Congress of the United States.

HOUSE OF REPRESENTATIVES.

Wednesday, December 7.

DEBATE

ON THE AMENDMENT TO THE CONSTITUTION.

[*Continued.*]

Mr. Dana. Notwithstanding the admonition of the gentleman from Kentucky, I shall assign my reasons in favor of the motion which I have submitted. The more I have reflected on the subject the more I am convinced that we ought not to agree to the amendment on the plain principle of discrimination. If the resolution is to pass in any form, it is my wish that it should pass with this modification. It has been refered to as a reason for altering the constitution, that it is a fact, that the will of the people will be in favor of one of the candidates for the presidency, and that it will not become the house of representatives to choose from the two equal in votes according to their discretion. The object of the amendment is to guard against this evil. Gentlemen will well recollect, the indignant eloquence that was so copiously lavished at the last presidential election upon those who voted for one of the candidates. This competition cannot exist, if the office of vice-president does not exist. But it is said that one public benefit will result from the continuance of the office of vice-president after the adoption of the discriminating principle, that is that the vice-president will be the eventual successor of the president. But on this view of the subject, the adoption of the discriminating principle produces a great change in the present provision of the constitution. The vice-president is to exercise, in case of his succession to the presidency, the duties of that office, until the expiration of four years, from the election of the president; not until a new election is held, but for the remaining term. This amendment makes the vice-president a secondary character. The reasons, therefore, for continuing the office of vice-president are not so great under this amendment, as under the constitution, as it at present stands; for it will be extremely easy to make provision for the temporary filling of the office of president, in case of a vacancy. In Pennsylvania, and in several other states, this provision is made by the designation of a particular existing officer. Gentlemen may be convinced there is no necessity for this office, if the discriminating principle prevails, by a recurrence to the journals of the grand convention. From them it will appear, that there was originally no idea of a vice-president; but that it was explicitly agreed that the senate should choose their own president. The necessity of a vice-president did not suggest itself until the idea of a double ballot was introduced. In one point the members of the convention were agreed, to wit: that the supreme executive should consist of one person; but as to the manner of appointing him, the term of his office, and whether he should be eligible in future, there existed great diversity of opinion. The first plan was that he should be chosen by the national legislature, by the joint ballot of both houses: it was then proposed that he should be chosen by the people, but this was disagreed to, as well as a proposition that he should be chosen by electors appointed by the state legislatures; a proposition that he should be chosen by electors appointed by the people, was likewise disagreed to. All these different propositions were disagreed to, until the principle of double ballot prevailed.

Unless some great good result from the office of vice-president, no argument for its continuance can be deduced, from the necessity of having an eventual successor; that case can easily be provided for, when the senate choose their own president, and, as in many of the states, the president of the senate may eventually preside.

The principle of the constitution is this: in the senate the representation of the states is equal, but by introducing into the chair of the presidency of the senate, a representative of a state, you give to that state the advantage of having the man, who presides over the deliberations of the senate; and in addition to this, when the votes are equal, he holds the balance, and one state, having thus three votes, in particular cases, destroys the equality contemplated by the constitution.—To this amendment there is another objection; the vice-president under it being but a secondary character, that office will become a lure to ambitious men, who by flattering the states, and by the exertion of undue influence will enable particular parties to make a bargain as to the possession of the executive power, which so far from being a benefit will be a great evil. Perceiving no good that will result from the continuance of the office, but great evil, in case the discriminating principle prevail, I am in favor of abolishing the office, though I am at the same time in favor of the constitution remaining as it is.

Mr. Elliot. As the motion I submitted is superseded by that of the gentleman from Connecticut, I will assign a few of the reasons for the vote which I shall give. I originally contemplated the same motion, but with different views and sentiments from those expressed by that gentleman. I have no desire to abolish the office of vice-president; nor do I think the arguments urged by that gentleman possess any force. I have a different view. I believe the principle of discrimination is the only amendment of the constitution which the public sentiment calls for, and I wish to make no amendment in which we are not anticipated by the public sentiment. I shall therefore vote for the motion of the gentleman, but under different sentiments, and with a different object.

