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*Collection of Revenue.*

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respect to them. As Rhode Island did not send members to the first convention, there was a delicacy in transmitting the proceedings to them, and Congress could not, perhaps, apply to them with the same propriety as to another. But all we are now to consider, I believe, is, that we invite the State of Rhode Island to join our confederacy; what will be the effect of such a measure we cannot tell till we try it.

Mr. PAGE said, though he had a great deference for the mover, yet he conceived the motion ought not to come before Congress. He feared they would make themselves a party in the business, if they interfered; and he wished to avoid having any thing to do with their bickerings and disputes; it was enough for us to do the business we were sent upon, and not to attempt works of supererogation. From the respect he had for the gentleman, and from the delicate situation in which the House was involved, he hoped that the motion would be withdrawn.

Mr. AMES.—If the situation of the House is delicate, it is also dangerous in some degree; but he did not think it would relieve them by withdrawing the motion. If the gentleman felt serious on the subject, if there were danger in the measure, it ought to be well examined. But this was an argument for going into a Committee of the whole. Surely gentlemen are not afraid of knowing our situation. Then why oppose the means of coming at that knowledge? It is not possible to conceive that this question can be long evaded. Then what advantage is proposed from procrastination? For his part, he could discover none; and, therefore, was in favor of resolving into a Committee of the whole.

Mr. PAGE had heard the word danger, but did not hear distinctly the gentleman's arguments. He thought the House run the risk of involving themselves as parties, and of incurring all the dangers to which such a situation would expose them. He thought the best way to avoid the danger was to stay where we are.

Mr. MADISON.—I believe, Mr. Speaker, there are cases in which it is prudent to avoid coming to a decision at all, and cases where it is desirable to evade debate; if there were not cases of this kind, it would be unnecessary to guard our discussions with the previous question. My idea on the subject now before the House is, that it would be improper in this body to expose themselves to have such a proposition rejected by the Legislature of the State of Rhode Island. It would likewise be improper to express a desire on an occasion where a free agency ought to be employed, which would carry with it all the force of a command. How far this is contemplated on the present occasion, I cannot tell; but I heartily wish that as little may be said about it as possible. I conceive this to be one of the cases to which the previous question is applicable; and, if the gentleman means to call the House to a direct decision on this motion, I shall step between, and interpose the previous question.

Mr. AMES.—I am against the previous question being taken, because I wish the House to consider the motion made by the gentleman from New York; it is admitted to be a question of considerable importance; if it is, it ought to be considered; otherwise, we are shutting the door on information, and putting it out of our power to ascertain the propriety or impropriety of the motion.

I should be glad to know if any gentleman contemplates the State of Rhode Island dissevered from the Union; a maritime State, situated in the most convenient manner for the purpose of smuggling, and defrauding our revenue. Surely, a moment's reflection will induce the House to take measures to secure this object. Do gentlemen imagine that State will join the Union? If they do, what is the injury arising from the adoption of the resolution intended to be submitted to the committee? Is there any impropriety in desiring them to consider a question which they have not yet decided? It has been suggested, by an honorable gentleman, that this desire will operate as a demand. If a wish of Congress can bring them into the Union, why should we decline to express such a wish?

It has been said, that Rhode Island has never called a convention; the other States have. Then why should we decline to request them to do what every other State has been called upon to perform? The gentleman from Virginia seems afraid we should sacrifice our dignity by making this request. Let it be remembered, Great Britain lost her colonies by sacrificing her interest to her dignity. We ought, therefore, to be careful how we act upon ideas of this kind. There seems some disposition in that State to join her sister States in adopting the constitution. Then, why shall we decline encouraging that good spirit by approving the measure?

Mr. WHITE thought it best to put the previous question, because it was improper for this Legislature to interfere in their deliberation. If they were disposed to adopt the constitution, it would be best to let them exercise their judgment, independent of any influence which a recommendation from Congress might have.

The previous question being insisted upon, was put—"Shall the main question be now put?" and it was determined in the negative. Adjourned.

MONDAY, JUNE 8.

MICHAEL JENIFER STONE, from Maryland, appeared, and took his seat.

Mr. GOODHUE presented a petition from Nicholas Pike, of Newburyport, praying an exclusive interest, for a limited time, in the publication of his System of Arithmetic.—Referred to a select committee.

AMENDMENTS TO THE CONSTITUTION.

Mr. MADISON rose, and reminded the House

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that this was the day that he had heretofore named for bringing forward amendments to the constitution, as contemplated in the fifth article of the constitution, addressing the Speaker as follows: This day, Mr. Speaker, is the day assigned for taking into consideration the subject of amendments to the constitution. As I considered myself bound in honor and in duty to do what I have done on this subject, I shall proceed to bring the amendments before you as soon as possible, and advocate them until they shall be finally adopted or rejected by a constitutional majority of this House. With a view of drawing your attention to this important object, I shall move that this House do now resolve itself into a Committee of the whole on the state of the Union; by which an opportunity will be given, to bring forward some propositions, which I have strong hopes will meet with the unanimous approbation of this House, after the fullest discussion and most serious regard. I therefore move you, that the House now go into a committee on this business.

Mr. SMITH was not inclined to interrupt the measures which the public were so anxiously expecting, by going into a Committee of the whole at this time. He observed there were two modes of introducing this business to the House. One by appointing a select committee to take into consideration the several amendments proposed by the State conventions; this he thought the most likely way to shorten the business. The other was, that the gentleman should lay his propositions on the table, for the consideration of the members; that they should be printed, and taken up for discussion at a future day. Either of these modes would enable the House to enter upon business better prepared than could be the case by a sudden transition from other important concerns to which their minds were strongly bent. He therefore hoped that the honorable gentleman would consent to bring the subject forward in one of those ways, in preference to going into a Committee of the whole. For, said he, it must appear extremely impolitic to go into the consideration of amending the Government, before it is organized, before it has begun to operate. Certainly, upon reflection, it must appear to be premature. I wish, therefore, gentlemen would consent to the delay: for the business which lies in an unfinished state—I mean particularly the collection bill—is necessary to be passed; else all we have hitherto done is of no effect. If we go into the discussion of this subject, it will take us three weeks or a month; and during all this time, every other business must be suspended, because we cannot proceed with either accuracy or despatch when the mind is perpetually shifted from one subject to another.

Mr. JACKSON.—I am of opinion we ought not to be in a hurry with respect to altering the constitution. For my part, I have no idea of speculating in this serious manner on theory. If I agree to alterations in the mode of administer-

ing this Government, I shall like to stand on the sure ground of experience, and not be treading air. What experience have we had of the good or bad qualities of this constitution? Can any gentleman affirm to me one proposition that is a certain and absolute amendment? I deny that he can. Our constitution, sir, is like a vessel just launched, and lying at the wharf; she is untried, you can hardly discover any one of her properties. It is not known how she will answer her helm, or lay her course; whether she will bear with safety the precious freight to be deposited in her hold. But, in this state, will the prudent merchant attempt alterations? Will he employ workmen to tear off the planking and take asunder the frame? He certainly will not. Let us, gentlemen, fit out our vessel, set up her masts, and expand her sails, and be guided by the experiment in our alterations. If she sails upon an uneven keel, let us right her by adding weight where it is wanting. In this way, we may remedy her defects to the satisfaction of all concerned; but if we proceed now to make alterations, we may deface a beauty, or deform a well proportioned piece of workmanship. In short, Mr. Speaker, I am not for amendments at this time; but if gentlemen should think it a subject deserving of attention, they will surely not neglect the more important business which is now unfinished before them. Without we pass the collection bill we can get no revenue, and without revenue the wheels of Government cannot move. I am against taking up the subject at present, and shall therefore be totally against the amendments, if the Government is not organized, that I may see whether it is grievous or not.

When the propriety of making amendments shall be obvious from experience, I trust there will be virtue enough in my country to make them. Much has been said by the opponents to this constitution, respecting the insecurity of jury trials, that great bulwark of personal safety. All their objections may be done away, by proper regulations on this point, and I do not fear but such regulations will take place. The bill is now before the Senate, and a proper attention is shown to this business. Indeed, I cannot conceive how it could be opposed; I think an almost omnipotent Emperor would not be hardy enough to set himself against it. Then why should we fear a power which cannot be improperly exercised?

We have proceeded to make some regulations under the constitution; but have met with no inaccuracy, unless it may be said that the clause respecting vessels bound to or from one State be obliged to enter, clear, or pay duties in another, is somewhat obscure; yet that is not sufficient, I trust, in any gentleman's opinion to induce an amendment. But let me ask what will be the consequence of taking up this subject? Are we going to finish it in an hour? I believe not; it will take us more than a day, a week, a month—it will take a year to complete it! And will it be doing our duty to our coun-

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try, to neglect or delay putting the Government in motion, when every thing depends upon its being speedily done?

Let the constitution have a fair trial; let it be examined by experience, discover by that test what its errors are, and then talk of amending; but to attempt it now is doing it at a risk, which is certainly imprudent. I have the honor of coming from a State that ratified the constitution by the unanimous vote of a numerous convention: the people of Georgia have manifested their attachment to it, by adopting a State constitution framed upon the same plan as this. But although they are thus satisfied, I shall not be against such amendments as will gratify the inhabitants of other States, provided they are judged of by experience and not merely on theory. For this reason, I wish the consideration of the subject postponed until the 1st of March, 1790.

Mr. GOODHUE.—I believe it would be perfectly right in the gentleman who spoke last, to move a postponement to the time he has mentioned; because he is opposed to the consideration of amendments altogether. But I believe it will be proper to attend to the subject earlier; because it is the wish of many of our constituents, that something should be added to the constitution, to secure in a stronger manner their liberties from the inroads of power. Yet I think the present time premature; inasmuch as we have other business before us, which is incomplete, but essential to the public interest. When that is finished, I shall concur in taking up the subject of amendments.

Mr. BURKE thought amendments to the constitution necessary, but this was not the proper time to bring them forward. He wished the Government completely organized before they entered upon this ground. The law for collecting the revenue is immediately necessary; the Treasury Department must be established; till this, and other important subjects are determined, he was against taking this up. He said it might interrupt the harmony of the House, which was necessary to be preserved in order to despatch the great objects of legislation. He hoped it would be postponed for the present, and pledged himself to bring it forward hereafter, if nobody else would.

Mr. MADISON.—The gentleman from Georgia (Mr. JACKSON) is certainly right in his opposition to my motion for going into a Committee of the whole, because he is unfriendly to the object I have in contemplation; but I cannot see that the gentlemen who wish for amendments to be proposed at the present session, stand on good ground when they object to the House going into committee on this business.

When I first hinted to the House my intention of calling their deliberations to this object, I mentioned the pressure of other important subjects, and submitted the propriety of postponing this till the more urgent business was despatched; but finding that business not despatched, when the order of the day for consider-

ing amendments arrived, I thought it a good reason for a farther delay; I moved the postponement accordingly. I am sorry the same reason still exists in some degree, but operates with less force, when it is considered that it is not now proposed to enter into a full and minute discussion of every part of the subject, but merely to bring it before the House, that our constituents may see we pay a proper attention to a subject they have much at heart; and if it does not give that full gratification which is to be wished, they will discover that it proceeds from the urgency of business of a very important nature. But if we continue to postpone from time to time, and refuse to let the subject come into view, it may occasion suspicions, which, though not well founded, may tend to inflame or prejudice the public mind against our decisions. They may think we are not sincere in our desire to incorporate such amendments in the constitution as will secure those rights, which they consider as not sufficiently guarded. The applications for amendments come from a very respectable number of our constituents, and it is certainly proper for Congress to consider the subject, in order to quiet that anxiety which prevails in the public mind. Indeed, I think it would have been of advantage to the Government, if it had been practicable to have made some propositions for amendments the first business we entered upon; it would have stifled the voice of complaint, and made friends of many who doubted the merits of the constitution. Our future measures would then have been more generally agreeably supported; but the justifiable anxiety to put the Government into operation prevented that; it therefore remains for us to take it up as soon as possible. I wish then to commence the consideration at the present moment; I hold it to be my duty to unfold my ideas, and explain myself to the House in some form or other without delay. I only wish to introduce the great work, and, as I said before, I do not expect it will be decided immediately; but if some step is taken in the business, it will give reason to believe that we may come to a final result. This will inspire a reasonable hope in the advocates for amendments, that full justice will be done to the important subject; and I have reason to believe their expectation will not be defeated. I hope the House will not decline my motion for going into a committee.

Mr. SHERMAN.—I am willing that this matter should be brought before the House at a proper time. I suppose a number of gentlemen think it their duty to bring it forward; so that there is no apprehension it will be passed over in silence. Other gentlemen may be disposed to let the subject rest until the more important objects of Government are attended to; and I should conclude, from the nature of the case, that the people expect the latter from us in preference to altering the constitution; because they have ratified that instrument, in order that the Government may begin to operate. If this was not their wish, they might as well

have rejected the constitution, as North Carolina has done, until the amendments took place. The State I have the honor to come from adopted this system by a very great majority, because they wished for the Government; but they desired no amendments. I suppose this was the case in other States; it will therefore be imprudent to neglect much more important concerns for this. The executive part of the Government wants organization; the business of the revenue is incomplete, to say nothing of the judiciary business. Now, will gentlemen give up these points to go into a discussion of amendments, when no advantage can arise from them? For my part, I question if any alteration which can be now proposed would be an amendment, in the true sense of the word; but nevertheless, I am willing to let the subject be introduced. If the gentleman only desires to go into committee for the purpose of receiving his propositions, I shall consent; but I have strong objections to being interrupted in completing the more important business; because I am well satisfied it will alarm the fears of twenty of our constituents where it will please one.

MR. WHITE.—I hope the House will not spend much time on this subject, till the more pressing business is despatched; but, at the same time, I hope we shall not dismiss it altogether, because I think a majority of the people who have ratified the constitution, did it under the expectation that Congress would, at some convenient time, examine its texture and point out where it was defective, in order that it might be judiciously amended. Whether, while we are without experience, amendments can be digested in such a manner as to give satisfaction to a constitutional majority of this House, I will not pretend to say; but I hope the subject may be considered with all convenient speed. I think it would tend to tranquilize the public mind; therefore, I shall vote in favor of going into a Committee of the whole, and, after receiving the subject, shall be content to refer it to a special committee to arrange and report. I fear, if we refuse to take up the subject, it will irritate many of our constituents, which I do not wish to do. If we cannot, after mature consideration, gratify their wishes, the cause of complaint will be lessened, if not removed. But a doubt on this head will not be a good reason why we should refuse to inquire. I do not say this as it affects my immediate constituents, because I believe a majority of the district which elected me do not require alterations; but I know there are people in other parts who will not be satisfied unless some amendments are proposed.

MR. SMITH, of South Carolina, thought the gentleman who brought forward the subject had done his duty: he had supported his motion with ability and candor, and if he did not succeed, he was not to blame. On considering what had been urged for going into a committee, he was induced to join the gentleman; but

it would be merely to receive his propositions, after which he would move something to this effect: That, however desirous this House may be to go into the consideration of amendments to the constitution, in order to establish the liberties of the people of America on the securest foundation, yet the important and pressing business of the Government prevents their entering upon that subject at present.

MR. PAGE.—My colleague tells you he is ready to submit to the Committee of the whole his ideas on this subject. If no objection had been made to his motion, the whole business might have been finished before this. He has done me the honor of showing me certain propositions which he has drawn up; they are very important, and I sincerely wish the House may receive them. After they are published, I think the people will wait with patience till we are at leisure to resume them. But it must be very disagreeable to them to have it postponed from time to time, in the manner it has been for six weeks past; they will be tired out by a fruitless expectation. Putting myself into the place of those who favor amendments, I should suspect Congress did not mean seriously to enter upon the subject; that it was vain to expect redress from them. I should begin to turn my attention to the alternative contained in the fifth article, and think of joining the Legislatures of those States which have applied for calling a new convention. How dangerous such an expedient would be I need not mention; but I venture to affirm, that unless you take early notice of this subject, you will not have power to deliberate. The people will clamor for a new convention; they will not trust the House any longer. Those, therefore, who dread the assembling of a convention, will do well to acquiesce in the present motion, and lay the foundation of a most important work. I do not think we need consume more than half an hour in the Committee of the whole; this is not so much time but we may conveniently spare it, considering the nature of the business. I do not wish to divert the attention of Congress from the organization of the Government, nor do I think it need be done, if we comply with the present motion.

MR. VINING.—I hope the House will not go into a Committee of the whole. It strikes me that the great amendment which the Government wants is expedition in the despatch of business. The wheels of the national machine cannot turn, until the impost and collection bill are perfected; these are the desiderata which the public mind is anxiously expecting. It is well known, that all we have hitherto done amounts to nothing, if we leave the business in its present state. True; but, say gentlemen, let us go into committee; it will take up but a short time; yet may it not take a considerable proportion of our time? May it not be procrastinated into days, weeks, nay, months? It is not the most facile subject that can come before the Legislature of the Union. Gentlemen's

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opinions do not run in a parallel on this topic; it may take up more time to unite or concentrate them than is now imagined. And what object is to be attained by going into a committee? If information is what we seek after, cannot that be obtained by the gentleman's laying his propositions on the table; they can be read, or they can be printed. But I have two other reasons for opposing this motion; the first is, the uncertainty with which we must decide on questions of amendment, founded merely on speculative theory; the second is a previous question, how far it is proper to take the subject of amendments into consideration, without the consent of two-thirds of both Houses? I will submit it to gentlemen, whether the words of the constitution, "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments," do not bear my construction, that it is as requisite for two-thirds to sanction the expediency of going into the measure at present, as it will be to determine the necessity of amending at all. I take it that the fifth article admits of this construction, and think that two-thirds of the Senate and House of Representatives must concur in the expediency, as to the time and manner of amendments, before we can proceed to the consideration of the amendments themselves. For my part, I do not see the expediency of proposing amendments. I think, sir, the most likely way to quiet the perturbation of the public mind, will be to pass salutary laws; to give permanency and stability to constitutional regulations, founded on principles of equity and adjusted by wisdom. Although hitherto we have done nothing to tranquillize that agitation which the adoption of the constitution threw some people into, yet the storm has abated and a calm succeeds. The people are not afraid of leaving the question of amendments to the discussion of their representatives; but is this the juncture for discussing it? What have Congress done towards completing the business of their appointment? They have passed a law regulating certain oaths; they have passed the impost bill; but are not vessels daily arriving, and the revenue slipping through our fingers? Is it not very strange that we neglect the completion of the revenue system? Is the system of jurisprudence unnecessary? And here let me ask gentlemen how they propose to amend that part of the constitution which embraces the judicial branch of Government, when they do not know the regulations proposed by the Senate, who are forming a bill on this subject?

If the honorable mover of the question before the House does not think he discharges his duty without bringing his propositions forward, let him take the mode I have mentioned, by which there will be little loss of time. He knows, as well as any gentleman, the importance of completing the business on your table, and that it is best to finish one subject before the introduction of another. He will not, therefore, persist in a motion which tends to

distract our minds, and incapacitates us from making a proper decision on any subject. Suppose every gentleman who desires alterations to be made in the constitution were to submit his propositions to a Committee of the whole; what would be the consequence? We should have strings of them contradictory to each other, and be necessarily engaged in a discussion that would consume too much of our precious time.

Though the State I represent had the honor of taking the lead in the adoption of this constitution, and did it by a unanimous vote; and although I have the strongest predilection for the present form of Government, yet I am open to information, and willing to be convinced of its imperfections. If this be done, I shall cheerfully assist in correcting them. But I cannot think this a proper time to enter upon the subject, because more important business is suspended; and, for want of experience, we are as likely to do injury by our prescriptions as good. I wish to see every proposition which comes from that worthy gentleman on the science of Government; but I think it can be presented better by staying where we are, than by going into committee, and therefore shall vote against his motion.

Mr. MADISON.—I am sorry to be accessory to the loss of a single moment of time by the House. If I had been indulged in my motion, and we had gone into a Committee of the whole, I think we might have rose and resumed the consideration of other business before this time; that is, so far as it depended upon what I proposed to bring forward. As that mode seems not to give satisfaction, I will withdraw the motion, and move you, sir, that a select committee be appointed to consider and report such amendments as are proper for Congress to propose to the Legislatures of the several States, conformably to the fifth article of the constitution.

I will state my reasons why I think it proper to propose amendments, and state the amendments themselves, so far as I think they ought to be proposed. If I thought I could fulfil the duty which I owe to myself and my constituents, to let the subject pass over in silence, I most certainly should not trespass upon the indulgence of this House. But I cannot do this, and am therefore compelled to beg a patient hearing to what I have to lay before you. And I do most sincerely believe, that if Congress will devote but one day to this subject, so far as to satisfy the public that we do not disregard their wishes, it will have a salutary influence on the public councils, and prepare the way for a favorable reception of our future measures. It appears to me that this House is bound by every motive of prudence, not to let the first session pass over without proposing to the State Legislatures some things to be incorporated into the constitution, that will render it as acceptable to the whole people of the United States, as it has been found acceptable

to a majority of them. I wish, among other reasons why something should be done, that those who have been friendly to the adoption of this constitution may have the opportunity of proving to those who were opposed to it that they were as sincerely devoted to liberty and a Republican Government, as those who charged them with wishing the adoption of this constitution in order to lay the foundation of an aristocracy or despotism. It will be a desirable thing to extinguish from the bosom of every member of the community, any apprehensions that there are those among his countrymen who wish to deprive them of the liberty for which they valiantly fought and honorably bled. And if there are amendments desired of such a nature as will not injure the constitution, and they can be ingrafted so as to give satisfaction to the doubting part of our fellow-citizens, the friends of the Federal Government will evince that spirit of deference and concession for which they have hitherto been distinguished.

It cannot be a secret to the gentlemen in this House, that, notwithstanding the ratification of this system of Government by eleven of the thirteen United States, in some cases unanimously, in others by large majorities; yet still there is a great number of our constituents who are dissatisfied with it; among whom are many respectable for their talents and patriotism, and respectable for the jealousy they have for their liberty, which, though mistaken in its object, is laudable in its motive. There is a great body of the people falling under this description, who at present feel much inclined to join their support to the cause of Federalism, if they were satisfied on this one point. We ought not to disregard their inclination, but, on principles of amity and moderation, conform to their wishes, and expressly declare the great rights of mankind secured under this constitution. The acquiescence which our fellow-citizens show under the Government, calls upon us for a like return of moderation. But perhaps there is a stronger motive than this for our going into a consideration of the subject. It is to provide those securities for liberty which are required by a part of the community; I allude in a particular manner to those two States that have not thought fit to throw themselves into the bosom of the Confederacy. It is a desirable thing, on our part as well as theirs, that a re-union should take place as soon as possible. I have no doubt, if we proceed to take those steps which would be prudent and requisite at this juncture, that in a short time we should see that disposition prevailing in those States which have not come in, that we have seen prevailing in those States which have embraced the constitution.

But I will candidly acknowledge, that, over and above all these considerations, I do conceive that the constitution may be amended; that is to say, if all power is subject to abuse, that then it is possible the abuse of the powers of the General Government may be guarded

against in a more secure manner than is now done, while no one advantage arising from the exercise of that power shall be damaged or endangered by it. We have in this way something to gain, and, if we proceed with caution, nothing to lose. And in this case it is necessary to proceed with caution; for while we feel all these inducements to go into a revival of the constitution, we must feel for the constitution itself, and make that revival a moderate one. I should be unwilling to see a door opened for a reconsideration of the whole structure of the Government—for a re-consideration of the principles and the substance of the powers given; because I doubt, if such a door were opened, we should be very likely to stop at that point which would be safe to the Government itself. But I do wish to see a door opened to consider, so far as to incorporate those provisions for the security of rights, against which I believe no serious objection has been made by any class of our constituents: such as would be likely to meet with the concurrence of two-thirds of both Houses, and the approbation of three-fourths of the State Legislatures. I will not propose a single alteration which I do not wish to see take place, as intrinsically proper in itself, or proper because it is wished for by a respectable number of my fellow-citizens; and therefore I shall not propose a single alteration but is likely to meet the concurrence required by the constitution. There have been objections of various kinds made against the constitution. Some were levelled against its structure because the President was without a council; because the Senate, which is a legislative body, had judicial powers in trials on impeachments; and because the powers of that body were compounded in other respects, in a manner that did not correspond with a particular theory; because it grants more power than is supposed to be necessary for every good purpose, and controls the ordinary powers of the State Governments. I know some respectable characters who opposed this Government on these grounds; but I believe that the great mass of the people who opposed it, disliked it because it did not contain effectual provisions against encroachments on particular rights, and those safeguards which they have been long accustomed to have interposed between them and the magistrate who exercises the sovereign power; nor ought we to consider them safe, while a great number of our fellow-citizens think these securities necessary.

It is a fortunate thing that the objection to the Government has been made on the ground I stated; because it will be practicable, on that ground, to obviate the objection, so far as to satisfy the public mind that their liberties will be perpetual, and this without endangering any part of the constitution, which is considered as essential to the existence of the Government by those who promoted its adoption.

The amendments which have occurred to me, proper to be recommended by Congress to the State Legislatures, are these:

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First, That there be prefixed to the constitution a declaration, that all power is originally vested in, and consequently derived from, the people.

That Government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.

That the people have an indubitable, unalienable, and indefeasible right to reform or change their Government, whenever it be found adverse or inadequate to the purposes of its institution.

Secondly. That in article 1st, section 2, clause 3, these words be struck out, to wit: "The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative, and until such enumeration shall be made;" and that in place thereof be inserted these words, to wit: "After the first actual enumeration, there shall be one Representative for every thirty thousand, until the number amounts to ———, after which the proportion shall be so regulated by Congress, that the number shall never be less than ———, nor more than ———, but each State shall, after the first enumeration, have at least two Representatives; and prior thereto."

Thirdly. That in article 1st, section 6, clause 1, there be added to the end of the first sentence, these words, to wit: "But no law varying the compensation last ascertained shall operate before the next ensuing election of Representatives."

Fourthly. That in article 1st, section 9, between clauses 3 and 4, be inserted these clauses, to wit: The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the Legislature by petitions, or remonstrances, for redress of their grievances.

The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor at any time, but in a manner warranted by law.

No person shall be subject, except in cases

of impeachment, to more than one punishment or one trial for the same offence; nor shall be compelled to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The rights of the people to be secured in their persons; their houses, their papers, and their other property, from all unreasonable searches and seizures, shall not be violated by warrants issued without probable cause, supported by oath or affirmation, or not particularly describing the places to be searched, or the persons or things to be seized.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the cause and nature of the accusation, to be confronted with his accusers, and the witnesses against him; to have a compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

The exceptions here or elsewhere in the constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the constitution; but either as actual limitations of such powers, or as inserted merely for greater caution.

Fifthly. That in article 1st, section 10, between clauses 1 and 2, be inserted this clause, to wit:

No State shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases.

Sixthly. That, in article 3d, section 2, be annexed to the end of clause 2d, these words, to wit:

But no appeal to such court shall be allowed where the value in controversy shall not amount to ——— dollars: nor shall any fact triable by jury, according to the course of common law, be otherwise re-examinable than may consist with the principles of common law.

Seventhly. That in article 3d, section 2, the third clause be struck out, and in its place be inserted the clauses following, to wit:

The trial of all crimes (except in cases of impeachments, and cases arising in the land or naval forces, or the militia when on actual service, in time of war or public danger) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, of the right of challenge, and other accustomed requisites; and in all crimes punishable with loss of life or member, presentment or indictment by a grand jury shall be an essential preliminary, provided that in cases of crimes committed within any county which may be in possession of an enemy, or in which a general insurrection may prevail, the trial may by law

be authorized in some other county of the same State, as near as may be to the seat of the offence.

In cases of crimes committed not within any county, the trial may by law be in such county as the laws shall have prescribed. In suits at common law, between man and man, the trial by jury, as one of the best securities to the rights of the people, ought to remain inviolate.

