

THE STAR,

And North-Carolina Gazette,

Published weekly, by

BELL & LAWRENCE.

Subscription, three dollars per annum. No paper will be sent without at least \$1.50 in paid advance, and no paper discontinued, but at the option of the Editor, unless all arrears are paid. Advertisements, not exceeding fifteen lines, inserted three times for one dollar, and twenty-five words for each insertion. All letters to the Editor must be post paid.

From the National Journal.

The election of President in the House of Representatives.

TO THE PEOPLE OF THE UNITED STATES.

It is impossible for any one who has conversed with the history of nations, and the authority of our laws, without admiration. In no other country are the people so free or the laws so absolute. Their execution is never resisted by force, nor even obstructed by tumults; and so sacred is their influence that their victims do not complain of their supremacy.

To this proud acquiescence and general consent there seems to be an exception in the discontent and apprehension which many persons have expressed at seeing the election of President referred to the House of Representatives. They have considered it a power too great to be superadded to the regular functions of that body; too important to be withdrawn altogether from the people and too dangerous, from its relationship with the executive, to be confided to a branch of the legislature.

But this sentiment of anxiety, however natural, is in a great degree produced by a misconception of the extent and character of the power in question. Those who feel it ascribe to this part of the Constitution, a greater degree than really belongs to it, and suppose that it involves, in certain contingencies, on the lower house of Congress an absolute control over the appointment of the President. If this apprehension were just, it would indeed be alarming. It would present a state of things utterly subversive of the fundamental maxim of good government. It would confound what ought to be distinct, and make the executive the creature of the legislature. The symmetry of the Constitution would be deformed, and its strength destroyed. For this violation of principle and rule, would soon cease to be contingent. It would have the faculty of reproducing itself, and would necessarily become uniform. It would always be in the power of a party in Congress, by the machinery of a caucus, or by some more guilty contrivance, to distract the public mind by presenting a multitude of candidates, or by supporting the least popular among those who might offer themselves, to prevent any one from receiving a majority of votes, and thus bring the election into the House of Representatives; where, according to the wishes of some, and the fears of others, the choice of the chief magistrate would be removed completely from the influence of the people, and subjected entirely to the arbitrary determination of the members of Congress. That such a course might be invariably given to the election, is evidently possible, if this doctrine were sound; and that it would be highly probable, in that case, may be inferred from the fact, that those politicians who supported the late caucus nomination, are the persons who now inculcate the notion, that the election in progress, is to be decided by the independent judgment of the House of Representatives, without reference to the existing and intelligible manifestations of the public will.

A brief examination of the subject, however, will be sufficient to show, that the defect complained of, is by no means avoidable, and the evil apprehended from it, not likely to be formidable; that the power thus contingently delegated, though nominal and important, is accompanied by limitations, and guarded by a responsibility, so marked and so strict, as to secure us against all reasonable fear of its mischievous or tyrannical exercise. Indeed the very fact of its being referred to the immediate representatives of the people, in preference to any other pre-existing body, affords strong evidence of the cautious and reserved character here assigned to it, and of the impending weight of accountability, with which its execution must be attended. But in order to demonstrate it more clearly, let us consult the spirit of the government, and the letter of the Constitution.

In every well regulated government, there is one great principle that supports its whole organization, governs all its combinations, and inspires all its laws. The axiom, that the origin of all political power is in the people, lies at the basis of our Constitution, and actu-

ally all our institutions. But in the House of Representatives, its chief energy is found. This great political organ receives the popular will from a thousand sources, and by the vigorous action of a direct responsibility, distributes it through every branch of the government. If the pulse of the executive beat high with ambition, if it languish with indolence, or sink with corruption, the sovereignty of the people, acting immediately on the House of Representatives, restrains, rouses or renews it. The members of the judiciary, like the head of the executive, are amenable to this body, which is itself responsible to the people alone. It lies nearest to the people, and its power is the exact measure of its responsibility. In it, their action on the government begins, and through it, continues. However elevated, or however humble, however permanent or transient the office, the force of public sentiment is transmitted to it, in due proportion, by the just and beautiful economy of our system. Upon this direct influence on the one hand, and accumulated accountability on the other, the health and vigor of the system depend. As long as they are preserved our liberty is secure, and must persist, as soon as they are destroyed.

