Congress of the United States.

HOUSE OF REPRESENTATIVES.

Wednesday, December 7.

DEBATE

ON THE AMENDMENT TO THE CONSTITUTION.

[*Continued.*]

Mr. Elliot. It is a task of delicacy to decide whether the gentleman from Kentucky, Connecticut or Virginia is the best grammarian. I believe, however, that the palm of grammatical learning and verbal criticism will be found to be justly due to the gentleman from Virginia. On this occasion he has been extremely ingenious: but in undertaking to prove that there is no obscurity in the language of the amendment, I conceive that he has failed in his object. The very ingenious mode in which he has managed the subject has convinced me there is obscurity in it. He says it is immaterial to which of the antecedents the words 'not exceeding three' refer: I do believe, tho' perhaps less conversant with Lilly or Ruddiman or Webster than the gentleman, that it refers to persons and not to numbers. He has asked the difference between the *three highest* and the *persons having the highest numbers, not exceeding three*. If the expression should be the three highest numbers, and it should happen that two persons have 35 each, and four persons 16 each, it will, I apprehend, be extremely difficult to determine which are the three highest persons. I believe, also, that according to this construction, the gentlemen who think 5 involves too great a discretion, will consider the extending the number to 50 will be still more exceptionable. But we are told, notwithstanding all the obscurity and other defectiveness of this resolution, we must pass it as it came from the senate, lest by sending it back it may be defeated. But I will prophecy, though like Cassandra my prophecy may not be believed until it is verified by time, that this resolution, though passed by us, will not be adopted by the state legislatures. This time will determine. For these reasons, I am in favor of erasing these words, that others may be introduced less susceptible of grammatical criticism.

Mr. Baldwin enquired whether the expression that the election of president in the house of representatives should be confined to "the persons having the highest number not exceeding three," did not imply that the house might, if they chose, confine the election to two, and whether, on such election, there must not be a previous question decided, whether the word three related to persons or numbers. How was this to be determined? The choice of a president is to be by states. How is this question to be settled? by the whole members? If so, what will be the consequence, The four states of Virginia, Pennsylvania, North Carolina and Massachusetts, having a majority of all the members on the floor, their combination may limit the number to two persons, and thus exclude the candidate who might otherwise have been voted for by the 13 other states. Considering the effect of this construction, and of the different constructions put upon the language of the resolution by other gentlemen, and that the language of the constitution ought to be so correct as to free it from a variety of constructions, Mr. B. hoped the house would pause, and before they gave the amendment its final passage, make it as free from ambiguity as possible.

Mr. Rodney would detain the committee but for a few moments. He said he might be permitted to remark, that accustomed to consider subjects on principle, and to act himself under the best impressions of his judgment, he was willing to give credit to others, and to believe that they also acted on the same motives. He agreed with his friend from Virginia on the construction proper to be put on the amendment. By attending to every part of it according to the rules of syntax, it appeared to him that no noubt could exist on the most mature reflection as to its proper construction. "The person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; 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 immediately, by ballot, the president." The committee will observe that in the previous part of the paragraph, the term *number* of votes is used, and that reference must be had to it in the construing the meaning of those words through every subsequent part of it. He believed that by a simple reading of the paragraph, it would appear that *three* does refer to *numbers*. To give a just construction to any sentence, we must use every part of it, and not exclude a single word, if we can give it meaning. Taking this as a sound rule, and giving effect to the term highest, the argument of gentlemen is answered. They pretend to say when they find the expression on the *highest numbers not exceeding three*, that the highest on the list are to be excluded, and the choice to be confined to persons having only 3 votes. The house is to take the highest numbers, the three highest whether more or less. As the constitution now stands, it says, if no person have a majority, the house shall choose by states from the five highest. A case might occur, where six of the candidates may have equal votes. What would be the consequence? The constitution confines the choice to the five highest, there would in that case be returned to the house 6 candidates equal and highest. To remedy this defect, the amendment is so framed, that instead of tying down the house to a choice from 5 persons, it authorises it from the 3 highest numbers. Gentlemen object to this by saying that it allows a wide scope, and permits the house to choose a person having perhaps but one vote; and is not this the case at present? Suppose the two highest have all the votes but 3, and that three otheer persons have but 1 vote each, the case will be precisely the same. Mr. R. confessed that it was so long since he had left school, that he was not able to repeat the rule of grammar to which he had referred, but it did appear to him when reference was had to a substantive qualified by an adjective, it was proper to take both together. No instrument was so perfect, but that if the parts were taken separately, it might not be rendered nonsense. He had learnt somewhere that a clergyman reciting in a place of worship, the old version of the Psalms by Shernhold and Hopkins, had said,