Eighthly. That immediately after article 6th, be inserted, as article 7th, the clauses following, to wit:

The powers delegated by this constitution are appropriated to the departments to which they are respectively distributed: so that the legislative department shall never exercise the powers vested in the executive or judicial nor the executive exercise the powers vested in the legislative or judicial, nor the judicial exercise the powers vested in the legislative or executive departments.

The powers not delegated by this constitution, nor prohibited by it to the States, are reserved to the States respectively.

Ninthly. That article 7th be numbered as article 8th.

The first of these amendments relates to what may be called a bill of rights. I will own that I never considered this provision so essential to the federal constitution, as to make it improper to ratify it, until such an amendment was added; at the same time, I always conceived, that in a certain form, and to a certain extent, such a provision was neither improper nor altogether useless. I am aware, that a great number of the most respectable friends to the Government, and champions for republican liberty, have thought such a provision, not only unnecessary, but even improper; nay, I believe some have gone so far as to think it even dangerous. Some policy has been made use of, perhaps, by gentlemen on both sides of the question: I acknowledge the ingenuity of those arguments which were drawn against the constitution, by a comparison with the policy of Great Britain, in establishing a declaration of rights; but there is too great a difference in the case to warrant the comparison: therefore, the arguments drawn from that source were in a great measure inapplicable. In the declaration of rights which that country has established, the truth is, they have gone no farther than to raise a barrier against the power of the Crown; the power of the Legislature is left altogether indefinite. Although I know whenever the great rights, the trial by jury, freedom of the press, or liberty of conscience, come in question in that body, the invasion of them is resisted by able advocates, yet their Magna Charta does not contain any one provision for the security of those rights, respecting which the people of America are most alarmed. The freedom of the press and rights of conscience, those choicest privileges of the people, are unguarded in the British constitution.

But although the case may be widely differ-

ent, and it may not be thought necessary to provide limits for the legislative power in that country, yet a different opinion prevails in the United States. The people of many States have thought it necessary to raise barriers against power in all forms and departments of Government, and I am inclined to believe, if once bills of rights are established in all the States as well as the federal constitution, we shall find that although some of them are rather unimportant, yet, upon the whole, they will have a salutary tendency.

It may be said, in some instances, they do no more than state the perfect equality of mankind. This, to be sure, is an absolute truth, yet it is not absolutely necessary to be inserted at the head of a constitution.

In some instances they assert those rights which are exercised by the people in forming and establishing a plan of Government. In other instances, they specify those rights which are retained when particular powers are given up to be exercised by the Legislature. In other instances, they specify positive rights, which may seem to result from the nature of the compact. Trial by jury cannot be considered as a natural right, but a right resulting from a social compact which regulates the action of the community, but is as essential to secure the liberty of the people as any one of the pre-existent rights of nature. In other instances, they lay down dogmatic maxims with respect to the construction of the Government; declaring that the legislative, executive, and judicial branches shall be kept separate and distinct. Perhaps the best way of securing this in practice is, to provide such checks as will prevent the encroachment of the one upon the other.

But whatever may be the form which the several States have adopted in making declarations in favor of particular rights, the great object in view is to limit and qualify the powers of Government, by excepting out of the grant of power those cases in which the Government ought not to act, or to act only in a particular mode. They point these exceptions sometimes against the abuse of the executive power, sometimes against the legislative, and, in some cases, against the community itself; or, in other words, against the majority in favor of the minority.

In our Government it is, perhaps, less necessary to guard against the abuse in the executive department than any other; because it is not the stronger branch of the system, but the weaker: It therefore must be levelled against the legislative, for it is the most powerful, and most likely to be abused, because it is under the least control. Hence, so far as a declaration of rights can tend to prevent the exercise of undue power, it cannot be doubted but such declaration is proper. But I confess that I do conceive, that in a Government modified like this of the United States, the great danger lies rather in the abuse of the community than in the legislative body. The prescriptions in favor of liberty ought to be levelled against that quarter where



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the greatest danger lies, namely, that which possesses the highest prerogative of power. But this is not found in either the executive or legislative departments of Government, but in the body of the people, operating by the majority against the minority.

It may be thought that all paper barriers against the power of the community are too weak to be worthy of attention. I am sensible they are not so strong as to satisfy gentlemen of every description who have seen and examined thoroughly the texture of such a defence; yet, as they have a tendency to impress some degree of respect for them, to establish the public opinion in their favor, and rouse the attention of the whole community, it may be one means to control the majority from those acts to which they might be otherwise inclined.

It has been said, by way of objection to a bill of rights, by many respectable gentlemen out of doors, and I find opposition on the same principles likely to be made by gentlemen on this floor, that they are unnecessary articles of a Republican Government, upon the presumption that the people have those rights in their own hands, and that is the proper place for them to rest. It would be a sufficient answer to say, that this objection lies against such provisions under the State Governments, as well as under the General Government; and there are, I believe, but few gentlemen who are inclined to push their theory so far as to say that a declaration of rights in those cases is either ineffectual or improper. It has been said, that in the Federal Government they are unnecessary, because the powers are enumerated, and it follows, that all that are not granted by the constitution are retained; that the constitution is a bill of powers, the great residuum being the rights of the people; and, therefore, a bill of rights cannot be so necessary as if the residuum was thrown into the hands of the Government. I admit that these arguments are not entirely without foundation; but they are not conclusive to the extent which has been supposed. It is true, the powers of the General Government are circumscribed, they are directed to particular objects; but even if Government keeps within those limits, it has certain discretionary powers with respect to the means, which may admit of abuse to a certain extent, in the same manner as the powers of the State Governments under their constitutions may to an indefinite extent; because in the constitution of the United States, there is a clause granting to Congress the power to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the Government of the United States, or in any department or officer thereof; this enables them to fulfil every purpose for which the Government was established. Now, may not laws be considered necessary and proper by Congress, for it is for them to judge of the necessity and propriety to accomplish those special purposes which they may have in contemplation, which laws in them-

selves are neither necessary nor proper; as well as improper laws could be enacted by the State Legislatures, for fulfilling the more extended objects of those Governments. I will state an instance, which I think in point, and proves that this might be the case. The General Government has a right to pass all laws which shall be necessary to collect its revenue; the means for enforcing the collection are within the direction of the Legislature: may not general warrants be considered necessary for this purpose, as well as for some purposes which it was supposed at the framing of their constitutions the State Governments had in view? If there was reason for restraining the State Governments from exercising this power, there is like reason for restraining the Federal Government.

It may be said, indeed it has been said, that a bill of rights is not necessary, because the establishment of this Government has not repealed those declarations of rights which are added to the several State constitutions; that those rights of the people, which had been established by the most solemn act, could not be annihilated by a subsequent act of that people, who meant, and declared at the head of the instrument, that they ordained and established a new system, for the express purpose of securing to themselves and posterity the liberties they had gained by an arduous conflict.

I admit the force of this observation, but I do not look upon it to be conclusive. In the first place, it is too uncertain ground to leave this provision upon, if a provision is at all necessary to secure rights so important as many of those I have mentioned are conceived to be, by the public in general, as well as those in particular who opposed the adoption of this constitution. Besides, some States have no bills of rights, there are others provided with very defective ones, and there are others whose bills of rights are not only defective, but absolutely improper; instead of securing some in the full extent which republican principles would require, they limit them too much to agree with the common ideas of liberty.

It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow, by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution.

It has been said, that it is unnecessary to load the constitution with this provision, because it was not found effectual in the constitution of the particular States. It is true, there are a few particular States in which some of the

most valuable articles have not, at one time or other, been violated; but it does not follow but they may have, to a certain degree, a salutary effect against the abuse of power. If they are incorporated into the constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the constitution by the declaration of rights. Besides this security, there is a great probability that such a declaration in the federal system would be enforced; because the State Legislatures will jealously and closely watch the operations of this Government, and be able to resist with more effect every assumption of power, than any other power on earth can do; and the greatest opponents to a Federal Government admit the State Legislatures to be sure guardians of the people's liberty. I conclude, from this view of the subject, that it will be proper in itself, and highly politic, for the tranquillity of the public mind, and the stability of the Government, that we should offer something, in the form I have proposed, to be incorporated in the system of Government, as a declaration of the rights of the people.

In the next place, I wish to see that part of the constitution revised which declares that the number of Representatives shall not exceed the proportion of one for every thirty thousand persons, and allows one Representative to every State which rates below that proportion. If we attend to the discussion of this subject, which has taken place in the State conventions, and even in the opinion of the friends to the constitution, an alteration here is proper. It is the sense of the people of America, that the number of Representatives ought to be increased, but particularly that it should not be left in the discretion of the Government to diminish them, below that proportion which certainly is in the power of the Legislature as the constitution now stands; and they may, as the population of the country increases, increase the House of Representatives to a very unweildy degree. I confess I always thought this part of the constitution defective, though not dangerous; and that it ought to be particularly attended to whenever Congress should go into the consideration of amendments.

There are several minor cases enumerated in my proposition, in which I wish also to see some alteration take place. That article which leaves it in the power of the Legislature to ascertain its own emolument, is one to which I allude. I do not believe this is a power which, in the ordinary course of Government, is likely to be abused. Perhaps of all the powers granted, it is least likely to abuse; but there is a seeming impropriety in leaving any set of men without control to put their hand into the public coffers, to take out money to put in their pockets; there is a seeming indecorum in such power, which

leads me to propose a change. We have a guide to this alteration in several of the amendments which the different conventions have proposed. I have gone, therefore, so far as to fix it, that no law, varying the compensation, shall operate until there is a change in the Legislature; in which case it cannot be for the particular benefit of those who are concerned in determining the value of the service.

I wish also, in revising the constitution, we may throw into that section, which interdicts the abuse of certain powers in the State Legislatures, some other provisions of equal, if not greater importance than those already made. The words, "No State shall pass any bill of attainder, *ex post facto* law," &c. were wise and proper restrictions in the constitution. I think there is more danger of those powers being abused by the State Governments than by the Government of the United States. The same may be said of other powers which they possess, if not controlled by the general principle, that laws are unconstitutional which infringe the rights of the community. I should therefore wish to extend this interdiction, and add, as I have stated in the 5th resolution, that no State shall violate the equal right of conscience, freedom of the press, or trial by jury in criminal cases; because it is proper that every Government should be disarmed of powers which trench upon those particular rights. I know, in some of the State constitutions, the power of the Government is controlled by such a declaration; but others are not. I cannot see any reason against obtaining even a double security on those points; and nothing can give a more sincere proof of the attachment of those who opposed this constitution to these great and important rights, than to see them join in obtaining the security I have now proposed; because it must be admitted, on all hands, that the State Governments are as liable to attack these invaluable privileges as the General Government is, and therefore ought to be as cautiously guarded against.

I think it will be proper, with respect to the judiciary powers, to satisfy the public mind on those points which I have mentioned. Great inconvenience has been apprehended to suitors from the distance they would be dragged to obtain justice in the Supreme Court of the United States, upon an appeal on an action for a small debt. To remedy this, declare that no appeal shall be made unless the matter in controversy amounts to a particular sum; this, with the regulations respecting jury trials in criminal cases, and suits at common law, it is to be hoped, will quiet and reconcile the minds of the people to that part of the constitution.

I find, from looking into the amendments proposed by the State conventions, that several are particularly anxious that it should be declared in the constitution, that the powers not therein delegated should be reserved to the several States. Perhaps words which may define this more precisely than the whole of the instru-

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ment now does, may be considered as superfluous. I admit they may be deemed unnecessary; but there can be no harm in making such a declaration, if gentlemen will allow that the fact is as stated. I am sure I understand it so, and do therefore propose it.

These are the points on which I wish to see a revision of the constitution take place. How far they will accord with the sense of this body, I cannot take upon me absolutely to determine; but I believe every gentleman will readily admit that nothing is in contemplation, so far as I have mentioned, that can endanger the beauty of the Government in any one important feature, even in the eyes of its most sanguine admirers. I have proposed nothing that does not appear to me as proper in itself, or eligible as patronized by a respectable number of our fellow-citizens; and if we can make the constitution better in the opinion of those who are opposed to it, without weakening its frame, or abridging its usefulness, in the judgment of those who are attached to it, we act the part of wise and liberal men to make such alterations as shall produce that effect.

Having done what I conceived was my duty, in bringing before this House the subject of amendments, and also stated such as I wish for and approve, and offered the reasons which occurred to me in their support, I shall content myself, for the present, with moving "that a committee be appointed to consider of and report such amendments as ought to be proposed by Congress to the Legislatures of the States, to become, if ratified by three-fourths thereof, part of the constitution of the United States." By agreeing to this motion, the subject may be going on in the committee, while other important business is proceeding to a conclusion in the House. I should advocate greater despatch in the business of amendments, if I were not convinced of the absolute necessity there is of pursuing the organization of the Government; because I think we should obtain the confidence of our fellow-citizens, in proportion as we fortify the rights of the people against the encroachments of the Government.

Mr. JACKSON.—The more I consider the subject of amendments, the more I am convinced it is improper. I revere the rights of my constituents as much as any gentleman in Congress, yet I am against inserting a declaration of rights in the constitution, and that for some of the reasons referred to by the gentleman last up. If such an addition is not dangerous or improper, it is at least unnecessary: that is a sufficient reason for not entering into the subject at a time when there are urgent calls for our attention to important business. Let me ask gentlemen, what reason there is for the suspicions which are to be removed by this measure? Who are Congress, that such apprehensions should be entertained of them? Do we not belong to the mass of the people? Is there a single right that, if infringed, will not affect us and our connexions as much as any other person?

Do we not return at the expiration of two years into private life? and is not this a security against encroachments? Are we not sent here to guard those rights which might be endangered, if the Government was an aristocracy or a despotism? View for a moment the situation of Rhode Island, and say whether the people's rights are more safe under State Legislatures than under a Government of limited powers? Their liberty is changed to licentiousness. But do gentlemen suppose bills of rights necessary to secure liberty? If they do, let them look at New York, New Jersey, Virginia, South Carolina, and Georgia. Those States have no bills of rights, and is the liberty of the citizens less safe in those States, than in the other of the United States? I believe it is not.

There is a maxim in law, and it will apply to bills of rights, that when you enumerate exceptions, the exceptions operate to the exclusion of all circumstances that are omitted; consequently, unless you except every right from the grant of power, those omitted are inferred to be resigned to the discretion of the Government.

The gentleman endeavors to secure the liberty of the press; pray how is this in danger? There is no power given to Congress to regulate this subject as they can commerce, or peace, or war. Has any transaction taken place to make us suppose such an amendment necessary? An honorable gentleman, a member of this House, has been attacked in the public newspapers on account of sentiments delivered on this floor. Have Congress taken any notice of it? Have they ordered the writer before them, even for a breach of privilege, although the constitution provides that a member shall not be questioned in any place for any speech or debate in the House? No, these things are offered to the public view, and held up to the inspection of the world. These are principles which will always prevail. I am not afraid, nor are other members I believe, our conduct should meet the severest scrutiny. Where, then, is the necessity of taking measures to secure what neither is nor can be in danger?

I hold, Mr. Speaker, that the present is not a proper time for considering of amendments. The States of Rhode Island and North Carolina are not in the Union. As to the latter, we have every presumption that she will come in. But in Rhode Island I think the anti-federal interest yet prevails. I am sorry for it, particularly on account of the firm friends of the Union, who are kept without the embrace of the confederacy by their countrymen. These persons are worthy of our patronage; and I wish they would apply to us for protection; they should have my consent to be taken into the Union upon such application. I understand there are some important mercantile and manufacturing towns in that State, who ardently wish to live under the laws of the General Government; if they were to come forward and

request us to take measures for this purpose, I would give my sanction to any which would be likely to bring about such an event.

But to return to my argument. It being the case that those States are not yet come into the Union, when they join us, we shall have another list of amendments to consider, and another bill of rights to frame. Now, in my judgment, it is better to make but one work of it whenever we set about the business.

But in what a situation shall we be with respect to those foreign Powers with whom we desire to be in treaty? They look upon us as a nation emerging into figure and importance. But what will be their opinion, if they see us unable to retain the national advantages we have just gained? They will smile at our infantine efforts to obtain consequence, and treat us with the contempt we have hitherto borne by reason of the imbecility of our Government. Can we expect to enter into a commercial competition with any of them, while our system is incomplete? And how long it will remain in such a situation, if we enter upon amendments, God only knows. Our instability will make us objects of scorn. We are not content with two revolutions in less than fourteen years; we must enter upon a third, without necessity or propriety. Our faith will be like the *punica fides* of Carthage; and we shall have none that will repose confidence in us. Why will gentlemen press us to propose amendments, while we are without experience? Can they assure themselves that the amendments, as they call them, will not want amendments, as soon as they are adopted? I will not tax gentlemen with a desire of amusing the people; I believe they venerate their country too much for this; but what more can amendments lead to? That part of the constitution which is proposed to be altered, may be the most valuable part of the whole; and perhaps those who now clamor for alterations may, ere long, discover that they have marred a good Government, and rendered their own liberties insecure. I again repeat it, this is not the time for bringing forward amendments; and, notwithstanding the honorable gentleman's ingenious arguments on that point, I am now more strongly persuaded it is wrong.

If we actually find the constitution bad upon experience, or the rights and privileges of the people in danger, I here pledge myself to step forward among the first friends of liberty to prevent the evil; and if nothing else will avail, I will draw my sword in the defence of freedom, and cheerfully immolate at that shrine my property and my life. But how are we now proceeding? Why, on nothing more than theoretical speculation, pursuing a mere *ignis fatuus*, which may lead us into serious embarrassments. The imperfections of the Government are now unknown; let it have a fair trial, and I will be bound they show themselves; then we can tell where to apply the remedy, so as to secure the great object we are aiming at.

There are, Mr. Speaker, a number of impor-

tant bills on the table which require despatch; but I am afraid, if we enter on this business, we shall not be able to attend to them for a long time. Look, sir, over the long list of amendments proposed by some of the adopting States, and say, when the House could get through the discussion; and I believe, sir, every one of those amendments will come before us. Gentlemen may feel themselves called by duty or inclination to oppose them. How are we then to extricate ourselves from this labyrinth of business? Certainly we shall lose much of our valuable time, without any advantage whatsoever. I hope, therefore, the gentleman will press us no further; he has done his duty, and acquitted himself of the obligation under which he lay. He may now accede to what I take to be the sense of the House, and let the business of amendments lie over until next spring; that will be soon enough to take it up to any good purpose.

Mr. GERRY.—I do not rise to go into the merits or demerits of the subject of amendments; nor shall I make any other observations on the motion for going into a Committee of the whole on the state of the Union, which is now withdrawn, than merely to say, that, referring the subject to that committee, is treating it with the dignity its importance requires. But I consider it improper to take up this business, when our attention is occupied by other important objects. We should despatch the subjects now on the table, and let this lie over until a period of more leisure for discussion and attention. The gentleman from Virginia says it is necessary to go into a consideration of this subject, in order to satisfy the people. For my part, I cannot be of his opinion. The people know we are employed in the organization of the Government, and cannot expect that we should forego this business for any other. But I would not have it understood, that I am against entering upon amendments when the proper time arrives. I shall be glad to set about it as soon as possible, but I would not stay the operations of the Government on this account. I think with the gentleman from Delaware, (Mr. VENABLE,) that the great wheels of the political machine should first be set in motion; and with the gentleman from Georgia, (Mr. JACKSON,) that the vessel ought to be got under way, lest she lie by the wharf till she beat off her rudder, and run herself a wreck on shore.

I say I wish as early a day as possible may be assigned for taking up this business, in order to prevent the necessity which the States may think themselves under of calling a new convention. For I am not, sir, one of those blind admirers of this system, who think it all perfection; nor am I so blind as not to see its beauties. The truth is, it partakes of humanity; in it is blended virtue and vice, errors and excellence. But I think, if it is referred to a new convention, we run the risk of losing some of its best properties; this is a case I never wish to see. Whatever might have been my sentiments of

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the ratification of the constitution without amendments, my sense now is, that the salvation of America depends upon the establishment of this Government, whether amended or not. If the constitution which is now ratified should not be supported, I despair of ever having a Government of these United States.

I wish the subject to be considered early for another reason. There are two States not in the Union; it would be a very desirable circumstance to gain them. I should therefore be in favor of such amendments as might tend to invite them and gain their confidence; good policy will dictate to us to expedite that event. Gentlemen say, that we shall not obtain the consent of two-thirds of both Houses to amendments. Are gentlemen willing then to throw Rhode Island and North Carolina into the situation of foreign nations? They have told you that they cannot accede to the Union, unless certain amendments are made to the constitution; if you deny a compliance with their request in that particular, you refuse an accommodation to bring about that desirable event, and leave them detached from the Union.

I have another reason for going early into this business. It is necessary to establish an energetic Government. My idea of such a Government is, that due deliberation be had in making laws, and efficiency in the execution. I hope, in this country, the latter may obtain without the dread of despotism. I would wish to see the execution of good laws irresistible. But from the view which we have already had of the disposition of the Government, we seem really to be afraid to administer the powers with which we are invested, lest we give offence. We appear afraid to exercise the constitutional powers of the Government, which the welfare of the State requires, lest a jealousy of our powers be the consequence. What is the reason of this timidity? Why, because we see a great body of our constituents opposed to the constitution as it now stands, who are apprehensive of the enormous powers of Government. But if this business is taken up, and it is thought proper to make amendments, it will remove this difficulty. Let us deal fairly and candidly with our constituents, and give the subject a full discussion; after that, I have no doubt but the decision will be such as, upon examination, we shall discover to be right. If it shall then appear proper and wise to reject the amendments, I dare to say the reasons for so doing will bring conviction to the people out of doors, as well as it will to the members of this House; and they will acquiesce in the decision, though they may regret the disappointment of their fondest hopes for the security of the liberties of themselves and their posterity. Thus, and thus only, the Government will have its due energy, and accomplish the end for which it was instituted.

I am against referring the subject to a select committee, because I conceive it would be disrespectful to those States which have proposed

amendments. The conventions of the States consisted of the most wise and virtuous men of the community; they have ratified this constitution, in full confidence that their objections would at least be considered; and shall we, sir, preclude them by the appointment of a special committee, to consider of a few propositions brought forward by an individual gentleman? Is it in contemplation that the committee should have the subject at large before them, or that they should report upon the particular amendments just mentioned, as they think proper? And are we to be precluded from the consideration of any other amendments but those the committee may report? A select committee must be considered improper, because it is putting their judgments against that of the conventions which have proposed amendments; but if the committee are to consider the matter at large, they will be liable to this objection, that their report will only be waste of time. For if they do not bring forward the whole of the amendments recommended, individual members will consider themselves bound to bring them forward for the decision of the House. I would therefore submit, if gentlemen are determined to proceed in the business at this time, whether it is not better that it should go, in the first instance, to a Committee of the whole, as first proposed by the gentleman from Virginia?

Some gentlemen consider it necessary to do this to satisfy our constituents. I think referring the business to a special committee will be attempting to amuse them with trifles. Our fellow-citizens are possessed of too much discernment not to be able to discover the intention of Congress by such procedure. It will be the duty of their representatives to tell them, if they were not able to discover it of themselves, they require the subject to be fairly considered; and if it be found to be improper to comply with their reasonable expectations, to tell them so. I hope there is no analogy between federal and punic faith; but unless Congress shall candidly consider the amendments which have been proposed in confidence by the State conventions, federal faith will not be considered very different from the *punica fides* of Carthage. The ratification of the constitution in several States would never have taken place, had they not been assured that the objections would have been duly attended to by Congress. And I believe many members of these conventions would never have voted for it, if they had not been persuaded that Congress would notice them with that candor and attention which their importance requires. I will say nothing respecting the amendments themselves; they ought to stand or fall on their own merits. If any of them are eligible, they will be adopted; if not, they will be rejected.

MR. LIVERMORE was against this motion; not that he was against amendments at a proper time. It is enjoined on him to act a rational part in procuring certain amendments, and he

meant to do so; but he could not say what amendments were requisite, until the Government was organized. He supposed the judiciary law would contain certain regulations that would remove the anxiety of the people respecting such amendments as related thereto; because he thought much of the minutiae respecting suits between citizens of different States, &c. might be provided for by law. He could not agree to make jury trials necessary on every occasion; they were not practised even at this time, and there were some cases in which a cause could be better decided without a jury than with one.

In addition to the judiciary business, there is that which relates to the revenue. Gentlemen had let an opportunity go through their hands of getting a considerable supply from the impost on the spring importations. He reminded them of this; and would tell them now was the time to finish that business; for if they did not sow in seed-time, they would be beggars in harvest. He was well satisfied in his own mind, that the people of America did not look for amendments at present; they never could imagine it to be the first work of Congress.

He wished the concurrence of the Senate upon entering on this business, because if they opposed the measure, all the House did would be mere waste of time; and there was some little difficulty on this point, because it required the consent of two-thirds of both Houses to agree to what was proper on this occasion. He said, moreover, it would be better to refer the subject generally, if referred to them at all, than to take up the propositions of individual members.

Mr. SHERMAN.—I do not suppose the constitution to be perfect, nor do I imagine if Congress and all the Legislatures on the continent were to revise it, that their united labors would make it perfect. I do not expect any perfection on this side the grave in the works of man; but my opinion is, that we are not at present in circumstances to make it better. It is at wonder that there has been such unanimity in adopting it, considering the ordeal it had to undergo; and the unanimity which prevailed at its formation is equally astonishing; amidst all the members from the twelve States present at the federal convention, there were only three who did not sign the instrument to attest their opinion of its goodness. Of the eleven States who have received it, the majority have ratified it without proposing a single amendment. This circumstance leads me to suppose that we shall not be able to propose any alterations that are likely to be adopted by nine States; and gentlemen know, before the alterations take effect, they must be agreed to by the Legislatures of three-fourths of the States in the Union. Those States which have not recommended alterations, will hardly adopt them, unless it is clear that they tend to make the constitution better. Now how this can be made out to their satisfaction I am yet to learn; they know of no defect from

experience. It seems to be the opinion of gentlemen generally, that this is not the time for entering upon the discussion of amendments: our only question therefore is, how to get rid of the subject. Now, for my own part, I would prefer to have it referred to a Committee of the whole, rather than a special committee, and therefore shall not agree to the motion now before the House.

Mr. GERRY moved, that the business lie over until the 1st day of July next, and that it be the order for that day.

Mr. SUMNER.—I consider the subject of amendments of such great importance to the Union, that I shall be glad to see it undertaken in any manner. I am not, Mr. Speaker, disposed to sacrifice substance to form; therefore, whether the business shall originate in a Committee of the whole, or in the House, is a matter of indifference to me, so that it be put in train. Although I am seriously inclined to give this subject a full discussion, yet I do not wish it to be fully entered into at present, but am willing it should be postponed to a future day, when we shall have more leisure. With respect to referring to a select committee, I am rather against it; because I consider it as treating the applications of the State conventions rather slightly; and I presume it is the intention of the House to take those applications into consideration as well as any other. If it is not, I think it will give fresh cause for jealousy; it will rouse the alarm which is now suspended, and the people will become clamorous for amendments. They will decline any further application to Congress, and resort to the other alternative pointed out in the constitution. I hope, therefore, this House, when they do go into the business, will receive those propositions generally. This I apprehend will tend to tranquillize the public mind, and promote that harmony which ought to be kept up between those in the exercise of the powers of Government, and those who have clothed them with the authority, or, in other words, between Congress and the people. Without a harmony and confidence subsist between them, the measures of Government will prove abortive, and we shall have still to lament that imbecility and weakness which have long marked our public councils.

Mr. VINING found himself in a delicate situation respecting the subject of amendments. He came from a small State, and therefore his sentiments would not be considered of so much weight as the sentiments of those gentlemen who spoke the sense of much larger States. Besides, his constituents had prejudged the question, by a unanimous adoption of the constitution, without suggesting any amendments thereto. His sense accorded with the declared sense of the State of Delaware, and he was doubly bound to object to amendments which were either improper or unnecessary. But he had good reasons for opposing the consideration of even proper alterations at this time. He would ask the gentleman who pressed them.

