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CONGRESS.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 8.

Debate on the AMENDMENT to the CONSTITUTION, (Continued.)

(Continued.)

Mr. EUSTIS considered the subject important, as it went to effect a considerable change in the existing provisions of the constitution in the mode of electing the chief magistrate; and also important as it had long occupied the attention of the states and of the people. When, said Dr. Eustis, I consider the resolution from the Senate and compare it with that which passed this House, I find several marked differences. It contains three provisions. The first provides for a designation of the persons voted for as President and Vice President, which is a modification rather than a change of principle, and is in unison with the amendment sent from this House and with the general sentiments of the people, perfectly so with the sentiments of the state I have the honor to represent. While on this point it may be proper to state that when I some time since mentioned the instructions given by the legislature of that state on this subject, I did it to shew that the great principle of this amendment had been fought for by all parties in the United States. So far then as it embraces the discriminating principle I am in favor of it. I find that the instructions alluded to leave some latitude with regard to the modification of the amendment, so as to conform it to the opinions of the two Houses.

I do not conceive that the amendment sent from this House effects any alteration in the essential features of the constitution; for when the constitution provides that two persons shall be voted for, it follows that one must be voted for as President, and the other as Vice-President, and the discriminating principle only tends to carry this view into effect. So far this resolution meets my entire approbation.

The second provision of our amendment was that this House should choose the President from the five highest on the list; by the resolution from the Senate the number *five* is struck out, and *three* inserted, in my opinion, unnecessarily. Has any serious inconvenience resulted from the practice under the existing rule in the constitution as to the number of persons from whom a choice shall be made? We have heard of none. The inconvenience experienced arose from another source.—This provision, therefore, of the amendment appears to me exceptionable on this account. It is also exceptionable on account of the language used, which appears to me not to partake of that precision which at present characterises every part of the constitution.

The third provision, contained in this resolution, is more objectionable than the second, because it is predicated on the presumption that the House of Representatives will refuse to make a choice, in case the election of a President is devolved on them. It goes, in my opinion, to provide for a contingency that will never happen.

I am inclined to think that the designating principle will remove every solid objection to the present provisions of the constitution. I wish not to touch the principles of that instrument. Not changing its principles, I wish the election to remain as heretofore, with this sole difference, that the person voted for as President shall be designated by the electors. I object also to this provision, as countenancing and inviting intrigue, and because it removes from the House of Representatives the responsibility under which they are placed by the constitution. It appears to me that in case two rival candidates are presented to the House for a choice, by means of the influence of the Vice-President, the election may be protracted till the fourth of March, or that, in other words, the Vice-President will become President.

I am sensible that this is only a proposition made to the several states, and that it must be submitted to their decision before it becomes part of the constitution. At the same time I am convinced that going forth as an act of this government, it will have great influence with the state legislatures. It ought therefore, before it is submitted to them, to be so correct and explicit, that the collected wisdom of the country may be presumed to adopt it.

I repeat it, the first part of this amendment, that which establishes the designating principle, is a desirable object. I am sorry that I am reduced to the alternative of taking other provisions to obtain this, or otherwise to lose it. I however yet entertain a hope of accommodation, and that gentlemen will suffer this principle, desired by the people, to go to them unencumbered. Under this hope I move a recommitment of the resolution to the committee of the whole House, and that it be made the order for Monday next; that we may, in the mean time, send a message to the Senate to desire them to answer our resolution. The Senate may be induced by this step to take up our resolution, and recede from theirs when they find that it is not agreeable to this House. If, after this measure on our part they prove tenacious, and insist on their resolution, we shall then have to meet the question of agreeing to it in the whole, or of abandoning every thing. I do not know, whether I shall not be induced to vote for the whole resolution, when I am satisfied that a better could not be had. I do not perceive any reasonable objection to this course of proceeding. I do not think a decision of this important subject should be precipitated. The resolution is certainly less perfect than its best friends could wish it; therefore I think it proper to recommit it.

