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## Congressional Debate.

SPEECH OF MR. SMITH OF N. CAROLINA,

ON THE

Proposition to amend the Constitution so as to establish a uniformity in the mode of electing Electors and Representatives to Congress.

IN THE HOUSE OF REPRESENTATIVES.

Mr. CHAIRMAN: The resolution before us is one of more than ordinary importance. It proposes nothing less than to amend that instrument which, to every American, must be considered the palladium of his liberty, the Constitution of the United States; and a part of it, too, which the citizens of a republic should esteem far the most valuable and important. I mean that part which regulates the elective franchise.

Sir, I am aware of the ground on which I stand. I am aware of the magnitude of the subject before me. That the people of those states have, for this instrument, the most devoted attachment and profound reverence, must be obvious to the most superficial observer. They view it as the most noble work of their ancestors, and every attempt that may be made to alter or amend it, will excite distrust and jealousy.

But, sir, every day's experience teaches us the frailty and imperfection of all human productions. When we take a retrospective view of the works of man, we cannot deny the vast improvements that have been made in science, in mechanics, and in every department of human industry. We look back with astonishment at the vague and visionary theories that were, in their day, considered the most happy efforts of human genius. Although I believe that this Constitution surpasses all other Constitutions, as far as the sun does, in splendor the smallest star in the heavens; yet I am compelled to believe that it is capable of amendments. I am not one of those that believe that our fathers had more virtue and talents than the present generation. I admire the political sagacity of the wise men who framed the Constitution of the United States; and if there is any thing about it that excites surprise, it is, that the work should have been at that day made as perfect as it is. When we view that called a great man, at a distance, he appears to us as a giant; but as you approach him, you find him dwindle down to a pigmy; like the distant horizon, he appears above us, although we may occupy a point much more elevated than the one to which our eyes are directed.

In reconciling the various and conflicting interests of thirteen states, dissimilar in climate, population, and extent of territory, the conventionalists had a difficult task to perform; and, being themselves conscious that the instrument would require amendment they provided a way by which it might be amended in part, without submitting the whole to the discretion of a Convention.

If the proposition before you proposed the adoption of a new principle, I should be ready to shrink from so perilous and dangerous an undertaking. But, such is not the fact. It only goes to regulate established principles, and to place them upon a ground more congenial, with the true spirit and genius of republican government.

Nearly all the states in the Union have exercised the privilege of the elective franchise, at some one period, the way now pointed out in the resolution on your table.

This amendment proposes that each state shall be laid out into as many districts as such state shall be entitled, under the constitution and laws of the U. States, to elect representatives to Congress, and that each district shall as nearly as can, be composed of contiguous territory, and the same district shall elect one Elector to vote for President of the United States, and for Vice President. The other two Electors to which each state shall be entitled, shall be elected by the states, in such manner as the Legislatures thereof shall direct.

I am aware that we shall be told that this Constitution does not require any amendment; that is good enough, and that, under it the people have enjoyed

to the fullest extent, their liberty; that it has guided us through peace and war, for thirty two years past; and that under it, the nation has grown great and powerful. This is true, and the reason for it may be sought and found in the people themselves. Such a brave, high-minded, and virtuous people unhackneyed in the intrigues and vices of foreign countries and foreign courts, could have gotten on: most without the form of a written constitution.

And it is true, that, at this day, when all is calm and tranquil as the morning, when there are no parties in hostile array against each other; that the reasonings that would in other days, and at other times, of party rage and violence, have had great influence and effect on the minds of men, have now but little or no effect. And will be contended, no doubt, by those that are opposed to any amendment, that, if there is ever a necessity of amending this instrument, the day is very remote.

Sir, we all view danger at a great distance from us with perfect indifference; but the most hardy amongst us begin to feel its effects as it approaches near to us. Nothing can constitute a more important quality in a statesman than that he should have political sagacity to see danger threatening his country at a distance, and skill to provide, before its approach, the means of averting it. If, then, there is any defect to be found in this instrument, why should we not apply the remedy at this time? Do gentlemen expect that a more favorable moment ever can present itself?

