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AMENDMENT OF THE CONSTITUTION.

Mr. Starnes, from the Select Committee, to which was referred the several resolutions proposing amendments to the Constitution of the United States, reported in part.

Thus deeply impressed with the evils of consolidation,—and looking to the preservation of the State Governments as equally necessary to the well-being of their own citizens, and to the perpetuation of the general liberty, it cannot be supposed that the Committee have vitriolously proposed any thing which tends to produce the evil which they deprecate with so much zeal and sincerity. Still, it is the opinion of some, that the rights of the States will be endangered by the adoption of the Committee's plan of amendment; the Committee think otherwise; here then, is a difference between those who have a common object in view, and to decide it, the points in issue must be fairly stated and candidly examined. These points are:

1st. The supposed diminution of power in the State, to choose between the legislative, the general ticket, and the district modes of election.

2d. In the supposed diminution of the power of the State in concentrating her strength in those elections.

3d. In the supposed tendency of the direct vote towards the consolidation of all the States.

These being the points of objection, the question is plainly presented, whether they amount, in reality, to any encroachment upon the rights of the States, or contain any of those tendencies towards consolidation which have been imputed to them. But, before proceeding to answer this question, it is necessary to fix precise ideas to several terms which are the very hinges of the question itself. "State Rights—Sovereignty of the States," are the terms referred to. By some, who use these terms, the General Assembly of the State is considered as the state itself, possessed of all its rights and sovereign powers; by others, the Executive officers of the State Government are held to be the state, and to have the possession, during their continuance in office, of the rights and sovereignty of the state; by others again, the Senators and Representatives in Congress from a State, are supposed to represent the sovereignty of the state itself; and to hold in their hands, for the time being, the same high rights and sovereign powers. All these opinions are held to be erroneous, and, without accumulating authorities and quotations, it may be laid down in brief and plain language, the qualified voters of a state, to the exclusion of the General Assembly, the Executive officers and the members of Congress, constitute the Sovereignty of the State, and hold its Rights in their hands. Who these qualified voters shall be, depends upon themselves, through their Representatives in Convention, or General Assembly, to say; but whosoever they may be, whether freeholders, householders, or holders of no property at all, they hold in their hands the rights and sovereignty of the state, and all the public officers are nothing more than their servants. The members of the General Assembly, the members of Congress, and the Executive officers, are nothing but agents for the real sovereigns, confined to the exercise of delegated powers: they become mere usurpers, if they presume to exercise the power of sovereignty.

From these positions, it results, that these agents may lose a part of their powers, not only without diminishing the sovereignty of a State, but, in reality, to produce the effect of increasing that sovereignty by so much as is taken from the servants and restored to the masters. This is believed to be the exact case which is now presented for decision in the point of objection

first stated. The State Legislatures now possess the right to say, whether electors shall be chosen by districts, or by a general ticket; and some of them, without establishing a clear right, exercise the privilege of choosing the electors themselves. By the proposed amendment, it is admitted, as objected, that these several powers will be taken from the Legislature, and that a uniform mode of voting by districts will be substituted, which they cannot change. But, so far from admitting that the sovereignty of the state loses any thing by this operation, the direct reverse is maintained; the servants only being the losers, while the real sovereigns gain. For, it is not to be questioned, but that the district system gives the fairest play to every voter, and the fullest effect to every vote; nor can it be denied that it conforms to the intention of the present Constitution, which, in giving an independent vote to every elector, instead of a consolidated vote to the college of electors, governed by a majority, manifestly intended that each mass of citizens, entitled to choose one elector, should have the right of disposing of one vote according to their own sense of their own interest. It is a fact, of historical notoriety, that the general ticket plan of election has been adopted in some States for the avowed purpose of controlling this intention of the Constitution; and for the purpose of subjecting the weaker sections of the State to the policy of the stronger; thus giving, on a smaller scale, and in reference to counties and State divisions, an example of that tendency of the strong to oppress the weak, which is one of the main objections to the consolidation of these Confederate States.

The objection, that the establishment of a uniform mode of election by districts, will trench upon the rights of the States, cannot be admitted.—Uniformity, as such, cannot be an evil; and, if it was, the objection of it could not be avoided by rejecting the Committee's plan of amendment. For, if uniformity by districts is not established by the free consent of the State, uniformity by general ticket or legislative ballot, must be imposed by necessity. For, when the large States consolidate their votes to overwhelm the small ones, those, in their turn, must concentrate their own strength to resist them. A few States may persevere for some time, in what they believe to be the fairest system; but, when they see the unity of action which others derive from the general ticket and legislative modes of election, they will not, and, with due regard to their own safety, they cannot, resist the temptation of following the same plan. Hence, uniformity will be imposed by necessity, if it is not adopted from choice, with this great difference, that the first uniformity will deliver up the votes of the State, to the active managers in the General Assemblies, while the latter would leave them in the hands of the real sovereigns, the qualified voters of the whole State. It can hardly be said that the States would have a choice, when the option would be between falling into the general ticket system, and submitting to a material diminution of their relative weight in the election. The question, then, turns upon the relative advantages of the general ticket and district modes of voting; one or the other of which must soon universally prevail; and it matters nothing to the sovereignty of the State, whether one shall be established by the Constitution, or the other imposed by necessity; and, as the whole point of this objection is confined to the mere right of choice, and of changing the systems from time to time, it results that this right can be of no value where choice is impossible, and change not desirable.