The Lord will come, and he will not
Keep silence, but speak out—

A sailor who happened to be listening, thinking the man crazy and all who heard him, immediately left the house. So in this case the gentleman, by a similar species of ingenuity, may make this or any other resolution perfect nonsense.

Mr. Dana said it was not his purpose to enter into a grammatical disquisition; to understand correctly the meaning of particular words, it was not necessary to refer to the authority of grammarians. When they understood the principles of grammar they did not want those authorities. He rose merely to observe that on the first reading of the resolution, many gentlemen entertained different ideas from those expressed by the gentleman from Delaware and Virginia. Some gentlemen considering the term highest as referring to persons, and others to members; as had been observed, the punctuation would decide it one way or other, the construction might depend on commas. On a question in which the passions are so apt to be engaged as in the election of a chief magistrate, the language ought to be plain. He did hope, therefore, that where all agreed in principle, all would agree to cloath it in language that would free it from obscurity.

Mr. Elliot moved that the committee should rise.

Motion lost—Ayes 36, Noes 66.

The question was then taken on striking out, and lost—Ayes 29.

Mr. Thatcher said that in the first paragraph of the resolution the following expression was used, "when ratified by three-fourths of the legislatures of the several states." It appeared to him that this expression required the ratification by three-fourths of each legislature, and not, as expressed in the constitution, of the legislatures of three-fourths of the states. To make the phraseology conform to the constitution, he moved to substitute, in the room of the former words, the following: "when ratified by the legislatures of three-fourths of the states."

Motion lost without a division.

The question being then stated on the resolution generally,

Mr. Elliot said as the committee were not disposed to hear him and as as he felt quite exhausted, he should not, on cool reflection, trouble them with the full remarks he intended to make, but should, when the amendment came into the house, ask for a division of the question and offer a few remarks in support of the opinions he held.

The main amendment was then agreed to—ayes 35—noes 26.

The committee having risen, and the chairman having reported an agreement to the resolution from the senate without amendment, the house took the same immediately into consideration.

Mr. Chittenden said as this was an important question, requiring, in his opinion, more time for deliberation, he would move an adjournment.

The yeas and nays being taken on the adjournment, were, yeas 30; nays 77.

Mr. Dana renewed the motion, made in committee of the whole, for so altering the resolution as to abolish the office of vice-president, and called for the yeas and nays on it.

The yeas and nays were accordingly taken and the motion rejected. Yeas 26; nays 85.

Mr. Goddard moved to strike out "persons having the highest numbers not exceeding three on" in order to insert "five highest," and called for the yeas and nays, which were taken and the motion negatived. Yeas 32; nays 85.

Mr. G. Griswold moved to strike out "two" and insert "three," being the number of candidates for the vice-presidency from whom an election shall be made by the senate.

Lost without a division.

Mr. Elliot moved a division of the question on agreeing to the whole amendment, at the word vice-president in the second paragraph, and called for the yeas and nays; his object being to record on the journal his vote in favor of the discriminating principle.

The question was accordingly taken on that part of the resolution which was agreed to. Yeas 86; nays 30.

The remaining members of the resolution were then agreed to without a division.

The speaker put the question on the whole resolution.