As before hinted, there was a time when many of the states in this Union acted on the plan now proposed from their own sense of propriety. But as soon as parties of different political characters began to spring up, and when the two great contending parties, that have for some years past agitated the minds of the people so much, had formed themselves under their respective leaders, and had put themselves in hostile array against each other; and when the contest for power and ascendancy was yet doubtful, each party, anxious to augment its scope of influence, lost no opportunity to make every thing yield that could be made to yield, to their ambitious views: When it was ascertained that one party had a few hundred votes majority in a state that party would resort to that mode of electing Electors that would promise most effectually to stifle the voice of the minority, and at the same time give the greatest majority in favor of the prominent party. No other considerations than these, seemed to have had any influence on the minds of the respective leaders throughout that arduous struggle. But now, when things have resumed their usual channel, and when the minds of men are left free, and can be acted upon by reason, and a sense of justice and propriety, why should we not consider, coolly and dispassionately, whether this amendment might not, with safety, be made?

In changing from one system to another, for the purposes just enumerated, great heat and confusion was often generated. The state of Pennsylvania, in one of those great struggles, came very near losing her entire vote; the legislature was nearly equally divided, and the contest doubtful; in that case each party had to make the best bargain that they could. Now, in a struggle of this kind, the voice of the people was not heard, nor their wishes consulted. The leaders of each party were doing, in fair bargain and sale, the best they could for their own interest, together with that of their friends; and we must calculate upon more than the ordinary scope of human imperfection will justify, if we may not suppose that the state of things will again occur, and continue to recur, so long as it shall be left in the power of the state legislatures to change from one mode to another, as their interest may dictate at the moment.

Massachusetts, at one time, for the purpose of effecting her purpose in the Presidential Election, divided herself into districts to suit the sectional residence of the dominal party; districts were made of territory not contiguous; towns were added that were in the parts of other districts. I remember the shape of those districts were so singular that they gave to them the name of Gerry-manders.

The State of New Jersey elected by general ticket; but, just before a Presidential election, the Legislature of the State met, and finding, that, if the electors were chosen by general ticket, the vote would not be such as would please them, they repealed the law, and, at once, proceed to take the power into their own hands, and choose such from among themselves as promised to serve

their views. Can there be stronger evidence than this of the defect of such a system? In this case, the people of New Jersey had no more to do in that election, and their voice was as little heard as was that of the citizens of Canada. At the time of voting for representatives the voter never dreamt of such a result; he supposed that, at the proper time, he would again give his vote for electors.

Sir, these are so many avenues left open to intrigue, fraud, and, if they are not made the common pass ways of the day, it is because the inducements to travel them are, at this time, not sufficiently strong.

The Chief Executive office of this great and growing Republic is a very important one. An office of great trust and patronage; and so guarded should the road to that office be, that none should pass thereto without being able to shew a passport from the people themselves, from a majority of all the people. But, sir, under the present system, it is possible, by a species of league or bargain and sale, to place a person in this high office, who shall only have the votes of three-tenths of the people, contrary to the wishes and the interests of seven-tenths of the people of the United States.

I will, to make my self understood, illustrate this in this way: Suppose that the parties that we have had in this country still existed, and were known by the same names of Federalists and Republicans, and that the parties in each of the states of Massachusetts, New-York, Pennsylvania, Virginia, and North-Carolina should be equal, or nearly so to the Federalists, having a very small majority in each state; now, by the general ticket plan, or by the plan of electing electors by the legislature, each of those states can give the whole number to which they are entitled, for the Federal candidates.

The number of Senators in the 22 states is 44; the number of Representatives is 186 making, in all, 230; would be the whole number of votes given for a President: a majority of 230 is 115, which happens to be exactly the number of votes to which the five states above mentioned are entitled. Now suppose that every man in the seventeen states not mentioned, should be republican, and nearly one half of the five states enumerated republican also; does it not appear clearly that seven-tenths are defeated by three-tenths of the people?