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Collection of Revenue.

[H. OF R.]

whether he would be responsible for the risk the Government would run of being injured by an *interregnum*? Proposing amendments at this time, is suspending the operations of Government, and may be productive of its ruin.

He would not follow the gentleman in his arguments, though he supposed them all answerable, because he would not take up the time of the House; he contented himself with saying, that a bill of rights was unnecessary in a Government deriving all its powers from the people; and the constitution enforced the principle in the strongest manner by the practical declaration prefixed to that instrument; he alluded to the words, "We the people do ordain and establish."

There were many things mentioned by some of the State conventions which he would never agree to, on any conditions whatever; they changed the principles of the Government, and were therefore obnoxious to its friends. The honorable gentleman from Virginia had not touched upon any of them; he was glad of it, because he could by no means bear the idea of an alteration respecting them; he referred to the mode of obtaining direct taxes, judging of elections, &c.

He found he was not speaking to the question; he would therefore return to it, and declare he was against committing the subject to a select committee; if it was to be committed at all, he preferred a Committee of the whole, but hoped the subject would be postponed.

Mr. MADISON found himself unfortunate in not satisfying gentlemen with respect to the mode of introducing the business; he thought, from the dignity and peculiarity of the subject, that it ought to be referred to a Committee of the whole. He accordingly made that motion first, but finding himself not likely to succeed in that way, he had changed his ground. Fearing again to be discomfited, he would change his mode, and move the propositions he had stated before, and the House might do what they thought proper with them. He accordingly moved the propositions by way of resolutions to be adopted by the House.

Mr. LIVERMORE objected to these propositions, because they did not take up the amendments of the several States.

Mr. PAGE was much obliged to his colleague for bringing the subject forward in the manner he had done. He conceived it to be just and fair. What was to be done when the House would not refer it to a committee of any sort, but bring the question at once before them? He hoped it would be the means of bringing about a decision.

Mr. LAWRENCE moved to refer Mr. MADISON'S motion to the Committee of the whole on the state of the Union.

Mr. LEE thought it ought to be taken up in that committee; and hoped his colleague would bring the propositions before the committee, when on the state of the Union, as he had originally intended.

Mr. BOUDINOT wished the appointment of a select committee, but afterwards withdrew his motion.

At length Mr. LAWRENCE'S motion was agreed to, and Mr. MADISON'S propositions were ordered to be referred to a Committee of the whole. Adjourned.

TUESDAY, June 9.

On motion,

*Resolved*, That so much of the standing rules and orders as direct that, upon a division of the House on any question, the members who vote in the affirmative shall go to the right, and those in the negative shall go to the left of the Chair, be rescinded; and that, in future, when a division is called for, those in the affirmative of the question shall rise from their seats, and those in the negative remain sitting.

## COLLECTION OF DUTIES.

The House, according to the order of the day, resolved itself into a Committee of the whole House on the bill to regulate the collection of duties imposed on goods, wares, and merchandises, imported into the United States. Mr. TRUMBULL in the chair. Previous to making any further nomination of ports of entry and delivery, it was moved, that the shores, bays, rivers, creeks, and harbors, be divided into as many districts as there are ports of entry in the United States. This motion, after a discussion, was adopted.

It was moved to insert a clause, whereby masters of ships and other vessels, loaded with goods, wares, and merchandise, and bound into the United States from any foreign port, should be obliged to produce duplicate manifestoes of their respective cargoes, to any officers of the customs that may demand the same, previous to their entering the ports of destination.

This motion gave rise to a lengthy conversation, which terminated in withdrawing the motion.

It was then voted, that a collector, a naval officer, and a surveyor, should be appointed for each of the following ports, viz: Boston, New York, Philadelphia, Baltimore, Norfolk, and Portsmouth; Alexandria, Virginia; Georgetown, Maryland; Charleston, South Carolina; and Savannah. The committee then rose and reported progress, and the House adjourned.

WEDNESDAY, June 10.

## COLLECTION OF REVENUE.

The House again went into a committee on the bill to regulate the collection on imported goods; Mr. TRUMBULL in the chair.

On motion of Mr. MADISON, a clause was inserted, which provides "that there shall be a surveyor at each of the ports of delivery only," excepting certain ports to be enumerated.

The motion of Mr. AMES, which was withdrawn yesterday, was again brought forward by that gentleman, and adopted as a clause, to

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[JULY 21, 1789.]

had, according to order, had the said bill under consideration, and gone through the same, and made several amendments thereto, which he delivered in at the Clerk's table, where the same was twice read and agreed to by the House.

*Ordered,* That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

## MONDAY, July 20.

A message from the Senate informed the House, that they had passed the bill for establishing an Executive Department, to be denominated the Department of Foreign Affairs, with several amendments, to which they desired the concurrence of the House; that they have also passed a bill to establish the Judicial Courts of the United States, to which they desire the concurrence of the House.

*Ordered,* That a committee be appointed to bring in a bill or bills, providing for the establishment of hospitals for sick and disabled seamen, and for the regulation of harbors; and that Mr. SMITH (of South Carolina,) Messrs. CLYMER and CARROLL, do prepare and bring in the same.

The House resumed the consideration of the report on the petition of Andrew Ellicott, which lay on the table.

Whereupon,

*Ordered,* That the said report be re-committed to the same committee.

The House then proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for establishing an Executive Department, to be denominated the Department of Foreign Affairs," and the same being read, were agreed to.

The bill sent from the Senate, "to establish the Judicial Courts of the United States," was read the second time, and ordered to be committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the whole House, on the bill to provide for the government of the Territory northwest of the river Ohio, Mr. BOUDINOR in the chair;

And after some time being spent in considering the same, the committee rose and reported that they had, according to order, had the said bill under consideration, and gone through the same.

*Ordered,* That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

## TUESDAY, July 21.

An engrossed bill to provide for the government of the Territory northwest of the river Ohio, was read the third time and passed, and sent to the Senate for concurrence.

## AMENDMENTS TO THE CONSTITUTION.

Mr. MADISON begged the House to indulge him in the further consideration of amendments

to the constitution, and as there appeared, in some degree, a moment of leisure, he would move to go into a Committee of the whole on the subject, conformably to the order of the 8th of last month.

Mr. AMES hoped that the House would be induced, on mature reflection, to rescind their vote of going into a committee on the business, and refer it to a select committee. It would certainly tend to facilitate the business. If they had the subject at large before a Committee of the whole, he could not see where the business was likely to end. The amendments proposed were so various, that their discussion must inevitably occupy many days, and that at a time when they can be ill spared; whereas a select committee could go through and cull out those of the most material kind, without interrupting the principal business of the House. He therefore moved, that the Committee of the whole be discharged, and the subject referred to a select committee.

Mr. SEDGWICK opposed the motion, for the reasons given by his colleague, observing that the members from the several States proposing amendments would no doubt drag the House through the consideration of every one, whatever their fate might be after they were discussed; now gentlemen had only to reflect on this, and conceive the length of time the business would take up, if managed in this way.

Mr. WHITE thought no time would be saved by appointing a select committee. Every member would like to be satisfied with the reasons upon which the amendments offered by the select committee are grounded, consequently the train of argument which gentlemen have in contemplation to avoid, must be brought forward.

He did not presume to say the constitution was perfect, but it was such as had met with the approbation of wise and good men in the different States. Some of the proposed amendments were also of high value; but he did not expect they would be supported by two-thirds of both Houses, without undergoing a thorough investigation. He did not like to refer any business to a select committee, until the sense of the House had been expressed upon it, because it rather tended to retard than despatch it; witness the collection bill, which had cost them much time, but after all had to be deserted.

Mr. SHERMAN.—The provision for amendments made in the fifth article of the constitution, was intended to facilitate the adoption of those which experience should point out to be necessary. This constitution has been adopted by eleven States, a majority of those eleven have received it without expressing a wish for amendments; now, is it probable that three-fourths of the eleven States will agree to amendments offered on mere speculative points, when the constitution has had no kind of trial whatever? It is hardly to be expected that they will. Consequently we shall lose our labor, and had better decline having any thing further to do with it for the present.



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But if the House are to go into a consideration, it had better be done in such a way as not to interfere much with the organization of the Government.

Mr. PAGE hoped the business would proceed as heretofore directed. He thought it would be very agreeable to the majority of the Union, he knew it would be to his constituents, to find that the Government meant to give every security to the rights and liberties of the people, and to examine carefully into the grounds of the apprehensions expressed by several of the State conventions; he thought they would be satisfied with the amendments brought forward by his colleague, when the subject was last before the House.

Mr. PARTRIDGE knew the subject must be taken up in some way or other, and preferred, for the sake of expedition, doing it by a select committee.

Mr. JACKSON was sorry to see the House was to be troubled any further on the subject; he looked upon it as a mere waste of time; but as he always chose the least of two evils, he acquiesced in the motion for referring it to a special committee.

Mr. GERRY asked, whether the House had cognizance of the amendments proposed by the State conventions? If they had not, he would make a motion to bring them forward.

Mr. PAGE replied, that such motion would be out of order, until the present question was determined.

A desultory conversation ensued, and it was questioned whether the subject generally was to be before the Committee of the whole, or those specific propositions only which had already been introduced.

Mr. GERRY said, that it was a matter of indifference how this question was understood, because no gentleman could pretend to deny another the privilege of bringing forward propositions conformably to his sentiments. If gentlemen, then, might bring forward resolutions to be added, or motions of amendment, there would be no time saved by referring the subject to a special committee. But such procedure might tend to prejudice the House against an amendment neglected by the committee, and thereby induce them not to show that attention to the State which proposed it that would be delicate and proper.

He wished gentlemen to consider the situation of the States; seven out of thirteen had thought the constitution very defective, yet five of them have adopted it with a perfect reliance on Congress for its improvement. Now, what will these States feel if the subject is discussed in a select committee, and their recommendations totally neglected? The indelicacy of treating the application of five States in a manner different from other important subjects, will give no small occasion for disgust, which is a circumstance that this Government ought carefully to avoid. If, then, the House could gain nothing by this manner of proceeding, he

hoped they would not hesitate to adhere to their former vote for going into a Committee of the whole. That they would gain nothing was pretty certain, for gentlemen must necessarily come forward with their amendments to the report when it was brought in. The members from Massachusetts were particularly instructed to press the amendments recommended by the convention of that State at all times, until they had been maturely considered by Congress; the same duties were made incumbent on the members from some other States; consequently, any attempt to smother the business, or prevent a full investigation, must be nugatory, while the House paid a proper deference to their own rules and orders. He did not contend for going into a Committee of the whole at the present moment; he would prefer a time of greater leisure than the present, from the business of organizing the Government.

Mr. AMES declared to the House, that he was no enemy to the consideration of amendments; but he had moved to rescind their former vote, in order to save time, which he was confident would be the consequence of referring it to a select committee.

He was sorry to hear an intention avowed by his colleague, of considering every part of the frame of this constitution. It was the same as forming themselves into a convention of the United States. He did not stand for words, the thing would be the same in fact. He could not but express a degree of anxiety at seeing the system of Government encounter another ordeal, when it ought to be extending itself to furnish security to others. He apprehended, if the zeal of some gentlemen broke out on this occasion, that there would be no limits to the time necessary to discuss the subject; he was certain the cession would not be long enough; perhaps they might be bounded by the period of their appointment, but he questioned it.

When gentlemen suppose themselves called upon to vent their ardor in some favorite pursuit, in securing to themselves and their posterity the inestimable rights and liberties they have just snatched from the hand of despotism, they are apt to carry their exertions to an extreme; but he hoped the subject itself would be limited; not that he objected to the consideration of the amendments proposed, indeed he should move himself for the consideration, by the committee, of those recommended by Massachusetts, if his colleagues omitted to do it; but he hoped gentlemen would not think of bringing in new amendments, such as were not recommended, but went to tear the frame of Government into pieces.

He had considered a select committee much better calculated to consider and arrange a complex business, than a Committee of the whole; he thought they were like the senses to the soul, and on an occasion like the present, could be made equally useful.

If he recollected rightly the decision made by the House on the 8th of June, it was that

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certain specific amendments be referred to the Committee of the whole; not that the subject generally be referred, and that amendments be made in the committee that were not contemplated, before. This public discussion would be like a dissection of the constitution, it would be defacing its symmetry, laying bare its sinews and tendons, ripping up the whole form, and tearing out its vitals; but is it presumable that such conduct would be attended with success? Two thirds of both Houses must agree in all these operations, before they can have effect. His opposition to going into a Committee of the whole, did not arise from any fear that the constitution would suffer by a fair discussion in this, or any other House; but while such business was going on, the Government was laid prostrate, and every artery ceased to beat. The unfair advantages that might be taken in such a situation, were easier apprehended than resisted. Wherefore, he wished to avoid the danger, by a more prudent line of conduct.

Mr. TUCKER would not say whether the discussion alluded to by the gentleman last up would do good or harm, but he was certain it ought to take place no where but in a Committee of the whole; the subject is of too much importance for a select committee. Now, suppose such a committee to be appointed, and that the amendments proposed by the several States, together with those brought forward by the gentleman from Virginia, are referred to them; after some consideration they report, but not one of the amendments proposed by either State; what is the inference? They have considered them, and as they were better capable than the House of considering them, the House ought to reject every proposition coming from the State conventions. Will this give satisfaction to the States who have required amendments? Very far from it. They will expect that their propositions would be fully brought before the House, and regularly and fully considered; if indeed then they are rejected, it may be some satisfaction to them, to know that their applications have been treated with respect.

What I have said with respect to the propositions of the several States, may apply in some degree to the propositions brought forward by the gentleman (Mr. MADISON) from Virginia; the select committee may single out one or two, and reject the remainder, notwithstanding the vote of the House for considering them. The gentleman would have a right to complain, and every State would be justly disgusted.

Will it tend to reconcile the Government to that great body of the people who are dissatisfied, who think themselves and all they hold most dear, unsafe under it, without certain amendments are made? Will it answer any one good purpose to slur over this business, and reject the propositions without giving them a fair chance of a full discussion? I think not. Mr. Speaker. Both the Senate and this House

ought to treat the present subject with delicacy and impartiality.

The select committee will have it in their power so to keep this business back, that it may never again come before the House; this is an imprudent step for us to take; not that I would insinuate it is an event likely to take place, or which any gentleman has in contemplation. I give every gentleman credit for his declaration, and believe the honorable mover means to save time by this arrangement; but do not let us differ on this point. I would rather the business should lie over for a month, nay, for a whole session, than have it put into other hands, and passed over without investigation.

Mr. GERRY inquired of his colleague, how it was possible that the House could be a federal convention without the Senate, and when two-thirds of both Houses are to agree to the amendments? He would also be glad to find out how a committee was the same to the House as the senses to the soul? What, said he, can we neither see, hear, smell, or feel, without we employ a committee for the purpose? My colleague further tells us, that if we proceed in this way, we shall lay bare the sinews and tendons of the constitution; that we shall butcher it, and put it to death. Now, what does this argument tend to prove? Why, sir, to my mind, nothing more nor less than this, that we ought to adopt the report of the committee, whatever the report may be; for we are to judge by the knowledge derived through our senses, and not to proceed on to commit murder. If these are the arguments to induce the House to refer the subject to a select committee, they are arguments to engage to go further, and give into the hands of select committees the whole legislative power. But what was said respecting a public discussion? Are gentlemen afraid to meet the public ear on this topic? Do they wish to shut the gallery doors? Perhaps nothing would be attended with more dangerous consequences. No, sir, let us not be afraid of full and public investigation. Let our means, like our conclusions, be justified; let our constituents see, hear, and judge for themselves.

The question on discharging the Committee of the whole on the state of the Union from proceeding on the subject of amendments, as referred to them, was put, and carried in the affirmative—the House divided, 34 for it, and 15 against it.

It was then ordered that Mr. MADISON'S motion, stating certain specific amendments, proper to be proposed by Congress to the Legislatures of the States, to become, if ratified by three-fourths thereof, part of the constitution of the United States, together with the amendments to the said constitution, as proposed by the several States, be referred to a committee, to consist of a member from each State, with instruction to take the subject of amendments to the constitution of the United States generally into their consideration, and to report thereupon to the House.

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*Western Lands.*

[H. OF R.]

The committee appointed were, Messrs. VINING, MADISON, BALDWIN, SHERMAN, BURKE, GILMAN, CLYMER, BENSON, GOODHUE, BOUDINOT, and GALE.

Then the House adjourned.

WEDNESDAY, July 22.

Mr. BURKE, from the committee appointed for the purpose, presented a bill for allowing a compensation to the President and Vice President of the United States; which was received, and read the first time.

*Ordered*, That it be an instruction to the committee appointed to bring in a bill for making a compensation to the members of the Senate and House of Representatives, that they do insert a clause or clauses, making compensation to the Serjeant-at-Arms, Messengers, and Door-keepers of the two Houses, for their services.

A petition was presented from Hannah Adams, praying that an exclusive privilege may be granted her, for a limited time, to publish and vend a work which she has compiled, entitled "An Alphabetical Compendium of the various religious sects which have appeared in the world, from the Christian era to the present day, with an appendix, containing a brief account of the different schemes of religion now embraced among mankind."

*Ordered*, That the petition do lie on the table.

The House resolved itself into a Committee of the whole House on the bill for settling the accounts between the United States and individual States, Mr. BOUDINOT in the chair; and, after some time spent therein, the committee rose, and reported that they had gone through the same, and made no amendment thereto.

On motion, *Ordered*, That the Committee of the whole House be discharged from further proceedings on the said bill, and that it be re-committed to Mr. BALDWIN, Mr. STURGES, and Mr. SMITH of South Carolina.

WESTERN LANDS.

The House then resolved itself into a Committee of the whole House on the state of the Union, Mr. BOUDINOT in the chair; and, after some time spent therein, the committee rose and reported that they had had the state of the Union under consideration, and come to a resolution thereupon, which was read and then delivered in at the clerk's table, where the same was twice read, and agreed to by the House, as follows:

*Resolved*, That an act of Congress ought to pass for establishing a Land Office, and for regulating the terms and manner of granting vacant and unappropriated lands, the property of the United States; that the said office be under the superintendence of the Governor of the Western Territory; that the land to be disposed of be confined to the following limits, viz:

That the tracts or parcels to be disposed of to any one person, shall not exceed — acres; that the price to be required for the same shall be — per acre;

and that every person actually settled within the said limits shall be entitled to the pre-emption of a quantity not exceeding — acres, including his settlement.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution, and that Mr. SCOTT, Mr. SYLVESTER, and Mr. MOORE, do prepare and bring in the same.

THURSDAY, July 23.

A bill for allowing a compensation to the President and Vice President of the United States was read the second time, and ordered to be engrossed and read the third time to-morrow.

On motion,

*Resolved*, That a committee be appointed to examine into the measures taken by Congress and the State of Virginia respecting the lands reserved for the use of the officers and soldiers of said State, on continental and State establishments, in the cession made by the said State to the United States, of the territory northwest of the river Ohio, and to report the same to this House, and that Mr. WHITE, Mr. PETER MULLENBURG, and Mr. SENEY, be of the said committee.

HOME DEPARTMENT.

On motion of Mr. VINING, the House resolved itself into a Committee of the whole on the state of the Union, Mr. BOUDINOT in the chair.

Mr. VINING introduced a resolution for the adoption of the committee, by which it is declared: That an Executive department ought to be established, and to be denominated the Home Department; the head of which to be called the Secretary of the United States for the Home Department; whose duty it shall be to correspond with the several States, and to see to the execution of the laws of the Union; to keep the great seal, and affix the same to all public papers, when necessary; to keep the lesser seal, and to affix it to commissions, &c.; to make out commissions, and enregister the same; to keep authentic copies of all public acts, &c., and transmit the same to the several States; to procure the acts of the several States, and report on the same when contrary to the laws of the United States; to take into his custody the archives of the late Congress; to report to the President plans for the protection and improvement of manufactures, agriculture, and commerce; to obtain a geographical account of the several States, their rivers, towns, roads, &c.; to report what post-roads shall be established; to receive and record the census; to receive reports respecting the Western Territory; to receive the models and specimens presented by inventors and authors; to enter all books for which patents are granted; to issue patents, &c.; and, in general, to do and attend to all such matters and things as he may be directed to do by the President.

Mr. BENSON objected to some of the duties mentioned in the resolution. He thought the less the Government corresponded with particular States the better, and there could be no necessity for an officer to see to the execution of

AUGUST 3, 1789.]

*Registering of Vessels.*

[H. or R.]

TUESDAY, July 28.

Mr. VINING, from the committee to whom it was referred to take the subject of amendments to the constitution generally into their consideration, and to report thereon, made a report, which was ordered to lie on the table.

A message from the Senate informed the House, that they had passed the bill to regulate the collection of the duties imposed by law on the tonnage of ships or vessels, and on goods, wares, and merchandises imported into the United States, with several amendments, to which they desired the concurrence of the House.

The House immediately took said amendments into consideration, and concurred therewith.

The petitions of the Baron de Glaubeck, heretofore laid on the table, were referred to a select committee, consisting of Messrs. PAGE, SUMNER, and HEISTER.

The bill for registering and clearing vessels, and for regulating the coasting trade, was read a second time; and, on motion, the House resolved itself into a Committee of the whole upon it, Mr. BOUDINOT in the chair; and, after making some progress in its consideration, rose, and obtained leave to sit again.

WEDNESDAY, July 29.

The House again resolved itself into a Committee of the whole, Mr. BOUDINOT in the chair, on the bill for registering and clearing vessels, and for regulating the coasting trade; and agreed to some amendments thereto; but not having got through the same, rose, and obtained leave to sit again.

THURSDAY, July 30.

Mr. LIVERMORE introduced a resolution to supply each member, at the public expense, with two newspapers of the city, daily, such as he should choose. Ordered to lie on the table.

A message from the Senate informed the House that they had passed the bill for settling the accounts between the United States and the individual States, without amendment.

REGISTERING VESSELS.

The House again went into a Committee of the whole on the bill for registering and clearing vessels, and for regulating the coasting trade; and having gone through it, reported the bill with the proposed amendments. The House agreed to some of the amendments, negatived others, and made some additional ones. The House adjourned before the discussion on the bill was closed.

FRIDAY, July 31.

Mr. PAGE, from the committee to whom the petitions of the Baron de Glaubeck were referred, made a report, which was ordered to lie on the table.

Mr. SCOTT, from the committee appointed for the purpose, brought in a bill for establishing a Land Office for the Western Territory, which was read and laid on the table.

On motion,

*Resolved*, That a standing committee be appointed to examine the enrolled bills, and to present the same to the President for his approbation and signature.

MESSRS. WHITE and PARTRIDGE were accordingly appointed.

Mr. WHITE, of the committee appointed to examine into the measures taken by Congress and the State of Virginia, respecting the lands reserved for the use of the officers and soldiers of said State, &c. brought in a report, which was read and laid on the table.

The House then resumed the consideration of the amendments agreed upon in Committee of the whole, to the bill for registering and clearing vessels; which being finished, the bill was ordered to be engrossed for a third reading on Monday next.

A message from the Senate informed the House that they had passed the bill for establishing the Treasury Department, with amendments; to which they desired the concurrence of the House.

Mr. SEDGWICK, from the committee appointed for the purpose, brought in a bill to provide for the safe keeping of the acts, records, and great seal of the United States, for the publication, preservation, and authentication of the acts of Congress, &c.; which was read and laid on the table.

MONDAY, August 3.

A message from the Senate informed the House that they had passed the bill for the establishment of light-houses, beacons, and buoys, with several amendments; to which they desired the concurrence of this House.

The amendments of the Senate were immediately considered and agreed to.

The engrossed bill for regulating the coasting trade was read a third time; and, on motion, recommitted to a Committee of the whole, to be taken up to-morrow.

The bill for establishing a Land Office for the Western Territory was read a second time, and made the order of the day for Thursday.

The bill to provide for the safe keeping of the acts, records, great seal, &c. was read, and made the order of the day for Friday.

The report of the committee on amendments to the constitution was, on motion of Mr. MADISON, made the order of the day for Wednesday sennight.

Mr. BENSON made a motion as follows:

*Resolved*, That a committee be appointed to join with a committee of the Senate to be appointed for the purpose, to consider of and report when it will be convenient and proper that an adjournment of the present session of Congress should take place; and to consider and report such business now before Congress, necessary to be finished before the ad-

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not consent to risk the public money without knowing for what. If 41,000 dollars were necessary to the accomplishment of the present object, he should not hesitate to vote for that sum; but before he could agree to it, he must see an estimate of the expense, on which to found his judgment. As the honorable gentleman from Georgia had referred to letters on the table for information on this point, he wished to have the papers accompanying the message read.

The communications being read, Mr. BURKE proceeded to remark, that the State of South Carolina had not been an indifferent spectator of the calamities of her sister and neighboring State, but she was prevented, by the confederation and local circumstances, from making those exertions in her support which she was disposed to make. He was of opinion, if Congress did not think it absolutely necessary to send troops up into that country, they would act wisely to stand ready to embrace any advantages arising from the present measure. He hoped the bill would not be defeated by an ill-timed parsimony; if a peace was brought about for 41,000 dollars, it would eventually be a great saving to the Union.

Mr. JACKSON read some letters from that country, by which it appeared that M'Gillivray was far from being disposed for peace; from which he enforced again the necessity of sending out troops, and embodying the militia.

Mr. HARTLEY thought the difficulty on the present occasion arose from the want of having some rule to decide upon. No estimate of the probable expense was brought forward, consequently gentlemen were embarrassed. It was no doubt well known on this floor, that the Creek Indians were the most numerous of any nation upon the frontiers. If then gentlemen admit that 16,000 dollars, is no more than sufficient to defray the expense of negotiating with the Wabashes, they cannot hesitate to allow 25,000 dollars for the other. Nor is this all; the President in his message contemplates other treaties besides the one with the Creeks, and this provision is to empower him generally to send commissioners into the Indian country, and conclude treaties for terminating all differences in that quarter.

Mr. MOORE did not doubt but whatever money was appropriated, would be used with economy; but he was decidedly against expending any sum in such way, because it was nothing more than holding out a bribe for the savages to commence hostilities whenever they should want presents from the United States; he hoped neither this nor any future Congress would ever allow a shilling to be appropriated to any such use.

Mr. BALDWIN produced an estimate of the probable expense of a treaty with the Creek Indians, from which it appeared that the treaty would cost the Union twenty-five thousand dollars.

The question of filling the blank with forty-

one thousand dollars was now taken and lost, there being twenty-three for, and twenty-four against it.

Mr. MADISON was sorry the question was lost, because it was of importance that the business should be done; and he thought it would be best to err on the safe side. If forty-one thousand dollars had been granted, gentlemen might have rested assured that it would be expended with economy. Besides, if nothing decisive was now done, it would be the loss of a year, on account of the approaching season.

He moved to fill the blank with forty thousand dollars, which was a round sum.

On this motion the yeas and nays were called by one-fifth of the members present, and are as follow:

YEAS.—Messrs. Baldwin, Benson, Brown, Burke, Cadwalader, Clymer, Coles, Fitzsimons, Gale, Griffin, Hartley, Huntington, Jackson, Lawrence, Lee, Madison, Matthews, Muhlenburg, Page, Scott, Smith, (of South Carolina,) Stone, Sylvester, Trumbull, Tucker, Vining, Wadsworth, and Wynkoop—28.

NAYS.—Messrs. Ames, Boudinot, Carroll, Floyd, Gerry, Gilman, Grout, Hathorn, Heister, Leonard, Livermore, Moore, Parker, Partridge, Van Rensselaer, Schureman, Sedgwick, Seney, Sherman, Smith, (of Maryland,) Sturgis, Sumter, and Thatcher.—23.

So the motion was agreed to.