In respect to the nature of this responsibility, although some difference of opinion has prevailed, none has existed as to its degree. Members of the house have conceived themselves bound by the will of their immediate constituents, or of the citizens of their respective states, or of the nation according to the more local or general nature of the subject of legislation, or to their particular apprehensions of the direction of official obligation. But all have agreed, that where no bar is interposed by the Constitution, (which being the most solemn act of the people, is the highest possible form of instruction, the subservience of the representative to the constituent is complete. And if this doctrine holds good in matters of mere legislation, which constitutes the general and ordinary duty of the representative body—if the judgment of a faithful delegate is to be regulated by the voice of the people, in its local, limited, or general expression, upon subjects connected with foreign intercourse, domestic trade, the collection of taxes, the disbursement of revenue; is any man prepared so far to violate justice, reason, and analogy, as to contend, that upon a matter of specific, contingent, and momentous trust, such as the choice of the highest officer in the government, the actual and unequivocal expression of the people's will is not still more to be regarded? For let it be observed that the people have already declared their preference, by an organic act, and that in all the relations of life, both moral and political, the more definite the character, or rare the occurrence, or important the nature of the duty, the more unconditional the obligation attached to it becomes, and the more rigorous the responsibility by which its performance is enforced.

This view of the subject, which accords with the spirit of the government, coincides exactly with the letter of the Constitution. From this it appears, that in electing a President, not only is the House of Representatives surrounded by stricter limitations, and placed under additional accountability, but the act itself, instead of being original, is conclusive. The members of the House are not expected to reverse, but required to fulfil, the wishes of the people. They are not to abolish what is begun, but to complete what is unfinished. In the appointment of Electors, the people having operated in their national capacity, to the choice of President, the organic provision regarding that event, is satisfied. But the prudential maxims of government required, in forming the constitution, that the danger of small pluralities should be avoided, and that in a system founded on the consent of the people, it would be unsafe to place in the chief office of the state, any individual who did not concentrate in his person, not only a greater number of electoral votes than any of his competitors, but a greater number than all. Less than a majority, it was wisely considered, would be too narrow a base for so elevated a station. This consideration if we except the simple accident of a tie) was the only motive for a reference. And indeed there could have been no other; for the candidate who has a plurality of votes is as clearly superior in popular favor to his opponent, as if he had a majority. Were there in a balance, and the scale containing 100 pounds, preponderates over that with 80, or that with 50, as indisputably, as if it held 30, or 50, or 100 pounds more. The nature of preponderance is perfectly

simple, and can neither be explained nor misconceived. The candidate who happens to have a plurality of votes is clearly preferred, and the candidate having a minority of votes is clearly postponed, to any other. And however the subject is revolved in the mind, or presented to the imagination, this relation between the competitors themselves cannot be altered.

But their relation to the public, as established by the constitution, is of a different character. To obtain the full consent of the nation, it is made necessary that a candidate for the high office of President, should have more electoral votes for him, than against him. The people of the states, failing to produce this effect, when operating as component communities, or in their national capacity, are next appealed to in their federal character, and instead of acting through the discretion of electors as in the first instance, act in the second through the responsibility of their representatives. By this new combination of political elements, with the event of a primary election in view, it was reasonable to suppose a more decided result, and a sufficient sanction would be given to the election. It was obviously with this same view, in order that a complete, rather than a new election might take place, that the choice of the house is restricted by the constitution to the narrowest compass compatible with the principle of reference, and with any choice at all. To have declared that the House of Representatives, in case an election is referred to them, shall select the person having the highest number of votes, would have been absurd—would have defeated the object of the reference, by failing to add the requisite sanction to a plurality of votes. To have restrained the choice to the two persons having the highest number of votes, would have been a provision wholly irreconcilable to the elective system, and directly repugnant to that deference for the popular will, which had occasioned the reference; for if there should be several candidates, it might well happen, that by limiting the choice to the two highest, more electoral votes would be excluded from the house than would be admitted. For example—if there should be six competitors before the people, or even five, it is probable that the three or four lowest candidates would, together, have received more electoral votes than the two highest. The government being founded on the consent of the people, the framers of this clause of the constitution had a double duty to perform. They had to secure a just effect to a majority of the people, and of course to provide against counteracting that effect. These are correlative propositions—the proof of one is the establishment of the other. Therefore, as the two highest candidates might not bring with them a majority of votes, it is designed by the Constitution that the three highest or the next smallest number be admitted; and the terms of the instrument are precisely adapted to its intent. For it is worthy of remark, that they do not direct but allow, do not command but permit the choice to be made from the three highest. It is not said—"the house of Representatives shall choose from the three persons having the highest numbers," &c. But it is said—"the house of Representatives shall choose from the persons having the highest numbers, not exceeding three,"—clearly importing that the choice may, if necessary, reach to, but shall not extend beyond the three highest. In this respect, the original clause corresponded with the existing amendment, for when, by that, the number to be admitted was limited to five, each vote passed for two candidates. By this exposition, and by this alone, all the conditions of the problem are satisfied. A plurality has its weight, a majority its effect, the influence of the people and the responsibility of their representatives are secured—each conducting to the full operation of the other. And it may be said to demonstrate that so far from there being any ground for fear that the representatives of the nation, in discharging the important duty about to be devolved on them, will disregard the strong and explicit declaration of public preference which the electoral colleges of their respective states have pronounced, there is every reason to believe they will give that declaration complete effect.

