



### AMENDMENT OF THE CONSTITUTION

The proposed amendment to the constitution which provides for a uniform mode of choosing (by districts) electors of President and Vice-President, and of Representatives in Congress, having originated in our Legislature, we presume our readers will be pleased to read the speech which Mr. DICKINSON, of New Jersey, its great supporter in the Senate of the United States, lately made in its behalf.

Mr. President—At the last session of Congress I had the honor to introduce a resolution similar to the one under consideration. This I did, in obedience to instructions received from the legislature of the State of New Jersey, which state I have the honor, in part, to represent.—After a discussion of the merits of the resolution, a large majority of the Senate were found to be in favor of it, but not a majority of two thirds, and of course it was lost.

For several years past, the principle of this resolution, first adopted, I believe, in the Legislature of North Carolina, has gained ground, and particularly within the last year, as we may fairly conclude, from the instructions which have been recently laid upon our table, from the states of New Hampshire, Connecticut and New York.

If there were no reasonable hopes of bringing this measure to a favorable issue, I might be fairly considered as rendering myself unnecessarily troublesome, by agitating it at this time; but while there is a hope of success, and I think present circumstances warrant such a hope, I cannot consider myself absolved from the obligations imposed upon me by my instructions. Under this impression, and acting as well from a sense of the great importance of the subject as a sense of the duty which I owe to my constituents, I again earnestly, but respectfully, solicit the attention of the Senate to this resolution; which I should have introduced in the first week of the present session, but from a hope that some other member of this honorable body would have taken upon himself that task. As no one seemed so disposed, it appeared to me improper longer to procrastinate a measure which ought to receive a discussion before our attention is engrossed by the usual objects of legislation.

As the Senate has once indulged me with a hearing upon this resolution, it is my intention to be as brief in the observations which I am now about to make, as the nature and importance of the subject will permit, more especially on those points of argument which I had the honor to submit; for, as the subject is old and hackneyed, I am sensible, and I feel oppressed by the reflection, that any observations I can now make will be considered as tedious and irksome by most of those who hear me.

The constitution of the United States wisely provides for its own amendment, but in doing this it interposes such obstacles to the spirit of innovation, as not only effectually prevent all unnecessary alteration, but, as I fear, to prevent the most salutary reform.

An amendment cannot be proposed to the states, unless two-thirds of each branch of the national legislature concur in the measure; and when proposed, three-fourths of the states must concur before it can become a part of the constitution; great, therefore, are the difficulties, arduous the task, and doubtful the issue, of any attempt to alter the constitution.—There is, besides, a sort of sanctity attached to this instrument, that leads many to consider it as something super-human, something partaking of divine origin;—such consider any attempt to alter it as a sort of political profanation; a sacrilege against the palladium of our liberties.—In addition to this, there is a general disinclination to disturb old established regulations, a species of *vis inertia* which can only be overcome by the most pressing urgency. These are difficulties attending all attempts to alter the constitution.

The amendment under consideration is attended with difficulties peculiar to itself. It proposes to the dominant parties in the respective states, without whose aid it cannot succeed, to give up a portion of their power. Such applications are always unwelcome, and but rarely attended with success, whether to individuals, to states, or to political parties.

The dominant party in New-York, for instance, by no means an overwhelming majority, can, under the present system, give twenty-nine votes, that is, the whole vote of the state on a presidential election; under the proposed system of choosing electors, their vote would be proportioned to their numbers. The same observation will apply, in a greater or less degree to the dominant parties in all the states of the union.

It requires no small degree of patriotism, on the part of majorities, to divest themselves of the power of restraining the minorities whom they always consider as their political adversaries. I trust, however, that if those multiplied difficulties the paramount consideration of the general good will prevail, and that this measure will be attended with ultimate success, such a result, however, would be utterly needless in times of political rancor and party violence, which majorities

always think that the public good is most effectually promoted by restraining, as far as possible, the power of the minorities, who, in such unhappy times, are always considered, and always stigmatized, as the enemies of their country.

Happily for us, the present moment is peculiarly auspicious for undertaking the proposed amendment, as there is less of party animosity now than there has been at any period since the establishment of our government. If the present opportunity be suffered to pass by unimproved, it may never again occur; for we discover very little sagacity, if we presume that the present political calm is to be permanent, or even of any considerable duration.

This plan, of dividing the states into districts, is no new experiment; it is no innovation, whatever, upon the constitution; it is only calculated to render permanent and uniform a regulation which has prevailed in nearly all the states, and which ought to have prevailed in all, and would have prevailed in all, by common consent, but for the disorganizing spirit of party. Whatever mode may be adopted for choosing electors and representatives, it is universally allowed that it ought to be uniform throughout the United States.