The bill was recommitted to the Committee of the whole, on account of some imperfections, and after being corrected in the Committee of the whole, the bill was again ordered to be engrossed, and read a third time to-morrow; after which the House adjourned.

THURSDAY, August 13.

INDIAN TRIBES.

The engrossed bill for providing for the expenses which may attend negotiations with the Indian tribes, and the appointment of commissioners for managing the same, was read the third time, passed, and sent to the Senate for concurrence.

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Mr. LEE moved that the House now resolve itself into a Committee of the whole, on the report of the committee of eleven, to whom it had been referred to take the subject of amendments to the constitution of the United States generally into their consideration.

Mr. PAGE hoped the House would agree to the motion of his colleague without hesitation, because he conceived it essentially necessary to proceed and finish the business as speedily as possible; for whatever might be the fact with respect to the security which the citizens of America had for their rights and liberties under the new constitution, yet unless they saw it in that light, they would be uneasy, not to say dissatisfied.

He thought, likewise, that the business would be expedited by the simplicity and self-evidence which the propositions reported possessed, as it

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was impossible that much debate could take place.

Mr. SEDGWICK was sorry that the motion was made, because he looked upon this as a very improper time to enter upon the consideration of a subject which would undoubtedly consume many days; and when they had so much other and more important business requiring immediate attention, he begged gentlemen to recollect that all they had hitherto done was of little or no effect; their impost and tonnage laws were but a dead letter.

Mr. MADISON did not think it was an improper time to proceed in this business; the House had already gone through with subjects of a less interesting nature; now if the Judiciary bill was of such vast importance, its consideration ought not to have been postponed for those purposes.

He would remind gentlemen that there were many who conceived amendments of some kind necessary and proper in themselves; while others who are not so well satisfied of the necessity and propriety, may think they are rendered expedient from some other consideration. Is it desirable to keep up a division among the people of the United States on a point in which they consider their most essential rights are concerned? If this is an object worthy the attention of such a numerous part of our constituents, why should we decline taking it into our consideration, and thereby promote that spirit of urbanity and unanimity which the Government itself stands in need of for its more full support?

Already has the subject been delayed much longer than could have been wished. If after having fixed a day for taking it into consideration, we should put it off again, a spirit of jealousy may be excited, and not allayed without great inconvenience.

Mr. VINING, impressed by the anxiety which the honorable gentleman from Virginia had discovered for having the subject of amendments considered, had agreed, in his own mind, to waive, for the present, the call he was well authorized to make, for the House to take into consideration the bill for establishing a Land Office for the disposal of the vacant lands in the Western Territory. In point of time, his motion had the priority; in point of importance, every candid mind would acknowledge its preference; and he conceived the House was bound to pay attention to it as early as possible; as they had given leave for a bill to be brought in, they ought not to neglect proceeding onwards with it.

Mr. SEDGWICK hoped the House would not consume their time in a lengthy discussion upon what business should be done first. He was of opinion that there were several matters before them of more importance than the present; and he believed the people abroad were neither anxious nor jealous about it; but if they were, they would be satisfied at the delay, when they were informed of the cause. He

begged, therefore, that the question proposed by the gentleman from Virginia (Mr. LEE) might be put without further debate.

Mr. SMITH said that the judicial bill was entitled to the preference in point of order, and in point of propriety it deserved the first attention of the House. For his part, he could not conceive the necessity of going into any alterations of the Government until the Government itself was perfected. The constitution establishes three branches to constitute a whole; the legislative and executive are now in existence, but the judicial is uncreated. While we remain in this state, not a single part of the revenue system can operate; no breach of your laws can be punished; illicit trade cannot be prevented. Greater harm will arise from delaying the establishment of the judicial system, than can possibly grow from a delay of the other subject. If gentlemen are willing to let it lie over to a period of greater leisure, I shall join them cheerfully and candidly, said he, in a full discussion of that business.

An honorable gentleman from Virginia observed to us that these propositions were self-evident, that little or no debate could grow out of them. That may be his opinion, but truly, sir, it is not mine; for I think some of them are not self-evident, and some of them will admit of lengthy discussion; and some others, I hope, may be rejected, while their place may be better supplied by others hereafter to be brought forward. Some members are pledged to support amendments, and will, no doubt, support them with all the arguments their fancy or ingenuity can suggest. Viewing it in this light, it is not to be expected that the discussion will be ended in less than a fortnight or three weeks; and let gentlemen consult their own feelings whether they have so much time now to spare.

Mr. HARTLEY thought the judicial system ought to be finished before any other business was entered upon, and was willing to consider of amendments to the constitution when the House was more disengaged; because he wished very much that the constitution was so modified as to give satisfaction to honest and candid minds. Such would be satisfied with securing to themselves and their posterity all those blessings of freedom which they are now possessed of. As to the artful and designing, who had clamored against the whole work, he had not the smallest desire to gratify them: he hoped and trusted their numbers were but few.

Mr. GERRY thought the discussion would take up more time than the House could now spare; he was, therefore, in favor of postponing the consideration of the subject, until the Judicial bill, and the bill for registering and clearing vessels, and some other bills relating to the revenue business, were gone through. He asked the gentleman from Virginia, if he conceived that the amendments in the report were all that were to be taken into consideration. He thought the community would be little more pleased with them than if they had omitted the subject

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altogether. Besides, it was absurd to suppose that the members were obliged to confine their deliberations solely to those objects, when it was very well known that the members from Massachusetts and New Hampshire were bound to bring forward and support others. The members from other States may be inclined to do the same with respect to the amendments of their own conventions; this will inevitably produce a more copious debate than the gentleman contemplates. From these considerations it might be hoped that honorable gentlemen would no longer press the motion.

Mr. LAWRENCE had no objection to consider amendments at a proper time, but did not think that the present was a proper time to enter upon them, nor did he suppose that gentlemen would be precluded from a full discussion of the whole subject whenever it was taken up. Gentlemen would find him ready to acquiesce in every thing that was proper, but he could not consent to let the great business of legislation stand still, and thereby incur an absolute evil in order to rid themselves of an imaginary one; for whether the subject of amendments was considered now or at a more distant period, appeared to his mind a matter of mere indifference. It may further be observed, that few, if any, of the State Assemblies are now in session; consequently the business could not be completed even if Congress had already done their part; but certainly the people in general are more anxious to see the Government in operation, than speculative amendments upon an untried constitution.

Mr. MADISON.—I beg leave to make one or two remarks more, in consequence of the observations which have fallen from the different sides of the House. Some gentlemen seem to think that additional propositions will be brought forward; whether they will or not, I cannot pretend to say; but if they are, I presume they will be no impediment to our deciding upon those contained in the report. But gentlemen who introduce these propositions will see, that if they are to produce more copious debate than has hitherto taken place, they will consume a great part of the remainder of the session. I wish the subject well considered, but I do not wish to see any unnecessary waste of time; and gentlemen will please to remember that this subject has yet to go before the Senate.

I admit, with the worthy gentleman who preceded me, that a great number of the community are solicitous to see the Government carried into operation; but I believe that there is a considerable part also anxious to secure those rights which they are apprehensive are endangered by the present constitution. Now, considering the full confidence they reposed at the time of its adoption in their future representatives, I think we ought to pursue the subject to effect. I confess it has already appeared to me, in point of candor and good faith, as well as policy, to be incumbent on the first Legislature of the United States, at their first session, to

make such alterations in the constitution as will give satisfaction, without injuring or destroying any of its vital principles.

I should not press the subject at this time, because I am well aware of the importance of the other business enumerated by the gentlemen who are adverse to the present motion, but from an apprehension that, if it is delayed until the other is gone through, gentlemen's patience and application will be so harassed and fatigued, as to oblige them to leave it in an unfinished state until the next session; besides, were the Judicial bill to pass now, it could not take effect until others were enacted, which probably at this time are not drawn up.

Mr. SMITH.—The honorable gentleman has concluded his remarks by assigning the best reason in the world why we should go into a consideration of the Judicial bill. He says, that even if it were now passed, it would take some time before it could get into operation; he must admit it to be an essential part of the Government, and, as such, ought not to remain a single instant in a state of torpidity.

Mr. FITZSIMONS wished gentlemen would suffer the question to be put, and not consume the time in arguing about what should be done. If a majority was not in favor of considering amendments, they might proceed to some other business.

Mr. PAGE was positive the people would never support the Government unless their anxiety was removed. They, in some instances, adopted it, in confidence of its being speedily amended; they will complain of being deceived unless their expectations are fulfilled. So much time has elapsed since the subject was first brought forward, said he, that people will not think us serious, unless we now set about and complete it.

He begged gentlemen to consider the importance of the number of citizens, who were anxious for amendments; if these had been added to those who openly opposed the constitution, it possibly might have met a different fate. Can the Government, under these circumstances, possess energy, as some gentlemen suppose? Is not the confidence of the people absolutely necessary to support it?

The question was now put, and carried in the affirmative.

The House then resolved itself into a Committee of the whole, Mr. BOUNDING in the chair, and took the amendments under consideration. The first article ran thus: "In the introductory paragraph of the constitution, before the words 'We the people,' add 'Government being intended for the benefit of the people, and the rightful establishment thereof being derived from their authority alone.'"

Mr. SHERMAN.—I believe, Mr. Chairman, this is not the proper mode of amending the constitution. We ought not to interweave our propositions into the work itself, because it will be destructive of the whole fabric. We might as well endeavor to mix brass, iron, and clay,

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as to incorporate such heterogeneous articles; the one contradictory to the other. Its absurdity will be discovered by comparing it with a law. Would any Legislature endeavor to introduce into a former act a subsequent amendment, and let them stand so connected? When an alteration is made in an act, it is done by way of supplement; the latter act always repealing the former in every specified case of difference.

Besides this, sir, it is questionable whether we have the right to propose amendments in this way. The constitution is the act of the people, and ought to remain entire. But the amendments will be the act of the State Governments. Again, all the authority we possess is derived from that instrument; if we mean to destroy the whole, and establish a new constitution, we remove the basis on which we mean to build. For these reasons, I will move to strike out that paragraph and substitute another.

The paragraph proposed was to the following effect:

*Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the following articles be proposed as amendments to the constitution, and when ratified by three-fourths of the State Legislatures shall become valid to all intents and purposes, as part of the same.*

Under this title, the amendments might come in nearly as stated in the report, only varying the phraseology so as to accommodate them to a supplementary form.

Mr. MADISON.—Form, sir, is always of less importance than the substance; but on this occasion, I admit that form is of some consequence, and it will be well for the House to pursue that which, upon reflection, shall appear to be the most eligible. Now it appears to me, that there is a neatness and propriety in incorporating the amendments into the constitution itself; in that case the system will remain uniform and entire; it will certainly be more simple, when the amendments are interwoven into those parts to which they naturally belong, than it will if they consist of separate and distinct parts. We shall then be able to determine its meaning without references or comparison; whereas, if they are supplementary, its meaning can only be ascertained by a comparison of the two instruments, which will be a very considerable embarrassment. It will be difficult to ascertain to what parts of the instrument the amendments particularly refer; they will create unfavorable comparisons; whereas, if they are placed upon the footing here proposed, they will stand upon as good foundation as the original work.

Nor is it so uncommon a thing as gentlemen suppose; systematic men frequently take up the whole law, and, with its amendments and alterations, reduce it into one act. I am not, however, very solicitous about the form, provided the business is but well completed.

Mr. SMITH did not think the amendment proposed by the honorable gentlemen from Con-

necticut was compatible with the constitution, which declared, that the amendments recommended by Congress, and ratified by the Legislatures of three-fourths of the several States, should be part of this constitution; in which case it would form one complete system; but according to the idea of the amendment, the instrument is to have five or six suits of improvements. Such a mode seems more calculated to embarrass the people than any thing else, while nothing in his opinion was a juster cause of complaint than the difficulties of knowing the law, arising from legislative obscurities that might easily be avoided. He said, that it had certainly been the custom in several of the State Governments, to amend their laws by way of supplement. But South Carolina had been an instance of the contrary practice, in revising the old code; instead of making acts in addition to acts, which is always attended with perplexity, she has incorporated them, and brought them forward as a complete system, repealing the old. This is what he understood was intended to be done by the committee; the present copy of the constitution was to be done away, and a new one substituted in its stead.

Mr. TUCKER wished to know whether the deliberations of the committee were intended to be confined to the propositions on the table. If they were not, he should beg leave to bring before them the amendments proposed by South Carolina. He considered himself as instructed to bring them forward, and he meant to perform his duty by an early and prompt obedience. He wished to have the sense of the House on this point, whether he was in order to bring them forward.

Mr. LIVERMORE was clearly of opinion, that whatever amendments were made to the constitution, they ought to stand separate from the original instrument. We have no right, said he, to alter a clause, any otherwise than by a new proposition. We have well-established precedents for such a mode of procedure in the practice of the British Parliament and the State Legislatures throughout America. I do not mean, however, to assert that there has been no instance of a repeal of the whole law on enacting another; but this has generally taken place on account of the complexity of the original, with its supplements. Were we a mere Legislative body, no doubt it might be warrantable in us to pursue a similar method; but it is questionable whether it is possible for us, consistent with the oath we have taken, to attempt a repeal of the constitution of the United States, by making a new one to substitute in its place; the reason of this is grounded on a very simple consideration. It is by virtue of the present constitution, I presume, that we attempt to make another; now, if we proceed to the repeal of this, I cannot see upon what authority we shall erect another; if we destroy the base, the superstructure falls of course. At some future day it may be asked upon what authority we proceeded to raise and appropriate public mo-



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If it had said that the present form should be preserved, then it would be proper to propose the alterations by way of a supplement. One gentleman has said we shall lose the names that are now annexed to the instrument. They are names, sir, I admit, of high respect; but I would ask that gentleman, if they would give validity to the constitution if it were not ratified by the several States? or if their names were struck out, whether it would be of less force than it is at present? If he answers these questions in the negative, I shall consider it of no consequence whether the names are appended to it or not. But it will be time enough to discuss this point, when a motion is made for striking them out.

If we proceed in the way proposed by the honorable gentleman from Connecticut, I presume the title of our first amendment will be, a supplement to the constitution of the United States; the next a supplement to the supplement, and so on, until we have supplements annexed five times in five years, wrapping up the constitution in a maze of perplexity; and as great an adept as that honorable gentleman is at finding out the truth, it will take him, I apprehend, a week or a fortnight's study to ascertain the true meaning of the constitution.

It is said, if the amendments are incorporated, it will be a virtual repeal of the constitution. I say the effect will be the same in a supplementary way; consequently the objection goes for nothing, or it goes against making any amendments whatever.

It is said that the present form of the amendments is contrary to the 5th article. I will not undertake to define the extent of the word amendment, as it stands in the fifth article; but I suppose if we proposed to change the division of the powers given to the three branches of the Government, and that proposition is accepted and ratified by three-fourths of the State Legislatures, it will become as valid, to all intents and purposes, as any part of the constitution; but if it is the opinion of gentlemen that the original is to be kept sacred, amendments will be of no use, and had better be omitted; whereas, on the other hand, if they are to be received as equal in authority, we shall have five or six constitutions, perhaps differing in material points from each other, but all equally valid; so that they may require a man of science to determine what is or is not the constitution. This will certainly be attended with great inconvenience, as the several States are bound not to make laws contradictory thereto, and all officers are sworn to support it, without knowing precisely what it is.

Mr. STONE asked the gentleman last up, how he meant to have the amendments incorporated? Was it intended to have the constitution republished, and the alterations inserted in their proper places? He did not see how it was practicable to propose amendments, without making out a new constitution, in the manner brought forward by the committee.

Mr. LAWRENCE could not conceive how gentlemen meant to engraft the amendments into the constitution. The original one, executed by the convention at Philadelphia, was lodged in the archives of the late Congress, it was impossible for this House to take, and correct, and interpolate that without making it speak a different language: this would be supposing several things which never were contemplated. But what would become of the acts of Congress? They will certainly be vitiated, unless they are provided for by an additional clause in the constitution.

What shall we say with respect to the ratifications of the several States? They adopted the original constitution, but they have not thereby enabled us to change the one form of Government for another. It is true, amendments were proposed by some of them; but it does not follow, of necessity, that we should alter the form of the original which they have ratified. Amendments in this way are only proper in legislative business, while the bill is on its passage, as was justly observed before.

Mr. BENSON said, that this question had been agitated in the select committee, and determined in favor of the form in which it was reported; he believed this decision was founded in a great degree upon the recommendation of the State conventions, which had proposed amendments in this very form. This pointed out the mode most agreeable to the people of America, and therefore the one most eligible for Congress to pursue; it will likewise be the most convenient way. Suppose the amendments ratified by the several States; Congress may order a number of copies to be printed, into which the alterations will be inserted, and the work stand perfect and entire.

I believe it never was contemplated by any gentleman to alter the original constitution deposited in the archives of the Union, that will remain there with the names of those who formed it, while the Government has a being. But certainly there is convenience and propriety in completing the work in a way provided for in itself. The records of Congress and the several States will mark the progress of the business, and nothing will appear to be done but what is actually performed.

Mr. MADISON.—The gentleman last up has left me but one remark to add, and that is, if we adopt the amendment, we shall so far unning the business, as to occasion alterations in every article and clause of the report.

Mr. HARTLEY hoped the committee would not agree to the alteration, because it would perplex the business. He wished the propositions to be simple and entire, that the State Legislatures might decide without hesitation, and every man know what was the ground on which he rested his political welfare. Besides, the consequent changes which the motion would induce, were such as, he feared, would take up some days, if not weeks; and the time of the House was too precious to be squandered away in discussing mere matter of form.

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Mr. PAGE was sorry to find the gentlemen stop at the preamble; he hoped they would proceed as soon as the obstruction was removed, and that would be when the motion was negatived.

He thought the best way to view this subject, was to look at the constitution as a bill on its passage through the House, and to consider and amend its defects, article by article; for which reason he was for entering at once upon the main business. After that was gone through, it would be time enough to arrange the materials with which the House intended to form the preamble.

Mr. LIVERMORE insisted, that neither this Legislature, nor all the Legislatures in America, were authorized to repeal a constitution; and that must be an inevitable consequence of an attempt to amend it in a way proposed by the committee. He then submitted to gentlemen the propriety of the alteration.

As to the difficulty which had been supposed in understanding supplemental laws, he thought but little of it; he imagined there were things in the constitution more difficult to comprehend than any thing he had yet seen in the amendments.

Mr. JACKSON.—I do not like to differ with gentlemen about form; but as so much has been said, I wish to give my opinion; it is this: that the original constitution ought to remain inviolate, and not be patched up, from time to time, with various stuffs resembling Joseph's coat of many colors.

Some gentlemen talk of repealing the present constitution, and adopting an improved one. If we have this power, we may go on from year to year, making new ones; and in this way, we shall render the basis of the superstructure the most fluctuating thing imaginable, and the people will never know what the constitution is. As for the alteration proposed by the committee to prefix before "We the people," certain dogmas, I cannot agree to it; the words, as they now stand, speak as much as it is possible to speak; it is a practical recognition of the right of the people to ordain and establish Governments, and is more expressive than any other mere paper declaration.

But why will gentlemen contend for incorporating amendments into the constitution? They say, that it is necessary for the people to have the whole before them in one view. Have they precedent for this assertion? Look at the constitution of Great Britain; is that all contained in one instrument? It is well known, that *magna charta* was extorted by the barons from King John some centuries ago. Has that been altered since by the incorporation of amendments? Or does it speak the same language now, as it did at the time it was obtained? Sir, it is not altered a tittle from its original form. Yet there have been many amendments and improvements in the constitution of Britain since that period. In the subsequent reign of his son, the great charters were confirmed with some supplement-

tal acts. Is the *habeas corpus* act, or the statute *De Tollagio non concedendo* incorporated in *magna charta*? And yet there is not an Englishman but would spill the last drop of his blood in their defence; it is these, with some other acts of Parliament and *magna charta*, that form the basis of English liberty. We have seen amendments to their constitution during the present reign, by establishing the independence of the judges, who are hereafter to be appointed during good behavior; formerly they were at the pleasure of the crown. But was this done by striking out and inserting other words in the great charter? No, sir, the constitution is composed of many distinct acts; but an Englishman would be ashamed to own that, on this account, he could not ascertain his own privileges or the authority of the Government.

The constitution of the Union has been ratified and established by the people; let their act remain inviolable; if any thing we can do has a tendency to improve it, let it be done, but without mutilating and defacing the original.

Mr. SHERMAN.—If I had looked upon this question as mere matter of form, I should not have brought it forward or troubled the committee with such a lengthy discussion. But, sir, I contend that amendments made in the way proposed by the committee are void. No gentleman ever knew an addition and alteration introduced into an existing law, and that any part of such law was left in force; but if it was improved or altered by a supplemental act, the original retained all its validity and importance, in every case where the two were not incompatible. But if these observations alone should be thought insufficient to support my motion, I would desire gentlemen to consider the authorities upon which the two constitutions are to stand. The original was established by the people at large, by conventions chosen by them for the express purpose. The preamble to the constitution declares the act; but will it be a truth in ratifying the next constitution, which is to be done perhaps by the State Legislatures, and not conventions chosen for the purpose? Will gentlemen say it is "We the people" in this case? Certainly they cannot; for, by the present constitution, we, nor all the Legislatures in the Union together, do not possess the power of repealing it. All that is granted us by the 5th article is, that whenever we shall think it necessary, we may propose amendments to the constitution; not that we may propose to repeal the old, and substitute a new one.

Gentlemen say, it would be convenient to have it in one instrument, that people might see the whole at once; for my part, I view no difficulty on this point. The amendments reported are a declaration of rights; the people are secure in them, whether we declare them or not; the last amendment but one provides that the three branches of Government shall each exercise its own rights. This is well secured already; and, in short, I do not see that they lessen the force of any article in the constitution: if so,

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there can be little more difficulty in comprehending them whether they are combined in one, or stand distinct instruments.

Mr. SMITH read extracts from the amendments proposed by several of the State conventions at the time they ratified the constitution, from which, he said, it appeared that they were generally of opinion that the phraseology of the constitution ought to be altered; nor would this mode of proceeding repeal any part of the constitution but such as it touched, the remainder will be in force during the time of considering it and ever after.

As to the observations made by the honorable gentleman from Georgia, respecting the amendments made to the constitution of Great Britain, they did not apply; the cases were nothing like similar, and consequently, could not be drawn into precedent. The constitution of Britain is neither the *magna charta* of John, nor the *habeas corpus* act, nor all the charters put together; it is what the Parliament wills. It is true, there are rights granted to the subject that cannot be resumed; but the constitution, or form of Government, may be altered by the authority of Parliament, whose power is absolute without control.

Mr. SENEY was afraid the House would consume more time than was at first apprehended in discussing the subject of amendments, if he was to infer any thing from what had now taken place. He hoped the question would soon be put and decided.

Mr. VINING was an enemy to unnecessary debate, but he conceived the question to be an important one, and was not displeased with the discussion that had taken place; he should, however, vote in favor of the most simple mode.

Mr. GERRY.—The honorable gentleman from Connecticut, if I understand him right, says that the words "We the people" cannot be retained, if Congress should propose amendments, and they be ratified by the State Legislatures. Now, if this is a fact, we ought most undoubtedly to adopt his motion; because if we do not, we cannot obtain any amendment whatever. But upon what ground does the gentleman's position stand? The constitution of the United States was proposed by a convention met at Philadelphia; but, with all its importance, it did not possess as high authority as the President, Senate, and House of Representatives of the Union. For that convention was not convened in consequence of any express will of the people, but an implied one, through their members in the State Legislatures. The constitution derived no authority from the first convention; it was concurred in by conventions of the people, and that concurrence armed it with power and invested it with dignity. Now the Congress of the United States are expressly authorized by the sovereign and uncontrollable voice of the people, to propose amendments whenever two-thirds of both Houses shall think fit. Now, if this is the fact, the propositions of amendment will be found to originate with a higher

authority than the original system. The conventions of the States, respectively, have agreed for the people, that the State Legislatures shall be authorized to decide upon these amendments in the manner of a convention. If these acts of the State Legislatures are not good, because they are not specifically instructed by their constituents, neither were the acts calling the first and subsequent conventions.

Does he mean to put amendments on this ground, that after they have been ratified by the State Legislatures, they are not to have the same authority as the original instrument? If this is his meaning, let him avow it; and if it is well founded, we may save ourselves the trouble of proceeding in the business. But, for my part, I have no doubt but a ratification of the amendments, in any form, would be as valid as any part of the constitution. The Legislatures are elected by the people. I know no difference between them and conventions, unless it be that the former will generally be composed of men of higher characters than may be expected in conventions; and in this case, the ratification by the Legislatures would have the preference.

Now, if it is clear that the effect will be the same in either mode, will gentlemen hesitate to approve the most simple and clear? It will undoubtedly be more agreeable to have it all brought into one instrument, than have to refer to five or six different acts.

Mr. SHERMAN.—The gentlemen who oppose the motion say we contend for matter of form; they think it nothing more. Now we say we contend for substance, and therefore cannot agree to amendments in this way. If they are so desirous of having the business completed, they had better sacrifice what they consider but a matter of indifference to gentlemen, to go more unanimously along with them in altering the constitution.

The question on Mr. SHERMAN'S motion was now put and lost.

Mr. LIVERMORE wished to know whether it was necessary, in order to carry a motion in committee, that two-thirds should agree.

Mr. HARTLEY mentioned, that in Pennsylvania, they had a council of censors who were authorized to call a convention to amend the constitution when it was thought necessary, but two-thirds were required for that purpose. He had been a member of that body, when they had examined the business in a committee of council; the majority made a report, which was lost for want of two-thirds to carry it through the council.

Some desultory conversation took place on this subject, when it was decided by the chairman of the committee that a majority of the committee were sufficient to form a report.

An appeal being made from the opinion of the chair, it was, after some observations, confirmed by the committee. After which the committee rose and reported progress.

Adjourned.

FRIDAY, August 14.

ABIEL FOSTER, from New Hampshire, appeared and took his seat.

AMENDMENTS TO THE CONSTITUTION.

The House then again resolved itself into a Committee of the whole, on the amendments to the constitution, Mr. TRUMBULL in the chair; when,

Mr. SMITH wished to transpose the words of the first amendment, as they did not satisfy his mind in the manner they stood.

Mr. GERRY said, they were not well expressed; we have it here "government being intended for the benefit of the people;" this holds up an idea that all the Governments of the earth are intended for the benefit of the people. Now, I am so far from being of this opinion, that I do not believe that one out of fifty is intended for any such purpose. I believe the establishment of most Governments is to gratify the ambition of an individual, who, by fraud, force, or accident, had made himself master of the people. If we contemplate the history of nations, ancient or modern, we shall find they originated either in fraud or force, or both. It is demonstrable, how can we pretend to say that Governments are intended for the benefit of those who are most oppressed by them. This maxim does not appear to me to be strictly true in fact, therefore I think we ought not to insert it in the constitution. I shall therefore propose to amend the clause, by inserting "of right," then it will stand as it ought. I do not object to the principle, sir; it is a good one, but it does not generally hold in practice.

The question on inserting the words "of right" was put, and determined in the negative.

Mr. TUCKER.—I presume these propositions are brought forward under the idea of being amendments to the constitution; but can this be esteemed an amendment of the constitution? If I understand what is meant by the introductory paragraph, it is the preamble to the constitution; but a preamble is no part of the constitution. It is, to say the best, a useless amendment. For my part, I should as soon think of amending the concluding part, consisting of General Washington's letter to the President of Congress, as the preamble; but if the principle is of importance, it may be introduced into a bill of rights.

Mr. SMITH read the amendments on this head, proposed by the conventions of New York, Virginia, and North Carolina, from which it appeared that these States had expressed a desire to have an amendment of this kind.

Mr. TUCKER replied, that the words "We the people do ordain and establish this constitution for the United States of America," were a declaration of their action; this being performed, Congress have nothing to do with it. But if it was necessary to retain the principle, it might come in at some other place.