It is obvious that if the Constitution had designed the impulse of the people's vote to terminate at the threshold of the house, the choice from among the candidate admitted, would have been determined by lot, or the power of selection delegated would have been extended in its application to all citizens originally eligible. Indeed if the independent judgment of the referees were to be exercised, it is probable the House of Representatives would

have been the last body fixed upon for by its organization it is the most dependent of all on the people. But even if a body of referees had been appointed with power to act independently of the people, it is scarcely possible to suppose they would act also independently of reason.—And no reason for preferring one candidate to another, in a popular government, can be imagined stronger, than that resulting from the fact of his being thought to deserve it by a greater number of his countrymen. The best credentials, the most powerful appeal that A. can present, in a competition for the Presidency with B. or C. is that he has received a greater number of electoral votes than either of them. And a decision against him, to be just, must be supported by reasons not only strong but irresistible, palpable and convincing to the understanding of the nation. Either the public sentiment must have changed toward him, or some damning detection been made on him, some disqualifying act committed by him; or a transcendent virtue, or overpowering degree of merit be discovered in his successful opponent.

With regard to the election now in progress, as the elements out of which its result is to arise, have already, doubtless assumed all the relation, which a due respect to public opinion, and a faithful sense of representative duty are capable of forming, there can be no impropriety in referring to it with a view of illustrating, by application, the principles I have endeavored to establish. In comparing the claims of the highest and the lowest candidate, the reason for preferring the first to the last, will not be proportioned simply to their respective number of votes. Circumstances belong to each side of the case which cannot be overlooked. On the side of Mr. Crawford, it will be observed that his friends placed him in view of the public at a very early period; that subsequently combining their official influence with their personal respectability, they presented him with a marked and exclusive formality, as their favorite candidate, to the nation; and that in spite of this imposing ceremony and solicitous recommendation, the voice of the people has loudly rejected him. On the side of General Jackson, it will be remarked, that the flower of his hope blossoms on the affection of the people—that it was not reared by intrigue, nor cultivated by patronage. That he had no Caucus, no department, no presses, to work for him. That in this government of the people, he is pre-eminently the man of the people. That the arch of his fame springs from the rock of the Revolution, and terminates its glowing curve on the victory of New Orleans. That though he was postponed by the Caucus, he is preferred by the nation. That his superiority over his principal rival, who is supported in great part by legislatures, exceeds the vote of four entire states of the Union, and equals that of the old and populous commonwealth of Massachusetts. And that while the popularity of his opponents is confined to particular quarters, or to insulated districts, his stretches along the Atlantic, from the Hudson to beyond the Mississippi, and extends through the heart of the Union, westward to the farthest lakes. Is it possible for any man, no matter how strong his personal prepossessions may be, to look here upon this picture, and on this, without being impressed by the force of the contrast? How then can a grave, sworn, and responsible assembly be insensible to it?