Mr. R. Griswold. The gentleman from Kentucky will on examination find the amendment of my colleague not inconsistent with the spirit of the resolution. The object of that resolution is that every elector shall give a vote for president. If the office of vice-president shall be abolished, every elector will give one vote, and that vote will be for president. It may be said, it is true, that the discriminating principle will be done away; but it may be answered that it is no longer necessary. The enquiry is, therefore, fairly presented to the committee, whether we ought not to abolish the office of vice-president, as no longer necessary. I am clearly of opinion, if we adopt the discriminating principle, it will be useless, worse than useless. If that principle is adopted, of what use can the vice-president be? For what purpose do we want him? To receive 5000 dollars a year? This may be beneficial to him, but it can not be useful to his country. The office may confer honor on him, but the honor of an individual can be of no public utility. Will he be wanted to preside in the senate; that will not be necessary, for the senate sit half their time without the vice-president, and I have not understood that the business is not as well done without as with him. For what purpose then will you have this officer? As heir apparent to the crown? If this is your object, select him from the best and greatest of your citizens, and do not adopt the principle that the electors shall vote for one man for president, and for another as vice-president.

What will be the effect of this principle? The office of vice-president will be carried to market to purchase the votes of particular states. A large state having numerous electors, and claiming a right to designate the president, but not having votes enough itself for that purpose, will carry the office of vice-president to another state, and will say, give us the president, and we will give you the vice president. If it be your desire to consider the vice-president as heir apparent to the presidency, elect him not in this manner, for he must be the mere child of corruption! With these views, I am justified in saying the continuance of the office will be worse than useless, inasmuch as it will only tend to introduce a system of corruption. It will also give a particular state great weight in the senate by giving it three votes, and the precedency over that body? Why do this! Under the old confederation all the states were equal. Why unnecessarily impair that great principle? Why give to the state from which the vice-president is selected, this power, together with influence of another kind. For these reasons I am of opinion that when gentlemen determine to discriminate they ought to go the full length of the principle. If they agree to amend the resolution, it may be so altered as to make every part of the constitution correspond. Gentlemen will observe, that I am discussing their principle, and that though I think the constitution far better as it is, yet if the discriminating principle is to prevail, I think that the amendment proposed by my colleague, will render the resolution far less exceptionable.

The question was then taken on Mr. Dana's motion, which passed in the negative. Ayes 34.

Mr. Elliot's motion recurring,

Mr. Elliot said he could not suffer the question to be taken without noticing one argument urged by the gentleman from Pennsylvania, who conveyed the idea that as the resolution had passed the senate, we must either take it as it is, or lose it altogether. From what premises this conclusion was drawn he was not able to discover, as he had observed before, after laboring for weeks on the resolution which embraced the discriminating principle, and we had agreed to it; the senate have not acted on that, but have sent us another, to which he was decidedly opposed. He could not but believe but that a spirit of accommodation would actuate the senate if we struck out this part of the resolution; but if he did not believe this, he would not even then sacrifice his ideas to the opinions of the senate, nor adopt the doctrine advanced by gentlemen of an imperious necessity. To this doctrine he would always oppose the dictates of duty and conscience. For he did believe, if they adopted the resolution from the senate, they would render the constitution pregnant with greater evils than it was at present.

Mr. Goddard was happy to see the notice taken by the gentleman from Vermont of the remarks of the gentleman from Pennsylvania. If these remarks were just, we might as well be done with the business at once. Are our minds to be trammeled with the decisions of the senate? With great deference to that body, he would not suffer his mind to be bound down to their will. We have passed a resolution with a discriminating principle; they have sent us another resolution with other principles. Suppose they had said, if there were no election in the house of representatives, the senate should choose the president, would the gentleman from Pennsylvania vote for it. There was another effect of the resolution of the senate; it would be giving to the large states both the power and the premium to combine in the election of the president. By the discriminating principle you vest the large states with the power of making the president, and through the medium of vice-president you give them the means of effecting that object.

The question was taken on Mr. Elliot's motion, which passed in the negative---ayes 38, noes 81.

Mr. Chamberlin moved to amend the resolution by striking out in the second clause the words "persons having the highest numbers not exceeding three," for the purpose of inserting the words "five highest."

Mr. Dana called for a division of the question.

Mr. Sandford could not help again advising the gentleman from Connecticut. The object of the motion seemed to be to defeat the whole business by sending it back to the senate. He trusted the question would be taken on the main resolution, on which every member he believed had made up his mind.

Mr. Chamberlin did not know by what spirit of divination the gentleman penetrated into his motives. He had expressed no motive but to render the constitution as perfect as possible, having previously expressed a wish not to change the constitution as it at present stood.

