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CONGRESS.

From the Washington Republican.

SENATE.

Thursday, March 18.

Debate on the Amendment to the Constitution.

On motion of Mr. Hayne, the several resolutions proposing amendments to the Constitution, in relation to the election of President and Vice President, were taken up.

Mr. BARBOUR was called to the Chair. Mr. MILLS moved the indefinite postponement of all further consideration of the subject.

After some few preliminary remarks by other members,

Mr. KING, of New-York, spoke in favor of the motion to postpone. The reporter was then, as he has always been during the present session, unable to hear the remarks of this gentleman with sufficient distinctness to report them fully and accurately. Mr. K. was understood as being opposed to any amendment of the Constitution, upon the point proposed by these resolutions. He was in favor of retaining, in the hands of the small States, the power which they possess in the election of President, when that election results to the House of Representatives. He considered that power as congenial to the federative character of our government, and as having been the fruit of that happy spirit of concession, which led to the formation and adoption of our present constitution. He held this right to be as sacred a part of the constitution, and as consonant with the genius of our government, as that of the small States to a representation in the Senate equal to that of the large States. He thought the situation of the country, at this time, did not invite such a change of the constitution as was proposed by these amendments; and that, if made, it might prove to be a dangerous innovation upon the peculiar character of our government.

Mr. K. then proceeded, as we understood him, to advert to a power which he considered as foreboding far more dangerous to this country than that of the election of President, in the constitutional form, by the House of Representatives—a great central power, which might avail itself of all the means of party spirit, of intrigue, and corruption, to effect its purposes. He alluded to the practice of nominating candidates for the first office in the nation, by Congressional caucuses, &c.

Mr. SMITH, of Maryland, was in favour of some amendment of the constitution, in order to establish a uniform mode of electing the President; and the resolutions now before the Senate would only go to produce that effect. He considered it to be the true meaning and intent of the constitution, that the election should be made in some uniform mode, throughout the States; and if it were so; the choice would not frequently come into the House of Representatives. If the present provisions of the constitution were suffered to remain, he did not see how we could ever have a President and Vice-President elected by the people. Such an event would be morally impossible. He believed it was in the spirit of the constitution that the President should be elected by the people of the United States. Now, if an amendment was proposed, which would increase the probability of an election according to the true spirit of that instrument, why should it not be adopted? In those States in which the choice of electors is made by the legislature, there has been repeated propositions to change the mode of election, on the spur of the occasion, to favour the views of particular candidates. Changes of this kind, Mr. S. believed, had been proposed in Virginia, and in New-York, in order to affect their elections. In New-York, the members of the legislature had been subjected to scorn and contempt, for not altering the mode of choosing electors, to meet a certain exigency. Mr. S. said, if he had been a member of that body, he certainly should not have voted for such a change, under such circumstances. He thought the mode of election, whatever it might be, ought to be uniform in each State, and throughout the Union.

The resolution proposed by the gentleman from Missouri, had been taken up, and partly discussed—and, Mr. S. said, he did not know why it should not be further considered. He had never listened with more pleasure, than to the arguments of that gentleman, in support of the plan he had proposed; and as other members had intimated their wish to reply to those arguments, Mr. Smith was willing they should have the opportunity to do so. When the speech of the member from Missouri came to be printed, as it probably would be, and as it richly deserved to be, he wished to see the argument of those who were opposed to that gentleman's plan also printed—that the public might see, and judge, of the reasons urged in its support.

As to the practice of holding caucuses, to which the gentleman from New-York had alluded, it had long existed in this country. It was no new thing here. It had been adopted on a great many important occasions—it had produced a great many good effects. Mr. S. believed the first embargo was agreed upon in caucus. Every one had a right to the exercise of his own opinions and principles on that subject. But, Mr. S. said, he considered the present question to be upon the propriety of establishing some uniform mode of electing the President;—and this, he thought, ought to be done.

Mr. VAN BUREN, of New-York, said, that it had not been his intention to add anything to the remarks he had heretofore submitted on the motion now under consideration, but some explanation on his part had become necessary.

