution:

Tilden – 184; Hayes – 165

Disputed – 20. Four states – Louisiana 8; South Carolina 7; Florida 4; Oregon 1

Timeline of the Crisis: from election to inauguration

November 7, 1876 – Election Day

December 4, 1876 – Congress convenes; receives the electoral votes

Rest of December and much of January – much dithering as to the composition of a committee/Commission to resolve the dispute.

January 29, 1877 – Congress creates a bipartisan Commission. 15 members, composed as follows – 5 from the Senate (3 Republicans, 2 Democrats); 5 from the House (3 Democrats, 2 Republicans); 5 from the Supreme Court (supposed to be 2 Republicans, 2 Democrats, 1 Independent). Last-minute change replaced the Independent with a third Republican.

All of February 1877 – Commission examines documents, hears testimony and argument on the disputed states.

March 2, 1877 at 4:20 a.m. – Commission concludes its work. All 20 disputed electors are awarded to Hayes. The vote in each case was 8-7. Final official result: Hayes 185 electoral votes; Tilden 184.

March 4, 1877 – Hayes inaugurated in private ceremony. As the 4th was a Sunday, public inauguration occurs on Monday March 5th.

All of the above leads to passage of the Congressional reform effort, the Electoral Count Act of 1887, passed on February 3rd of that year, a mere decade after resolution of the 1876 election.