Mr. Goddard. The gentleman from Kentucky is opposed to the motion of the gentleman from Vermont. This subject has been considered before. The numbers 3 or 5 were then before us, and gentlemen with vast deliberation settled 5 as the best. So the resolution went from us, and now it comes back again with the number 3. The gentleman says he is for 3, and intimates that it is the object of the motion of my friend to defeat the whole business by sending it back to the senate! As the amendment stood, Mr. G. did not understand it, "the highest number not exceeding 3," could not certainly mean only persons having 3 votes.

The chairman said the word *number* was a misprint, in the manuscript it stood *numbers*.

Mr. Goddard said if a classification of persons were intended, the principle was the same.

Mr. Elliot was equally at a loss with others to discover the motives ascribed to his colleague in making this motion. Some gentlemen say his motive is to defeat the whole resolution. How defeat it? By making it conform to the resolution sent by this house to the senate? How long is it since some gentlemen, now in favor of a precipitate decision, in protracted debates threatened, if the number five were not introduced, that they should vote against the whole resolution? It was astonishing that what they themselves were so lately friendly to, should now be calculated to defeat the whole object!

Mr. Elliot said he was prepared to lose the discriminating principle for ever, rather than incorporate with it the principle sent down by the senate.

Mr. Smilie said he was sorry to see the gentleman warm without occasion. He was one of those originally in favor of the number five, but had uniformly declared that that circumstance should not prevent him from agreeing to any number, provided the principle of discrimination were adopted. But gentlemen think it strange, said Mr. Smilie, that I should utter an opinion that the effect of sending this resolution back to the senate, will be to defeat it. Such was my opinion when I uttered it, and I think so still. I also said that I did not like the amendment from the senate so well as our own; but liking it better than the present provisions of the constitution, I was in favor of its adoption. When two bodies have to agree, there must be a mutual spirit of concession, or business can never be transacted. This concession takes place every day. I repeat then what I said before, that those who believe this the best amendment we can get ought to vote for it.

Mr. R Griswold. The first question is on striking out the words "persons having the highest number not exceeding three." If gentlemen will critically attend to these words, they will perceive that in order to make sense of the resolution, or to accomplish their object, they must strike them out. I know perfectly well that it is disagreeable to enter into verbal criticisms in public bodies, and that they ought not to be made on ordinary occasions; but when we are amending the constitution, it is proper to make it as plain as possible, & to convey our ideas in apt words which shall not admit a construction different from that which we intend. I ask gentlemen to tell me the meaning of these words: "and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose," &c. To what does *three* refer? Either to *persons* or to *numbers*. I conceive it clearly applies to numbers.—If so, what will be the effect? Then "from the persons having the highest numbers,"—of what? number of votes. It will then read, that the elections shall be confined to persons having three votes, and consequently persons not having precisely three votes, cannot be elected. This is not the intention of gentlemen, to exclude those having the greatest number of votes, and to confine the choice to those who have only three votes, and yet the word *numbers* must refer to the last antecedent. I do not know how it came about that the senate introduced this absurdity into their resolution; but I do hope that the members of this house will look to it, and see whether they are not doing a different thing from what they intended. Surely it is not the object of gentlemen to send an amendment to the people, either different from what they intended, or so obscure as not to be intelligible?

I am inclined to think the idea of the senate was to confine the election to three classes of persons. I am of opinion that they have not used the apt and proper words to convey this meaning. I ask gentlemen to read over the resolution. I will venture to say that three-fourths of the people who shall read it, will think it is intended to confine the election to three persons; and yet I understand it is the intention of the senate only to confine it to three classes. This may perhaps be the true construction of the words, but in amending the constitution, we ought to render it as clear and explicit as possible; so clear and explicit that every man who runs may read. I therefore trust that gentlemen will take up this resolution and render it so clear as to avoid all doubt.

Mr. Dennis said, whatever might be the precise grammatical construction of the words proposed to be stricken out, he believed that nineteen twentieths of the people would place that construction upon them that made numbers and persons synonimous. It was immaterial to him whether the existing obscurity were removed by striking out these words, or introducing additional expressions. He tho't it could not be denied that the words admitted of different constructions, and that they ought not to leave a principle so important to a variety of interpretations; but ought, on the contrary, to use language the most accurate and pointed. He hoped gentlemen would exercise a due degree of indulgence to those who did not understand these words as they did, and agree to remove their obscurity. For this reason he was in favor of the motion to strike out.