Mr. SUMNER thought this was not a proper place to introduce any general principle; per-

haps, in going through with the amendments, something might be proposed subversive of what was there declared; wherefore he wished the committee would pass over the preamble until they had gone through all the amendments, and then, if alterations were necessary, they could be accommodated to what had taken place in the body of the constitution.

Mr. LIVERMORE was not concerned about the preamble; he did not care what kind it was agreed to form in the committee; because, when it got before the House, it would be undone if one member more than one-third of the whole opposed it.

Mr. PAGE thought the preamble no part of the constitution; but if it was, it stood in no need of amendment; the words "We the people," had the neatness and simplicity, while its expression was the most forcible of any he had ever seen prefixed to any constitution. He did not doubt the truth of the proposition brought forward by the committee, but he doubted its necessity in this place.

Mr. MADISON.—If it be a truth, and so self-evident that it cannot be denied; if it be recognised, as is the fact in many of the State constitutions; and if it be desired by three important States, to be added to this, I think they must collectively offer a strong inducement to the mind desirous of promoting harmony, to acquiesce with the report; at least, some strong arguments should be brought forward to show the reason why it is improper.

My worthy colleague says, the original expression is neat and simple; that loading it with more words may destroy the beauty of the sentence; and others say it is unnecessary, as the paragraph is complete without it. Be it so, in their opinion; yet, still it appears important in the estimation of three States, that this solemn truth should be inserted in the constitution. For my part, sir, I do not think the association of ideas anywise unnatural; it reads very well in this place; so much so, that I think gentlemen, who admit it should come in somewhere, will be puzzled to find a better place.

Mr. SHERMAN thought they ought not to come in in this place. The people of the United States have given their reasons for doing a certain act. Here we propose to come in and give them a right to do what they did on motives which appeared to them sufficient to warrant their determination; to let them know that they had a right to exercise a natural and inherent privilege, which they have asserted in a solemn ordination and establishment of the constitution. Now, if this right is indefeasible, and the people have recognised it in practice, the truth is better asserted than it can be by any words whatever. The words "We the people" in the original constitution, are as copious and expressive as possible; any addition will only drag out the sentence without illuminating it; for these reasons, it may be hoped the committee will reject the proposed amendment.

The question on the first paragraph of the

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report was put and carried in the affirmative, twenty-seven to twenty-three.

The second paragraph in the report was read as follows:

Article 1. Section 2. Paragraph 3. Strike out all between the words "direct" and "and until such," and instead thereof, insert "after the first enumeration, there shall be one representative for every thirty thousand, until the number shall amount to one hundred. After which the proportion shall be so regulated by Congress, that the number of representatives shall never be less than one hundred, nor more than one hundred and seventy-five; but each State shall always have at least one representative."

MR. VINING.—The duty, sir, which I owe to my constituents, and my desire to establish the constitution on a policy, dictated by justice and liberality, which will ever secure domestic tranquillity and promote the general welfare, induces me to come forward with a motion, which I rest upon its own merits. Gentlemen who have a magnanimous policy in view, I trust, will give it their support, and concede to what is proper in itself, and likely to procure a greater degree of harmony. I therefore move you, sir, to insert after the words "one hundred and seventy-five," these words: "That where the number of inhabitants of any particular State amounts to forty-five thousand, they shall be entitled to two representatives."

This motion was negatived without a division.

MR. AMES moved to strike out "thirty thousand," and insert "forty thousand." I am induced to this, said he, because I think my fellow citizens will be dissatisfied with too numerous a representation. The present, I believe, is in proportion to one for forty thousand, the number I move to insert. I believe we have hitherto experienced no difficulty on account of the smallness of our number; if we are embarrassed, I apprehend the embarrassment will arise from our want of knowing the general interest of the nation at large; or for want of local information. If the present number is found sufficient for the purpose of legislation, without any such embarrassment, it ought to be preferred, inasmuch as it is most adequate to its object.

But before we proceed in the discussion, let us consider the effect which a representation, founded on one member for 30,000 citizens, will produce. In the first place, it will give four members for every three now entitled to a seat in this House, which will be an additional burthen to the Union, in point of expense, in the same ratio. Add to this another consideration, that probably before the first census is taken, the number of inhabitants will be considerably increased from what it was when the convention which formed this constitution obtained their information. This will probably increase the expenses of Government to 450,000 dollars annually. Now those who have attended particularly to economy; who, upon the most careful calculation, find that our revenue is likely to

fall infinitely short of our expenses, will consider this saving as a considerable object, and deserving their most serious regard.

It may become dissatisfactory to the people as an intolerable burthen. Again, it must be abundantly clear to every gentleman, that, in proportion as you increase the number of Representatives, the body degenerates; you diminish the individual usefulness; gentlemen will not make equal exertions to despatch public business, when they can lean upon others for the arrangement.

By enlarging the representation, we lessen the chance of selecting men of the greatest wisdom and abilities; because small district elections may be conducted by intrigue, but in large districts nothing but real dignity of character can secure an election. Gentlemen ought to consider how essential it is to the security and welfare of their constituents, that this branch of the Government should support its independence and consequence.

Another effect of it, will be an excitement or fermentation in the representative body. Numerous assemblies are supposed to be less under the guidance of reason than smaller ones; their deliberations are confused; they will fall the prey of party spirit; they will cabal to carry measures which they would be unable to get through by fair and open argument. All these circumstances tend to retard the public business, and increase the expense; making Government, in the eyes of some, so odious, as to induce them to think it rather a curse than a blessing.

It lessens that responsibility which is annexed to the representative of a more numerous body of people. For I believe it will be found true, that the representative of 40,000 citizens will have more at risk than the man who represents a part of them. He has more dignity of character to support, and must use the most unremitting industry in their service to preserve it unsullied; he will be more sensible of the importance of his charge, and more indefatigable in his duty.

It is said, that these amendments are introduced with a view to conciliate the affections of the people to the Government. I am persuaded the people are not anxious to have a large representation, or a representation of one for every 30,000; they are satisfied with the representation they now enjoy. The great object which the convention of Massachusetts had in view by proposing this amendment, was to obtain a security that Congress should never reduce the representation below what they conceived to be a point of security. Their object was not augmentation, it was certainly alone they wished for; at the next census, the number of representatives will be seventy or eighty, and in twenty years it will be equal to the desires of any gentleman. We shall have to guard against its growth in less than half a century. The number of proper characters to serve in the Legislature of any country is small; and of those, many are

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inclined to pursue other objects. If the representation is greatly enlarged, men of inferior abilities will undoubtedly creep in, for although America has as great a proportion of men of sense and judgment as any nation on earth, yet she may not have sufficient to fill a legislative body unduly enlarged. Now if it has been questioned whether this country can remain united under a Government administered by men of the most consummate abilities, the sons of wisdom, and the friends of virtue, how much more doubtful will it be, if the administration is thrown into different hands; and different hands must inevitably be employed, if the representation is too large.

Mr. MADISON.—I cannot concur in sentiment with the gentleman last up, that one representative for forty thousand inhabitants will conciliate the minds of those to the Government, who are desirous of amendments; because they have rather wished for an increase, than confined themselves to a limitation.

I believe, by this motion, we shall avoid no inconvenience that can be considered of much consequence, for one member for either thirty thousand or forty thousand inhabitants, will, in a few years, give the number beyond which it is proposed Congress shall not go.

Now, if good policy requires that we accommodate the constitution to the wishes of that part of the community who are anxious for amendments, we shall agree to something like what is proposed in the report, for the States of New Hampshire, Massachusetts, New York, Virginia, and North Carolina, have desired an alteration on this head; some have required an increase as far as two hundred at least. This does not look as if certainty was their sole object.

I do not consider it necessary, on this occasion, to go into a lengthy discussion of the advantages of a less or greater representation. I agree that after going beyond a certain point, the number may become inconvenient; that is proposed to be guarded against; but it is necessary to go to a certain number, in order to secure the great objects of representation. Numerous bodies are undoubtedly liable to some objections, but they have their advantages also; if they are more exposed to passion and fermentation, they are less subject to venality and corruption; and in a Government like this, where the House of Representatives is connected with a smaller body, it might be good policy to guard them in a particular manner against such abuse.

But for what shall we sacrifice the wishes of the people? Not for a momentary advantage. Yet the amendments proposed by the gentleman from Massachusetts will lose its efficacy after the second census. I think, with respect to futurity, it makes little or no difference; and as it regards the present time, thirty thousand is the most proper, because it is the number agreed upon in the original constitution, and what is required by several States.

Mr. SEDGWICK observed, that the amendment proposed by the convention of Massachu-

setts was carried there, after a full discussion; since then, the whole of the amendments proposed by the convention had been recommended by the Legislature of that State to the attention of their delegates in Congress. From these two circumstances he was led to believe, that his and his colleague's constituents were generally in favor of the amendment as stated in the report.

He did not expect any advantage would arise from enlarging the number of representatives beyond a certain point; but he thought one hundred and seventy-five rather too few.

Mr. GERRY.—My colleague (Mr. AMES) has said, that we experience no inconvenience for want of either general or local knowledge. Sir, I may dispute the fact, from the difficulties we encountered in carrying through the collection bill, and on some other occasions, where we seemed much at a loss to know what are the dispositions of our constituents. But admitting this to be the fact, is information the only principle upon which we are to stand? Will that gentleman pretend to say we have as much security in a few representatives as in many? Certainly he will not. Not that I would insist upon a burthensome representation, but upon an adequate one. He supposes the expenses of the Government will be increased in a very great proportion; but if he calculates with accuracy, he will find the difference of the pay of the additional members not to exceed a fourth. The civil list was stated to cost three hundred thousand dollars, but the House of Representatives does not cost more than a ninth of that sum; consequently the additional members, at the ratio of four for three, could not amount to more than a thirtieth part, which would fall far short of what he seemed to apprehend. Is this such an object as to induce the people to risk every security which they ought to have in a more numerous representation?

One observation which I understood fell from him, was, that multiplying the number of representatives diminished the dignity and importance of the individuals who compose the House. Now I wish to know, whether he means that we should establish our own importance at the risk of the liberties of America; if so, it has been of little avail that we successfully opposed the lordly importance of a British Parliament. We shall now, I presume, be advised to keep the representation where it is, in order to secure our dignity; but I hope it will be ineffectual, and that gentlemen will be inclined to give up some part of their consequence to secure the rights of their constituents.

My honorable colleague has said, that large bodies are subject to fermentations; true, sir, but so are small ones also, when they are composed of aspiring and ambitious individuals. Large bodies in this country are likely to be composed, in a great measure, of gentlemen who represent the landed interest of the country; these are generally more temperate in debate than in others, consequently, by increasing

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the representation we shall have less of this fermentation than on the present establishment. As to the other objections, they are not of sufficient weight to induce the House to refuse adopting an amendment recommended by so large a body of our constituents.

Mr. LIVERMORE was against the alteration, because he was certain his constituents were opposed to it. He never heard a single person but supposed that one member was little enough to represent the interest of thirty thousand inhabitants; many had thought the proposition ought to be one for twenty or twenty-five thousand. It would be useless to propose amendments which there was no probability of getting ratified, and he feared this would be the fate of the one under consideration, if the honorable gentleman's alteration took place.

Mr. AMES begged to know the reasons upon which amendments were founded. He hoped it was not purely to gratify an indigested opinion; but in every part where they retouched the edifice it was with an intention of improving the structure; they certainly could not think of making alterations for the worse. Now that his motion would be an improvement was clearly demonstrable from the advantage in favor of deliberating by a less numerous body, and various other reasons already mentioned; but to those, the honorable gentleman from Virginia (Mr. MADISON) replied, by saying we ought to pay attention to the amendments recommended by the States. If this position is true, we have nothing more to do than read over their amendments, and propose them without exercising our judgment upon them. But he would undertake to say, that the object of the people was rather to procure certainty than increase; if so, it was the duty of Congress rather to carry the spirit of the amendment into operation than the letter of it.

The House of Representatives will furnish a better check upon the Senate, if filled with men of independent principles, integrity, and eminent abilities, than if consisting of a numerous body of inferior characters; in this opinion, said he, my colleague cannot but agree with me. Now if you diminish the consequence of the whole you diminish the consequence of each individual; it was in this view that he contended for the importance of the amendment.

He said it could not be the wish of Massachusetts to have the representation numerous, because they were convinced of its impropriety in their own Legislature, which might justly be supposed to require a greater number, as the objects of their deliberation extended to minute and local regulations. But that kind of information was not so much required in Congress, whose power embraced national objects alone. He contended, that all the local information necessary in this House, was to be found as fully among the ten members from Massachusetts, as if there had been one from every town in the State.

It is not necessary to increase the represen-

tation, in order to guard against corruption, because no one will presume to think that a body composed like this, and increased in a ratio of four to three, will be much less exposed to sale than we are. Nor is a greater number necessary to secure the rights and liberties of the people for the representative of a great body of people, is likely to be more watchful of its interests than the representative of a lesser body.

Mr. JACKSON.—I have always been afraid of letting this subject come before the House, for I was apprehensive that something would be offered striking at the very foundation of the constitution, by lessening it in the good opinion of the people. I conceive that the proposition for increasing the ratio of representation will have this tendency; but I am not opposed to the motion only on the principle of expediency, but because I think it grounded on wrong principles. The honorable gentleman's arguments were as much in favor of intrusting the business of legislation to one, two, or three men, as to a body of sixty or a hundred, they would dispatch business with greater facility and be an immense saving to the public; but will the people of America be gratified with giving the power of managing their concerns into the hands of one man? Can this take place upon the democratic principle of the constitution, I mean the doctrine of representation? Can one man, however consummate his abilities, however unimpeachable his integrity, and however superior his wisdom, be supposed capable of understanding, combining and managing interests so diversified as those of the people of America? It has been complained of, that the representation is too small at one for thirty thousand; we ought not therefore attempt to reduce it.

In a republic, the laws should be founded upon the sense of the community; if every man's opinion could be obtained, it would be the better; it is only in aristocracies, where the few are supposed to understand the general interests of the community better than the many. I hope I shall never live to see that doctrine established in this country.

Mr. STONE supposed the United States to contain three millions of people; these, at one representative for every thirty thousand, would give a hundred members, of which fifty-one were a quorum to do business; twenty-six men would be a majority, and give law to the United States, together with seven in the Senate. If this was not a number sufficiently small to administer the Government, he did not know what was. He was satisfied that gentlemen, upon mature reflection, would deem it inexpedient to reduce that number one-fourth.

Mr. SENEY said, it had been observed by the gentleman from Massachusetts, that it would tend to diminish the expense; but he considered this object as very inconsiderable when compared with that of having a fair and full representation of the people of the United States.

Mr. AMES's motion was now put, and lost by a large majority.

Mr. SEDGWICK.—When he reflected on the country, and the increase of population which was likely to take place, he was led to believe that one hundred and seventy-five members would be a body rather too small to represent such extensive concerns; for this reason he would move to strike out a hundred and seventy-five and insert two hundred.

Mr. SHERMAN said, if they were now forming a constitution, he should be in favor of one representative for forty thousand, rather than thirty thousand. The proportion by which the several States are now represented in this House was founded on the former calculation. In the convention that framed the constitution, there was a majority in favor of forty thousand, and though there were some in favor of thirty thousand, yet that proposition did not obtain until after the constitution was agreed to, when the President had expressed a wish that thirty thousand should be inserted, as more favorable to the public interest; during the contest between thirty and forty thousand, he believed there were not more than nine States who voted in favor of the former.

The objects of the Federal Government were fewer than those of the State Government; they did not require an equal degree of local knowledge; the only case, perhaps, where local knowledge would be advantageous, was in laying direct taxes; but here they were freed from an embarrassment, because the arrangements of the several States might serve as a pretty good rule on which to found their measures.

So far was he from thinking a hundred and seventy-five insufficient, that he was about to move for a reduction, because he always considered that a small body deliberated to better purpose than a greater one.

Mr. MADISON hoped gentlemen would not be influenced by what had been related to have passed in the convention; he expected the committee would determine upon their own sense of propriety; though as several States had proposed the number of two hundred, he thought some substantial reason should be offered to induce the House to reject it.

Mr. LIVERMORE said, he did not like the amendment as it was reported; he approved of the ratio being one for thirty thousand, but he wished the number of representatives might be increased in proportion as the population of the country increased, until the number of representatives amounted to two hundred.

Mr. TUCKER said, the honorable gentleman who spoke last had anticipated what he was going to remark. It appeared to him that the committee had looked but a very little way forward when they agreed to fix the representation at one hundred members, on a ratio of one to every thirty thousand upon the first enumeration. He apprehended the United States would be found to comprehend nearly three millions of people, consequently they would give

a hundred members. Now, by the amendment, it will be in the power of Congress to prevent any addition to that number; if it should be a prevalent opinion among the members of this House that a small body was better calculated to perform the public business than a larger one, they will never suffer their members to increase to a hundred and seventy-five, the number to which the amendment extended.

Mr. GERRY expressed himself in favor of extending the number to two hundred, and wished that the amendment might be so modified as to insure an increase in proportion to the increase of population.

Mr. SHERMAN was against any increase. He thought if a future House should be convinced of the impropriety of increasing this number to above one hundred, they ought to have it at their discretion to prevent it; and if that was likely to be the case, it was an argument why the present House should not decide. He did not consider that all that had been said with respect to the advantages of a large representation was founded upon experience; it had been intimated, that a large body was more incorruptible than a smaller one; this doctrine was not authenticated by any proof; he could invalidate it by an example notorious to every gentleman in this House; he alluded to the British House of Commons, which although it consisted of upwards of five hundred members, the minister always contrived to procure votes enough to answer his purpose.

Mr. LAWRENCE said, that it was a matter of opinion upon which gentlemen held different sentiments, whether a greater or less number than a certain point was best for a deliberate body. But he apprehended that whatever number was now fixed would be continued by a future Congress, if it were left to their discretion. He formed this opinion from the influence of the Senate, in which the small States were represented in an equal proportion with the larger ones. He supposed that the Senators from New Hampshire, Rhode Island, Connecticut, Jersey, and Delaware, would ever oppose an augmentation of the number of representatives; because their influence in the House would be proportionably abated. These States were incapable of extending their population beyond a certain point, inasmuch as they were confined with respect to territory. If, therefore, they could never have more than one representative, they would hardly consent to double that of others, by which their own importance would be diminished. If such a measure was carried by the large States through this House, it might be successfully opposed in the Senate; he would, therefore, be in favor of increasing the number to two hundred, and making its increase gradual till it arrived at that height.

Mr. GERRY.—The presumption is, that if provision is not made for the increase of the House of Representatives, by the present Congress, the increase never will be made. Gen-



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gentlemen ought to consider the difference between the Government in its infancy and when well established. The people suppose their liberties somewhat endangered; they have expressed their wishes to have them secured, and instructed their representatives to endeavor to obtain for them certain amendments, which they imagine will be adequate to the object they have in view. Besides this, there are two States not in the Union; but which we hope to annex to it by the amendments now under deliberation. These are inducements for us to proceed and adopt this amendment, independent of the propriety of the amendment itself, and such inducements as no future Congress will have, the principle of self-interest and self-importance will always operate on them to prevent any addition to the number of representatives. Cannot gentlemen contemplate a difference in situation between this and a future Congress on other accounts. We have neither money nor force to administer the constitution; but this will not be the case hereafter. In the progress of this Government its revenues will increase, and an army will be established; a future Legislature will find other means to influence the people than now exist.

This circumstance proves that we ought to leave as little as possible to the discretion of the future Government; but it by no means proves that the present Congress ought not to adopt the amendment moved by my colleague, Mr. SEDGWICK.

Mr. AMES.—It has been observed that there will be an indisposition in future Legislatures to increase the number of representatives. I am by no means satisfied that this observation is true. I think there are motives which will influence Legislatures of the best kind to increase the number of its members. There is a constant tendency in a republican Government to multiply what it thinks to be the popular branch. If we consider that men are often more attached to their places than they are to their principles, we shall not be surprised to see men of the most refined judgment advocating a measure which will increase their chance of continuing in office.

My honorable colleague has intimated that a future Legislature will be against extending the number of this branch; and that if the people are displeased, they will have it in their power, by force, to compel their acquiescence. I do not see, sir, how the Legislature is strengthened by the increase of an army. I have generally understood that it gave power to the executive arm, but not to the deliberative head: the example of every nation is against him. Nor can I conceive upon what foundation he rests his reasoning. If there is a natural inclination in the Government to increase the number of administrators, it will be prudent in us to endeavor to counteract its baneful influence.

Mr. LIVERMORE now proposed to strike out the words "one hundred," and insert "two hundred."

Mr. SEDGWICK suspended his motion until this question was determined; whereupon it was put and lost, there being twenty-two in favor of, and twenty-seven against it.

Mr. SEDGWICK's motion was then put, and carried in the affirmative.

Mr. LIVERMORE wished to amend the clause of the report in such a manner as to prevent the power of Congress from deciding the rate of increase. He thought the constitution had better fix it, and let it be gradual until it arrived at two hundred. After which, if it was the sense of the committee, it might be stationary, and liable to no other variation than that of being apportioned among the members of the Union.

Mr. AMES suggested to the consideration of gentlemen, whether it would not be better to arrange the subject in such a way as to let the representation be proportioned to a ratio of one for thirty thousand at the first census, and one for forty thousand at the second, so as to prevent a too rapid increase of the number of members. He did not make a motion of this nature, because he conceived it to be out of order, after the late decision of the committee; but it might be brought forward in the House, and he hoped would accommodate both sides.

Mr. GERRY wished that the gentleman last up would pen down the idea he had just thrown out; he thought it very proper for the consideration of the House.

The question on the second proposition of the report, as amended, was now put and carried, being twenty-seven for, and twenty-two against it.

The next proposition in the report was as follows:

Article 1. Section 6. Between the words "United States," and "shall in all cases," strike out "they," and insert "but no law varying the compensation shall take effect, until an election of representatives shall have intervened." The members."

Mr. SEDGWICK thought much inconvenience and but very little good would result from this amendment; it might serve as a tool for designing men; they might reduce the wages very low, much lower than it was possible for any gentleman to serve without injury to his private affairs, in order to procure popularity at home, provided a diminution of pay was looked upon as a desirable thing. It might also be done in order to prevent men of shining and disinterested abilities, but of indigent circumstances, from rendering their fellow-citizens those services they are well able to perform, and render a seat in this House less eligible than it ought to be.

Mr. VINING thought every future Legislature would feel a degree of gratitude to the preceding one, which had performed so disagreeable a task for them. The committee who had made this a part of their report, had been guided by a single reason, but which appeared to them a sufficient one. There was, to say the least of it,

a disagreeable sensation, occasioned by leaving it in the breast of any man to set a value on his own work; it is true it is unavoidable in the present House, but it might, and ought to be avoided in future; he therefore hoped it would obtain without any difficulty.

Mr. GERRY would be in favor of this clause, if they could find means to secure an adequate representation; but he apprehended that it would be considerably endangered; he should therefore be against it.

Mr. MADISON thought the representation would be as well secured under this clause as it would be if it was omitted; and as it was desired by a great number of the people of America, he would consent to it, though he was not convinced it was absolutely necessary.

Mr. SEDGWICK remarked once more, that the proposition had two aspects which made it disagreeable to him; the one was to render a man popular to his constituents, the other to render the place ineligible to his competitor.

He thought there was very little danger of an abuse of the power of laying their own wages; gentlemen were generally more inclined to make them moderate than excessive.

The question being put on the proposition, it was carried in the affirmative, twenty-seven for, and twenty against it.

The committee then rose and reported progress, and the House adjourned.

SATURDAY, August 15.

#### AMENDMENTS TO THE CONSTITUTION.

The House again went into a Committee of the whole on the proposed amendments to the constitution, Mr. BODINOT in the chair.

The fourth proposition being under consideration, as follows:

Article 1. Section 9. Between paragraphs two and three insert "no religion shall be established by law, nor shall the equal rights of conscience be infringed."

Mr. SYLVESTER had some doubts of the propriety of the mode of expression used in this paragraph. He apprehended that it was liable to a construction different from what had been made by the committee. He feared it might be thought to have a tendency to abolish religion altogether.

Mr. VINING suggested the propriety of transposing the two members of the sentence.

Mr. GERRY said it would read better if it was, that no religious doctrine shall be established by law.

Mr. SHERMAN thought the amendment altogether unnecessary, inasmuch as Congress had no authority whatever delegated to them by the constitution to make religious establishments; he would, therefore, move to have it struck out.

Mr. CARROLL.—As the rights of conscience are, in their nature, of peculiar delicacy, and will little bear the gentlest touch of governmental hand; and as many sects have concurred

in opinion that they are not well secured under the present constitution, he said he was much in favor of adopting the words. He thought it would tend more towards conciliating the minds of the people to the Government than almost any other amendment he had heard proposed. He would not contend with gentlemen about the phraseology, his object was to secure the substance in such a manner as to satisfy the wishes of the honest part of the community.

Mr. MADISON said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. Whether the words are necessary or not, he did not mean to say, but they had been required by some of the State Conventions, who seemed to entertain an opinion that under the clause of the constitution, which gave power to Congress to make all laws necessary and proper to carry into execution the constitution, and the laws made under it, enabled them to make laws of such a nature as might infringe the rights of conscience, and establish a national religion; to prevent these effects he presumed the amendment was intended, and he thought it as well expressed as the nature of the language would admit.

Mr. HUNTINGTON said that he feared, with the gentleman first up on this subject, that the words might be taken in such latitude as to be extremely hurtful to the cause of religion. He understood the amendment to mean what had been expressed by the gentleman from Virginia; but others might find it convenient to put another construction upon it. The ministers of their congregations to the Eastward were maintained by the contributions of those who belonged to their society; the expense of building meeting-houses was contributed in the same manner. These things were regulated by by-laws. If an action was brought before a Federal Court on any of these cases, the person who had neglected to perform his engagements could not be compelled to do it; for a support of ministers, or building of places of worship might be construed into a religious establishment.

By the charter of Rhode Island, no religion could be established by law; he could give a history of the effects of such a regulation; indeed the people were now enjoying the blessed fruits of it. He hoped, therefore, the amendment would be made in such a way as to secure the rights of conscience, and a free exercise of the rights of religion, but not to patronize those who professed no religion at all.

Mr. MADISON thought, if the word national was inserted before religion, it would satisfy the minds of honorable gentlemen. He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform. He thought if the word national was introduced, it would point the

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amendment directly to the object it was intended to prevent.

Mr. LIVERMORE was not satisfied with that amendment; but he did not wish them to dwell long on the subject. He thought it would be better if it was altered, and made to read in this manner, that Congress shall make no laws touching religion, or infringing the rights of conscience.

Mr. GERRY did not like the term national, proposed by the gentleman from Virginia, and he hoped it would not be adopted by the House. It brought to his mind some observations that had taken place in the conventions at the time they were considering the present constitution. It had been insisted upon by those who were called antifederalists, that this form of Government consolidated the Union; the honorable gentleman's motion shows that he considers it in the same light. Those who were called antifederalists at that time complained that they had injustice done them by the title, because they were in favor of a Federal Government, and the others were in favor of a national one; the federalists were for ratifying the constitution as it stood, and the others not until amendments were made. Their names then ought not to have been distinguished by federalists and antifederalists, but rats and antirats.

Mr. MADISON withdrew his motion, but observed that the words "no national religion shall be established by law," did not imply that the Government was a national one; the question was then taken on Mr. Livermore's motion, and passed in the affirmative, thirty-one for, and twenty against it.

The next clause of the fourth proposition was taken into consideration, and was as follows: "The freedom of speech and of the press, and the right of the people peaceably to assemble and consult for their common good, and to apply to the Government for redress of grievances, shall not be infringed."