Under the old confederation the Congress was considered as a representation of the States, and they voted by states.—The House of Representatives is now, or ought to be, a representation of the people, and they are emphatically called the popular branch, to distinguish them from the Senate, which may still be considered as a representation of the states; and the popular branch is considered as the main stay and strong hold of the republican principles of our government.

If the legislature of a state should appoint their representatives to Congress, as they do their senators (even if the constitution were as vague and uncertain in this particular as it is with respect to the appointment of electors) we should consider the proceeding in the highest degree preposterous, inasmuch as it would leave to such representatives no character of a popular branch. Yet the choosing the representatives of a state by what is called a general ticket, in which the voice of the minority is completely merged, is equally preposterous, and generally much more so, as the people vote for candidates of whose qualifications and characters they are ignorant, upon the recommendation of individuals, of whom, frequently, they know nothing, who assemble in convention or caucus to settle the fate of the election before the people are called upon for their votes, and thus prevent every principle, of what we are pleased to call, the universal right of suffrage.

The resolution proposes that each state shall be divided into as many districts as it has representatives; the districts to consist of contiguous territory, and to contain as nearly as may be, an equal number of persons entitled to be represented. It would be impossible to go further in this particular, without introducing too much regulation, without rendering the system unnecessarily complicated. The rule is perfectly fair, perfectly republican, attended with no difficulties, and if adopted, will secure to all parties, that degree of influence and power proportioned to their numbers, which in a republic, they may fairly claim, by every principle of honor and justice.

As these districts are to be altered but once in ten years, the tendency to fluctuation and change will be sufficiently counteracted. It may be thought that as the new states are rapidly increasing, the districts should be altered more frequently, to correspond with the rapid increase of population. We must recollect, however, that altering the districts could not increase the number of representatives or electors, to which a state might be entitled; and in any other point of view, it can be of but little importance.

Under the present system of choosing representatives, it is the practice as much as possible, to suppress the voice of minorities, & this provoking tyranny is practised under the specious garb of republicanism. In the small states, the elections take place most commonly, by what is called a general ticket. This completely suppresses the voice of the minority, and may be a representation of the dominant party, but not of the people of a state.

In the large states, the difficulties of voting by general ticket are so great, that they are induced, from necessity, to adopt some system of forming districts; but the dominant parties, unwilling to give to the minorities the weight to which they are entitled by their numbers, or any thing like it, have adopted an irregular mode of districting, known by the opprobrious term of *gerrymandering*; by which they cut up and parcel out a state, into unequal and inconvenient districts, formed too frequently, with a total disregard of the principles of justice, the rights of the citizen, or the appearance of decency.

In what estimation can we hold the majority of a legislature, coolly and deliberately, dividing and carving up a state into irregular districts, some large, and some small—some to choose one representative, some two, some three, some four, in such a manner as to suppress, as far as possible, the influence of their political opponents, taking care to have in each district, a sufficient majority of their

own party to make all safe, but no more. In forming such districts, the utmost skill and address have been observed, creditable indeed to the ingenuity, but disgraceful to the motives and principles of the actors. I could relate many instances of outrage and abuse under this head, as I did on a former occasion; but I am unwilling to exhibit the disgusting picture; such gross perversion of the principles of our government, have a direct tendency to destroy all respect for our political institutions, to bring our constitution into contempt, and to introduce into our legislative bodies, no small degree of moral, as well as political turpitude.

It may, and probably will be said, that it is not necessary to amend the constitution on this point, as Congress have the power to regulate the election of representatives. There is no probability that Congress will ever exercise this power, except in cases where states wholly refuse and neglect to provide, for the election of its representatives. It is by no means clear, that Congress have the power to pass a law, making it obligatory on the legislature of a state, to divide that state, into districts; and if Congress should undertake to divide the states into districts, they would find themselves involved in infinite difficulties—besides, should a state be divided without the consent of its legislature, in a manner unacceptable to a majority of the people, it would create the greatest discontent, and be considered as a sort of state degradation.

The convention thought proper to give this power to Congress, under an apprehension that a combination of states might embarrass the measures of government, by refusing to send representatives to congress. In this point of view the provision was a wise one; but the danger against which it was meant to provide, has long since passed by; and the new states which we have added to the union, have a tendency to prevent such combinations. Important as the proposed amendment is, as it respects the choice of representatives in congress, it is vastly more important as it respects the choice of electors. In the first case, the just rights of a large portion of our citizens are constantly infringed; in the latter, those rights are not only equally infringed, but the permanency and existence of our government is put to hazard.

To choose a chief magistrate for ten millions of people, jealous of their rights and impatient of control, even in the best regulated system, must be attended with no small degree of danger; this danger increases with the increasing extent of our territory, and especially when the increase of our population shall amount to fifty millions, as it will do in a period less than that which has elapsed since the declaration of independence.