Mr. Elliot. I shall detain the house but a few moments in submitting to their attention a few remarks If the vote I shall give this night shall induce my constituents to call me back to the studious and rural life from which I was reluctantly taken, I shall have the consolation to reflect that I have done my duty. I have voted for the simple principle of discrimination, believing it the only amendment the public voice calls for. I believe the objections to that principle to be founded on ideas that are erroneous and visionary; I believe it will not impair the rights or relative importance of the smaller states; I believe the constitution to be founded on elementary and federative principles, and that by their union it constitutes the most illustrious monument of human wisdom; I believe it important to all the members of the union that the process of election should be simple and pure, and that the president should be elected by a fair expression of the public sentiment, and that he may thereby be the correct organ of the public will, and that compared with this, it is of little consequence, whether once in 100 years he may be a citizen of Massachusetts rather than of Virginia, or of Vermont rather than of Delaware. I have heard many ingenious arguments on a former occasion without being induced to believe that either the rights or relative importance of the small states would be impaired by this principle; but in deciding on this subject, I also believe this house ought to manifest caution and deliberation in making the alteration. I believe that all irritation and pride of party should be laid asleep. A different course from this has been pursued to-day. I have no doubt with pure motives, but I have some doubts whether with becoming judgment. I believe the amendments, incorporated into the resolution of the senate, to be infinitely more important than gentlemen may imagine. This can only be demonstrated by experience. I venture to prophesy, this resolution will not be adopted by three fourths of the states. I hope it never will. I believe, if adopted, it will jeopardise the union of the states, and open a door to intrigue and corruption, which gentlemen should wish to close forever; and I believe instead of making the constitution better than it now is, it will make it infinitely worse. We are about to increase ten-fold the probability of introducing a person into the presidency not calculated for that office, and to increase the avenues by which corruption and ambition may be advanced to supreme power. I am comforted by the assurance that I shall not be the only member friendly to the administration, that will give it a negative, and that this will induce gentlemen to believe that I do not vote from irritation or prejudice. Neither birth, wealth, talents, or connections, introduced me to public favor. I am induced to believe that I owe that distinction to a conviction of my personal integrity, and though I do not wish to use the language of arrogance, I expect that the vote I shall give this night, instead of lessening, will increase the favorable opinion of the republicans, and if on any future occasion the people of this country shall be under the necessity of mourning over their departed liberties, of lamenting the destruction of a constitution, the work of so much toil, labor and wisdom, by the passage of this resolution, and perceive my name recorded in the negative, they will remember the prediction I have made on this occasion.

The resolution was then agreed to, and the question was put on engrossing it for a third reading.

Mr. J. Randolph moved that it be read a third time to-day.

Mr. R. Griswold moved that it be read a third to-morrow.

Mr. R. Griswold hoped it would be postponed till to-morrow This was the first moment, during the progress of the resolution, in which it was in order to discuss its merit. They had already been 8 hours in session. All the previous deliberations of the house had been taken up in amending the resolution, and now its merits came to be discussed, he trusted a majority would not be in favor of precipitating a vote. The merits of the amendment had not been fully discussed, and if ever it was important that any measure should be deliberately discussed, it was the one about being adopted, which went to change the radical features of our government. He concluded by moving that the yeas and nays should be taken on the third reading of the resolution to-morrow.

Mr. J. Randolph said that the gentleman from Connecticut had called on the house, to use his own words not to precipitate a decision on an important measure, contemplating nothing less than a change of a fundamental principle, on which the national compact was founded. I will ask you, Mr. Speaker, said Mr. Randolph, and that gentleman, whether in the course of this business, from the first motion to amend the constitution to the present time, whether such precipitation can be justly charged on the house. I ask him as a man of honor, whether a postponement until to-morrow, can affect a single vote. I ask whether he believes a single member has not made up his mind on the subject? I ask him & the house, whether in the course of this day and yesterday, and on previous occasions, all the great bearings of this resolution have not been sifted, and every line and sentence carped at by critics and hypercritics? Why then are we charged with precipitation? Yesterday it was moved to postpone the resolution, that motion was lost, and on that occasion the object of gentlemen was carried, though their motion was lost, for the day was consumed. The same course has been pursued to-day, and on incidental motions to amend particular parts of the resolution, gentlemen have debated its merits. I ask you, therefore, if the resolution has not been discussed, in every point of view of which it is susceptible, or if any new matter can be introduced? I ask if the house be disposed to postpone the question until to-morrow, and if the day shall be consumed in making and discussing the same evasive motions made to-day, whether an attempt to take the question then will not be charged with precipitation. There can be no doubt that, unless we adopt the peculiar course of gentlemen, we shall still be charged with precipitation. I for one am willing to submit to this charge, and am willing to hear it urged within and without these walls. If I did not believe the question had been fully discussed, and that further discussion would fail to change a vote, I would acquiesce to postpone it until to-morrow, or the next month; but believing the contrary, I shall be against it.