1. The second point in the objection is, the supposed diminution of the power of the State, in that tendency to scatter the votes which the district system is admitted to possess. Admitting that a unity of its votes may be desirable to a State; that unity will be produced by the district system, as often as the state desires it. If the majorities in all the districts are of the same opinion, they will create

the unity by giving the same vote; if they are not, it is held to be a violation of the rights of so many districts as would have voted differently, to impress their votes into the service of the dominant party in the General Assembly of the State. In the general ticket mode of election, the vote of the State is directed by the majority of the State Legislature; the majority itself influenced by some leading members; and the tickets, thus arranged, is often made to triumph over the whole State, by the mere effect of discipline, and in open violation of the will of the actual sovereigns, the fair majority of the qualified voters. It is capable of demonstration, that the general ticket election, especially over a large surface, is often no election at all by the people. A small and organized body supply the place of numbers, by unity of design and energy of action. Want of concert in the body of the people, will render superior numbers of no avail. Division will destroy their strength, by scattering their votes; and anticipation of defeat will ensure it, by preventing numbers from going to the polls.

5. The last branch of the objection is in the supposed tendency to consolidation which is seen by some in the abolition of electors, and the substitution of the direct vote of the people. This is completely and fully answered in a foregoing part of this Report; to which it may be added, that, when analyzed, it turns out to be nothing more nor less than an old objection in a new form, to the district system itself. For the purposes of consolidation, it is perfectly immaterial whether the people vote by districts, in their own persons, or through the agency of electors; and, if this system is established, it is unknown to the Committee for what object the institution of electors can be supposed to be wanting.

Finally, there is a point of view from which to look at the several branches of all these objections, which exhibit them in the light of anomalous, if not very equivocal, pretensions to the character of state rights. It is this; that they present, as contending parties, not the Federal Government on one side, and the People of a State on the other, but the Legislature of a State against the People of the same State: the servants against their masters; the leading men against the mass; the few complaining that they will lose the privilege of controlling and directing the votes of the many!

The Committee have leased their plan of amendment upon the proposition, that the plan of the Constitution had failed in the election of President and Vice President of the United States. The points of failure were indicated in its two leading features—the institution of Electors and the ultimate election, by States, in the House of Representatives. That the first branch of this proposition has been fully demonstrated, and the best substitute proposed which the case admits of, is respectfully submitted to the decision of the Senate. The establishment of the second branch, and the demonstration of the fitness of the proposed substitute, remain to be attempted. That it was the intention of the Constitution, in giving to the States, in the House of Representatives, an equality of votes for President, to increase the weight and respectability of the House, and to give to the small States a chance to act an efficient part in the election, is equally clear from the Constitution itself, and from all the contemporaneous expositions of that instrument. Upon these grounds the power in question has often been defended; but if the intention of the Constitution has failed; if the small States have not realized the chance which was intended for them; if the House of Representatives has derived no additional weight or respectability from acting as umpire between Presidential candidates; above all, if real evil, both to the House and to the people of the States, have been found to result from this contingent power of election; then there can be no reason for preserving a part of the Constitution which has failed of its object, and produces evil instead of good. The

Committee believe that this failure has been complete, and that the principles which should govern the election of a Chief Magistrate, in a free country, require that the choice of President of these United States should no longer be permitted to devolve upon the House of Representatives. These principles have been stated, and enforced, in the course of this Report. They spring from the dangers to which such elections are liable.—These dangers are—

- 1. Of corruption among the voters.
- 2. Of violence, in the heart of the elections.
- 3. Of coalitions, to elect or defeat a particular candidate.

Opposed to these dangers are certain rules of action, ripened into axioms, to the test of which, every election, of a first officer of a Republic, should be brought. These axioms are—

- To prevent corruption: 1. Multiply the voters.
- 2. Keep the candidates from among them.
- 3. Avoid pre-existing bodies of electors.