We are in the habit of looking, with great composure upon the return of our presidential election; but little as we apprehend from this subject, it is probably the rock upon which our liberties are to be wrecked. We all remember when the power of our country, perhaps the existence of our government, hung in doubtful suspense, upon the frail breath of two or three individuals, and that from a fault in that part of the constitution which the framers of it thought the most perfect—pleasing indeed in theory, but utterly fallacious in practice.

This amendment proposes, that each district shall choose one elector, the two additional electors to which a state may be entitled, to be appointed as the Legislature thereof shall direct. This avoids the inconvenience of double districts which would be complicated and troublesome, and it adopts the spirit of that part of our constitution, which apportions the electors of a state, not in a ratio of its representatives or its senators, but in a compound ratio of both. The two additional electors may be considered as analogous to the representatives. This is not a consideration of great importance, but it is a recommendation of the measure, inasmuch as it more distinctly marks this peculiar feature of our constitution.

This mode will give as fair an expression of the public will, as can possibly be obtained, unless indeed, we resort to a general vote of the people at large, without regard to the limits of states or districts. And it secures to us, a point of immense magnitude; one upon which depends the vital principle of our constitution, and even the existence of our government: It secures to us, that the President of the U. States shall be elected by a majority, and never by a minority of the people.

Upon a calculation of chances, the probabilities of a fair expression of the public will, are increased by dividing the states into districts, and in the ratio of the number of districts to the number of states.—It is true, the minority in the respective districts would be suppressed; but as the minority of one party which might be suppressed in one district, would probably be balanced by the suppression of the minority of the other party in another district, the general result would be a fair expression of the public will. If, in the state of Massachusetts, we suppose the political parties which now exist, or hereafter may exist, to be about equally divided, an election by a general ticket,

would, of necessity entirely suppress the voice of the minority—but if the state were divided into twenty districts, as it would be by the proposed amendment, such a result would not happen once in a thousand elections. It would be an equal chance, that the representatives so chosen would be as their constituents, about equally divided: If the parties were as one to two, it would be an equal chance, that the representation would be in the same ratio; but these points are too clear to need elucidation.

Besides, the district system will place insuperable barriers to the intrigues of ambitious individuals, who will hereafter agitate the Union at the approach of every presidential election.

In the process of electing a President, there ought to be more uniformity, more precision and more certainty, than in the election of any other officer whatever, and yet strange as it may appear, there is less. It is a reproach to us, that there is scarcely the shadow of uniformity, precision or certainty in any of the rules, by which we elect, beyond comparison the most important officer in our government.

By the constitution each state shall appoint, as the Legislature thereof shall direct, its number of electors.—By the letter of this provision, the Legislature of a state may direct, that the electors shall be chosen by the people, in a general ticket; or they may direct that they shall be chosen in equal districts; or they may resort to the iniquitous system of irregular districts; but, I cannot admit, that by a strict construction of the constitution, the Legislature shall direct how they themselves shall appoint the electors. Yet, this power has been assumed by the Legislatures of most of the States. If this be an infringement of the constitution, the procedure ought to be corrected. If there be a doubt upon the subject, which I think will not be denied, a remedy should be applied; for in this vital part of our constitution, there should be no doubtful points.

When the Legislatures have taken this power into their own hands, they have made the appointments sometimes by a joint vote of the two Houses, sometimes by a concurrent vote, sometimes by compromise, sometimes the resolutions under which the appointments have been made, have received the approbation of the Executive, when such approbation was necessary, and sometimes not. The Executives have sometimes been authorized to fill up the vacancies in the list of electors; sometimes the electors themselves to fill such vacancies, and sometimes the case has been unprovided for; when the people have exercised this power, it has sometimes been by general ticket, sometimes by equal districts, and sometimes by a detestable system of gerrymandering.—This great variety of modes, has put into operation the most extensive intrigues, which have disgraced our constitution, & on one occasion, that of 1801, put to hazard the peace of our country.

Many of the States have adopted the worst possible system of choosing electors; that is, by their legislatures. Other states, although they condemn this mode, will be induced to adopt it as a measure of self defence, and will be justified in doing so—and it will soon be adopted in all, or nearly all the States. And when so generally adopted, will afford to some aspiring individual, the means of arriving at the Presidential chair, against the will of a large majority of the people, and of perpetuating his power by destroying the liberties of his country.

It is evident that if the Legislatures of the States appoint the electors, the voice of the minorities in the respective states must be entirely suppressed—than which nothing can be more unjust, or more dangerous; as it would, independently of other circumstances which I have mentioned, increase the rancor & bitterness of party in the States, and exhibit the states in a sort of hostile array against each other.