It would, he thought, be unjust, as well to his constituents as to himself, to suffer the new views which had been taken of the subject by his honorable colleague, to pass unnoticed. In discharging the duty thus imposed upon him, he would not increase the excitement which had been manifested by giving any latitude to the discussion which the occasion did not call for. No portion of the time of the Senate would be occupied by him, in discussing the constitutionality of a Congressional Caucus; nor in considering any of those nice distinctions which challenged respect for the proceedings of Conventions of one description, and denied it to others; nor in detecting those still more subtle refinements which regarded meetings of the same character as sometimes proper, and others destructive of the purity of elections, and dangerous to the liberties of the people. He could not satisfy himself that this was either the place or the occasion for discussion of that character. But, whilst he abstained from following his colleague in the remarks having reference to this subject, which he had allowed himself to make, Mr. V. B. hoped that he would not be understood as wishing to raise a question as to the propriety of the course which his colleague thought proper to pursue. It would not become him to do so. The principal ground taken for the postponement of the resolution, on a former occasion, related to the excitement produced by the approaching election, and the superior fitness of a future period for the consideration of the subject. This ground had now been much enlarged. It had been observed by an honorable member from North-Carolina, in opposition to the motion, that the necessity of some amendment of the Constitution, in this respect, was generally admitted, and had been extensively called for by the people. Mr. V. B. understood his colleague not only to deny the fact alleged, as to the state of public opinion, but to contest the propriety of any amendment of the Constitution on the subject of the choice of President and Vice President. It was on these two points he would make a few remarks. It could not, he thought, be necessary, and might not be proper, to detain the Senate by a minute statement of the various proceedings of Congress, and of the states, on the subject. A very brief reference to them would show that the gentleman from North-Carolina was supported by facts in the opinion he had expressed. Mr. V. B. believed that, on examination, it would be found that the first movement on the subject had been made by the state he had the honor, in part, to represent. It was now twenty-two years since the Legislature of New-York, shortly after an election, and under circumstances entirely disconnecting the measure with any pending controversy, had, with great unanimity, passed resolutions in favor of an amendment of the Constitution of the United States, requiring the division of the respective states into Districts, for the choice of Electors, and authorizing their selection immediately by the people. Those resolutions were communicated to Congress, and would be found on the Journals of the Senate; since that, the subject had been acted upon, at various periods, and in different forms, as well by Congress as by the Legislatures of the different States. Of the proceedings of the latter, those of North-Carolina and New Jersey have been the most conspicuous. The Legislature of North-Carolina passed resolutions nearly similar to those of New-York, and sent them to the different States for concurrence. New-York instructed her Senators, and requested her Representatives, to endeavor to obtain the amendment proposed by North-Carolina, and many of the states gave similar instructions. At least three times within eleven years, and as late as the year 1822, resolutions proposing amendments to the Constitution upon the subject of the election of President and Vice President, have passed this body, by more than the Constitutional majority, and there had been few sessions for several years, in which the subject had not been more or less acted upon. Early in the present session, resolutions for amendment had been proposed by Senators from Missouri, New Jersey, South Carolina, Massachusetts, and New-York. Their respective propositions had been referred to a committee, combining much of the talent and experience of the Senate, of which his colleague was a member. The subject had been considered with care, and a plan reported, containing, as the committee thought, the best parts of the resolutions referred to them. In that report, he understood the committee were unanimous, and appearances certainly indicated the adoption of some resolution on the subject at the present session. Such were his impressions, and he thought that such had been the opinions of the members of the Senate generally. In view of the facts he had stated, he could neither repress nor conceal his disappointment in finding the motion for postponement now supported on the ground that no amendment was desired by the people.

Mr. Van Buren said, that although the resolution he had proposed, had not been wholly adopted by the committee, and notwithstanding he desired material alterations of that reported, still, if he should be successful in his endeavors to obtain the alterations he wished, he would cheerfully vote for the amendment reported by the committee. He considered it to be far preferable, for all concerned, to the existing provisions of the constitution. It would be unwise, he thought, to examine the merits of the various plans proposed, before the Senate decided on the present motion. He was unwilling to occupy the time of the Senate in discussions, which might be rendered worse than useless, by the postponement of the subject, but his honorable colleague had taken one view of the question, which he offered a brief reply indisputable. If Mr. Van Buren had correctly understood his colleague, he had spoken of the proposed amendment as an attempt, on the part of the large states, to deprive the smaller states, in the confederacy, of their equal vote, in the House of Representatives, in the choice of the President, on the ground of its being a usurpation which ought to be repressed; and thus considering the subject, he had enlarged on the circumstances under which this right was conceded to the small states, and had spoken of the great danger to which they were exposed, from the possible