Mr. LOWNDES. It is with very great pleasure that I rise to second the motion of the honorable gentleman from Massachusetts (Dr. Eustis,) because I believe if it is adopted it may be the means of preventing this House from precipitating itself into a dilemma, in which it will not be very honorable for it to be placed. It is the practice of this House in its ordinary business of legislation, to correct inaccurracies of expression when they are pointed out. Ought it then, sir, on so important an occasion as that of changing the constitution, to pass a resolution replete with obscurity. Verbal criticisms are said to be unpleasant, and we have had enough of them. Suffice it to say, that gentlemen, who press the passing of this resolution in the very form in which it came from the Senate, give to it a very different meaning. It is, sir, with equal pleasure I heard the very handsome eulogium passed upon our constitution by the gentleman from Pennsylvania, who says he thinks it better, than even the constitution of that country, which has been termed the most stupendous monument of human wisdom. I hope, sir, that it is better, but the eulogium of the gentleman, is to me an admonition, to beware how I meddle with it. I think, sir, that the gentleman might have gone on and applied to our constitution the observation of a celebrated writer upon that of England, that though in some of its parts, its policy was not obvious and did not strike the superficial observer, yet when tested by practice and experience was discovered to be founded in the greatest wisdom and ability. It is this feature of our constitution, which above all others when examined into is discovered to be founded in that wisdom and utility. Considering the constitution as the deliberate result of the best talents and integrity of our country, exercised at a time when party spirit did not influence our councils, I am unwilling to give into any alteration of it which is not dictated by an imperious necessity. I am unwilling, sir, to familiarize the public mind to innovations upon this compact. I am afraid, sir, that any alteration we may make, however unimportant it may appear to us, may lay the foundation and make necessary other alterations, and that the nice adjustment of the different interests of the states may finally be destroyed. What, sir, is the result of the attempt to make a single alteration in your constitution; for this House certainly when it passed the resolution sent to the Senate, did not contemplate any thing more than a designation of the persons voted for as President and Vice President; but the resolution now before us, contains three distinct specific and independent alterations. If we vary the principle established by the constitution for the election of our Chief Magistrate, and by that means, diminish the influence of the small states in the choice of that officer, what security have we that at another time the combined principle upon which the people of the different states are represented in this House may not also be varied, and the influence of the state which I have the honour of representing and others similarly situated be lessened on this floor. In the few observations which I have to submit to the House, I will endeavour to avoid a repetition of arguments already advanced. The two leading objections made to the constitution as I understand them, and which are made the ground work of the proposed alterations are; that by the double ballot, two persons may be returned to this House having an equal number of votes and a majority of the votes of the electors, and in the event of this House not determining which of the two shall be the President, the peace and tranquility of the country may be hazarded, and that the person not designated by the electors for the President, may by a concurrence of circumstances be elevated to the Chair of State. Though the policy of a double ballot may not be obvious at first sight, from the best reflection I have been able to give the subject I am of opinion that it is founded in wisdom, and the more I examine it, the more confirmed I am in the opinion; the uncertainty which of the two candidates will be the President, is to me a strong argument in favor of it, because, it is calculated to render an access to the office of President, through the medium of Cabal and Intrigue less practicable, and thereby diminishes the inducement which would be held out by the proposed amendments to a resort to those practices: the intrigues of a Candidate if successful at all, may result in his being only the Vice President, a situation certainly not calculated to inspire or satisfy the expectations of an ambitious man. The object of the constitution is to produce the election of fit persons to be magistrates, and compared with this great object, the elevation of a favourite character is of trifling importance. This country is not so destitute of talents that one man only can be found qualified for the office of President. I have no doubt that this country abounds with men eminently qualified. I have no doubt that every state in the union can furnish men, who would administer the government advantageously. The uncertainty who will be the President will impose upon the Electors the obligation of voting for none but men of high character, and if they do their duty, no inconvenience can arise to the country; it is true that two persons may be returned to the House having an equal number of votes, and a majority of the votes of the electors, but it is an event which I think it improbable will ever again occur. I think it much more likely that the elections will come into this House in consequence of no candidate having a majority of votes than from the cause first stated. The men heretofore elected to the office of President, were conspicuous characters during the revolution, it was their conduct during that period, which acquired them the confidence and attachment of the people, they must ere long be off the stage of life. It appears to me that the time is not far distant, when the elections will be much more likely to come into this House from the defect of any candidate having a majority of votes, than from the other cause; but, Mr. Speaker, suppose what has happened should again occur, and that two candidates with an equal number of votes should come into the House, it will then be the duty of the House to determine which of them shall be the President. We then assume the character will of electors—we become electors under the constitution equally with the original electors, and I don't see but we should represent the wishes of the people as correctly—we are equally chosen by the people and in some of the states more immediately than the original electors, but I do not apprehend the mischief which some gentleman have predicted from this occurrence. I trust that there would always be found more patriotism in this country, more of the spirit of conciliation than would permit by a pertinacious adherence to a favorite candidate to endanger the peace of the country. The person not designed by the electors may indeed be the President; but if the electors do their duty and vote for none but men of high character, no injury can result to the country. Establish the discriminating principle, and the electors calculating upon the durability of life, will in their choice of Vice-President, be influenced by considerations by which they ought not to be governed. They will select some popular man for qualities other than those, which would fit him for the station of President. They will say he is a good man—he can preside with credit in the Senate. But he may be called to the exercise of higher duties, and the country exposed to all the evils of a weak and inefficient administration. As the constitution now stands it may indeed happen, that the person not designed by the electors may indeed be the President, but I think it very improbable. But if this resolution is adopted and becomes a part of the constitution, it appears to me inevitable, that the person designed for the Vice-President will be the President, and that under circumstances of very great disadvantage. The resolution goes to defeat the very object which has been stated as the ground of an alteration in the constitution. It says, "and if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President."

