

AMENDMENT OF THE CONSTITUTION.

The numerous amendments lately proposed to the Constitution of the United States, with regard to the mode of electing the President and Vice-President; and the wide range of debate in the House of Representatives on this subject, would allow me to make a few observations from the public press, which, if made in a spirit of candor, may be useful to the people at large.

As the Constitution was originally framed in this particular, the choice was principally effected, at that time, by electors chosen by the citizens of the states; & there was no designation of candidates for the Presidency or Vice-Presidency. Two persons were voted for, and the one that happened to have the highest number of electoral votes became the chief magistrate; the one having the next highest number, was considered as the Vice-President. It was by this method that Gen. Washington, Mr. John Adams, and Mr. Jefferson, at his first term, were brought into the presidency. But the latter having an equality of votes with Col. Burr, the question was referred, according to the provision of the Constitution, to the decision of the House of Representatives, who determined it in Mr. J. Marion's favor.

As the period approached for another election, a subscription prevailed with the republican party, that the opposition party, comparatively few as they were in number, might, by throwing their weight into the scale of the candidate intended for the Vice-Presidency, defeat the re-election of Mr. Jefferson as President. To prevent this, the Constitution was altered so as to stand as it does at present: similar, in all respects, to the provisions made by the framers of the Constitution in the first instance, except that, in voting, the electors are bound to designate the person they prefer for the Presidency, and the individual destined for the Vice-Presidency.

The avowed object of those who are now proposing an amendment of the constitution, is to give the voice of these two high officers directly to the people, without the intervention of a body of electors. In this object we most cordially concur. But, upon mature reflection, we feel persuaded that the attainment of it is full of difficulties. If these can be overcome we shall most heartily rejoice, and thank those superior minds, which, enjoying a stronger force of reason than we can pretend to, shall point an infallible way, without jeopardizing the harmony of the Union, to ensure to the people the sovereign right of immediately electing two of the principal officers of their government.

What is meant by giving the choice of President and Vice-President directly to the people, is the giving of it to a majority of all the free white male citizens of the United States; entitled, by the laws of the respective states, to vote at elections. In no other way, upon the broad and desirable principle of direct popular suffrage, would the choice be a fair one. In doing this, however, the slaveholding states would be so outnumbered, that, in the election of President and Vice-President, they would be reduced to insignificance; for what would the white population of those states be in the scale against that of Ohio, Pennsylvania, New-Jersey, New-York, and the New-England states? We can never consent, unless the slaveholding states request it, thus constitutionally to deprive them in the choice of the executive; and it is matter of astonishment to us, that gentlemen in Congress, who, on other occasions, are so vigilant to guard against encroachments on the rights of the slaveholding states, should be found, on the question of amending the Constitution, in a point vitally affecting the doctrine of slavery, so ardent in pushing the amendment to a conclusion calculated, more than anything else, to shake the very foundation on which slavery is admitted as an element of our national representative system.

As it is manifestly impossible to give the choice of President and Vice-President to a majority of all the free white citizens entitled to vote, without disfranchising, in a great degree, the slaveholding states, so it is equally impossible, by the substitution of direct popular votes, by districts, for the votes of electors chosen by the people, to give the certainty of an election of chief magistrate by a majority of popular suffrage. In fact, by a district system with electors, as well as by a district system with voters, the minority would be as likely to succeed as the majority, at all times.

To exemplify this, let us take the adjacent State of Maryland, which is laid off into 11 districts. We will suppose two candidates, Y and Z, and the possible majorities in round numbers, for each, to my election of President and Vice-President.

Majorities for Y. Majorities for Z.