combination between the states of Virginia, Pennsylvania and New-York. Mr. Van Buren thought it due to his constituents, from their relation to the question in that form, and to himself also, as having introduced one of the resolutions, to disclaim, for both, any views of the character alluded to. A reference to what had taken place here, ought to dispel the erroneous impression which had been made on the mind of his colleague. The first proposition for an amendment of the constitution, in this respect, offered at this session, came from Missouri, the youngest, and, except one, or perhaps two, the smallest state in the confederacy; and the others, from New-Jersey, South-Carolina, Massachusetts, and New-York, in the order in which he had named these states. The propositions from New-Jersey and South-Carolina, yielded the principle of giving to each state an equal vote, on receiving what they regarded as an equivalent. That equivalent consisted in the division of the large states into districts, to which, by the suggestion of the gentlemen from South-Carolina, was added the propositions, which could not but prove conservative of the interests of all, the removal of the decision from the House of Representatives. The principal difference between the plan he had the honor to propose, and those of which he had last spoken, was, that instead of deciding for the ultimate decision of the question by the House of Representatives, as was done in that of the gentleman from New-Jersey, he proposed a second reference to the electors; and instead of sending it back as often as it might be necessary to a choice, as proposed by the gentleman from South-Carolina, Mr. Van Buren's plan compelled a choice on the second ballot by the electors; a majority of the committee, to which the several propositions had been referred, were from small states, and they had agreed on an amendment, founded on principles of reciprocal concessions for the general good. This was all that the representatives of the large states had, as he understood them, contended for. They could not, ought not, did not desire that the small states should surrender any portion of the power and influence now secured to them by the constitution, unless these states should themselves think that their own condition would be improved, and the general welfare promoted, by their doing so, on receiving concessions, fully equivalent, from the large states. Considerations of such liberal and equitable character had been held out on both sides, and the conflicting interests of the different states, on this point, arising from their unfortunate inequality, had hitherto, to the honor of the Senate, been commented upon without the least acrimony, and under the control of feelings which promised the most auspicious results. Mr. Van Buren said that nothing had taken place to change his views or disposition on the subject. He was anxious to continue the discussion, and was willing to lend his feeble efforts to obtain the adoption of some resolution on the subject, at this session. To this end, he was ready, on the part of his constituents, to make all reasonable sacrifices. If, however, gentlemen thought that the next session would be a more propitious period, and the character of the debate, on this motion, certainly afforded some reason to believe that it might be so, he would bow respectfully to the will of the majority. Until, however, that was expressed, he would continue to oppose the postponement.

Mr. DICKERSON, of New-Jersey, said, the convention who formed our constitution could not have foreseen all the effects of its operation—powers have resulted from it that were not anticipated—the relative strength of the states has undergone a change, which has disturbed the checks and balances of the constitution. The honorable gentleman from Missouri, (Mr. Benton), has shown the evils of the present system of electing a President, and the necessity of districting the states for that purpose, in the strongest point of view. The election of a President by the people at large would be a preferable mode, if it were practicable; but, whoever will look at the situation of our country, with its different kinds of population; different modes of election; different qualifications of voters, must at once perceive that such an election is utterly impracticable. The choosing of the Presidential electors, in single districts, is the nearest possible approach to an election by the people at large. A disproportion has grown out of the relative powers of the great and small states, which the members of the convention could not have foreseen, and which has given a new character to our system. In an election by the electors, six great states can control the election; and leave eighteen states without power or influence upon the question. In the House of Representatives, thirteen small states, with forty-five representatives, can elect a President without the residue of the states, with 168 representatives. Why should the great states be all powerful in the first case, and the small states in the latter? The gentleman from New-York (Mr. King) is willing to put the small states on an equality with the large. Is he so? This is very strange. But it is only in choosing a President in the House of Representatives, which can rarely occur. But is he willing to give this equality of vote, on the first election of a President, which must occur every four years? No. New-York, Pennsylvania, Virginia, North-Carolina, Kentucky, and Ohio, have 133 electors, and can control the election of a President—bare majorities, in each of these states, can control the Union, upon this question. These states are of contiguous territory, and may easily have a community of interest that shall bind them together, at least upon one question. The gentleman from Missouri says, that the power exercised by the legislatures of the states, to appoint electors, is an usurpation—that it ought to be relinquished without any concession of power on the part of the small states. Call this power by what name you please, it is now a permanent power; only to be reached by an amendment of the constitution. However incorrect the construction of the constitution might have been, and was, when this power was first assumed, it has been acquiesced in for more than thirty years. To reject the electoral votes thus given, at this time, would be to dissolve the Union. It is too late to oppose the exercise of this power. But the power on the part of the states, to choose

their electors by general ticket, is not denied, and yet its effect is precisely the same: it gives the great states precisely the same power to control the election of a President. So far as regards the citizens of the large states where it may be adopted, it is equally oppressive to the minorities, and less calculated to give a fair expression of the will of the majorities. In the state of New-York, for instance, with a population of one million and a half, and a territory of 46,000 square miles, 50 electors are to be chosen by general ticket; they are to be selected from the different districts of the state—any other arrangement could not succeed. The voters, generally speaking, would not know, even by name, more than one or two of the electors to be voted for; for all the rest, they must vote upon trust. The voter follows the great man of his town—the great man of the county—and he some three or four great men of the state; who thus wield the force of a million and a half of people.