When this subject was under discussion last session, I had the honor of submitting a calculation, shewing the manner in which a President might be elected against the will of a large majority of the people and a large majority of states, which I will beg leave to repeat. The whole number of electors for the nineteen states composing the union at the last Presidential election is 221, of which, 111 make a majority and can choose a President. The states of New-York, New Jersey, Pennsylvania, Maryland, Virginia and North-Carolina, which are composed of contiguous territory, and may have strong political reasons for combination, have 113 electors, two more than are necessary for choosing a President, a bare majority in the Legislatures of these 6 states, 1 of them a small state and 1 of middle size, could by possibility, counteract the will of 6 or 7 millions of people, and elect a President in defiance of the residue of the Union. The Legislatures of five states, Massachusetts, New-York, Pennsylvania, Maryland and Virginia, which have 114 electors, could produce the same effect.—But if we take into calculation the twenty one states now forming the Union, they have 227 electors, and Alabama, which is soon to be a state, the number would be 230, a majority 116. The six first mentioned states, with the state of Delaware,

have 117 electors, and can choose a President.

The cases I have stated, are extreme cases; it is said extreme cases prove nothing, so it would be with these, if the evil to be apprehended, must happen in the extreme degree stated, or not happen at all. But it is very obvious, that there are many intermediate degrees of mischief, which may and will happen at every contested presidential election, if we adhere to our present system.

How easy will it be to procure combinations among state Legislatures, and how admirably calculated to promote the schemes of ambition. The small band of intriguers necessary for such operations, would have the strongest possible inducements for perseverance, as they would divide among themselves, the whole patronage of the President, and all the places and emoluments within his gift.—In this, however, they would sometimes find themselves disappointed, when the individual they had elevated, should find himself in a situation, to kick from under him, the ladder by which he had ascended.

In proportion, as we diminish the circle upon which intrigue is to act, in the same proportion, do we add to the force and energy of that intrigue. Suppose it to be ascertained, that the majority in five of the six states first mentioned, are in favor of a particular candidate as President, and that the point is doubtful as respects the sixth, and that the gaining an influential individual would turn the balance; the force of intrigue, which would produce no sensible effect upon 221 districts, would be irresistible, when applied to a single point.

And here let me observe, that our present system holds out the most inviting theatre, for the exercise of foreign intrigue and foreign influence, against which we are warned to guard and protect ourselves by the histories of all nations, who have lost their liberties.—We must all have observed, that the greatest struggles for power between the political parties, have immediately preceded the presidential elections.—These struggles in the states nearly equally divided, especially in the large states, will continue to be pursued to desperation under the present system; for the object, vastly greater than it should be, is calculated to call forth every possible exertion. Every thing is put to hazard. A party must gain or lose all; there is no intermediate point on which to rest. In the state of N. York, for instance, if the federal party should gain such an accession of strength, as to give them a bare majority in the legislature, they would instead of having no vote whatever in the election of a president, be enabled to give their candidate 29 votes, and this number taken from the opposing candidate, would, in fact, make a difference of 58 votes in the election. The object therefore, being so very great, no bounds would be set to the parties in their struggle for power; and in the furious contest, honor, justice, conscience, all would go to wreck.

Whenever the majority in a great state, changes from the one side to the other, it produces such a concussion, as not only shakes the state to the centre, but to produce an agitation in the union, destructive of the harmony that ought to prevail in our system.

This very circumstance, in no small degree, tends to create and keep alive that party animosity, that political warfare, which almost constantly agitates and distracts the larger states. How different would the case be under the proposed amendment. Suppose the Federalists in New-York to be nearly equal to their opponents, and to have majorities in 13 of the twenty seven districts into which that state would be divided, a struggle, which under the present system, would give them a bare majority in the Legislature, and make a difference of fifty eight votes in the Presidential election, would be in fact but gaining one district and the power of appointing two additional electors, being a gain of three electors, and making a difference of six in the election. The object, therefore, not being comparative of great importance, would produce no desperate struggle, no dangerous agitation. There would still, however, be enough left, to call forth all the party feeling that ought never to be excited.

Under the present system, it is greatly to be apprehended, that some aspiring individual may gain the supreme power against the will of a great majority of the people. To submit to such a president, would be deemed an intolerable oppression, and would probably lead in the loss of our liberties. To resist, the most probable alternative, would bring on a civil war, which would terminate in a military despotism; and the danger of this result is evidently increased, by increasing the number of states.

(Speech to be concluded in our next.)

**SEATS NEAR WARRENTON.**  
I WILL SELL any part of the Premises whereon I now reside. There are thereon Two Dwelling-Houses, with suitable Out-Buildings; and the Land may be apportioned into a number of handsome building-sites. It is the highest situation near Warrenton.  
R DAVISON.  
January 26 1819