Mr. SEDGWICK submitted to those gentlemen who had contemplated the subject, what effect such an amendment as this would have; he feared it would tend to make them appear trifling in the eyes of their constituents; what, said he, shall we secure the freedom of speech, and think it necessary, at the same time, to allow the right of assembling? If people freely converse together, they must assemble for that purpose; it is a self-evident, unalienable right which the people possess; it is certainly a thing that never would be called in question; it is derogatory to the dignity of the House to descend to such minutiae; he therefore moved to strike out "assemble and."

Mr. BENSON.—The committee who framed this report proceeded on the principle that these rights belonged to the people; they conceived them to be inherent; and all that they meant to provide against was their being infringed by the Government.

Mr. SEDGWICK replied, that if the committee were governed by that general principle, they

might have gone into a very lengthy enumeration of rights; they might have declared that a man should have a right to wear his hat if he pleased; that he might get up when he pleased, and go to bed when he thought proper; but he would ask the gentleman whether he thought it necessary to enter these trifles in a declaration of rights, in a Government where none of them were intended to be infringed.

Mr. TUCKER hoped the words would not be struck out, for he considered them of importance; besides, they were recommended by the States of Virginia and North Carolina, though he noticed that the most material part proposed by those States was omitted, which was, a declaration that the people should have a right to instruct their representatives. He would move to have those words inserted as soon as the motion for striking out was decided.

Mr. GERRY was also against the words being struck out, because he conceived it to be an essential right; it was inserted in the constitutions of several States; and though it had been abused in the year 1786 in Massachusetts, yet that abuse ought not to operate as an argument against the use of it. The people ought to be secure in the peaceable enjoyment of this privilege, and that can only be done by making a declaration to that effect in the constitution.

Mr. PAGE.—The gentleman from Massachusetts, (Mr. SEDGWICK,) who made this motion, objects to the clause, because the right is of so trivial a nature. He supposes it no more essential than whether a man has a right to wear his hat or not; but let me observe to him that such rights have been opposed, and a man has been obliged to pull off his hat when he appeared before the face of authority; people have also been prevented from assembling together on their lawful occasions, therefore it is well to guard against such stretches of authority, by inserting the privilege in the declaration of rights. If the people could be deprived of the power of assembling under any pretext whatsoever, they might be deprived of every other privilege contained in the clause.

Mr. VINING said, if the thing was harmless, and it would tend to gratify the States that had proposed amendments, he should agree to it.

Mr. HARTLEY observed, that it had been asserted in the convention of Pennsylvania, by the friends of the constitution, that all the rights and powers that were not given to the Government were retained by the States and the people thereof. This was also his own opinion; but as four or five States had required to be secured in those rights by an express declaration in the constitution, he was disposed to gratify them; he thought every thing that was not incompatible with the general good ought to be granted, if it would tend to obtain the confidence of the people in the Government; and, upon the whole, he thought these words were as necessary to be inserted in the declaration of rights as most in the clause.

Mr. GERRY said, that his colleague contended

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for nothing, if he supposed that the people had a right to consult for the common good, because they could not consult unless they met for the purpose.

Mr. SEDGWICK replied that if they were understood or implied in the word consult, they were utterly unnecessary, and upon that ground he moved to have them struck out.

The question was now put upon Mr. SEDGWICK'S motion, and lost by a considerable majority.

Mr. TUCKER then moved to insert these words, "to instruct their Representatives."

Mr. HARTLEY wished the motion had not been made, for gentlemen acquainted with the circumstances of this country, and the history of the country from which we separated, differed exceedingly on this point. The members of the House of Representatives, said he, are chosen for two years, the members of the Senate for six.

According to the principles laid down in the Constitution, it is presumable that the persons elected know the interests and the circumstances of their constituents, and being checked in their determinations by a division of the Legislative power into two branches, there is little danger of error. At least it ought to be supposed that they have the confidence of the people during the period for which they are elected; and if, by misconduct, they forfeit it, their constituents have the power of leaving them out at the expiration of that time—thus they are answerable for the part they have taken in measures that may be contrary to the general wish.

Representation is the principle of our Government; the people ought to have confidence in the honor and integrity of those they send forward to transact their business; their right to instruct them is a problematical subject. We have seen it attended with bad consequences, both in England and America. When the passions of the people are excited, instructions have been resorted to and obtained, to answer party purposes; and although the public opinion is generally respectable, yet at such moments it has been known to be often wrong; and happy is that Government composed of men of firmness and wisdom to discover, and resist popular error.

If, in a small community, where the interests, habits, and manners are neither so numerous or diversified, instructions bind not, what shall we say of instructions to this body? Can it be supposed that the inhabitants of a single district in a State, are better informed with respect to the general interests of the Union, than a select body assembled from every part? Can it be supposed that a part will be more desirous of promoting the good of the whole than the whole will of the part? I apprehend, sir, that Congress will be the best judges of proper measures, and that instructions will never be resorted to but for party purposes, when they will generally contain the prejudices and acrimony of the party, rather than the dictates of honest reason and sound policy.

In England, this question has been considerably agitated. The representatives of some towns in Parliament have acknowledged, and submitted to the binding force of instructions, while the majority have thrown off the shackles with disdain. I would not have this precedent influence our decision; but let the doctrine be tried upon its own merits, and stand or fall as it shall be found to deserve.

It appears to my mind, that the principle of representation is distinct from an agency, which may require written instructions. The great end of meeting is to consult for the common good; but can the common good be discerned without the object is reflected and shown in every light. A local or partial view does not necessarily enable any man to comprehend it clearly; this can only result from an inspection into the aggregate. Instructions viewed in this light will be found to embarrass the best and wisest men. And were all the members to take their seats in order to obey instructions, and those instructions were as various as it is probable they would be, what possibility would there exist of so accommodating each to the other as to produce any act whatever? Perhaps a majority of the whole might not be instructed to agree to any one point, and is it thus the people of the United States propose to form a more perfect union, provide for the common defence, and promote the general welfare?

Sir, I have known within my own time so many inconveniences and real evils arise from adopting the popular opinions on the moment, that although I respect them as much as any man, I hope this Government will particularly guard against them, at least that they will not bind themselves by a constitutional act, and by oath, to submit to their influence; if they do, the great object which this Government has been established to attain, will inevitably elude our grasp on the uncertain and veering winds of popular commotion.

Mr. PAGE.—The gentleman from Pennsylvania tells you, that in England this principle is doubted; how far this is consonant with the nature of the Government I will not pretend to say; but I am not astonished to find that the administrators of a monarchical Government are unassailable by the weak voice of the people; but under a democracy, whose great end is to form a code of laws congenial with the public sentiment, the popular opinion ought to be collected and attended to. Our present object is, I presume, to secure to our constituents and to posterity these inestimable rights. Our Government is derived from the people, of consequence the people have a right to consult for the common good; but to what end will this be done, if they have not the power of instructing their representatives? Instruction and representation in a republic appear to me to be inseparably connected; but were I the subject of a monarch, I should doubt whether the public good did not depend more upon the prince's will than the will of the people. I should

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dread a popular assembly consulting for the public good, because, under its influence, commotions and tumults might arise that would shake the foundation of the monarch's throne, and make the empire tremble in expectation. The people of England have submitted the crown to the Hanover family, and have rejected the Stuarts. If instructions upon such a revolution were considered binding, it is difficult to know what would have been the effects. It might, be well, therefore, to have the doctrine exploded from that kingdom; but it will not be advanced as a substantial reason in favor of our treading in the same steps.

The honorable gentleman has said, that when once the people have chosen a representative, they must rely on his integrity and judgment during the period for which he is elected. I think, sir, to doubt the authority of the people to instruct their representatives, will give them just cause to be alarmed for their fate. I look upon it as a dangerous doctrine, subversive of the great end for which the United States have confederated. Every friend of mankind, every well-wisher of his country, will be desirous of obtaining the sense of the people on every occasion of magnitude; but how can this be so well expressed as in instructions to their representatives? I hope, therefore, that gentlemen will not oppose the insertion of it in this part of the report.

Mr. CLYMER.—I hope the amendment will not be adopted; but if our constituents choose to instruct us, that they may be left at liberty to do so. Do gentlemen foresee the extent of these words? If they have a constitutional right to instruct us, it infers that we are bound by those instructions; and as we ought not to decide constitutional questions by implication, I presume we shall be called upon to go further, and expressly declare the members of the Legislature bound by the instruction of their constituents. This is a most dangerous principle, utterly destructive of all ideas of an independent and deliberative body, which are essential requisites in the Legislatures of free Governments; they prevent men of abilities and experience from rendering those services to the community that are in their power, destroying the object contemplated by establishing an efficient General Government, and rendering Congress a mere passive machine.

Mr. SHERMAN.—It appears to me, that the words are calculated to mislead the people, by conveying an idea that they have a right to control the debates of the Legislature. This cannot be admitted to be just, because it would destroy the object of their meeting. I think, when the people have chosen a representative, it is his duty to meet others from the different parts of the Union, and consult, and agree with them to such acts as are for the general benefit of the whole community. If they were to be guided by instructions, there would be no use in deliberation; all that a man would have to do, would be to produce his instruc-

tions, and lay them on the table, and let them speak for him. From hence I think it may be fairly inferred, that the right of the people to consult for the common good can go no further than to petition the Legislature, or apply for a redress of grievances. It is the duty of a good representative to inquire what measures are most likely to promote the general welfare, and, after he has discovered them, to give them his support. Should his instructions, therefore, coincide with his ideas on any measure, they would be unnecessary; if they were contrary to the conviction of his own mind, he must be bound by every principle of justice to disregard them.

Mr. JACKSON was in favor of the right of the people to assemble and consult for the common good; it had been used in this country as one of the best checks on the British Legislature in their unjustifiable attempts to tax the colonies without their consent. America had no representatives in the British Parliament, therefore they could instruct none, yet they exercised the power of consultation to a good effect. He begged gentlemen to consider the dangerous tendency of establishing such a doctrine; it would necessarily drive the house into a number of factions. There might be different instructions from every State, and the representation from each State would be a faction to support its own measures.

If we establish this as a right, we shall be bound by those instructions; now, I am willing to leave both the people and representatives to their own discretion on this subject. Let the people consult and give their opinion; let the representative judge of it; and if it is just, let him govern himself by it as a good member ought to do; but if it is otherwise, let him have it in his power to reject their advice.

What may be the consequence of binding a man to vote in all cases according to the will of others? He is to decide upon a constitutional point, and on this question his conscience is bound by the obligation of a solemn oath; you now involve him in a serious dilemma. If he votes according to his conscience, he decides against his instructions; but in deciding against his instructions, he commits a breach of the constitution, by infringing the prerogative of the people, secured to them by this declaration. In short, it will give rise to such a variety of absurdities and inconsistencies, as no prudent Legislature would wish to involve themselves in.

Mr. GERRY.—By the checks provided in the constitution, we have good grounds to believe that the very framers of it conceived that the Government would be liable to mal-administration, and I presume that the gentlemen of this House do not mean to arrogate to themselves more perfection than human nature has as yet been found to be capable of; if they do not, they will admit an additional check against abuses which this, like every other Government, is subject to. Instruction from the people will furnish this in a considerable degree.

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It has been said that the amendment proposed by the honorable gentleman from South Carolina (Mr. TUCKER) determines this point, "that the people can bind their representatives to follow their instructions." I do not conceive that this necessarily follows. I think the representative, notwithstanding the insertion of these words, would be at liberty to act as he pleased; if he declined to pursue such measures as he was directed to attain, the people would have a right to refuse him their suffrages at a future election.

Now, though I do not believe the amendment would bind the representatives to obey the instructions, yet I think the people have a right both to instruct and bind them. Do gentlemen conceive that on any occasion instructions would be so general as to proceed from all our constituents? If they do, it is the sovereign will; for gentlemen will not contend that the sovereign will presides in the Legislature. The friends and patrons of this constitution have always declared that the sovereignty resides in the people, and that they do not part with it on any occasion; to say the sovereignty vests in the people, and that they have not a right to instruct and control their representatives, is absurd to the last degree. They must either give up their principle, or grant that the people have a right to exercise their sovereignty to control the whole Government, as well as this branch of it. But the amendment does not carry the principle to such an extent, it only declares the right of the people to send instructions; the representative will, if he thinks proper, communicate his instructions to the House, but how far they shall operate on his conduct, he will judge for himself.

The honorable gentleman from Georgia (Mr. JACKSON) supposes that instructions will tend to generate factions in this House; but he did not see how it could have that effect, any more than the freedom of debate had. If the representative entertains the same opinion with his constituents, he will decide with them in favor of the measure; if other gentlemen, who are not instructed on this point, are convinced by argument that the measure is proper, they will also vote with them; consequently, the influence of debate and of instruction is the same.

The gentleman says further, that the people have the right of instructing their representatives; if so, why not declare it? Does he mean that it shall lie dormant and never be exercised? If so, it will be a right of no utility. But much good may result from a declaration in the constitution that they possess this privilege; the people will be encouraged to come forward with their instructions, which will form a fund of useful information for the Legislature. We cannot, I apprehend, be too well informed of the true state, condition, and sentiment of our constituents, and perhaps this is the best mode in our power of obtaining information. I hope we shall never shut our ears against that information which is to be derived from the petitions

and instructions of our constituents. I hope we shall never presume to think that all the wisdom of this country is concentrated within the walls of this House. Men, unambitious of distinctions from their fellow-citizens, remain within their own domestic walk, unheard of and unseen, possessing all the advantages resulting from a watchful observance of public men and public measures, whose voice, if we would descend to listen to it, would give us knowledge superior to what could be acquired amidst the cares and bustles of a public life; let us then adopt the amendment, and encourage the diffident to enrich our stock of knowledge with the treasure of their remarks and observations.

MR. MADISON.—I think the committee acted prudently in omitting to insert these words in the report they have brought forward; if, unfortunately, the attempt of proposing amendments should prove abortive, it will not arise from the want of a disposition in the friends of the constitution to do what is right with respect to securing the rights and privileges of the people of America, but from the difficulties arising from discussing and proposing abstract propositions, of which the judgment may not be convinced. I venture to say, that if we confine ourselves to an enumeration of simple, acknowledged principles, the ratification will meet with but little difficulty. Amendments of a doubtful nature will have a tendency to prejudice the whole system; the proposition now suggested partakes highly of this nature. It is doubted by many gentlemen here; it has been objected to in intelligent publications throughout the Union; it is doubted by many members of the State Legislatures. In one sense this declaration is true, in many others it is certainly not true; in the sense in which it is true, we have asserted the right sufficiently in what we have done; if we mean nothing more than this, that the people have a right to express and communicate their sentiments and wishes, we have provided for it already. The right of freedom of speech is secured; the liberty of the press is expressly declared to be beyond the reach of this Government; the people may therefore publicly address their representatives may privately advise them, or declare their sentiments by petition to the whole body; in all these ways they may communicate their will. If gentlemen mean to go further, and to say that the people have a right to instruct their representatives in such a sense as that the delegates are obliged to conform to those instructions, the declaration is not true. Suppose they instruct a representative, by his vote, to violate the constitution; is he at liberty to obey such instructions? Suppose he is instructed to patronize certain measures, and from circumstances known to him, but not to his constituents, he is convinced that they will endanger the public good; is he obliged to sacrifice his own judgment to them? Is he absolutely bound to perform what he is instructed to do?

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Suppose he refuses, will his vote be the less valid, or the community be disengaged from that obedience which is due to the laws of the Union? If his vote must inevitably have the same effect, what sort of a right is this in the constitution, to instruct a representative who has a right to disregard the order, if he pleases? In this sense the right does not exist, in the other sense it does exist, and is provided largely for.

The honorable gentleman from Massachusetts asks if the sovereignty is not with the people at large. Does he infer that the people can, in detached bodies, contravene an act established by the whole people? My idea of the sovereignty of the people is, that the people can change the constitution if they please; but while the constitution exists, they must conform themselves to its dictates. But I do not believe that the inhabitants of any district can speak the voice of the people; so far from it, their ideas may contradict the sense of the whole people; hence the consequence that instructions are binding on the representative is of a doubtful, if not of a dangerous nature. I do not conceive, therefore, that it is necessary to agree to the proposition now made; so far as any real good is to arise from it, so far that real good is provided for; so far as it is of a doubtful nature, so far it obliges us to run the risk of losing the whole system.

Mr. SMITH, of South Carolina.—I am opposed to this motion, because I conceive it will operate as a partial inconvenience to the more distant States. If every member is to be bound by instructions how to vote, what are gentlemen from the extremities of the continent to do? Members from the neighboring States can obtain their instructions earlier than those from the Southern ones, and I presume that particular instructions will be necessary for particular measures; of consequence, we vote perhaps against instructions on their way to us, or we must decline voting at all. But what is the necessity of having a numerous representation? One member from a State can receive the instructions, and by his vote answer all the purposes of many, provided his vote is allowed to count for the proportion the State ought to send; in this way the business might be done at a less expense than having one or two hundred members in the House, which had been strongly contended for yesterday.

Mr. STONE—I think the clause would change the Government entirely; instead of being a Government founded upon representation, it would be a democracy of singular properties.

I differ from the gentleman from Virginia, (Mr. MADISON,) if he thinks this clause would not bind the representative; in my opinion, it would bind him effectually, and I venture to assert, without diffidence, that any law passed by the Legislature would be of no force, if a majority of the members of this House were instructed to the contrary, provided the amendment became part of the constitution. What

would follow from this? Instead of looking in the code of laws passed by Congress, your Judiciary would have to collect and examine the instructions from the various parts of the Union. It follows very clearly from hence, that the Government would be altered from a representative one to a democracy, wherein all laws are made immediately by the voice of the people.

This is a power not to be found in any part of the earth except among the Swiss cantons; there the body of the people vote upon the laws, and give instructions to their delegates. But here we have a different form of Government; the people at large are not authorized under it to vote upon the law, nor did I ever hear that any man required it. Why, then, are we called upon to propose amendments subversive of the principles of the constitution, which were never desired?

Several members now called for the question, and the Chairman being about to put the same:

Mr. GERRY.—Gentlemen seem in a great hurry to get this business through. I think, Mr. Chairman, it requires a further discussion; for my part, I had rather do less business and do it well, than precipitate measures before they are fully understood.

The honorable gentleman from Virginia (Mr. MADISON) stated, that if the proposed amendments are defeated, it will be by the delay attending the discussion of doubtful propositions; and he declares this to partake of that quality. It is natural, sir, for us to be fond of our own work. We do not like to see it disfigured by other hands. That honorable gentleman brought forward a string of propositions; among them was the clause now proposed to be amended: he is no doubt ready for the question, and determined not to admit what we think an improvement. The gentlemen who were on the committee, and brought in the report, have considered the subject, and are also ripe for a decision. But other gentlemen may crave a like indulgence. Is not the report before us for deliberation and discussion, and to obtain the sense of the House upon it; and will not gentlemen allow us a day or two for these purposes, after they have forced us to proceed upon them at this time? I appeal to their candor and good sense on the occasion, and am sure not to be refused; and I must inform them now, that they may not be surprised hereafter, that I wish all the amendments proposed by the respective States to be considered. Gentlemen say it is necessary to finish the subject, in order to reconcile a number of our fellow-citizens to the Government. If this is their principle, they ought to consider the wishes and intentions which the convention has expressed for them; if they do this, they will find that they expect and wish for the declaration proposed by the honorable gentleman over the way, (Mr. TUCKER,) and, of consequence, they ought to agree to it; and why it, with others recommended in the same way, were not reported, I cannot pre-

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tend to say; the committee know this best themselves.

The honorable gentleman near me (Mr. STONE) says, that the laws passed contrary to instruction will be nugatory. And other gentlemen ask, if their constituents instruct them to violate the constitution, whether they must do it. Sir, does not the constitution declare that all laws passed by Congress are paramount to the laws and constitutions of the several States; if our decrees are of such force as to set aside the State laws and constitutions, certainly they may be repugnant to any instructions whatever, without being injured thereby. But can we conceive that our constituents would be so absurd as to instruct us to violate our oath, and act directly contrary to the principles of a Government ordained by themselves? We must look upon them to be absolutely abandoned and false to their own interests, to suppose them capable of giving such instructions.

If this amendment is introduced into the constitution, I do not think we shall be much troubled with instructions; a knowledge of the right will operate to check a spirit that would render instruction necessary.

The honorable gentleman from Virginia asked, will not the affirmative of a member who votes repugnant to his instructions bind the community as much as the votes of those who conform? There is no doubt, sir, but it will; but does this tend to show that the constituent has no right to instruct? Surely not. I admit, sir, that instructions contrary to the constitution ought not to bind, though the sovereignty resides in the people. The honorable gentleman acknowledges that the sovereignty vests there; if so, it may exercise its will in any case not inconsistent with a previous contract. The same gentleman asks if we are to give the power to the people in detached bodies to contravene the Government while it exists. Certainly not; nor does the proposed proposition extend to that point; it is only intended to open for them a convenient mode in which they may convey their sense to their agents. The gentleman therefore takes for granted what is inadmissible, that Congress will always be doing illegal things, and make it necessary for the sovereign to declare its pleasure.

He says the people have a right to alter the constitution, but they have no right to oppose the Government. If, while the Government exists, they have no right to control it, it appears they have divested themselves of the sovereignty over the constitution. Therefore, our language, with our principles, must change, and we ought to say that the sovereignty existed in the people previous to the establishment of this Government. This will be ground for alarm indeed, if it is true; but I trust, sir, too much to the good sense of my fellow-citizens ever to believe that the doctrine will generally obtain in this country of freedom.

Mr. VINING.—If, Mr. Chairman, there appears on one side to great an urgency to des-

patch this business, there appears on the other an unnecessary delay and procrastination equally improper and unpardonable. I think this business has been already well considered by the House, and every gentleman in it; however, I am not for an unseemly expedition.

The gentleman last up has insinuated a reflection upon the committee for not reporting all the amendments proposed by some of the State conventions. I can assign a reason for this. The committee conceived some of them superfluous or dangerous, and found many of them so contradictory that it was impossible to make any thing of them; and this is a circumstance the gentleman cannot pretend ignorance of.

Is it not inconsistent in that honorable member to complain of hurry, when he comes day after day reiterating the same train of arguments, and demanding the attention of this body by rising six or seven times on a question? I wish, sir, this subject discussed coolly and dispassionately, but hope we shall have no more reiterations or tedious discussions; let gentlemen try to expedite public business, and their arguments will be conducted in a laconic and consistent manner. As to the business of instruction, I look upon it inconsistent with the general good. Suppose our constituents were to instruct us to make paper money; no gentleman pretends to say it would be unconstitutional, yet every honest mind must shudder at the thought. How can we then assert that instructions ought to bind us in all cases not contrary to the constitution?

Mr. LIVERMORE was not very anxious whether the words were inserted or not, but he had a great deal of doubt on the meaning of this whole amendment; it provides that the people may meet and consult for the common good. Does this mean a part of the people in a township or district, or does it mean the representatives in the State Legislatures? If it means the latter, there is no occasion for a provision that the Legislature may instruct the members of this body.

In some States the representatives are chosen by districts. In such case, perhaps, the instructions may be considered as coming from the district; but in other States, each representative is chosen by the whole people. In New Hampshire it is the case; the instructions of any particular place would have but little weight, but a legislative instruction would have considerable influence upon each representative. If, therefore, the words mean that the Legislature may instruct, he presumed it would have considerable effect, though he did not believe it binding. Indeed, he was inclined to pay a deference to any information he might receive from any number of gentlemen, even by a private letter; but as for full binding force, no instructions contained that quality. They could not, nor ought not to have it, because different parties pursue different measures; and it might be expedient, nay, absolutely necessary, to sacrifice them in mutual concessions.



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The doctrine of instructions would hold better in England than here, because the boroughs and corporations might have an interest to pursue totally immaterial to the rest of the kingdom; in that case, it would be prudent to instruct their members in Parliament.

Mr. GERRY wished the constitution amended without his having any hand in it; but if he must interfere, he would do his duty. The honorable gentleman from Delaware had given him an example of moderation and laconic and consistent debate that he meant to follow; and would just observe to the worthy gentleman last up, that several States had proposed the amendment, and among the rest New Hampshire.

There was one remark which escaped him, when he was up before. The gentleman from Maryland (Mr. STONE) had said that the amendment would change the nature of the Government, and make it a democracy. Now he had always heard that it was a democracy; but perhaps he was misled, and the honorable gentleman was right in distinguishing it by some other appellation; perhaps an aristocracy was a term better adapted to it.

Mr. SEDGWICK opposed the idea of the gentleman from New Hampshire, that the State Legislature had the power of instructing the members of this House; he looked upon it as a subordination of the rights of the people to admit such an authority. We stand not here, said he, the representatives of the State Legislatures, as under the former Congress, but as the representatives of the great body of the people. The sovereignty, the independence, and the rights of the States are intended to be guarded by the Senate; if we are to be viewed in any other light, the greatest security the people have for their rights and privileges is destroyed.

But with respect to instructions, it is well worthy of consideration how they are to be procured. It is not the opinion of an individual that is to control my conduct; I consider myself as the representative of the whole Union. An individual may give me information, but his sentiments may be in opposition to the sense of the majority of the people. If instructions are to be of any efficacy, they must speak the sense of the majority of the people, at least of a State. In a State so large as Massachusetts it will behoove gentlemen to consider how the sense of the majority of the freemen is to be obtained and communicated. Let us take care to avoid the insertion of crude and indigested propositions, more likely to produce acrimony than that spirit of harmony which we ought to cultivate.

Mr. LIVERMORE said that he did not understand the honorable gentleman, or was not understood by him; he did not presume peremptorily to say what degree of influence the legislative instructions would have on a representative. He knew it was not the thing in contemplation here; and what he had said re-

spected only the influence it would have on his private judgment.

Mr. AMES said there would be a very great inconvenience attending the establishment of the doctrine contended for by his colleague. Those States which had selected their members by districts would have no right to give them instructions, consequently the members ought to withdraw; in which case the House might be reduced below a majority, and not be able, according to the constitution, to do any business at all.

According to the doctrine of the gentleman from New Hampshire, one part of the Government would be annihilated; for of what avail is it that the people have the appointment of a representative, if he is to pay obedience to the dictates of another body?

Several members now rose, and called for the question.

Mr. PAGE was sorry to see gentlemen so impatient; the more so, as he saw there was very little attention paid to any thing that was said; but he would express his sentiments if he was only heard by the Chair. He discovered clearly, notwithstanding what had been observed by the most ingenious supporters of the opposition, that there was an absolute necessity for adopting the amendment. It was strictly compatible with the spirit and the nature of the Government; all power vests in the people of the United States; it is, therefore, a Government of the people, a democracy. If it were consistent with the peace and tranquillity of the inhabitants, every freeman would have a right to come and give his vote upon the law; but, inasmuch as this cannot be done, by reason of the extent of territory, and some other causes, the people have agreed that their representatives shall exercise a part of their authority. To pretend to refuse them the power of instructing their agents, appears to me to deny them a right. One gentleman asks how the instructions are to be collected. Many parts of this country have been in the practice of instructing their representatives; they found no difficulty in communicating their sense. Another gentleman asks if they were to instruct us to make paper money, what we would do: I would tell them, said he, it was unconstitutional; alter that, and we will consider on the point. Unless laws are made satisfactory to the people, they will lose their support, they will be abused or done away; this tends to destroy the efficiency of the Government.

It is the sense of several of the conventions that this amendment should take place; I think it my duty to support it, and fear it will spread an alarm among our constituents if we decline to do it.

Mr. WADSWORTH.—Instructions have frequently been given to the representatives of the United States; but the people did not claim as a right that they should have any obligation upon the representatives; it is not right that they should. In troublesome times, designing

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men have drawn the people to instruct the representatives to their harm; the representatives have, on such occasions, refused to comply with their instructions. I have known, myself, that they have been disobeyed, and yet the representative was not brought to account for it; on the contrary, he was caressed and re-elected, while those who have obeyed them, contrary to their private sentiments, have ever after been despised for it. Now, if people considered it an inherent right in them to instruct their representatives, they would have undoubtedly punished the violation of them. I have no idea of instructions, unless they are obeyed; a discretionary power is incompatible with them.