To prevent violence and avoid coalitions:

- 1. Separate the voters.
- The plan of election in the Committee's amendment, both for the first and second election, has been brought to the test of each of these axioms, and found to abide them. The voters will consist of millions, and cannot be corrupted; they will be scattered over the territory of the whole confederation, and cannot hold an intercourse with the candidates; they will vote at several thousand different places, on the same hours of the same day, and can neither fight, nor coalesce; they are not a pre-existing body, in the sense of the objection, for that term only applies to small selected bodies. Tried by the test of these axioms, the House of Representatives, as an electoral college, stands condemned upon every one of them.

1. It is a small body, therefore capable of being corrupted.

2. It is a pre-existing body, therefore capable of being tampered with.

3. It sits in the presence of the candidates, therefore is subject to be influenced by an intercourse with them.

4. It votes in a body, therefore is subject to violence, and capable of coalitions.

In addition to these objections, to which the House of Representatives is subject, in common with all small bodies, it is yet liable to others, peculiar to itself, as a legislative department, viz:

- 1. The anomaly of a Legislature creating the Executive.
- 2. The interruption of its regular business.
- 3. The introduction of a new test in elections of members.
- 4. The application of a new influence to these elections.
- 5. The creation of opposition and administration parties in Congress.
- 6. The effect of all this upon fair legislation.
- 7. The further effect of all this upon the minds of the people, the character of the government, and the stability of our republican institutions.

There is one point, however, and the committee are proud to state it, in which the House of representatives, as an electoral college, must forever be entitled to a preference over any other of equal numbers, which can be constituted: it is in the elevation of its character; in the talents which distinguish it, and the integrity which ennobles it, and which the pride, virtue, and intelligence of the people must be forever anxious to preserve and exalt.

The objections which have been stated against bringing the election to this House, are of such a character, in the opinion of the committee, as to merit the most serious consideration; and, when their weight and importance are duly estimated, it can hardly be believed that the framers of our constitution, if they could have foreseen the frequent occurrence of that event, would have consented to endanger the purity of our government, and the stability of our institutions, by consenting to carry the elec-

tion before that body, in any contingency whatsoever. It is obvious, from the whole theory and spirit of the constitution, that the President was intended to be chosen by electors fresh from the people, and that it was never contemplated that the election should devolve on the House of Representatives, except in an extraordinary and rare contingency. But, from an extension in territory, which could not have been foreseen, and an increase in wealth and population beyond all expectation, the pursuits of our citizens have become so diversified, and so many local interests have sprung up among them, that it is almost a vain hope that the election of President can ever again be effected on the first trial, whether the people vote direct, or through the agency of intermedial electors; and it seems to be no longer doubtful, that, under ordinary circumstances, the choice must, hereafter, devolve upon the House of Representatives. The provision of the constitution, intended only for an emergency, thus becoming one of ordinary application, and that which the wisdom of our fathers designed as the "medicine of the state," (to be resorted to only in a dangerous crisis) is to become "our daily bread."

In this view of the subject, it becomes a question, which addresses itself to the mind and heart of every lover of his country, whether Congress can be safely trusted with the choice of the Chief Magistrate of this great and growing Republic, not as an event, which in a series of years may happen; but which in the ordinary course of affairs must inevitably and frequently occur. The first objection, and the one which cannot fail to suggest itself to every mind, is the incompatible nature of the duties which belong to a Legislative Assembly and to an Electoral College. No principle ought, in the opinion of the committee, to be held more sacred, as none, certainly, is more plainly recognized in the whole structure of our government, than that which keeps the Executive and Legislative Departments separate and distinct. There seems, indeed, to be infused into the different branches of our Government, (doubtless for the wisest purposes) a jealous spirit, which, generously cherished and properly directed, may be fruitful of the greatest benefits. That the Legislature should elect the Executive, is an anomaly; it is altogether inconsistent with the most cherished principles of our system, and, in practice, may be found equally fatal to the purity of one branch of the Government, and the independence of the other.

The reference of this question, which will call into action the strongest, and some of the worst, passions of our nature, to a pre-existing body of men, assembled at the seat of Government, and, from their character and situation, brought into almost daily contact with the candidate, on whom they can confer the first office in the Republic, and who, in turn, can bestow upon them brilliant honors and rich rewards, must, from the very nature of things, expose them to the various influences, by which power and patronage have, in every age, seduced men from the path of duty, and tempted them to betray the most sacred trusts. When we take into view the great and increasing patronage of the Executive, and of the various Departments under his control, and perceive how completely it is in his power to cause the influence of his office to be felt, we must shut our eyes to the lights of wisdom and experience, if we do not perceive, that the period is not far distant, when the office of President will be conferred as the reward of open intrigue, and the deepest corruption. But it is not alone against acts of open and palpable corruption, that it becomes necessary to guard. A body, even of high-minded men, ardently engaged in running the race of honorable ambition, will always be liable to be deluded by the fascinations of office; and, though they may not be seduced from their course by the treasures which may be thrown in their way, will be induced to swerve from their duty by temptations more congenial to honorable minds; and that can-