Again, the census of 1810 gave the population of the United States at 7,500,000. The five large states have one half of that number say 3,752,000; now, as the federal majority was a bare majority in these states, there will be only in those states 1,570,000 Federalists who will have elected the President, to the exclusion of a candidate having the united voice of seventeen states, and almost a majority of the other five; and against the voice of 6,630,000 of the people.

This is actual demonstration; there is no deception in it. Is it then a good system that can admit of such abuses as might thus be practised? That the majority shall rule is the vital principle of all republics. But, sir, that principle does not seem to be secured by the present mode. But gentlemen will say that this is an extreme case, not likely to occur. I admit that it is an extreme case, and, though it might not occur exactly in the form here pointed out, yet it may occur, with some modification, and the effect would be about the same.

May not the day come when such attempts may be made? Sir, we have seen, during the short existence of this republic attempts made to subvert the very spirit and meaning of the constitution, and in regard to the election of Chief Magistrate too. I allude to the first election of Mr. Jefferson. Aaron Burr was run at the same time for Vice President, and the number of votes was equal. The constitution was not sufficiently definite on that subject; no distinction was required in the votes, and the friends of Burr contended that his claim was equal to that of Mr. Jefferson to the Presidency; and the House of Representatives had to proceed to ballot, according to the mode pointed out in the constitution, for a President, and it was not until 36 separate and distinct ballots had taken place, that a choice was made. Now, sir, in that case it was notorious that not one man had voted for Burr with the view of making him President. But, if that defect had been pointed out previous to that time, the advocates for the constitution, without any amendment would have cried out that it was an extreme case and not likely to occur.

The people learn from experience.—

No sooner did this occurrence take place than the people did resolve to amend the constitution, so as to guard in future against such occurrences and such abuses.

One of the strong arguments used against the proposed amendments is, that it is interfering with state rights. The large states may be deprived of some of their power and influence in the general government, and states are like individuals; they dislike to part with any portion of their power. It is to be regretted that there should have been such a want of equality in the size and population in the states. If they had been about the same size, we would have but little state jealousy, compared with what we have at this day, and the only method that I can discover to remedy this evil, is by adopting the amendment passed. At this day it is the interest of the large states, they contend, to retain all this influence. It is true, that the large states may, by a kind of bargaining, obtain some more than a due proportion of the offices of the general government; but this is little calculated to make the condition of the great mass of the people happy. It may suit the views of a few aspiring men.

But it is at all times difficult to persuade men that they have in their hands more than a due proportion of power and influence; or, if you can make them sensible that they do possess more than a due proportion of weight in the affairs of the state or Union, yet it will be by far more difficult to get them to abandon it. Of this we have constant examples; and here permit me to notice one or two. In North Carolina, that tract of country immediately on the sea-board, and for some distance back, was, in the first settlement of the country, laid out into small counties, and the tract of country back towards the mountains, was laid out into counties of a much larger extent of territory. The constitution of the state gives to each county, one senator and two representatives. The effect of this is to give a preponderance in the legislature to the eastern portion of the state. Although the number of the population in the western counties is almost double, this cannot be altered without a convention, and a convention cannot be called without the consent of the legislature. Now, sir, attempts have been made to call a convention, from time to time, but in vain. The people cry out for county rights, and, although every man of candor must admit that they are enjoying more than an equal proportion of the power and influence of the state, yet so sweet is power, that they hold on with the iron grasp of death. I believe that Virginia is in the same situation and equally without a remedy.

Mr. Chairman, nothing can be more true, than that all the citizens of a state should enjoy equal privileges, and that mutual concession and good will should exist in all its parts; but this never can be the case, if one portion, by a forced construction of the written compact under which they live, are always endeavoring to exercise powers that, in justice, are not their own, and which belong to another portion in part.