District No. 1.	100	1000
2.	500	1000
3.	600	1000
4.	700	1000
5.	400	1000
6.	350	1000
7.	300	1000
8.	400	1000
9.	300	1000
10.	600	1000
11.	150	1000
	1,650	3,000

Thus Y would gain six votes, by majorities of the popular suffrage amounting only to 1,650, whilst Z, with majorities amounting to 3,000, would gain but five. In this manner, the minority of the people would control the majority, which is contrary to the fundamental principle of all our elections. The same thing occurring in many districts, throughout the Union, which might easily happen, would place the minority candidate in the Executive seat. We advert more especially to Maryland, because at the election in 1824, the result here supposed, actually took place. General Jackson got more of the electoral votes, but Mr. Adams got more of the people. The same thing might happen if the votes were given by general ticket in each state.

Every view that can be taken of the Constitution of the United States, will demonstrate that it was formed upon a basis of states, rather than upon the pure basis of a free white population. It was framed by a convention of delegates from the several states; it was ratified by state conventions the representatives and senators in Congress are chosen by states, upon a fixed ratio, which nullifies the fractional parts of the population; the votes for President and Vice-President are apportioned according to the number of senators and representatives from each state; the constitution cannot be altered, unless through the consent of three fourths of the states; in their character of states; and the people of the territories, however, that may be free white citizens, are totally excluded from a vote in Congress, and from doing their suffrage in the election of the Chief Magistrate of the United States, merely because they are not inhabitants of a state. To take the free white voters of the Union, therefore, in a mass, as a basis for regulating national elections, is to change the foundation of the governmental fabric, to abandon state distinctions, and rush into consolidation. We cannot believe that the people of the states are prepared to go to war. When the time of the party was in the zenith of its power, the house of representatives had been compelled, in the case of Mr. Jefferson, to decide the presidential question, and an alteration of the constitution in relation to the election of President and Vice-President, was not deemed expedient to venture upon such an entire trans-

formation of the political foundation on which was established.

The report of the select committee of the Senate, made by Mr. Benton, presents as plausible reasons as can, perhaps, be offered in support of a district system, without the agency of electors. But the change proposed is nominal and not real. It is merely a substitution of districts or electors; because, as the report admits, the elections are generally decided beforehand in favor of a particular candidate and, therefore, the result in either case would be the same. The institution of electors, that report affirms, has failed. How has it failed? It has failed, the select committee assert, because as the people have uniformly looked beyond the electors, and chosen their own candidates. This is, no doubt, the fact. Yet it cannot be justly accounted a failure, that electors chosen by the people should be influenced by the people. No body of men whatever, elected by the citizens at large, can ever act in an a manner, totally independent. It was never intended that the electors should be set; for the framers of the Constitution could never have been weak enough to expect that they would so far absented themselves from the condition of humanity, as to cast off all the affections of social and political intercourse, and subordinate themselves up to pure spiritual exonerance, divested of all the circumstances by which they must necessarily be surrounded.

All that could have been contemplated was, that the electors should vote for those who were worthy of the trust, without endeavoring themselves to be warped by prejudice or intrigue. As, if the will of the people has prevailed with the electors, they cannot surely be charged with corruption in performing their duty. It is an inconsistency to contend, as the argument of the report does, that predominance of the will of the people over the mind of the electors, renders it necessary to abolish the institution of electors, in order that the will of the people may become prevalent.

At most, in such a case, the electors are only superfluous, and have, it is confessed, produced no evil consequence. In what is the district system, without electors, different? In nothing. It does not, as the report admits, give the choice of President and Vice-President more essentially to the people, seeing that the people have always controlled the votes of the electors; and, of course, the alteration proposed is nothing more than doing the same thing in another way.

The argument of the report is equally imperfect in attempting to show that the people, on failing to elect a President in the first instance, would have a second choice, provided the question were again referred to them, according to the plan of the select committee of the Senate. The idea of a second choice is analogous to the one of being "second best"; that is, it is a choice of one out of two or three candidates, neither of whom the people did chose. In truth, according to the project of the report, the people's second experiment are constrained. They are compelled to take their candidate from the two or three mentioned candidates, neither of whom; it is probable, on the second trial - and a new arrangement of parties, if the majority of the people could pursue their own inclination, might be elected by them. There is no popular free will in the second choice. They would be imperatively bound to vote for one of the persons whose names had been returned to them; and thus the people, on the first ballot, would be said in the relation of a college of senators to the people on the second ballot. In other words, the people, who primarily could not agree, would force themselves secondarily to agree to that in which they were not agreed; there is an ingenuity in this method of enabling a plurality to cover a majority that would seem to defy all competition.