Mr. Elliot. Some of the gentleman's remarks are so extraordinary, that I cannot, I will not suffer them to pass unnoticed. It is immaterial to me what the gentleman from Connecticut or Virginia thinks on this subject. Some gentlemen may think the mind of every gentleman fixed; some gentlemen may rely on a degree of personal influence which I trust will never be realised, and that some gentlemen will take their opinions on the subjects from others; but be this as it may, I think it improper to put the queries submitted by the gentleman from Virginia, at the first moment, when it is strictly in order to debate the merits of the amendment. Good Heavens! Is it come to this? when most material amendments are to be made in the constitution, and after an extraordinary degree of irritation and fatigue, when one day more is asked for, the gentleman from Virginia shall get up and ask if every member has not made up his mind on the vote he shall give; after two new principles are introduced in the resolution sent from this house, which, tho' confined to the simple principle of discrimination, occupied a month's discussion.

I do not accuse of improper motives the majority of this house, with whom it is my pleasure on most occasions to act. I believe they sincerely think it for the interest of their country that this important decision should be immediately made. I know that the state I represent has manifested great zeal and uncommon unanimity in favor of the discriminating principle.—Impressed with its importance, they have, contrary to their usual course, submitted to the inconvenience of an extra session, in the expectation that this principle would be adopted by the two houses. But I believe that not a member of the legislature of that state will be gratified that so many important amendments, additional to this, have been made after the discussion of a single day; the greater part of which has been consumed in the discussion of incidental points. I do not believe that the people of the United States wish us to spend day after day in examining the merits of a private claim, and to give but a single day to the making three or four alterations in the constitution, without allowing a single member an opportunity of discussing any but incidental questions.—These are my opinions: I do not believe, however, that they will be accepted by the majority as of any weight. In making them, I mean no reflections on the majority. Yet I believe the majority may without offence be informed, that even a humble minority have rights as well as they; and that while they feel power they ought not to forget right. These are my reasons for hoping another day may be devoted to the subject.

Mr. Gregg said he would vote in favor of a postponement, were he not persuaded that the question had been fully discussed. It would be recollected that two of the propositions, contained in the present resolution, had been on a former occasion before the house, and had been ably discussed. These same propositions now appeared in a shape somewhat different in form, but the same in substance. They related to the principle of discrimination, and to the number of persons from which the house of representatives should elect a president. It would be conceded that these two questions had been as fully discussed as they could be. Every thing the subject admitted of had been already advanced. The remaining principle, embraced by the resolution of the senate, authorising the vice-president eventually to become president, has been also fully discussed on the motion by the gentleman from Vermont. That gentleman calls this an incidental question; but without deciding whether it was an incidental question or not, Mr. G. believed it questionable whether any thing could be added to what had been advanced. Another motion had been made to do away the office of vice-president. This likewise had been discussed. These four propositions embraced the whole of the resolution from the senate; and although there may have been no discussion on the whole of it, yet as there had been a full discussion of all the parts of which it consisted, the effect was the same.

Mr. Huger said he must exercise the liberty of disagreeing with the gentleman from Pennsylvania. The fact was that the question of discrimination had never been fully discussed. When it was before the house the gentlemen in the majority acted as if all acquiesced in it. Its real merits had not been therefore entered into by them. The only question discussed was, the number from which a choice should be made by the house of representatives. That was fully done. What then followed? On the main question, Mr. H. said, he was almost the only one who really went into a discussion of its merits, the gentlemen on the other side had not thought proper to make any answer.