The honorable gentleman who was up last says, if he were instructed to make paper money, he would tell his constituents it was unconstitutional. I believe that is not the case, for this body would have a right to make paper money; but if my constituents were to instruct me to vote for such a measure, I would disobey them, let the consequence be what it would.

MR. SUMNER.—The honorable gentlemen who are opposed to the notion of my colleague, do not treat it fairly. They suppose that it is meant to bind the representative to conform to his instructions. The mover of this question, I presume to say, has no such thing in idea. That they shall notice them and obey them, as far as is consistent and proper, may be very just; perhaps they ought to produce them to the House, and let them have as much influence as they deserve; nothing further, I believe, is contended for.

I rose on this occasion, not so much to make any observations upon the point immediately under consideration, as to beg the committee to consider the consequences that may result from an undue precipitancy and hurry. Nothing can distress me more than to be obliged to notice what I conceive to be somewhat improper in the conduct of so respectable a body. Gentlemen will reflect how difficult it is to remove error when once the passions are engaged in the discussion; temper and coolness are necessary to complete what must be the work of time. It cannot be denied but that the present constitution is imperfect; we must, therefore, take time to improve it. If gentlemen are pressed for want of time, and are disposed to adjourn the session of Congress at a very early period, we had better drop the subject of amendments, and leave it until we have more leisure to consider and do the business effectually. For my part, I would rather sit till this day twelvemonth, than have this all-important subject inconsiderately passed over. The people have already complained that the adoption of the constitution was done in too hasty a manner; what will they say of us if we press the amendments with so much haste?

MR. BURKE.—It has been asserted, Mr. Chairman, that the people of America do not require this right. I beg leave to ask the gen-

tleman from Massachusetts, whether the constitution of that State does not recognise that right, and the gentleman from Maryland, whether their declaration of rights does not expressly secure it to the inhabitants of that State? These circumstances, added to what has been proposed by the State conventions as amendments to this constitution, pretty plainly declare the sense of the people to be in favor of securing to themselves and to their posterity a right of this nature.

MR. SENEY said that the declaration of rights prefixed to the constitution of Maryland secured to every man a right of petitioning the Legislature for a redress of grievances, in a peaceable and orderly manner.

MR. BURKE.—I am not positive with respect to the particular expression in the declaration of rights of the people of Maryland, but the constitutions of Massachusetts, Pennsylvania, and North Carolina, all of them recognise, in express terms, the right of the people to give instruction to their representatives. I do not mean to insist particularly upon this amendment; but I am very well satisfied that those that are reported and likely to be adopted by this House are very far from giving satisfaction to our constituents; they are not those solid and substantial amendments which the people expect; they are little better than whip-syllabub, frothy and full of wind, formed only to please the palate; or they are like a tub thrown out to a whale, to secure the freight of the ship and its peaceable voyage. In my judgment, the people will not be gratified by the mode we have pursued in bringing them forward. There was a committee of eleven appointed; and out of the number I think there were five who were members of the convention that formed the constitution. Such gentlemen, having already given their opinion with respect to the perfection of the work, may be thought improper agents to bring forward amendments. Upon the whole, I think it will be found that we have done nothing but lose our time, and that it will be better to drop the subject now, and proceed to the organization of the Government.

MR. SINNIKSON inquired of Mr. Chairman what was the question before the committee, for really the debate had become so desultory, as to induce him to think it was lost sight of altogether.

MR. LAWRENCE was averse to entering on the business at first; but since they had proceeded so far, he hoped they would finish it. He said, if gentlemen would confine themselves to the question when they were speaking, that the business might be done in a more agreeable manner. He was against the amendment proposed by the gentleman from South Carolina, (MR. TUCKER,) because every member on this floor ought to consider himself the representative of the whole Union, and not of the particular district which had chosen him; as their decisions were to bind every individual of the confederated States, it was wrong to be

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guided by the voice of a single district, whose interests might happen to clash with those of the general good; and unless instructions were to be considered as binding, they were altogether superfluous.

Mr. MADISON was unwilling to take up any more of the time of the committee; but, on the other hand, he was not willing to be silent after the charges that had been brought against the committee, and the gentleman who introduced the amendments, by the honorable members on each side of him, (Messrs. SUMNER and BURKE.) Those gentlemen say that we are precipitating the business, and insinuate that we are not acting with candor. I appeal to the gentlemen who have heard the voice of their country, to those who have attended the debates of the State conventions, whether the amendments now proposed are not those most strenuously required by the opponents to the constitution? It was wished that some security should be given for those great and essential rights which they had been taught to believe were in danger. I concurred, in the convention of Virginia, with those gentlemen, so far as to agree to a declaration of those rights which corresponded with my own judgment, and the other alterations which I had the honor to bring forward before the present Congress. I appeal to the gentlemen on this floor who are desirous of amending the constitution, whether these proposed are not compatible with what are required by our constituents? Have not the people been told that the rights of conscience, the freedom of speech, the liberty of the press, and trial by jury, were in jeopardy? that they ought not to adopt the constitution until those important rights were secured to them?

But while I approve of these amendments, I should oppose the consideration at this time of such as are likely to change the principles of the Government, or that are of a doubtful nature; because I apprehend there is little prospect of obtaining the consent of two-thirds of both Houses of Congress, and three-fourths of the State Legislatures, to ratify propositions of this kind; therefore, as a friend to what is attainable, I would limit it to the plain, simple, and important security that has been required. If I were inclined to make no alteration in the constitution, I would bring forward such amendments as were of a dubious cast, in order to have the whole rejected.

Mr. BURKE never entertained an idea of charging gentlemen with the want of candor; but he would appeal to any man of sense and candor, whether the amendments contained in the report were any thing like the amendments required by the States of New York, Virginia, New Hampshire, and Carolina; and having these amendments in his hand, he turned to them to show the difference, concluding that all the important amendments were omitted in the report.

Mr. SMITH, of South Carolina, understood his colleague, who had just sat down, to have

asserted that the amendment under consideration was contained in the constitution of the State of South Carolina: this was not the fact.

Mr. BURKE said he mentioned the State of North Carolina, and there it was inserted in express terms.

The question was now called for from several parts of the House; but a desultory conversation took place before the question was put. At length the call becoming general, it was stated from the chair, and determined in the negative, 10 rising in favor of it, and 41 against it.

The question was now taken on the second clause of the fourth proposition, as originally reported and agreed to.

Mr. AMES moved the committee to rise and report progress; which being agreed to,

Mr. SPEAKER having resumed the chair,

Mr. AMES moved to discharge the committee from any further proceeding. He was led to make the motion from two considerations: first, that as the committee were not restrained in their discussions, a great deal of time was consumed in unnecessary debate; and, second, that as the constitution required two-thirds of the House to acquiesce in amendments, the decisions of the committee, by a simple majority, might be set aside for the want of the constitutional number to support them in the House. He further observed, that it might have an evil influence if alterations agreed to in committee were not adopted by the House.

Mr. SMITH, of South Carolina, was in favor of the motion.

Mr. GERRY thought that the object of the motion was to prevent such a thorough discussion of the business as the nature of it demanded. He called upon gentlemen to recollect the consistency of his honorable colleague, who had proposed to refer the subject to a select committee, lest an open and full examination should lay bare the muscles and sinews of the constitution. He had succeeded on that occasion, and the business was put into the hands of a select committee. He now proposes to curtail the debate, because gentlemen will not swallow the propositions as they stand, when their judgment and their duty require to have them improved. Will this House, said he, agree that an important subject like this shall have less consideration than the most trifling business yet come before us? I hope they will not. If they are tired of it, let it be postponed until another session, when it can be attended to with leisure and good temper. Gentlemen now feel the weather warm, and the subject is warm; no wonder it produces some degree of heat. Perhaps, as our next will be a winter session, we may go through more coolly and dispassionately.

Mr. SEDGWICK seconded Mr. AMES's motion, thinking there was little probability of getting through with the business, if gentlemen were disposed to offer motions, and dwell long upon them in committee, when there was no likelihood they would meet the approbation of

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two-thirds of both Houses, and three-fourths of the State Legislatures.

Mr. GERRY moved to call the yeas and nays on the motion.

Mr. PAGE begged gentlemen to consider that the motion tended to deprive the members of that freedom of debate which they had heretofore been indulged in, and prevented the Speaker from giving his sentiments. He was sorry to see this hurry, and hoped the subject would be fairly treated, otherwise the people might think they were unjustly dealt by. They would have a right to suppose, with the honorable gentleman from Carolina, (Mr. BURKE,) that we meant nothing more than to throw out a tub to the whale.

Mr. BURKE would oppose the motion, and join in calling the yeas and nays, because its object must be to preclude debate. He was certain the subject was so variegated, and at the same time so important, that it could not be thoroughly discussed in any other manner than in a Committee of the whole; and unless it was discussed in a satisfactory manner, he apprehended it would occasion a great deal of mischief. He said the people knew, and were sensible, that in ratifying the present constitution, they parted with their liberties; but it was under a hope that they would get them back again. Whether this was to be the case or not, he left it to time to discover, but the spirit which now seemed to prevail in the House was no favorable omen. He begged gentlemen to treat the subject with fairness and candor, and not depart from their usual mode of doing business.

Mr. SMITH, of South Carolina, had said he would support the motion, under an impression that it was useless to carry a measure through the committee, with a small majority, which was unlikely to meet the approbation of two-thirds of the House; but as gentlemen appeared so desirous of pursuing the common routine of doing business, he would withdraw his support.

Mr. TUCKER was in hopes the honorable mover would have seen the impropriety of his motion, and have withdrawn it; but as he had not, he would presume to ask him upon what principle it was founded? Is it to precipitate the business, and prevent an investigation? or is it because the committee have spent some time on it, and made no progress? He thought the latter was not the case, because the committee had proceeded as far in it as could reasonably be expected for the time. The gentleman says he is apprehensive it may do harm to have propositions agreed to in committee, and rejected by the House. Certainly there is no foundation for this apprehension, or the clause in the constitution requiring the consent of two-thirds of the Legislature to amendments is formed on wrong principles. If the propositions are reasonable in themselves, they ought to be admitted; but if they are improper, they ought to be rejected. We would not presume to prevent our constituents from contemplating the subject in their own mind.

Is this haste produced by a desire to adjourn? He was as desirous of adjourning as any member, but he would not sacrifice the duty he owed the public to his own private convenience.

Mr. LIVERMORE hoped the gentleman would withdraw his motion, because it would have a disagreeable aspect to leave the business in the unfinished state it now stood. He thought it had better been altogether let alone.

Mr. AMES withdrew his motion, and laid another on the table, requiring two-thirds of the committee to carry a question; and, after some desultory conversation,

The House adjourned.

MONDAY, August 17.

#### AMENDMENTS TO THE CONSTITUTION.

The House again resolved itself into a committee, Mr. BOWDINOT in the chair, on the proposed amendments to the constitution. The third clause of the fourth proposition in the report was taken into consideration, being as follows: "A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed; but no person religiously scrupulous shall be compelled to bear arms."

Mr. GERRY.—This declaration of rights, I take it, is intended to secure the people against the mal-administration of the Government; if we could suppose that, in all cases, the rights of the people would be attended to, the occasion for guards of this kind would be removed. Now, I am apprehensive, sir, that this clause would give an opportunity to the people in power to destroy the constitution itself. They can declare who are those religiously scrupulous, and prevent them from bearing arms.

What, sir, is the use of a militia? It is to prevent the establishment of a standing army, the bane of liberty. Now, it must be evident, that, under this provision, together with their other powers, Congress could take such measures with respect to a militia, as to make a standing army necessary. Whenever Governments mean to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins. This was actually done by Great Britain at the commencement of the late revolution. They used every means in their power to prevent the establishment of an effective militia to the eastward. The Assembly of Massachusetts, seeing the rapid progress that administration were making to divest them of their inherent privileges, endeavored to counteract them by the organization of the militia; but they were always defeated by the influence of the Crown.

Mr. SNEY wished to know what question there was before the committee, in order to ascertain the point upon which the gentleman was speaking.

Mr. GERRY replied that he meant to make a motion, as he disapproved of the words as they

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stood. He then proceeded. No attempts that they made were successful, until they engaged in the struggle which emancipated them at once from their thralldom. Now, if we give a discretionary power to exclude those from militia duty who have religious scruples, we may as well make no provision on this head. For this reason, he wished the words to be altered so as to be confined to persons belonging to a religious sect scrupulous of bearing arms.

Mr. JACKSON did not expect that all the people of the United States would turn Quakers or Moravians; consequently, one part would have to defend the other in case of invasion. Now this, in his opinion, was unjust, unless the constitution secured an equivalent: for this reason he moved to amend the clause, by inserting at the end of it, "upon paying an equivalent, to be established by law."

Mr. SMITH, of South Carolina, inquired what were the words used by the conventions respecting this amendment. If the gentleman would conform to what was proposed by Virginia and Carolina, he would second him. He thought they were to be excused provided they found a substitute.

Mr. JACKSON was willing to accommodate. He thought the expression was, "No one, religiously scrupulous of bearing arms, shall be compelled to render military service, in person, upon paying an equivalent."

Mr. SHERMAN conceived it difficult to modify the clause and make it better. It is well known that those who are religiously scrupulous of bearing arms, are equally scrupulous of getting substitutes or paying an equivalent. Many of them would rather die than do either one or the other; but he did not see an absolute necessity for a clause of this kind. We do not live under an arbitrary Government, said he, and the States, respectively, will have the government of the militia, unless when called into actual service; besides, it would not do to alter it so as to exclude the whole of any sect, because there are men amongst the Quakers who will turn out, notwithstanding the religious principles of the society, and defend the cause of their country. Certainly it will be improper to prevent the exercise of such favorable dispositions, at least whilst it is the practice of nations to determine their contests by the slaughter of their citizens and subjects.

Mr. VINING hoped the clause would be suffered to remain as it stood, because he saw no use in it if it was amended so as to compel a man to find a substitute, which, with respect to the Government, was the same as if the person himself turned out to fight.

Mr. STONE inquired what the words "religiously scrupulous" had reference to: was it of bearing arms? If it was, it ought so to be expressed.

Mr. BENSON moved to have the words "but no person religiously scrupulous shall be compelled to bear arms," struck out. He would always leave it to the benevolence of the Legis-

lature, for, modify it as you please, it will be impossible to express it in such a manner as to clear it from ambiguity. No man can claim this indulgence of right. It may be a religious persuasion, but it is no natural right, and therefore ought to be left to the discretion of the Government. If this stands part of the constitution, it will be a question before the Judiciary on every regulation you make with respect to the organization of the militia, whether it comports with this declaration or not. It is extremely injudicious to intermix matters of doubt with fundamentals.

I have no reason to believe but the Legislature will always possess humanity enough to indulge this class of citizens in a matter they are so desirous of; but they ought to be left to their discretion.

The motion for striking out the whole clause being seconded, was put, and decided in the negative—23 members voting for it, and 24 against it.

Mr. GERRY objected to the first part of the clause, on account of the uncertainty with which it is expressed. A well regulated militia being the best security of a free State, admitted an idea that a standing army was a secondary one. It ought to read, "a well regulated militia, trained to arms;" in which case it would become the duty of the Government to provide this security, and furnish a greater certainty of its being done.

Mr. GERRY's motion not being seconded, the question was put on the clause as reported; which being adopted,

Mr. BURKE proposed to add to the clause just agreed to, an amendment to the following effect: "A standing army of regular troops in time of peace is dangerous to public liberty, and such shall not be raised or kept up in time of peace but from necessity, and for the security of the people, nor then without the consent of two-thirds of the members present of both Houses; and in all cases the military shall be subordinate to the civil authority." This being seconded,

Mr. VINING asked whether this was to be considered as an addition to the last clause, or an amendment by itself. If the former, he would remind the gentleman the clause was decided; if the latter, it was improper to introduce new matter, as the House had referred the report specially to the Committee of the whole.

Mr. BURKE feared that, what with being trammelled in rules, and the apparent disposition of the committee, he should not be able to get them to consider any amendment; he submitted to such proceeding because he could not help himself.

Mr. HARTLEY thought the amendment in order, and was ready to give his opinion on it. He hoped the people of America would always be satisfied with having a majority to govern. He never wished to see two-thirds or three-fourths required, because it might put it in the power of a small minority to govern the whole Union.

The question on Mr. BURKE'S motion was put, and lost by a majority of thirteen.

The fourth clause of the fourth proposition was taken up as follows: "No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Mr. SUMNER hoped soldiers would never be quartered on the inhabitants, either in time of peace or war, without the consent of the owner. It was a burthen, and very oppressive, even in cases where the owner gave his consent; but where this was wanting, it would be a hardship indeed! Their property would lie at the mercy of men irritated by a refusal, and well disposed to destroy the peace of the family.

He moved to strike out all the words from the clause but "no soldier shall be quartered in any house without the consent of the owner."

Mr. SHERMAN observed that it was absolutely necessary that marching troops should have quarters, whether in time of peace or war, and that it ought not to be put in the power of an individual to obstruct the public service; if quarters were not to be obtained in public barracks, they must be procured elsewhere. In England, where they paid considerable attention to private rights, they billeted the troops upon the keepers of public houses, and upon private houses also, with the consent of the magistracy.

Mr. SUMNER'S motion being put, was lost by a majority of sixteen.

Mr. GERRY moved to insert between "but" and, "in a manner" the words "by a civil magistrate," observing that there was no part of the Union but where they could have access to such authority.

Mr. HARTLEY said those things ought to be entrusted to the Legislature; that cases might arise where the public safety would be endangered by putting it in the power of one person to keep a division of troops standing in the inclemency of the weather for many hours; therefore he was against inserting the words.

Mr. GERRY said either his amendment was essential, or the whole clause was unnecessary.

On putting the question, thirteen rose in favor of the motion, thirty-five against it; and then the clause was carried as reported.

The fifth clause of the fourth proposition was taken up, viz: "No person shall be subject, in case of impeachment, to more than one trial or one punishment for the same offence, nor shall be compelled to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

Mr. BENSON thought the committee could not agree to the amendment in the manner it stood, because its meaning appeared rather doubtful. It says that no person shall be tried more than once for the same offence. This is contrary to the right heretofore established; he presumed it was intended to express what was secured by our former constitution, that no

man's life should be more than once put in jeopardy for the same offence; yet it was well known, that they were entitled to more than one trial. The humane intention of the clause was to prevent more than one punishment; for which reason he would move to amend it by striking out the words "one trial or."

Mr. SHERMAN approved of the motion. He said, that as the clause now stood, a person found guilty could not arrest the judgment, and obtain a second trial in his own favor. He thought that the courts of justice would never think of trying and punishing twice for the same offence. If the person was acquitted on the first trial, he ought not to be tried a second time; but if he was convicted on the first, and any thing should appear to set the judgment aside, he was entitled to a second, which was certainly favorable to him. Now the clause as it stands would deprive him of that advantage.

Mr. LIVERMORE thought the clause very essential; it was declaratory of the law as it now stood; striking out the words, would seem as if they meant to change the law by implication, and expose a man to the danger of more than one trial. Many persons may be brought to trial for crimes they are guilty of, but for want of evidence may be acquitted; in such cases, it is the universal practice in Great Britain, and in this country, that persons shall not be brought to a second trial for the same offence; therefore the clause is proper as it stands.

Mr. SEDGWICK thought, instead of securing the liberty of the subject, it would be abridging the privileges of those who were prosecuted.

The question on Mr. BENSON'S motion being put, was lost by a considerable majority.

Mr. PARTRIDGE moved to insert after "same offence," the words "by any law of the United States." This amendment was lost also.

Mr. LAWRENCE said this clause contained a general declaration, in some degree contrary to laws passed. He alluded to that part where a person shall not be compelled to give evidence against himself. He thought it ought to be confined to criminal cases, and moved an amendment for that purpose; which amendment being adopted, the clause as amended was unanimously agreed to by the committee, who then proceeded to the sixth clause of the fourth proposition, in these words, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Mr. SMITH, of South Carolina, objected to the words "nor cruel and unusual punishments;" the import of them being too indefinite.

Mr. LIVERMORE.—The clause seems to express a great deal of humanity, on which account I have no objection to it; but as it seems to have no meaning in it, I do not think it necessary. What is meant by the terms excessive bail? Who are to be the judges? What is understood by excessive fines? It lies with the court to determine. No cruel and unusual punishment is to be inflicted; it is sometimes necessary to hang a man, villains often de-

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serve whipping, and perhaps having their ears cut off; but are we in future to be prevented from inflicting these punishments because they are cruel? If a more lenient mode of correcting vice and deterring others from the commission of it could be invented, it would be very prudent in the Legislature to adopt it; but until we have some security that this will be done, we ought not to be restrained from making necessary laws by any declaration of this kind.

The question was put on the clause, and it was agreed to by a considerable majority.

The committee went on to the consideration of the seventh clause of the fourth proposition, being as follows: "The right of the people to be secured in their persons, houses, papers, and effects, shall not be violated by warrants issuing without probable cause, supported by oath or affirmation, and not particularly describing the place to be searched, and the persons or things to be seized."

Mr. GERRY said he presumed there was a mistake in the wording of this clause; it ought to be "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches," and therefore moved that amendment.

This was adopted by the committee.

Mr. BENSON objected to the words "by warrants issuing." This declaratory provision was good as far as it went, but he thought it was not sufficient; he therefore proposed to alter it so as to read "and no warrant shall issue."

The question was put on this motion, and lost by a considerable majority.

Mr. LIVERMORE objected to the words "and not" between "affirmation" and "particularly." He moved to strike them out, in order to make it an affirmative proposition.

But the motion passed in the negative.

The clause as amended being now agreed to,

The eighth clause of the fourth proposition was taken up, which was, "The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people."

Mr. GERRY said, it ought to be "deny or impair," for the word "disparage" was not of plain import; he therefore moved to make that alteration, but not being seconded, the question was taken on the clause, and it passed in the affirmative.

The committee then proceeded to the fifth proposition:

Article 1. section 10. between the first and second paragraph, insert "no State shall infringe the equal rights of conscience, nor the freedom of speech or of the press, nor the right of trial by jury in criminal cases."

Mr. TUCKER.—This is offered, I presume, as an amendment to the constitution of the United States, but it goes only to the alteration of the constitutions of particular States. It will be much better, I apprehend, to leave the State Governments to themselves, and not to interfere with them more than we already do;

and that is thought by many to be rather too much. I therefore move, sir, to strike out these words.

Mr. MADISON conceived this to be the most valuable amendment in the whole list. If there was any reason to restrain the Government of the United States from infringing upon these essential rights, it was equally necessary that they should be secured against the State Governments. He thought that if they provided against the one, it was as necessary to provide against the other, and was satisfied that it would be equally grateful to the people.

Mr. LIVERMORE had no great objection to the sentiment, but he thought it not well expressed. He wished to make it an affirmative proposition; "the equal rights of conscience, the freedom of speech or of the press, and the right of trial by jury in criminal cases, shall not be infringed by any State."

This transposition being agreed to, and Mr. TUCKER's motion being rejected, the clause was adopted.

The sixth proposition, article 3, section 2, add to the second paragraph, "But no appeal to such court shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a jury according to the course of the common law, be otherwise re-examinable than according to the rules of the common law."

Mr. BENSON moved to strike out the first part of the paragraph respecting the limitation of appeals, because the question in controversy might be an important one, though the action was not to the amount of a thousand dollars.

Mr. MADISON.—If the gentleman will propose any restriction to answer his purpose, and for avoiding the inconvenience he apprehends, I am willing to agree to it; but it will be improper to strike out the clause without a substitute.

There is little danger that any court in the United States will admit an appeal where the matter in dispute does not amount to a thousand dollars; but as the possibility of such an event has excited in the minds of many citizens the greatest apprehension that persons of opulence would carry a cause from the extremities of the Union to the Supreme Court, and thereby prevent the due administration of justice, it ought to be guarded against.

Mr. LIVERMORE thought the clause was objectionable, because it comprehended nothing more than the value.

Mr. SEDGWICK moved to insert three thousand dollars, instead of one thousand; but on the question, this motion was rejected, and the proposition accepted in its original form.

The committee then proceeded to consider the seventh proposition, in the words following:

Article 3, section 2. Strike out the whole of the third paragraph, and insert, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusa-

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tion, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

Mr. BURKE moved to amend this proposition in such a manner as to leave it in the power of the accused to put off the trial to the next session, provided he made it appear to the court that the evidence of the witnesses, for whom process was granted but not served, was material to his defence.

Mr. HARTLEY said, that in securing him the right of compulsory process, the Government did all it could; the remainder must lie in the discretion of the court.

Mr. SMITH, of South Carolina, thought the regulation would come properly in, as part of the judicial system.

The question on Mr. BURKE's motion was taken and lost; ayes 9, noes 41.

Mr. LIVERMORE moved to alter the clause, so as to secure to the criminal the right of being tried in the State where the offence was committed.

Mr. STONE observed that full provision was made on the subject in the subsequent clause.

On the question, Mr. LIVERMORE's motion was adopted.

Mr. BURKE said, he was not so much discouraged by the fate of his former motions, but that he would venture upon another. He therefore proposed to add to the clause, that no criminal prosecution should be had by way of information.

Mr. HARTLEY only requested the gentleman to look to the clause, and he would see the impropriety of inserting it in this place.

A desultory conversation arose, respecting the foregoing motion, and after some time, Mr. BURKE withdrew it for the present.

The committee then rose and reported progress, after which the House adjourned.

TUESDAY, August 18.

## NEW JERSEY ELECTIONS.

Mr. CLYMER, from the Committee of Elections, reported that the committee, pursuant to the instructions to them contained in the resolution of the twenty-fifth of May, relative to the petition of a number of the citizens of the State of New Jersey, complaining of the illegality of the election of the members of this House, as elected within that State, do ascertain the following facts, as arising from the proofs, to wit:

1st. That the election for members of this House, held within that State, in consequence of an act of the Legislature thereof, entitled, "An act for carrying into effect, on the part of the State of New Jersey, the constitution of the United States, assented to, ratified, and confirmed by this State, on the 18th day of December, 1787," passed the 20th November, 1791, were closed in the several counties of Bergen, Morris, Monmouth, Hunterdon, So-

unerset, Middlesex, Sussex, Salem, Cape May, Cumberland, Burlington, and Gloucester, and the lists of the several persons voted for, and the number of votes taken for each, were received by the Governor at the respective times appearing from the said lists, and the endorsements thereon, which lists accompany this report.

2d. That the election in the county of Essex, the remaining county in the State, closed on the 27th of April, and the list was received by the Governor on the 3d of May.

3d. That in consequence of a summons from the Governor, (a copy whereof accompanies this report,) dated the 27th of February, to four of the members of the council, a privy council, consisting of the Governor and the four members so summoned, did assemble at Elizabethtown on the 3d of March, and, being so assembled, Mr. Haring, another member of the council, received a note from the Governor, (a copy whereof accompanies this report,) in consequence whereof Mr. Haring did also attend the privy council as a member thereof.

4th. That the Governor then appointed another meeting of the privy council, to be held on the 18th of March, on which day the Governor and eleven members of the council did assemble, and did then determine, from the lists of the twelve counties specified in the first fact above stated, the four members now holding seats in this House, the four persons elected members of this House within that State; against which determination of the council, three of the members then present did protest; and a protest (a copy of which accompanies this report) was, with the consent of the council, delivered into the council in form, on the subsequent day.

5th. That there was no determination of the Governor and privy council in the premises, until the eighteenth of March.

6th. That the Governor did, on the nineteenth of March, issue a proclamation, (a copy whereof accompanies this report.)

*Ordered,* That the said report do lie on the table.