The report of the select committee of the Senate, however, does not stop here. After taking the election from the House of Representatives, on account of its liability to corruption, it brings it thither in the last resort. Is not this something like an admission of the wisdom of the framers of the Constitution as it originally stood, and now stands? If the House be as extremely susceptible of this exception as the question itself? It would not be safer there on a second failure of election by the people, than on a first failure; and if the body be really so vicious that it cannot be trusted, it ought not to go there in any event. There is not quite so much ingenuity in subsequently accepting as sound, that which is previously rejected as contaminated, as there is in making the people compel the people to do that which the people had refused to do.

The grand motive, and that which supersedes all other motives, argued for the amendment of the Constitution, is the fear of corruption. According to the tenor of the report before the Senate, corruption is to be looked for in Congress, in the state legislatures, in the electoral colleges, and even among the people themselves; to preclude the possibility of which, in the latter case, the community is to be divided into districts. All this corruption is possible; but is it probable? For our own part, we should not have presumed even to institute that the honorable members of the national legislature, to say nothing of the rest, could, at any moment, be so flagrant a state of corruptibility as may be inferred from the report made by Mr. Benton. But, as a select committee of the Senate has formally announced it as a fact to the world, we must be allowed to say that it proves too much; that is, it proves the principle of the United States to be incapable of self-government. If there are not men of virtue enough among themselves, from whom they may select incorruptible representatives in Congress, for all the specified purposes of the Constitution, they are in a most desperate situation; and the sooner they disown the Union the better. Self-delusion, in the gratification of our passions, is undoubtedly a deadly vice for the Congress to assume a self-delusion, on the ground that the members are not worthy of the trust reposed in them, or incapable of fulfilling it honestly, appears to us to be a species of self-assertion and self-condemnation, without parallel of precedent. We are absolute infidels as to any belief in this regarding vicelessness in that respectable body; and notwithstanding that we are cheerfully disposed to allow the people to vote in a direct manner for President and Vice-President, providing they can do so without disturbing the elements of the constitution, we trust, for the honour of our country, that whenever a change of this kind does take place, the property of it will be advanced upon other considerations than those to be drawn from the supposed want of probity in the members of the House of Representatives.

It would be an easy task to follow the argument of the report made by Mr. Drayton, from beginning to end, and point out defects in it that are incurable by reason. We could show that all the machinery of the corruption practised at Rome, as it exists in the display of a knowledge of Roman electioneering customs by the select committee of the Senate, would be speedily over this whole land; for when did long ambition incite so multiplying its agents and contrivances to suit the occasion? We could explain how the dangers of a choice of President by the House of Representatives, after the people had once failed to elect him, are of less magnitude than those to be apprehended from the convulsions of two great national elections in one year, how, the contest being divided between two or three, and each knowing the strength and that of his rival, would strain every nerve to circumvent and defeat his opponents, and while the popular passions to the last degree of exasperation; and how, in some cases, these rivals, weighing the chances among them-

selves, might endeavor to bribe one another to decline, and leave the people no alternative, we further. We have sufficiently demonstrated that the choice of President and Vice-President cannot be given to a majority or all the free white citizens of the Union without an infringement of the rights of slaveholding states that the mode of election, by districts, without electors, does not insure to a majority of the people, the choice of those to govern. A more eminent manner, that is now resorted to them by the mode of election by the several colleges of electors; and that the giving to the majority of all the free white citizens of the United States, the immediate choice of President and Vice-President, is not attainable by any other means than that of a fundamental change of the basis of the Constitution, from the sole principle on which it was first formed, to a principle of "free white population," entirely excluding the slaves from the number, by which the election of the Chief Magistrate has been, and will be, regulated.