If the legislature choose the electors, they have the opportunity of knowing whom they choose; they are the agents in whom their constituents confide; they, at least, afford a connecting link of information between the people and the electors to be chosen. Will the large states give up this power, without a corresponding concession on the part of the small states? They will not. They are strong, sturdy, and obstinate. They have been urged upon this point for twenty years, but without effect further efforts are hopeless. What is the power of the small states, which it is the wish of the great states to restrain or modify?

On an election of President, in the House of Representatives, 31 members, from 13 small states, can control the election. Is this a safe power, even to the small states themselves? Should they exercise their power to the full extent, the first attempt would probably be fatal to their independence. Can they feel a confidence that they would exercise their power with discretion? In the moment of party excitement, when ambition, and all the fierce passions of anger and resentment, have their sway, discretion is lost sight of. The power is a dangerous one—much more dangerous to the small states than to the large. The danger of dissolving our Union would create, comparatively, but little alarm in New-York. What has she to fear? She is an empire in herself. But, with New-Jersey, the case is altogether different. Without the constitution, she must cease to be an independent state. Situated between two potent neighbors, of whose disposition to oppress she had sufficient evidence, between the close of the revolutionary war and the formation of our present constitution, she would be crushed. On the dissolution of the Union, real property, in New Jersey, would instantly fall 50 per cent. The state is so situated, that a large portion of her commerce must necessarily go through the ports of New-York and Pennsylvania. The duties on foreign goods consumed in New Jersey, would be paid in New-York and Pennsylvania, and pass into the treasuries of those states. New Jersey would be tributary to them. She would resist—and probably make the city of Jersey, Perth Amboy and Burlington, free ports of entry. This would destroy her whole system of protecting the industry of the state, and would lead to acts of retaliation on the part of those states in which her prosperity would be utterly destroyed. New Jersey has a stronger interest in the constitution than any other state in the Union.

It is for this reason, that, in that state, there is the strongest disposition to provide for the permanency of the constitution, by correcting the abuses that have grown up under it; more especially the disproportion of the power of the great and small states in choosing the Chief Magistrate; and the difficulty of such a choice in the House of Representatives. How the fears of the gentleman from New York have been allayed, within a few weeks, I know not; while the dangers themselves have evidently increased.

The dangers of choosing the President, in 1801, were such, as to threaten us with dissolution of our compact. But, the difficulties now to be contended with, in such an election, would be made much greater. Then, there were but two candidates; the first ballot would have resulted in a choice, if some states had not been divided. Now, there must be three candidates. The House of Representatives will be divided between the three; even the representatives of the states may be divided between the three. The confusion might become inextricable.

Suppose New-York were to give 12 votes to A, 11 to B, and 11 to C, would this ensure the vote of New-York for A? The friends of B and C would say not. Should a plurality, or majority, govern in such a case? Should the State say what its vote? or should the House of Representatives prescribe the rule? The case is full of difficulty and danger.

This amendment, Mr. D. said, if it should be agreed to by the requisite number of both Houses of Congress, must be submitted to the several states; and, unless three-fourths of them were in favor of it, it could not be adopted. The large and the small states must all be consulted, and he well knew it would be very difficult to get any amendment adopted. It is said that it will take away the rights of the states. But, unless they agree to it, the proposition can never take effect. Mr. D. thought the present provision of the constitution, in respect to the election of President, was extremely weak. He was fully convinced that it was the unanimous opinion of the old states, that some alteration ought to take place; they have earnestly looked for it, they ask it at our hands. Both the small and the large states will consent to give up something, for the sake of effecting that object. Neither of them would be willing to do it, unless an equivalent was obtained. Mr. D. feared that the present was not the time to act upon these amendments; he thought it would be necessary to test the constitution, as it now stands, a little longer. It would take a long time to get any amendment through, and it was thought that the present was not a fit time for the discussion, in consequence of the excitement which prevails throughout the country in regard to the ensuing election. The gentleman from New York has changed his mind, respecting the propriety of amending the constitution.

