Ist nach US-amerikanischem Bundes-Verfassungsrecht eine dritte Amtszeit des Präsidenten wirklich ausgeschlossen?

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(Dornbirn, 25. April 2026)

Der letzte Satz des US-Verfassungszusatzes XII lautet:

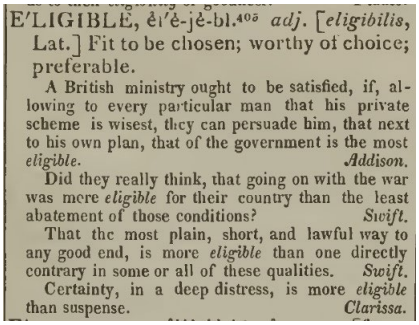
> *But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.*

Und der erste Satz des Zusatzes XXII/1 derselben Konstitution lautet:

> *No person shall be elected to the Office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.*

Auch Verfassungsgesetze sind, betreffs ihrer Begrifflichkeiten, wohl nach deren sprachlicher Bedeutung im Zeitpunkt ihres Inkrafttretens auszulegen.

Bei JOHNSON[1] finden wir zu *eligible*, was folgt:



E'LIGIBLE, ĕl'ĕ-jĕ-bl.[405] *adj.* [*eligibilis*, Lat.] Fit to be chosen; worthy of choice; preferable.

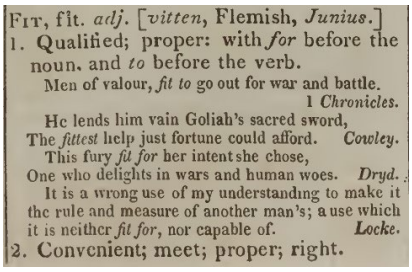
A British ministry ought to be satisfied, if, allowing to every particular man that his private scheme is wisest, they can persuade him, that next to his own plan, that of the government is the most *eligible*. *Addison.*

Did they really think, that going on with the war was more *eligible* for their country than the least abatement of those conditions? *Swift.*

That the most plain, short, and lawful way to any good end, is more *eligible* than one directly contrary in some or all of these qualities. *Swift.*

Certainty, in a deep distress, is more *eligible* than suspense. *Clarissa.*

bzw. zu dem darin vorkommenden *fit*, was ferner folgt:



FIT, fĭt. *adj.* [*vitten*, Flemish, *Junius.*]

1. Qualified; proper: with *for* before the noun, and *to* before the verb.

Men of valour, *fit to* go out for war and battle. 1 *Chronicles.*

He lends him vain Goliah's sacred sword,
The *fittest* help just fortune could afford. *Cowley.*

This fury *fit for* her intent she chose,
One who delights in wars and human woes. *Dryd.*

It is a wrong use of my understanding to make it the rule and measure of another man's; a use which it is neither *fit for*, nor capable of. *Locke.*

2. Convenient; meet; proper; right.

Daraus folgt hieb- und stichfest, dass nach dem 22. Zusatz ein (**persönlich**; und nur darauf kommt es nach dem 12. Zusatz an) ***geeigneter*** Kandidat dann zum Präsidenten angelobt werden muss, obwohl er bereits zweimal dieses Amt bekleidet hat, wenn er vom *College*, entgegen der Anordnung *shall*, gewählt wird, die Wahlleute sich also sicher und gewiss sind, dass es außer ihm gegenwärtig keinen anderen Kandidaten gibt, der besser geeignet wäre; und vom Senat bestätigt wird, für welchen dasselbe gilt.

Denn der 22. Zusatz spricht im Hinblick auf den 12. bewusst und gewollt nicht von *ineligible*, sondern von *shall not be elected*.

Wenn er nun aber tatsächlich gewählt wird, stellt sich die Frage: wie verfahren?

Zumal Artikel II/1/8 US-C von ***he***, also dem Präsidenten, spricht, erhellt, dass er dies bereits nach Bestätigung durch den Senat ist und nicht erst durch die Vereidigung, die stattzufinden hat, bevor er sein Amt vollzieht.

Hinzukommt nämlich betreffs des XXII. Zusatzes, dass es, im Hinblick auf die US-verfassungsrechtlichen Grundsätze der Separation der Zuständigkeiten von Bund einerseits und Bundesstaaten andererseits, dort wohl *shall not be regarded as elected* (nämlich durch den Senat) heißen müsste, wenn sich das Gebot an den Senat richten würde, was offenbar nicht der Fall ist, sodass dieses *shall* als schwach-autoritatives Gebot und nicht als zwingendes Verbot an das College aufzufassen ist!