This part of the resolution, Mr. Speaker, I think fraught with the greatest mischief to this country. We alter our constitution to prevent, among other reasons, the person from being President, who was not intended by the electors; and in the same resolution we prescribe, under circumstances much more likely to happen, that the Vice-President shall act as President. But, Sir, this is not all, you make it the interest of this Vice-President to prevent an election taking place in this House. You allure him by the greatest temptation which can be held out, to exercise all the arts of intrigue, bribery and corruption to elevate himself, and the whole patronage of the Executive is made subservient to his success. I do not think that a person who comes into office through these means will ever make a good Magistrate. He will not be at liberty to pursue those measures which the good of the country may require and his own judgment dictate. I think it the worst of all possible provisions that can be made.—There are other objections to this resolution, but as they are of minor importance and have already been noticed I shall forbear making any comments upon them. The gentleman from Virginia said that the difficulty of obtaining amendments to the constitution had been made an objection to it, but this resolution departs from the language of the constitution, and instead of the ratification of the legislatures of three-fourths of the states, requires that of three-fourths of the legislatures of the several states to its adoption. In every point of view in which I have considered this resolution, it appears to me objectionable,—nor can I see that that necessity exists for any alteration which alone in my opinion can justify us in meddling with the constitution.

Many gentlemen have disclaimed being influenced upon this occasion by party views or considerations. I am unwilling to impute such views to any gentleman, particularly those who disclaim them; but I think the House ought in justice to its own character to avoid even the appearance of its being actuated (when altering the constitution) by improper motives, and taking up the subject at this time, when the election of a President is so near, does exhibit an appearance not very favorable. If it was for no other reason I would wish this resolution deferred until the next Presidential election is over; it might then be taken up and acted upon without any imputation or appearance of its being designed to meet a particular case.