reference to the change of opinion imputed to him by the gentleman from New Jersey. We understood him to say, that, although he had formerly been favorable to some amendment of the Constitution, in regard to the election of President, yet his attention had been most powerfully attracted by a power which had since risen up, which appeared to him so terrific, that he hardly dared to contemplate the effects it might produce—he meant the power which members of Congress had assumed, of nominating a President of the United States. It was placing the complete control of the government in the hands of a party—he firmly believed that the power thus assumed, would, if permitted to be exercised, eventually overwhelm the Constitution. It would produce a fearful combination of the large states. The small states, he thought, would not consent to go into Caucus—if they did, it would be a suicidal act, on their part. He called upon gentlemen to produce the smallest authority, in any part of the Constitution, for these meetings. He considered them as violating the spirit of that instrument. The power of choosing the President, is given to the Colleges of Electors—the election, in the first instance, is in their hands; and, to prevent the possibility of combination, they are chosen only about thirty days before their office is to be performed. The election is directed to be made, in all the different states, on the same day, and the Electors are permitted to make but one attempt at a choice. These provisions of the Constitution were adopted for the express purpose of preventing combinations—an effect which Mr. K. thought was greatly to be dreaded, from the practice of nomination, by Congressional Caucuses.

Mr. DICKERSON resumed—he intended no disrespect to the honorable member from New York, in imputing to him a change of opinion on this subject. In regard to the caucus which had been spoken of in this discussion, Mr. D. said, he conceived it was neither forbidden nor enjoined by the constitution. He considered it as a perfectly harmless expression of the opinions of those who attended it. Members of Congress had certainly as good a right, in their individual capacities, to recommend a candidate for the Presidency, as any other men. Similar meetings have been held in every state; every county, and in almost every town in the country. The same privilege of recommending candidates is exercised by every printer in the country—some of them have recommended three or four different candidates within the last six or eight months. No mischief can result from the caucus nomination—it imposes upon nobody—it binds nobody—it will go for what it is worthy, and no more—it is the mere exercise of opinion, and that is a right which, whether it respected men or measures, Mr. D. said, he would never relinquish. It is a right guaranteed by the constitution and the laws of the country, and one which will be exercised.

Mr. HOLMES, of Maine, next rose. It is to me (said Mr. H.) matter of regret and astonishment, that this debate should have taken such turn. I had the honor to be, with the gentleman from New-York, (Mr. King), on the committee to whom these amendments to the Constitution were referred. I had, till then, some doubts whether, at this time, it was proper to act upon them. But I then had the countenance and support of that honorable gentleman. Full well I knew and appreciated his experience and wisdom. As he was one of those who framed that instrument, and knew the views and motives of his associates, I adopted him, in some measure, as my Mentor. The amendment which has been the subject of his animadversions, was agreed on in committee, with great unanimity; and by none with more cordiality and zeal than by that gentleman. But though he has seen fit to change his opinion, I have not. However I may respect him, I cannot consent to be led about in this way. For the reasons which he has deemed proper to offer to the Senate, I, as one, feel mortified and humbled. Never before, except once, and that by the same honorable member, has the election, which now agitates the public, been introduced into our deliberations. This Senate should be, and, until now, thank God, it has been, above popular excitement. And from what source does it come? Who sets the pernicious example? One whose age and experience point him out as a model.

Sir, I assure that honorable gentleman, that I have no need of his advice, nor will I submit to the dictation of any Senator here; to direct me in my private or individual conduct. Until I shall be arraigned, as the Constitution prescribes, I shall not condescend to account to any, or all, the members of this Senate, for my acts out of this body, and with which they have no concern.

The first use of the word "Caucus" here, in debate, I regret to say, was from that gentleman. He has been pleased to arraign before the Senate certain members of this, and the other House, because they saw fit to meet and recommend a candidate to the people, for President of the United States. And, by this act, he affects to believe that the Constitution has been so violated, that he would not amend it at all. Sir, pardon me when I say that this is an idle dream.

He seems to apprehend that the time will come, when the President and Heads of Departments will participate in such a Convention. Sir, there is no danger of that. When the members of the Executive Department shall combine to appoint a successor for the President, the people will put down the combination. No, sir, when these gentlemen attempt this, it will not be by a public meeting. Secret engines will be put in operation—private agents will be employed, and means will be used which shall slink the light.

A public meeting has been held to recommend to the people to unite, and keep the election in their own hands. At this, the honorable gentleman takes umbrage and alarm—he condemns this measure of union; and avows his wishes that the election may be made by the House of Representatives. He seems to think, that any meeting, or any exertions of individuals to prevent it, is to defeat the provisions of the Constitution. This, from a representative of the largest state in the Union, is very frank, and very disinterested. It would be humiliating to give the proper answer to all this—a regard to the
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