We shall conclude this article therefore,

with a statement of the substance of all the resolutions submitted to the House of Representatives, during the present session of Congress, on the same subject so as to give to our reader a correct view of the whole in as brief a space as possible. This statement follows:

On the 6th December, 1826, by Mr. McDowell, to elect the President and Vice-President by a uniform system of voting by Districts, as to prevent a choice by the House of Representatives.

On the 16th Feb., 1826, by Mr. McDowell, to make the districts in each state correspond with the number of Senators and Representatives to which it is entitled; each district to have one vote.

On Feb. 14th, 1826, by Mr. Mitchell of Tennessee. To render Senators and Representatives incapable of holding office within the terms for which they shall have been elected, and for a year thereafter.

On Dec. 29th, 1826, by Mr. Cook. For a uniform system of voting by districts, directly by the qualified voters, to prevent the election devolving on Congress, and the eventual choice to be from highest on the list previously voted for, the two and to be made by states.

On Jan. 11, 1826, by Mr. Phelps. In case the question should come before the House, and, after two ballots there is no choice, the election to be made by lot, to be drawn by the Speaker, from the names of candidates having the highest number, put into a ballot box.

On Feb. 16, 1826, by Mr. Getzey. The people of the several states, authorized to vote for members of the most numerous branch of the state legislature, to vote directly for the President and Vice-President, and a plurality of votes to determine the choice.

On Feb. 20, 1826, by Mr. Buchanan. To re-establish the election of the 1st section of the 2d article of the original constitution, except that which confers the power of electing the President on the house of representatives; and in case of no election by electors, the states to choose the President from the two highest on the list, as the legislature may direct, each state having one vote.

On Feb. 20th, 1826, by Mr. Dorr. For an uniform system of voting; by districts for electors, the number of districts to be equal to the whole number of senators and representatives to which each state is entitled in Congress; each elector to have one vote; in the contingency of no choice, a new election for electors to be held, and they from the two highest numbers on the first trial, to choose one; the votes to be taken by states; each state to have one vote; the electors to vote by one voice.

On Feb. 21st, 1826, by Mr. Lowell. In the event of the election devolving on the house of representatives, no member voting, to receive an appointment, within the nomination of the President for three years afterwards, unless in case of war, when members may receive appointment in the army or navy.

On Feb. 22nd, 1826, by Mr. Moore. To admit qualified voters for the most numerous branch of the state legislatures to vote directly for President and Vice-President, in such manner as the legislature of each state may direct.

On Feb. 23, 1826, by Mr. Haynes. The people of the several states to vote by general ticket, on the candidate receiving the greatest number of votes in a state, to be taken to have received a number of votes equal to the number of the senators and representatives of the state in Congress. Should there be no election, the two candidates highest on the list are to be returned to the people, who are to vote again by general ticket; and the one receiving the highest number of votes in either event, a majority of the whole number of votes to be necessary to a choice.

On Feb. 24th, 1826, by Mr. Livingston. To give the choice of President and Vice-President directly to the people, without the intervention of electors.

On Feb. 24th, 1826, by Mr. Thompson, of Penn. The citizens in each state qualified to vote for the most numerous branch of the state legislature, to vote directly for President and Vice-President; the returns to be made to the governor, who, with such persons as the state legislature may appoint, shall ascertain the candidate having a majority of all the votes given in his state, and he to be declared to have received the number of electoral votes to which the state is now entitled. In case no candidate has a majority of all the electoral votes, the people are to vote again, in the same manner, confirming their choice to one of the two highest on the list.

On Feb. 26th, 1826, by Mr. Sloan. To give to the free white citizens of the several states, above the age of twenty-one years, by a general vote per capita, throughout the United States, the election of President and Vice-President.