Mr. J. Randolph said that this was not the first time that the house had been sent back to their accidence and ferula, to Lilly and Ruddiman, to solve the doubts of gentlemen from Connecticut. Since such was the case, he recommended a recurrence to a well known rule, in all cases of difficulty as to concord, to ask the question who or what? He concurred with the gentleman in the position, that in all cases of construction, where the sense would warrant it, the relative was to be referred to the last antecedent. The choice is to be made out of "the persons having the highest numbers, not exceeding three." Three what? numbers; what number? highest numbers. Will the gentleman undertake to maintain that not exceeding the three highest numbers is the same as not exceeding three in number? That three numbers and the number three are one and the same? But whether the numeral three agree with *persons* or *numbers*, the sense contended for cannot be made out. If it refer to persons, then the choice is to be made out of those persons, not exceeding three, having the highest numbers on the list. If to numbers, which was the evident construction, then the choice was to be made from those persons having the highest numbers, not exceeding three.

Mr. R. Griswold said this expression was not so clear in his opinion as the gentleman from Virginia tho't it. The gentleman from Kentucky (Mr. Sandford) says the word numbers refers to persons, while the gentleman from Virginia says they refer to the three highest numbers, which may refer to forty persons, if they should be equal. When doctors disagree what is to be done? I think the different construction of gentlemen, as well in favor of, as against the resolution, shews the necessity of clothing it in language that will remove all doubt. If this were an amendment of a law, the obscurity of the language would not be so material as it would be in the power of the legislature at any time to alter it; but being part of the constitution it will be out of their reach.

Mr. Sandford could not see the difference between his construction and that of the gentleman from Virginia. The gentleman from Vermont had charged him with voting for the number five, and being now in favor of three. Mr. S. said he did vote for the number five, and he would ask that gentleman if he would not allow him to shew the same spirit of accommodation that actuated himself in voting for three instead of five. The same spirit would induce him to vote for the resolution of the senate since they had not acquiesced in our proposition.

Mr. Huger, after impressing the propriety of removing the obscurity of the language contained in the resolution, moved that the committee should rise.

Motion lost—Ayes 32.

[*Debate to be continued.*]

NEW-YORK, December 26.

Arrived on Saturday,

The brig Nancies, Warner, in 56 days from St. Ubes. Left, the brig America, Upson, (late Southward, who died going out) to sail shortly for New-York.

Same day, the brig Dean, Edgar, in 8 days from Savannah. The brig Eliza and Mary, Starr, was to sail for New-York, on Christmas day; the brig Ann-Maria, Coffin, of New-York, was taking in a cargo for Boston, and would sail in 3 days. On the 19th instant, John Lowden, seaman, fell from the main-top-sail yard, and was lost.

Arrived yesterday,

The ship Independence, Fleming, in 37 days from Londonderry. Spoke, December 11, in lat. 40, 4, the ship Nancy, Foster, of Wilmington, 38 days from Liverpool, for New-York. 14th, off the Hook, the schooner Flower, 27 days from Guadaloupe, for New-London. Left Londonderry the 17th November, when there were no American vessels there. Every thing remained tranquil in Ireland. The idea of Bonaparte's landing troops there was laughed at. The Independence has 25 passengers.

Same day, the schooner Favorite, Weymouth, in 10 days from Richmond.

Same day, the schooner Tyger, Hullum, in 14 days from Petersburg, (Virg.)

Same day, the schooner Mars, Ransom, in 5 days from Washington, (N. C.)

Below last night, the brig Favorite, Salas, in 25 days from Havanna, for Boston; the brig Mariner, from Charleston; a brig, 30 days from Martinique; a ship and two schooners. Wind, N. E.

Cleared, ship Thomas Gordon, Coster, Madeira; ship Frances and Henrietta, Goodrich, Amsterdam; ship Orlando, Marshalk, West-Indies; ship Hall, Morlaix; brigs Little John, As, West-Indies; Morning Star, Henry, Curracoa; Governor Beckwith, Gibbs, Jamaica; Nancy, Story, Teneriffe; Fancy, Whittlesey, Barbados; Bla Ferguson, Yarmouth; Jane, Labaux, St. Thomas.