Sir, the proposed amendment will not effect the rights of the states; the federative principle is preserved. There was not any part of the constitution, in its formation, that was so difficult to fix upon as the part relative to the election of a chief executive magistrate. At one time it was proposed to elect the president directly by the people, on the popular principle; that was objected to (if I am correctly informed) on the ground that the federative principle should likewise be preserved; that the chief magistrate would preside over the states in their federal character, as well as over the people; and that to elect by the people directly, would destroy that important feature, which it was thought to be important to preserve. It was proposed, in the next place, that the president should be elected by the joint vote of both houses of Congress, and this proposition was adopted under the belief that, in that form, the federative and popular principle would be preserved, and it remained fixed and determined until near the rise of the Convention, when doubts began to arise whether Congress was the proper body to elect the chief magistrate. Those that doubted the policy of confiding to that body, this important trust contended that, from the acquaintance and intimacy that would exist between the president and members of Congress, they might be biased in their judgment towards the incumbent of the executive chair. But no objection was made to the principle on which such a choice could be founded. It was determined, then, to give to each state in the Union a right to choose as many persons as such state should have representatives and senators in the Congress

of the United States, who, when chosen, should by ballot, in their respective states, choose a chief magistrate.

This mode combined the popular and the federative principle and guarded against the objections of bias that brought against the legislature, a lectors thus chosen would be subject to the chief magistrate, and were most likely to make a correct and partial choice. The Convention due deliberation adopted this for it became a part of the constitution.

The mode being fixed, the next was to provide, in the event of more candidates having an equal number of votes, who or what body should decide the contest. It was first proposed, that the Senate should, by ballot, decide, but this was objected to, as this would be making the president the federal principles entirely. Then proposed that the House of Representatives should decide; this was objected to, on the ground that it would make the choice solely on the popular principle; but to avoid this objection was moved that the House should be divided into as many districts as there were states, each state having one which would combine both principles, in this form, it was agreed to.

I have used this to prove that the Convention, throughout were determined to guard against the encroachment of the states on one hand and of the people on the other; and that the amendment proposed is no violation of first principles.

Sir, adopt the proposed amendment and you will give the people a fair opportunity of being heard in the choice of that important officer, the chief magistrate of the Union. The majority in the respective states shall have a fair opportunity of being fairly heard; if the contest is about and if there are no political parties, a fair expression of the public mind had. It will guard and protect the people against intriguing and designing men. They will not be able to exert their influence into every county, neighborhood in a large state; but can into those assemblages called caucuses, which are gotten up above seats of the state legislatures, their sessions. If you will adopt the proposed amendment, and they should ratify it, which I am confident they will, the people will not wait for the state legislatures a caucus, who shall be electors. They will, in their respective districts, to a man with whom they are acquainted on whose intelligence and virtue they can rely, for the choice of a chief magistrate. You will bring the matter near to the people, and consequently will make them place more value on the elective franchise, which is all that is wanting in a republican form of government.

As to the mode of election now used, they are equally exceptions. If the legislature elect the electors are heaping on them duties foreign to their duties as state legislators, by this mode you make your mode more complex. When the citizen goes out to vote for a fit person to remain in the state legislature, he must collect also that the same person, authorized to vote for electors, who thus chosen, have a right to vote for chief magistrate. The members of the legislature convene at their legislative sessions, then have their caucus; and a fair opportunity is offered for intrigues, will make the electors from the body, calculated to serve their own interest. If the election is by general ticket, the legislature indirectly elect the electors. They form a caucus, and make a ticket to suit the dominant party state, with as many names on it as the state is entitled to choose electors, this is sent out to the people. Now, in fact, is electing the electors the subsequent voting by the electors, whatever may be said of it, is a shadow of a shade. Sir, if the ticket displeases a great portion of the state, yet they cannot alter it. Who can resist this double caucus recommendation? Are political parties in the state, the of the minority is entirely stifled system. And is this the system will secure state rights; that with which gentlemen are so deluged.

Sir, let the people have the choice brought near to them, unimpeded their elections, that they may know they are doing when they give their votes. Do not be fearful of trust with what belongs to themselves, are honest, and it only remains to know what is the best mode. THANKS FOR THIS OFFICE