On Feb. 28th, 1826, by Mr. Weston.—After the next election, when a President has served four years, he shall be ineligible again for six years; a uniform system of voting by districts; the electors colligies hereafter to elect the President and Vice-President, by a plurality of votes in the event of the election devolving on Congress, the votes to be given sixty-one, and members voting on such occasions, to be disqualified from holding any office, within the life or denunciation of the President, for four years.

On Feb. 28th, 1826, by Mr. Miner.—That it is expedient to alter the constitution of the United States, in that part which relates to the election of President and Vice-President.

On Feb. 28th, 1826, by Mr. Hemphill.—To choose the President and Vice-President by electors, every sixth year; the electors to meet and vote in August; the Congress to be in session in October every sixth year; the electoral votes to be opened and counted and present; if there be no choice, the qualified electors are to hold an election in December, and vote directly between the persons having the two highest numbers for President; this second election to be conducted as the state legislatures may direct; and the certificates of the votes to be returned and counted in Congress; each state to be reckoned as one vote.

If, at the first election, no person has a majority, and more than two have an equal number of votes; or if, at the second election, the two persons shall have an equal number of votes, the choice is to be made according to the constitution as it was originally agreed to in the 17th of September, 1822. When the President is elected at the first election, the Vice-President is to be

elected agreeably to the provisions of the constitution just mentioned. No person to be eligible to the office of President who has not attained the age of forty-five years; the terms of President and Vice-President to be six years, and the President to be ineligible to the same office forever thereafter.

On February 28th, 1826, by Mr. Ward. For a joint committee of the house of representatives and senate, to consider and report whether any amendments ought to be made to the constitution relative to the choice of President and Vice-President; and, if so, that they report an amendment that may seem most likely to prove acceptable to the people.

From this summary of the resolutions offered in the house, it will be seen that eighteen different propositions have been submitted, in that body alone, in the course of the last three months, for altering the organic law of the general government, respecting the election of the chief executive, and the managers of the nation; whence a doubt may reasonably be entertained as to the final adoption of any one of them by Congress.

MEMBERS OF CONGRESS.

We believe it to be a sound republican axiom, that the power of patronage should be so distributed and diffused, in a republican government, as not to be dangerous in the hands of any one man or department, or give them any undue influence over the other branches of government. But when the concentration of circumstances and multiplication of offices, in the course of time, shall have concentrated, upon one department more now, than is consistent with the above axiom, such checks and guards should be adopted as shall protect the other departments, and the public welfare, from any undue effect it might have on them.

With these views, conceived in reflection and due deliberation, we took up the report of the select committee of the Senate of the United States, of which Mr. Benton is chairman, to whom was referred the preparation to amend the Constitution with respect to the appointment of Senators and Representatives to offices under the federal government.

The committee have gone into deep research, and have drawn from the archives of the early times of the government, the sentiments of the ages of those days, by which they prove, that a section was adopted in the early stage of the convention that formed the constitution, by an almost unanimous vote, excluding members of Congress from appointment to any office under the authority of the United States, during the time for which they have been elected, and the senators for one year afterwards.

But in the latter part of the session this section was altered, and its intention defeated by a majority of a single vote, in the absence of one of the states by which it was supported. In the state convention, this proposition (or similar ones) was recommended by New-York, Virginia, and North-Carolina. A similar proposition was submitted to the first session of the first Congress, and in the third session of the eleventh Congress, in the time of Mr. Madison, an amendment was proposed, excluding members of Congress from civil offices during the Presidential term in which they shall have served as members of Congress. Upon this amendment the vote was evenly one year, forty-one, wanting but three votes of the Constitutional number.

The committee go into an elaborate argument to prove the soundness of the principle upon which the proposed amendment is founded. They successfully combat the argument of the Federalists, where it offers palliation for this defect in the Constitution, by saying that the Constitution guards against an abuse of this power by excluding members from offices created during the term of their election and vacancies in other offices would be insufficient to have much influence. The committee justify observe, that this answer turned upon the false position, that one office could only influence one member, whereas, all the members may have their eyes upon one and the same office, a vacancy in which may have occurred.

And again,