Mr. Dana. After having been before congress for ten years, and the members of the house having spent three days in discussing the petition of Amey Dardin for the price of a horse, the amendment of the senate to the constitution is brought before us; and after but two days discussion, we are now called upon to decide finally upon it. I do not ask gentlemen to change their opinion, but I require them to have some regard to common decorum; and that when it is unusual on the most ordinary occasions to read a bill the third time on the same day that it has been discussed in a committee of the whole, they will not urge a measure of the first importance, which goes to reverse the ideas of our wisest men, to a precipitate decision in violation of this common rule. This is all I ask, and no more. When gentlemen say there is nothing new to be advanced, I acknowledge myself willing to pay great respect to their intuitive judgments and reach of thought. I do not pretend to say they have not this eminent qualification; but I must say few men possess these vast powers of mind.—It might be arrogance in me to say that I could add any thing to what has been so ably urged, particularly in the other branch of the legislature. Yet I might perhaps present the subject in a light somewhat different. Gentlemen are graciously pleased to say they will hear patiently what we have to advance; but to say they will hear us patiently, when four hours have elapsed since the usual time of dining, is giving us but little indulgence; the exhaustion of the speaker, and the impatience of the house are such discouragements as a speaker is not accustomed to bear. For these reasons I hope the business will be permitted to take its ordinary course, and the third reading of the amendment be postponed until to morrow.

Mr. Bedinger urged the necessity of coming to an immediate decision, as the state legislatures would be exposed to serious inconvenience by further delay. The legislature of Kentucky would, he understood adjourn about Christmas. This business had begun with the session, and he was persuaded the mind of every member was made up on it.

Mr. R. Griswold hoped the legislature of Kentucky would not become extinct on their adjournment, and if not, when they meet again they could take up this amendment. He trusted, therefore, the house would not precipitate a decision on this account. He could not promise himself, if indulged with time, with the ability to make any observations that would convince the judgment of a single member. Indeed it was a melancholy truth, that the temper of the house was such as to indicate no change. Gentlemen say they have made up their minds. He still thought it proper that the subject should be fully discussed on that floor, as the state legislatures were ultimately to decide. He wished to see it discussed every where, on the floor of the house, as well as in the public prints. He hoped also a respect for the dignity of their proceedings would restrain gentlemen from calling for a decision at so late an hour. It was not usual to carry a bill a to its third reading on the same day with its discussion in a committee of the whole. This may have been practised some time at the close of a session on unimportant subjects; but had never been practised at the commencement of the session. For these reasons he hoped the subject would be postponed until to-morrow, when he would offer his opinion on it. It was certainly true, that the gentlemen in favor of it had hitherto refused to discuss its merits. He did hope that before a final vote was taken on the amendment of the senate, they would come forward and divesting themselves of party sensibility, show the grounds on which they advocated it.

The motion to read the resolution a third time to-morrow, was rejected by yeas and nays. Yeas 45; nays 74.

The question was then taken on its being read the third time to-day, by yeas and nays, and carried in the affirmative. Yeas 77; nays 35.

The engrossed resolution was then read the third time, and on the question shall the same pass?

Mr. Purviance said, as I am aware that this question will induce a lengthy discussion, which may not be terminated until to-morrow, I move an adjournment.

Motion lost. Ayes 30.

[*Debate to be continued.*]

BOSTON, December 21.

From Europe.

Through the politeness of capt. M'Lellan, of the Portland, we have been favored with Liverpool papers to the 10th November, containing London dates to the 8th.—

Though the invasion of England had not, at the last dates, been attempted, it was a fact, that all the measures necessary therefor, were farther advanced towards execution, than at our prior dates. The number of troops, batteaux, and craft of various kinds, on the coast, and in the ports opposite England, were greatly augmented; and it was certain Bonaparte was on the point of repairing from Paris to the thatre of action. We do not, however, rely on the accuracy of the English papers in their accounts of the French preparations. They appear to us much exaggerated; and for purposes easily seen through.

Great-Britain was a perfect *armadill.*—Every measure which caution could suggest, or energy accomplish, appeared to have been adopted, and no one point of defence or offence neglected. Whilst her whole coast was lined with armed subjects, her gazettes filled with lists of promotions and appointments, and her naval force hourly augmented, she was reinforcing her establishments in the Mediterranean; affording fresh succors to her East and West-India possessions; and asserting her maritime laws with renovated vigor.

At the last dates no new measure had been adopted respecting Spain and Portugal. They remained half neutral, though they supplied the French coffers with mo