But the subject presents itself in another point of view.—The dignity of the House of Representatives, as well as its duty, consists in its representing the people. The faculty of representation is as essential to it as the property of reflection is to a mirror. This is the only ligament that connects it with the nation, and gives it, collectively or individually, public importance.—While a member of Congress expresses the wishes and intentions, the volition and judgment of forty thousand freemen, he is a personage of great and real consequence.

Strip him of this glorious privilege, he forfeits all his consequence; and such is the delicate relation between an ambitious candidate and an obliging constituent, on these occasions, that he leaves himself open to the suspicion of having been diverted from his proper course by the attraction of some powerful and lawless interest. So great a desertion of duty, and dereliction of principle and pride, have never yet happened in this country, and are not now to be apprehended. The contest between Jefferson and Barr affords no parallel to it. But if that perilous event should rise to the minds of members, they can only regard it as a pregnant and awful example; teaching, how presumptuous it is to stand up against the judgment of the people, and how terrible is the force of their indignation when it is justly incurred.

TREASURER'S REPORT.

The annual report of the Secretary of the Treasury was transmitted to both Houses of Congress on the 20th inst. It is a document of too great length to be inserted entire in the Observer. The following brief statement will present to our readers the most important facts contained in the report:

Fayetteville Observer.  
The actual receipts into the Treasury during the year 1823 amounted to \$29,540,666 25 Making, with the balance in the Treasury, on the 1st Jan. 1823, of 4,237,427 83

An aggregate of 34,778,093 81  
The actual expenditures during the year 1823, as ascertained to 15,314,171  
Leaving a balance in the Treasury on the 1st January, 1824, of 9,463,922 81

The actual receipts into the Treasury during the three first quarters of the year 1824, are estimated to have amounted to 19,630,893 98

And the actual receipts into the Treasury, during the fourth quarter of the year, including the moiety of the loan of 5,000,000, authorized by the act of the 26th of May, 1824, for paying the 6th per cent. stock of 1812, are estimated at 7,350,000

Making the total estimated receipts into the Treasury during the year 1824, 26,980,893 96  
And, with the balance in the Treasury on the first of January 1824, forming an aggregate of 36,444,816 77

The expenditures during the three first quarters of the year 1824, are estimated to have amounted to 21,565,702 75

And the expenditures during the 4th quarter are estimated at 10,374,448 13  
Making the total estimated expenditure of the year 1824 31,938,147 86

And leaving in the Treasury, on the first of January, 1825, an estimated balance of 4,506,668 91

The funded debt unredeemed, on the 1st of Jan. 1825, (including \$7,000,000 5 per cent. stock subscription to the Bank of the U. States, for which the stock of the Bank held by the government is considered an equivalent,) was 86,645,003 38.

It is estimated that, in the year ending on the 30th September last, the value of domestic articles exported was \$49,684,716; which exceeded, by \$2,529,302, the amount exported in the preceding year; and that the value of foreign articles exported was \$25,348,782; which was less by \$2,251,840, than the amount exported in the preceding year. The value of imports during the same period, is estimated at \$78,516,183; which exceeds the imports of the preceding year by \$936,916.

The operation of the new tariff upon the revenue cannot now be correctly estimated. On one important branch of imports, those from beyond the Cape of Good Hope, its provisions will not take effect until the first of January next. As it is only since the first of July last that it has been in operation in regard to other importations, and as the collectors are allowed by law three months for rendering their accounts, the addition caused by the new tariff cannot even for that portion of the imports, and for one quarter of the year, be stated with perfect accuracy.

It is believed, however, that the investigation which has been made with a view to that object, affords data for estimating its effects with sufficient exactness for the present purpose. It has been found that, upon the whole importations (estimating their value at the rates adopted in forming the statistical report,) in the three quarters of the year ending on the 30th June, 1824, the gross amount of duties was \$27.45 per cent; and that, if the rates of the present tariff had been applied to the same importations, the duties would have amounted to \$30.30 per cent; which is equal to an increase upon the amount of duties, of \$10.85 per cent. It also appears, that in eight of the principal ports of the United States, the rate of duties upon the whole amount of importations during the third quarter of the year 1823, was \$28.36; and during the corresponding quarter of the year 1824, it was \$30.98 per cent. But it is to be observed that in the third quarter of 1824, the importations from beyond the Cape of Good Hope were not subjected

FOX.  
[See 4th Page.]

See The Federalist, No. 65.