Einer vom US-Kongress aufgelegten kommentierten Publikation der US-C ist rücksichtlich des XXII. Zusatzes fernerhin zu entnehmen, was folgt:

> SEC. 2. 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 to the States by the Congress.
>
> PROPOSAL AND RATIFICATION
>
> This amendment was proposed to the legislatures of the several States by the Eightieth Congress on Mar. 21, 1947 by House Joint Res. No. 27, and was declared by the Administrator of General Services, on Mar. 1, 1951, to have been ratified by the legislatures of 36 of the 48 States. The dates of ratification were: Maine, March 31, 1947; Michigan, March 31, 1947; Iowa, April 1, 1947; Kansas, April 1, 1947; New Hampshire, April 1, 1947; Delaware, April 2, 1947; Illinois, April 3, 1947; Oregon, April 3, 1947; Colorado, April 12, 1947; California, April 15, 1947; New Jersey, April 15, 1947; Vermont, April 15, 1947; Ohio, April 16, 1947; Wisconsin, April 16, 1947; Pennsylvania, April 29, 1947; Connecticut, May 21, 1947; Missouri, May 22, 1947; Nebraska, May 23, 1947; Virginia, January 28, 1948; Mississippi, February 12, 1948; New York, March 9, 1948; South Dakota, January 21, 1949; North Dakota, February 25, 1949; Louisiana, May 17, 1950; Montana, January 25, 1951; Indiana, January 29, 1951; Idaho, January 30, 1951; New Mexico, February 12, 1951; Wyoming, February 12, 1951; Arkansas, February 15, 1951; Georgia, February 17, 1951; Tennessee, February 20, 1951; Texas, February 22, 1951; Nevada, February 26, 1951; Utah, February 26, 1951; Minnesota, February 27, 1951.
>
> Ratification was completed on February 27, 1951.
>
> The amendment was subsequently ratified by North Carolina on February 28, 1951; South Carolina, March 13, 1951; Maryland, March 14, 1951; Florida, April 16, 1951; Alabama, May 4, 1951.
>
> The amendment was rejected (and not subsequently ratified) by Oklahoma in June 1947, and Massachusetts on June 9, 1949.

Zumal es sich bei dem in Abschnitt 1 des XXII. Zusatzes – siehe oben – vorkommenden Wahlausschluss um einen

[1] *A Dictionary of the English Language*, Vol. I, Philadelphia (1819).

(zusätzlichen) Eingriff in die Rechte der Bundesstaaten handelt, welche das nach Artikel II US-C eingerichtete Elektoren-College reglementieren, war, um ihn in Kraft zu setzen, entgegen seines zuvor zitierten Abschnitts 2, die Einstimmigkeit der Bundesstaaten nötig, welche nicht erzielt wurde.

Artikel V der US-C regelt *Amendments* zur *Constitution* und lautet:

ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Ein *amendment* ist nach englischer Semantik bzw. war dies vor allem zur Zeit der Genesis der US-Konstitution, eine ***Verbesserung***, ja sogar nur eine ***Korrektur***, nicht aber eine (zusätzliche) Beschränkung der Rechte der Mitglieder eines Bundes, welche zuvor nicht vorhanden war!

Bei JOHNSON finden wir dazu, was folgt:

AME'NDMENT, â-mênd'mênt. *n. s.* [*amendement*, Fr.]

1. A change from bad for the better.

Before it was presented on the stage, some things in it have passed your approbation and *amendment*. *Dryden.*

Man is always mending and altering his works; but nature observes the same tenour, because her works are so perfect, that there is no place for *amendments*; nothing that can be reprehended. *Ray.*

There are many natural defects in the understanding capable of *amendment*, which are overlooked and wholly neglected. *Locke.*

2. Reformation of life.

Our Lord and Saviour was of opinion, that they which would not be drawn to *amendment* of life, by the testimony which Moses and the prophets have given, concerning the miseries that follow sinners after death, were not likely to be persuaded by other means, although God from the dead should have raised them up preachers. *Hooker.*

Behold! famine and plague, tribulation and anguish, are sent as scourges for *amendment*. *2 Esdras*, xvi. 19.

Though a serious purpose of *amendment*, and true acts of contrition, before the habit, may be accepted by God; yet there is no sure judgment whether this purpose be serious, or these acts true acts of contrition. *Hammond's Practical Catechism.*

3. Recovery of health.

Your honour's players, hearing your *amendment*, Are come to play a pleasant comedy. *Shaksp.*

AME'NDMENT, â-mênd'mênt. *n. s.* [*emendatio*, Lat.] It signifies, in law, the correction of an errour, committed in a process, and espied before or after judgment; and sometimes after the party's seeking advantage by the errour. *Blount.*

Abschnitt 1 des XXII. Verfassungszusatzes der US-C ist daher überdies verfassungswidrig und rechtsunwirksam.

Quod erat demonstrandum!

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