The ship Wells, Smith, Credt, and Swan, Young, Liverpool, harrived at Newburyport.

NEW-BEDFORD, Decer 23.

Riot at Plymouth.

The editor has been furnisheth a circumstantial detail of a riot whiccurred at Plymouth, on the 1[illegible] int, by a gentleman who was present. ppear, that the deputy-marshal, agree to previous notice, proceeded to sell public auction, at 12 o'clock, on thday, a quantity of rum and molasses, ich had been justly forfeited by law, for attempt to evade the payment of the du. At the commencement of the sale, ob collected to the number of 150 or , with an evident determination to abuse any person who should over bid the origl owners—two or three respectable iniduals from the country, saw proper, twithstanding these "squally appearas," to make such bids—they were shamfully abused, and one of them after an unsuccessful attempt had been made to tlw him in the dock, was beaten in a most cking manner, & it was only by the mospirited exertions of his friends, thate was rescued from the hands of the ruins, in so mangled and exhausted a situain that his life was at first dispaired of.—e forbear adding more at present, wregret that a cause should exist for saying smuch, and sincerely hope, for the honor that ancient town, that the investigato of so daring an outrage on the laws of ilized society, will receive the punishmenwhich their conduct merits.

BY THIS DAY's MAIL.

PHILADELPHIA, Dec. 27.

Arrived, ships Commerce, Dyer Liverpool, 40 days; Eliza, Bissel, Cadz, 55; brig Hero, ——, Rhode Island, 10; sloop Falmouth, Curtis, St. Andrews, 15.

Cleared, brig Syren, Whitehead, Hispaniola; schooners Greenwood, Green, St. Lucie; Beaver, Gilden, Cape-Francois; Sea-Horse, Griffing, Darien.

Ship Pennsylvania, Bray, of and for this port, was to sail from Liverpool 24th November.

The Fortitude, N. M'Leod, from Boston, is arrived at Liverpool.

December 28.

Belfast, November 8.

IRISH STOCKS.

5 per cent. government debt, 87 3-4

3 1-2 cent. 62 33 84.

COURSE OF EXCHANGE.

London on Dublin, 16

Dublin on London, 15 1-2 16

Belfast on London, 5 1-4 5 1-2

——— on Dublin, 11 1-2, 61 days.

A writer at Washington, under date of the 22d instant, says—"A motion was made in the senate this day to adjourn for the holidays; on the question, the votes for and against were equal; the vice-president voted in the negative. It is presumed a similar motion will be made to-morrow."

Extract of a letter from New-York dated Dec. 26.

"Arrived this morning, the sloop Lady Washington, Weeks, Antigua, 21 days. She was bound to North-Carolina, but being blown off was obliged to make this port. Left, schooner Fair American, of Philadelphia, condemned; schooner ——, Rock, of New-York. December 14, lat. 23, long. 63, saw a fleet of vessels under convoy of 10 ships of the line, in all 63 sail."*

* [It is not improbable the above fleet may be that which sailed from Brest the beginning of November, and perhaps bound to the West-Indies instead of Ireland; if so, the British will have to look where they did not expect].

Cleared, British brig Charleston, Innes, Kingston; Fly, Smith, Cape-de-Verds; sloop Almena, Bird, New-York.

Vessels advertised in Liverpool papers of the 11th of November.

Ship Thomas Chalkley, Gibson, for New-Orleans

Nancy, Davis, for Norfolk

Snow Russel, Osburn, for Washington, North-Carolina

Brig Ranger, Goodwin, for Boston

Sophia, Pinkham, for Charter

Late Foreign Intelligence.

We are indebted to a respectable merchant of this city for the Liverpool paper from which the following articles have been selected:

LONDON, November 7.

CONVENTION

Between his Britannic majesty and the king of Sweden, signed on the 25th July, 1803.

His majesty the king of the united kingdoms of Great-Britain and Ireland, and his majesty the king of Sweden, being equally desirous of promoting the good understanding which happily subsists between them, and of preventing the recurrence of those differences which have heretofore arisen respecting the 11th article of the treaty of alliance concluded and signed at Whitehall, on the 21st day of October 1661, have named and authorised for that purpose, viz. his Britannic majesty, the right hon. Robert Banks Jenkinson, lord Hawkesbury, one of his said majesty's most honorable privy council, and his principal secretary of state for the foreign department, and his Swedish majesty George Ulfdric baron de Silverhjelm, his