Mr. ELLIOT. While the present subject is under discussion I shall not quit it until hurled from my seat by the hand of death. As to the doctrine of submitting to the will of a majority, when that majority itself is not ascertained, I must again consider myself as opposing a torrent which threatens the destruction of my country. I have listened with extreme pleasure to the remarks of the gentleman from Massachusetts (Dr. Eustis). To day the terms Federal and Republican have been introduced into the debate. The gentleman from Pennsylvania, (Mr. Gregg) I am persuaded, in the privilege he exercised on this occasion, did not mean to use any improper terms. That gentleman has had the candor to say that one of the majority having risen in the debate it ought to be protracted till every member is heard. It is never my custom to adopt the language of admiration; panegyric is one thing, truth another. That the proposition now under consideration comes from a republican quarter cannot be doubted. I glory that the gentleman who made it is an eminent republican, who stood in the high places of danger, when we, as the poet says, "Were mewling and puking in our nurses arms." I rejoice that we can take ground so high, assumed by one whose republicanism cannot be questioned. What objection can gentlemen have to recommit a most important proposition, and to postpone it for three or four days? Is not this republican, to invite to cool reflection the agitated minds of the members of this House and of the people? If this is not republican, then what is? The object we have in view is most decidedly, most gloriously republican. What is that object? To support the dignity of the Representatives of the people. This, I repeat, is gloriously republican. I am glad such an opportunity is presented to evince to the American people, the sincerity of our republican principles; those principles I will ever support in imitation of the bright example of the revolutionary patriot, who has made this motion. I will die at my post, if necessary, to support them. Sometime since, after long and deliberate discussion, we passed a resolution which was some weeks ago sent to the Senate. There it seems to sleep the sleep of death. The Senate have not deigned to inform us, whether they have deigned to bestow on it a moment's attention. It has been superceded by a resolution to which I trust in God that the American people are not prepared to agree; by a resolution bearing on the face of it the most manifest want of precision and of haste, that I ever saw, and we are now told that is disrespectful to enquire whether the Senate will or will not bestow the least attention. I have no wish to wander into the wide field of discussion. I wish only to make a few observations in favor of the reference. The object of the motion has been already stated. It has been stated that it comes from a republican quarter, from one who cannot be considered as a federal man, or as actuated by a desire to defeat the great object of the amendment. It may further be stated, that the prospect begins to brighten; the dark clouds which yesterday hovered over us have passed away. I have been assured by several republican members, that it is their sincere will that this amendment should be altered before it is passed. I know of one republican member from the republican state of Pennsylvania, (Mr. Hoge) who desires an opportunity of introducing an amendment; such an one, as if adopted, may remove his objections to the resolution. This is a forcible argument in favor of a recommitment, and can only be answered by a recurrence to the principle of the omnipotence of a majority. Unless amended I feel a strong presentiment that the resolution on the table will not obtain a constitutional majority—I believe it will be rejected by republican men on republican principles, as anti-republican, as tending to destroy the constitution, and to introduce intrigue, venality and corruption. I believe the great mass of the American people to be virtuous, but I believe there are bad men in both parties. I believe there are in both parties some men of aspiring and unprincipled genius, who if advanced to the banks of the Rubicon, would not, as Cæsar did, pause for a moment. Believing that this motion comes from a republican quarter, that it will have a republican effect, by preserving our republican constitution, and being one who can never be in favor of any thing not republican, I must support this motion hoping there is that spirit of wisdom in the House that will ensure its adoption.

Mr. GREGG. I understand the gentleman as saying it would save time to send a message to the Senate to require an answer to our resolution. I did believe the gentleman too well versed in parliamentary proceedings to fail on this idea. I do not recollect such a proceeding ever to have occurred. Each House will undoubtedly act as they see proper.

After a few observations by several gentlemen on the propriety of sending a message to the Senate, as intimated by Dr. Eustis, the question was taken on the preliminary motion to recommit, and passed in the negative—Ayes 49—Noes 59.

Mr. GODDARD. After what passed in the House yesterday, respecting the resolution on your table; and after the remark, which have fallen from the gentleman from Pennsylvania, (Mr. Gregg) I presume it will not be thought strange, that gentlemen opposed to a concurrence with the Senate in the passage of this resolution, should express to the House their reasons, for that opposition—I rise Mr. Speaker, to do this.—Before I enter into a consideration of the merits of the resolution, let me notice a remark which fell from the gentleman from Pennsylvania, that the time had been when the adoption of the discriminating principle, in the choice of President and Vice-President, was