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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, to compare the liberty of our citizens 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 tumult; 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 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 They have considered it a power too great to be superadded to the regular functions of that body; too important to be withdrawn altogether from the people; and too dangerous, from its relationship with the executive, to be confided to a branch of the legislature.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 defect than really belongs to it, and suppose that it devolves, 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 maxims of good government. It would compound 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. The violation of principle and rule, which 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 list of candidates, or by supporting the least popular among those who might refer 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 the 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 recourse 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 awful, and the evil apprehended from it, not likely to be formidable; that the power thus contingently delegated, though anomalous 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 the whole organization, governs all its combinations, and inspires all its laws. The origin of all political power, in the people, lies at the basis of our Constitution, and actuates 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, and

more. 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 & beautiful economy of our system. Upon this direct influence on the one hand, and accumulated accountability on the other, the health and vigour of the system depend. As long as they are preserved our liberties secure, and must perish 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 constitute 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 form of 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 favour to his opponent, as if he had a majority.—Weigh them in a balance, and the scale containing 100 pounds, preponderates over that with 80, or that with 40, as indisputably, as if it held 30, or 50, or 100 pounds more. The notion 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 is 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 the 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 position, 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 to 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 candidates 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 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 relations, which a due respect to public opinion, and 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 endeavoured

to establish. In comparing the claims of the highest and the lowest candidate, the reasons for preferring the first to the last, will not be propositioned 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 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 principles and pride, have never yet happened in this country, and are not now to be apprehended. The contest between Jefferson and Burr 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 an 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. FOX.

From the Petersburg Republican.

The time is rapidly approaching, when the question, Who will be the next President of the United States? is to be solemnly decided by the Representatives of the people. The people, unable to agree among themselves, have confided the choice to their responsible agents, and to that decision, we shall quietly submit even if injustice should be done, by elevating to the Presidential Chair, the individual who is emphatically not the choice of the people. The contest in the House of Representatives will undoubtedly be between Messrs. Jackson and Adams. We cannot for a moment suppose, that the friends of Mr. Crawford will allow the ballot boxes to be put round more than twice. In the first instance, they will try his strength, and finding him in a minority, although a very respectable one, will drop him, and take up the man whom they conscientiously believe was the second choice of their constituents.

Assuming this as the course that will be pursued by the friends of Mr. C. let us see how the second ballot in the House of Representatives will eventuate. We claim for Gen. Jackson, among the representations, or rather misrepresentations of the friends of Mr. Adams, as certain, the states of Alabama, Louisiana, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois and Missouri. It is true, Gen. Jackson did not obtain the electoral votes of all these states; but he was unequivocally the second choice of such of them as voted against him.

Of the states above named, Mr. Adams' friends claim as certain for him, Louisiana and Illinois, and as probably for him, Ala-

bama, Mississippi and Ohio, and even Kentucky is not altogether left out in their calculations. Upon what principle the votes of these states, in the House of Representatives are claimed for Mr. Adams, we are at a loss to divine; and shall not believe it, until the fact is clearly ascertained.

To these nine southern and western states, we will also add as certain for Gen. Jackson, New-Jersey, Pennsylvania and South-Carolina. Maryland will probably also vote for him.

According to our calculation, then, Gen. Jackson will certainly receive twelve votes in the House of Representatives on the first ballot. What, then, is to prevent his election?—Mr. Crawford being snatched after the first ballot, will Georgia take up Mr. Adams as her second choice? Never. Will North-Carolina?—Will Virginia?—We say never—and for the reason already assigned, that the Representatives from those states will, on the second ballot, vote for Gen. Jackson, because he is the second (in North-Carolina he is the first) choice of their constituents.

To this assertion we know it will be objected, that, as it relates to this state, at the late election Mr. Adams received more votes than Gen. Jackson. This circumstance in no wise invalidates the assertion we have advanced, but on the contrary it is confirmed by the meagre vote Mr. A. received, after the uncommon efforts that were made to promote his election.

In relation to General Jackson, not a press decidedly advocated his pretensions. With only one paper to do him simple justice, while every partisan editor in the state was open-mouthed against; his vote in Virginia was not only respectable, but very little inferior to that of Mr. Adams. Had the contest been between Jackson and Adams alone, judging from what we hear, the majority for Gen. Jackson would have been decisive and overwhelming. Apprised of this fact, we learn from authority that is deemed unquestionable, that Mr. Crawford out of the question, General Jackson has a majority of two in the Virginia delegation, the vote being 12 for Jackson, and 10 for Adams.

If our premises are correct, and we have never intentionally deceived the public on this interesting subject, the vote on the second ballot in the House of Representatives will be,

FOR JACKSON, 15
ADAMS, 9

The 9th of February will determine this important question; and let the decision be what it may, it is the province of a good citizen to abide by the will of the majority, fairly and honestly expressed.

CRAYON SKETCHES OF PRESIDENTIAL CANDIDATES.

ANDREW JACKSON.—An early and even precious pupil of the school of '76—at the age of 13, a soldier of liberty by inclination; at a mature age, a civilian by habit. It is a remarkable fact, not sufficiently known, that he was from youth to maturity, the most industrious student of practical knowledge that our age has produced. The distinguishing traits of his character are quickness of perception, rapid ratiocination, decision of purpose, indefatigable perseverance, and generosity, even to the point of chivalry; courage and integrity we need not inter—they grow spontaneously in such a soil.

JOHN Q. ADAMS.—A politician by education, who grasped the diplomatic quill as private secretary to a foreign embassy, at about the same age that Jackson shouldered his musket; a man of inherent talent for business, of great acquirements, and of undoubted patriotism. He is a good theorist on the subject of "Etiquette," but the most indifferent man in the world as to the practice. He is neither so good as his friends, nor so bad as his enemies would make him appear. His faults will be remembered and exaggerated of course; but it is our duty not to forget his merits.

HENRY CLAY.—One of our choice spirits; an integer, and no trifling one, in our sum of talent. He is one of the striking instances of the versatility of character peculiar to our nation, and of the strongest securities of the moral force which binds our confederacy. Ardent, eloquent, sagacious; assiduous or convivial, according to circumstances—with great practical knowledge of social life, and the most glowing affection to the cause of universal freedom. No man can gather up the robe of dignity with more readiness, or relax it with more grace.

JOHN C. CALHOUN.—Modesly, but conspicuously in the background of the group. He could not, if he would, be otherwise than conspicuous. In the darkest corner, his intrinsic light, like that of the diamond, would lead the eye toward him. At the age of 22, he could shine equally in the drawing room, in the library, or in a consultation among the veterans of science. He, if his life is spared, will be one of our Presidents. He combines in his character the fire and zeal of Patrick Henry, with the innate virtues of Jefferson.

* See The Federalist, No. 68.