## AMENDMENTS TO THE CONSTITUTION.

Mr. GERRY moved, "That such of the amendments to the constitution proposed by the several States, as are not in substance comprised in the report of the select committee appointed to consider amendments, be referred to a Committee of the whole House; and that all amendments which shall be agreed to by the committee last mentioned be included in one report."

Mr. TUCKER remarked, that many citizens expected that the amendments proposed by the conventions would be attended to by the House, and that several members conceived it to be their duty to bring them forward. If the House should decline taking them into consideration, it might tend to destroy that harmony which had hitherto existed, and which did great honor



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to their proceedings; it might affect all their future measures, and promote such feuds as might embarrass the Government exceedingly. The States who had proposed these amendments would feel some degree of chagrin at having misplaced their confidence in the General Government. Five important States have pretty plainly expressed their apprehensions of the danger to which the rights of their citizens are exposed. Finding these cannot be secured in the mode they had wished, they will naturally recur to the alternative, and endeavor to obtain a federal convention; the consequence of this may be disagreeable to the Union; party spirit may be revived, and animosities rekindled destructive of tranquillity. States that exert themselves to obtain a federal convention, and those that oppose the measure, may feel so strongly the spirit of discord, as to sever the Union asunder.

If in this conflict the advocates for a federal convention should prove successful, the consequences may be alarming; we may lose many of the valuable principles now established in the present constitution. If, on the other hand, a convention should not be obtained, the consequences resulting are equally to be dreaded; it would render the administration of this system of government weak, if not impracticable; for no Government can be administered with energy, however energetic its system, unless it obtains the confidence and support of the people. Which of the two evils is the greatest would be difficult to ascertain.

It is essential to our deliberations that the harmony of the House be preserved; by it alone we shall be enabled to perfect the organization of the Government—a Government but in embryo, or at best but in its infancy.

My idea relative to this constitution, whilst it was dependent upon the assent of the several States, was, that it required amendment, and that the proper time for amendment was previous to the ratification. My reasons were, that I conceived it difficult, if not impossible, to obtain essential amendments by the way pointed out in the constitution; nor have I been mistaken in this suspicion. It will be found, I fear, still more difficult than I apprehended; for perhaps these amendments, should they be agreed to by two-thirds of both Houses of Congress, will be submitted for ratification to the Legislatures of the several States, instead of State conventions, in which case the chance is still worse. The Legislatures of almost all the States consist of two independent, distinct bodies; the amendments must be adopted by three-fourths of such Legislatures; that is to say, they must meet the approbation of the majority of each of eighteen deliberative assemblies. But, notwithstanding all these objections to obtaining amendments after the ratification of the constitution, it will tend to give a great degree of satisfaction to those who are desirous of them, if this House shall take them up, and consider them with that degree of candor and attention

they have hitherto displayed on the subjects that have come before them; consider the amendments separately, and, after fair deliberation, either approve or disapprove of them. By such conduct, we answer in some degree the expectations of those citizens in the several States who have shown so great a tenacity to the preservation of those rights and liberties they secured to themselves by an arduous, persevering, and successful conflict.

I have hopes that the States will be reconciled to this disappointment, in consequence of such procedure.

A great variety of arguments might be urged in favor of the motion; but I shall rest it here, and not trespass any further upon the patience of the House.

Mr. MADISON was just going to move to refer these amendments, in order that they might be considered in the fullest manner; but it would be very inconvenient to have them made up into one report, or all of them discussed at the present time.

Mr. VINING had no objection to the bringing them forward in the fullest point of view; but his objection arose from the informality attending the introduction of the business.

The order of the House was to refer the report of the Committee of eleven to a Committee of the whole, and therefore it was improper to propose any thing additional.

A desultory conversation arose on this motion, when Mr. VINING moved the previous question, in which, being supported by five members, it was put, and the question was, Shall the main question, to agree to the motion, be now put? The yeas and nays being demanded by one-fifth of the members present, on this last motion, they were taken as follows:

YEAS.—Messrs. Burke, Coles, Floyd, Gerry, Griffin, Grout, Hathorn, Livermore, Page, Parker, Van Rensselaer, Sherman, Stone, Sturgis, Sumter, and Tucker.—16.

NAYS.—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gilman, Goodhue, Hartley, Heister, Huntington, Lawrence, Lee, Madison, Moore, Muhlenburg, Partridge, Schureman, Scott, Sedgwick, Seney, Sylvester, Sinnickson, Smith, of Maryland, Smith, of South Carolina, Thatcher, Trumbull, Vining, Wadsworth, and Wynkoop.—34.

So the motion was lost.

A message from the Senate informed the House that the Senate had passed the bill providing for expenses which may attend negotiations or treaties with the Indian tribes, and the appointment of commissioners for managing the same, with an amendment, to which they desire the concurrence of the House.

The House again resolved itself into a Committee of the whole on the subject of amendments, and took into consideration the 2d clause of the 7th proposition, in the words following, "The trial of all crimes (except in cases of impeachment, and in cases arising in the land and naval forces, or in the militia when in actual

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service in the time of war, or public danger,) shall be by an impartial jury of freeholders of the vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment, or indictment, by a grand jury; but if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may by law be authorized in some other place within the same State; and if it be committed in a place not within a State, the indictment and trial may be at such place or places as the law may have directed."

Mr. BURKE moved to change the word "vicinage" into "district or county in which the offence has been committed." He said this was conformable to the practice of the State of South Carolina, and he believed to most of the States in the Union; it would have a tendency also to quiet the alarm entertained by the good citizens of many of the States for their personal security; they would no longer fear being dragged from one extremity of the State to the other for trial, at the distance of three or four hundred miles.

Mr. LEE thought the word "vicinage" was more applicable than that of "district, or county," it being a term well understood by every gentleman of legal knowledge.

The question on Mr. BURKE's motion being put was negatived.

Mr. BURKE then revived his motion for preventing prosecutions upon information, but on the question this was also lost.

The clause was now adopted without amendment.

The 3d clause of the 7th proposition, as follows, "In suits at common law, the right of trial by jury shall be preserved," was considered and adopted.

The 8th proposition in the words following, was considered, "Immediately after art. 6, the following to be inserted as art. 7:"

"The powers delegated by this constitution to the Government of the United States, shall be exercised as therein appropriated, so that the Legislative shall not exercise the powers vested in the Executive or Judicial; nor the Executive the power vested in the Legislative or Judicial; nor the Judicial the powers vested in the Legislative or Executive."

Mr. SHERMAN conceived this amendment to be altogether unnecessary, inasmuch as the constitution assigned the business of each branch of the Government to a separate department.

Mr. MADISON supposed the people would be gratified with the amendment, as it was admitted that the powers ought to be separate and distinct; it might also tend to an explanation of some doubts that might arise respecting the construction of the constitution.

Mr. LIVERMORE, thinking the clause subversive of the constitution, was opposed to it, and hoped it might be disagreed to.

On the motion being put, the proposition was carried.

The 9th proposition, in the words following, was considered, "The powers not delegated by the constitution, nor prohibited by it to the States, are reserved to the States respectively."

Mr. TUCKER proposed to amend the proposition, by prefixing to it "all powers being derived from the people." He thought this a better place to make this assertion than the introductory clause of the constitution, where a similar sentiment was proposed by the committee. He extended his motion also, to add the word "expressly," so as to read "the powers not expressly delegated by this constitution."

Mr. MADISON objected to this amendment, because it was impossible to confine a Government to the exercise of express powers; there must necessarily be admitted powers by implication, unless the constitution descended to recount every minutia. He remembered the word "expressly" had been moved in the convention of Virginia, by the opponents to the ratification, and, after full and fair discussion, was given up by them, and the system allowed to retain its present form.

Mr. SHERMAN coincided with Mr. MADISON in opinion, observing that corporate bodies are supposed to possess all powers incident to a corporate capacity, without being absolutely expressed.

Mr. TUCKER did not view the word "expressly" in the same light with the gentleman who opposed him; he thought every power to be expressly given that could be clearly comprehended within any accurate definition of the general power.

Mr. TUCKER's motion being negatived, Mr. CARROLL proposed to add to the end of the proposition, "or to the people;" this was agreed to.

The 10th proposition, "Art. 7 to be made Art. 8," agreed to.

The committee then rose, and reported the amendments as amended by the committee.

Mr. TUCKER then moved that the following propositions of amendment to the constitution of the United States, be referred to a Committee of the whole House, to wit:

Art. 1. sect. 2. clause 2. at the end, add these words, "Nor shall any person be capable of serving as a Representative more than six years, in any term of eight years."

Clause 3. at the end, add these words, "From and after the commencement of the year 1795, the election of Senators for each State shall be annual, and no person shall be capable of serving as a Senator more than five years in any term of six years."

Sect. 4. clause 1. strike out the words, "But the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Sect. 5. clause 1. amend the first part to read thus, "Each State shall be the judge (according to its own laws) of the election of its Senators and Representatives to sit in Congress, and shall furnish them with sufficient credentials; but each House shall judge of

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Mr. SUMNER.—The number of Indians on which the estimate is founded arose merely from misinformation; so large a number does not appear to be necessary; such a quantity will not be assembled; there cannot be provision made for them; they would run the risk of suffering exceedingly. I do not entertain a doubt, sir, but the business may be properly conducted without assembling such a number, and I dare assert it will be well done if we do not make too large a provision. We shall, I hope, support the dignity of the United States, and let those Indians know that treaties in future shall not be violated by them with impunity; that we will treat with them upon generous and reciprocal terms; that while we protect them from any depredations from our frontiers, they shall strictly adhere to the stipulations on their part. Some trifling presents, I grant, may be necessary; it is an ancient custom; but I am opposed to extravagant or profuse ones, because they are unnecessary. I think the sum of twenty thousand dollars will be fully sufficient.

The motion of Mr. BALDWIN being put, was negatived; after which the amendment of the Senate was agreed to.

#### AMENDMENTS TO THE CONSTITUTION.

The House then took into consideration the amendments to the constitution, as reported by the Committee of the whole.

Mr. SHERMAN renewed his motion for adding the amendments to the constitution by way of supplement.

Hereupon ensued a debate similar to what took place in the Committee of the whole, (see page 734;) but, on the question, Mr. SHERMAN'S motion was carried by two-thirds of the House; in consequence it was agreed to.

The first proposition of amendment (see page 734) was rejected, because two-thirds of the members present did not support it.

Mr. AMES then brought forward his motion respecting the representation suggested, (see page 756.) A desultory conversation took place, and several amendments of the motion were attempted; but the House adjourned without coming to any determination.

THURSDAY, August 20.

A message from the Senate informed the House that they agree to the resolution of this House of the 10th inst., for executing the survey directed by an act of the late Congress, of June 6, 1788.

#### AMENDMENTS TO THE CONSTITUTION.

The House resumed the consideration of the report of the Committee of the whole on the subject of amendment to the constitution.

Mr. AMES'S proposition was taken up. Five or six other members introduced propositions on the same point, and the whole were, by mutual

consent, laid on the table. After which, the House proceeded to the third amendment, and agreed to the same.

On motion of Mr. AMES, the fourth amendment was altered so as to read "Congress shall make no law establishing religion, or to prevent the free exercise thereof, or to infringe the rights of conscience." This being adopted,

The first proposition was agreed to.

Mr. SCOTT objected to the clause in the sixth amendment, "No person religiously scrupulous shall be compelled to bear arms." He observed that if this becomes part of the constitution, such persons can neither be called upon for their services, nor can an equivalent be demanded; it is also attended with still further difficulties, for a militia can never be depended upon. This would lead to the violation of another article in the constitution, which secures to the people the right of keeping arms, and in this case recourse must be had to a standing army. I conceive it, said he, to be a legislative right altogether. There are many sects I know, who are religiously scrupulous in this respect; I do not mean to deprive them of any indulgence the law affords; my design is to guard against those who are of no religion. It has been urged that religion is on the decline; if so, the argument is more strong in my favor, for when the time comes that religion shall be discarded, the generality of persons will have recourse to these pretexts to get excused from bearing arms.

Mr. BOUDINOT thought the provision in the clause, or something similar to it, was necessary. Can any dependence, said he, be placed in men who are conscientious in this respect? or what justice can there be in compelling them to bear arms, when, according to their religious principles, they would rather die than use them? He adverted to several instances of oppression on this point, that occurred during the war. In forming a militia, an effectual defence ought to be calculated, and no characters of this religious description ought to be compelled to take up arms. I hope that in establishing this Government, we may show the world that proper care is taken that the Government may not interfere with the religious sentiments of any person. Now, by striking out the clause, people may be led to believe that there is an intention in the General Government to compel all its citizens to bear arms.

Some further desultory conversation arose, and it was agreed to insert the words "in person" to the end of the clause; after which, it was adopted, as was the fourth, fifth, sixth, seventh, and eighth clauses of the fourth proposition; then the fifth, sixth, and seventh propositions were agreed to, and the House adjourned.

FRIDAY, August 21.

#### AMENDMENTS TO THE CONSTITUTION.

The House proceeded in the consideration of the amendments to the constitution reported by

the Committee of the whole, and took up the second clause of the fourth proposition.

Mr. GERRY then proposed to amend it by striking out these words, "public danger," and to insert "foreign invasion;" this being negatived, it was then moved to strike out the last clause, "and if it be committed," &c. to the end. This motion was carried, and the amendment was adopted.

The House then took into consideration the third clause of the seventh proposition, which was adopted without debate.

The eighth proposition was agreed to in the same manner.

The ninth proposition Mr. GERRY proposed to amend by inserting the word "expressly," so as to read "the powers not expressly delegated by the constitution, nor prohibited to the States, are reserved to the States respectively, or to the people." As he thought this an amendment of great importance, he requested the yeas and nays might be taken. He was supported in this by one-fifth of the members present; whereupon they were taken, and were as follows:

YEAS.—Messrs. Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Page, Parker, Partridge, Van Rensselaer, Smith, (of South Carolina,) Stone, Sumter, Thatcher, and Tucker.—17.

NAYS.—Messrs. Ames, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Hartley, Heister, Lawrence, Lee, Madison, Moore, Muhlenburg, Schureman, Scott, Sedgwick, Seney, Sherman, Sylvester, Sinickson, Smith, (of Maryland,) Sturges, Trumbull, Vining, Wadsworth, and Wynkoop.—32.

Mr. SHERMAN moved to alter the last clause, so as to make it read, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

This motion was adopted without debate.

Mr. BURKE.—The majority of this House may be inclined to think all our propositions unimportant, as they seemed to consider that upon which the yeas and noes were just now called. However, to the minority they are important; and it will be happy for the Government, if the majority of our citizens are not of their opinion; but be this as it may, I move you, sir, to add to the articles of amendment the following: "Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections of Senators, or Representatives, except when any State shall refuse or neglect, or be unable, by invasion or rebellion, to make such election."

Mr. AMES thought this one of the most justifiable of all the powers of Congress; it was essential to a body representing the whole community, that they should have power to regulate their own elections, in order to secure a representation from every part, and prevent any improper regulations, calculated to answer party purposes only. It is a solecism in politics to let others judge for them, and

is a departure from the principles upon which the constitution was founded.

Mr. LIVERMORE said, this was an important amendment, and one that had caused more debate in the Convention of New Hampshire than any other whatever. The gentleman just up said it was a solecism in politics, but he could cite an instance in which it had taken place. He only called upon gentlemen to recollect the circumstance of Mr. SMITH'S (of South Carolina) election, and to ask if that was not decided by the State laws? Was not his qualification as a member of the Federal Legislature determined upon the laws of South Carolina? It was not supposed by the people of South Carolina, that the House would question a right derived by their representative from their authority.

Mr. MADISON.—If this amendment had been proposed at any time either in the Committee of the whole or separately in the House, I should not have objected to the discussion of it. But I cannot agree to delay the amendments now agreed upon, by entering into the consideration of propositions not likely to obtain the consent of either two-thirds of this House or three-fourths of the State Legislatures. I have considered this subject with some degree of attention, and, upon the whole, am inclined to think the constitution stands very well as it is.

Mr. GERRY was sorry that gentlemen objected to the time and manner of introducing this amendment, because it was too important in its nature to be defeated by want of form. He hoped, and he understood it to be the sense of the House, that each amendment should stand upon its own ground; if this was, therefore, examined on its own merits, it might stand or fall as it deserved, and there would be no cause for complaint on the score of inattention.

His colleague (Mr. AMES) objected to the amendment, because he thought no Legislature was without the power of determining the mode of its own appointment; but he would find, if he turned to the constitution of the State he was a representative of, that the times, places, and manner of choosing members of their Senate and Council were prescribed therein.

Why, said he, are gentlemen desirous of retaining this power? Is it because it gives energy to the Government? It certainly has no such tendency; then why retain a clause so obnoxious to almost every State? But this provision may be necessary in order to establish a Government of an arbitrary kind, to which the present system is pointed in no very indirect manner: in this way, indeed, it may be useful. If the United States are desirous of controlling the elections of the people, they will in the first place, by virtue of the powers given them by the 4th sect. of the 1st art. abolish the mode of balloting; then every person must publicly announce his vote, and it would then frequently happen that he would be obliged to vote for a man, or "the friend of a man" to whom he was under obligations. If the Government grows de-

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sirous of being arbitrary, elections will be ordered at remote places, where their friends alone will attend. Gentlemen will tell me that these things are not to be apprehended; but if they say that the Government has the power of doing them, they have no right to say the Government will never exercise such powers, because it is presumable that they will administer the constitution at one time or another with all its powers; and whenever that time arrives, farewell to the rights of the people, even to elect their own representatives.

Mr. STONE called upon gentlemen to show what confederated Government had the power of determining on the mode of their own election. He apprehended there were none; for the representatives of States were chosen by the States in the manner they pleased. He was not afraid that the General Government would abuse this power, and as little afraid that the States would; but he thought it was in the order of things that the power should vest in the States respectively, because they can vary their regulations to accommodate the people in a more convenient manner than can be done in any general law whatever. He thought the amendment was generally expected, and therefore, on the principles of the majority, ought to be adopted.

Mr. SMITH (of South Carolina) said, he hoped it would be agreed to; that eight States had expressed their desires on this head, and all of them wished the General Government to relinquish their control over the elections. The eight States he alluded to were New Hampshire, Massachusetts, New York, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina.

Mr. CARROLL denied that Maryland had expressed the desire attributed to her.

Mr. FITZSIMONS.—The remark was not just as it respected Pennsylvania.

Mr. SMITH (of South Carolina) said, the Convention of Maryland appointed a committee to recommend amendments, and among them was the one now under consideration.

Mr. STONE replied there was nothing of the kind noticed on the journals of that body.

Mr. SMITH (of South Carolina) did not know how they came into the world, but he had certainly seen them. As to Pennsylvania, there was a very considerable minority, he understood one-third, who had recommended the amendment. Now, taking all circumstances into consideration, it might be fairly inferred that a majority of the United States were in favor of this amendment. He had studied to make himself acquainted with this particular subject, and all that he had ever heard in defence of the power being exercised by the General Government was, that it was necessary, in case any State neglected or refused to make provision for the election. Now these cases were particularly excepted by the clause proposed by his honorable colleague; and therefore he presumed there was no good argument against it.

Mr. SEDGWICK moved to amend the motion, by giving the power to Congress to alter the times, manner, and places of holding elections, provided the States made improper ones; for as much injury might result to the Union from improper regulations, as from a neglect or refusal to make any. It is as much to be apprehended that the States may abuse their powers, as that the United States may make an improper use of theirs.

Mr. AMES said, that inadequate regulations were equally injurious as having none, and that such an amendment as was now proposed would alter the constitution; it would vest the supreme authority in places where it was never contemplated.

Mr. SHERMAN observed, that the Convention were very unanimous in passing this clause; that it was an important provision, and if it was resigned it would tend to subvert the Government.

Mr. MADISON was willing to make every amendment that was required by the States, which did not tend to destroy the principles and the efficacy of the constitution; he conceived that the proposed amendment would have that tendency, he was therefore opposed to it.

Mr. SMITH (of South Carolina) observed, that the States had the sole regulation of elections, so far as it respected the President. Now he saw no good reason why they should be indulged in this, and prohibited from the other. But the amendment did not go so far; it admitted that the General Government might interfere whenever the State Legislature refused or neglected; and it might happen that the business would be neglected without any design to injure the administration of the General Government; it might be that the two branches of the Legislature could not agree, as happened he believed in the Legislature of New York, with respect to their choice of Senators at their late session.

Mr. TUCKER objected to Mr. SEDGWICK'S motion of amendment, because it had a tendency to defeat the object of the proposition brought forward by his colleague, (Mr. BURKE.) The General Government would be the judge of inadequate or improper regulations; of consequence they might interfere in any or every law which the States might pass on that subject.

He wished that the State Legislatures might be left to themselves to perform every thing they were competent to, without the guidance of Congress. He believed there was no great danger, but they knew how to pursue their own good, as well when left to their discretion, as they would under the direction of a superior. It seemed to him as if there was a strong propensity in this Government to take upon themselves the guidance of the State Governments, which to his mind implied a doubt of their capacity to govern themselves; now his judgment was convinced that the particular State Governments could take care of themselves, and deserved

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more to be trusted than this did, because the right of the citizen was more secure under it.

It had been supposed by some States, that electing by districts was the most convenient mode of choosing members to this House; others have thought that the whole State ought to vote for the whole number of members to be elected for that State. Congress might, under like impressions, set their regulations aside. He had heard that many citizens of Virginia (which State was divided into eleven districts) supposed themselves abridged of nine-tenths of their privilege by being restrained to the choice of one man instead of ten, the number that State sends to this House.

With respect to the election of Senators, the mode is fixed; every State but New York has established a precedent; there is, therefore, but little danger of any difficulty on this account. As to New York, she suffers by her want of decision; it is her own loss; but probably they may soon decide the point, and then no difficulty can possibly arise hereafter. From all these considerations, he was induced to hope Mr. SEDGWICK's motion would be negatived, and his colleague's agreed to.

Mr. GOODHUE hoped the amendment never would obtain. Gentlemen should recollect there appeared a large majority against amendments, when the subject was first introduced, and he had no doubt but that majority still existed. Now, rather than this amendment should take effect, he would vote against all that had been agreed to. His greatest apprehensions were, that the State Governments would oppose and thwart the general one to such a degree as finally to overturn it. Now, to guard against this evil, he wished the Federal Government to possess every power necessary to its existence.

Mr. BURKE was convinced there was a majority against him; but, nevertheless, he would do his duty, and propose such amendments as he conceived essential to secure the rights and liberties of his constituents. He begged permission to make an observation or two, not strictly in order; the first was on an assertion that had been repeated more than once in this House, "That this revolution or adoption of the new constitution was agreeable to the public mind, and those who opposed it at first are now satisfied with it." I believe, sir, said he, that many of those gentlemen who agreed to the ratification without amendments, did it from principles of patriotism, but they knew at the same time that they parted with their liberties; yet they had such reliance on the virtue of a future Congress, that they did not hesitate, expecting that they would be restored to them unimpaired, as soon as the Government commenced its operations, conformably to what was mutually understood at the sealing and delivering up of those instruments.

It has been supposed that there is no danger to be apprehended from the General Government of an invasion of the rights of election.

I will remind gentlemen of an instance in the Government of Holland. The patriots in that country fought no less strenuously for that prize than the people of America; yet, by giving to the States General powers not unlike those in this constitution, their right of representation was abolished. That they once possessed it is certain, and that they made as much talk about its importance as we do; but now the right has ceased, all vacancies are filled by the men in power. It is our duty, therefore, to prevent our liberties from being fooled away in a similar manner; consequently we ought to adopt the clause which secures to the General Government every thing that ought to be required.

Mr. MADISON observed, that it was the State Governments in the Seven United Provinces which had assumed to themselves the power of filling vacancies, and not the General Government; therefore the gentleman's application did not hold.

The question on Mr. SEDGWICK's motion for amending Mr. BURKE's proposition was put and lost.

The question was then put on Mr. BURKE's motion, and the yeas and nays being demanded by the constitutional number, they were taken as follows:

YEAS.—Messrs. Burke, Coles, Floyd, Gerry, Griffin, Groat, Hathorn, Heister, Jackson, Livermore, Matthews, Moore, Page, Parker, Partridge, Van Rensselaer, Seney, Sylvester, Smith, (of South Carolina,) Stone, Sumter, Thatcher, and Tucker.—23.

NAYS.—Messrs. Ames, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gilman, Goodhue, Hartley, Lawrence, Lee, Madison, Muhlenberg, Schureman, Scott, Sedgwick, Sherman, Sinnickson, Smith, (of Maryland,) Sturges, Trumbull, Vining, Wadsworth, and Wynkoop.—28.

So it was determined in the negative.

The House then resumed the consideration of the proposition respecting the apportioning of the representation to a certain ratio, proposed by Mr. AMES.

When, after some desultory conversation, it was agreed to, as follows: "After the first enumeration, required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred. After which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred, after which, the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor less than one representative for fifty thousand persons."

After which the House adjourned.

SATURDAY, August 22.

Memorials from the inhabitants of Trenton, in New Jersey, Lancaster and Yorktown, in Pennsylvania, were presented, stating their

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advantages in soil, climate, situation, population, cultivation, and buildings; and praying that the permanent seat of Congress may be established at the same.

The memorials were ordered to lie on the table.

#### AMENDMENTS TO THE CONSTITUTION.

The House resumed the consideration of the amendments to the constitution.

Mr. TUCKER moved the following as a proposition to be added to the same: "The Congress shall never impose direct taxes but where the moneys arising from the duties, imposts, and excise are insufficient for the public exigencies, nor then until Congress shall have made a requisition upon the States to assess, levy, and pay their respective proportions of such requisitions. And in case any State shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess, and levy such State's proportion, together with the interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed by such requisition."

Mr. PAGE said, that he hoped every amendment to the constitution would be considered separately in the manner this was proposed, but he wished them considered fully; it ought to have been referred to the Committee of eleven, reported upon, and then to the Committee of the whole. This was the manner in which the House had decided upon all those already agreed to; and this ought to be the manner in which this should be decided; he should be sorry to delay what was so nearly completed on any account. The House has but little time to sit, and the subject has to go before the Senate, therefore it requires of us all the expedition we can possibly give it. I would prefer putting a finishing hand to what has been already agreed to, and refer this to the Committee of eleven for their consideration.

Mr. TUCKER.—This proposition was referred to the committee, along with many others in the gross, but the Committee of eleven declined reporting upon it. I understood it to be in any gentleman's power to bring it forward when he thought proper, and it was under this influence that I proposed it, nor do I conceive it to be an improper time. The House is engaged in the discussion of amendments; they have made some progress, and I wish them to go on to complete what they have begun. This may be added without inconvenience, if it meet the sense of the House; but if it does not, I wish my constituents to be acquainted with our decision on the whole subject, and therefore hope it may be decided upon at this time.

Mr. JACKSON.—The gentleman has an undoubted right to bring forward the proposition; but I differ greatly with respect to its propriety. I hope, sir, the experience we have had will be sufficient to prevent us from ever agreeing to a relinquishment of such an essential power. The requisitions of the former Congress were

ineffectual to obtain supplies; they remain to this day neglected by several States. If a sense of common danger, if war, and that a war of the noblest kind, a contest for liberty, were not sufficient to stimulate the States to a prompt compliance, when the means were abundant, by reason of the immense quantities of paper medium, can we ever expect an acquiescence to a requisition in future, when the only stimulus is honesty, to enable the confederation to discharge the debts of the late war?

But suppose requisitions were likely to be, in some degree, complied with, (which, by the by, I never can admit,) in every case where a State had neglected or refused to furnish its quota, Congress must come in, assess, and collect it. Now, in every such case, I venture to affirm that jealousies would be excited, discontent would prevail, and civil wars break out. What less can gentlemen picture to themselves, when a Government has refused to perform its obligations, but that it will support its measures by the point of the bayonet.

Without the power of raising money to defray the expenses of Government, how are we to be secure against foreign invasion? What, can a Government exert itself, with its sinews torn from it? We can expect neither strength nor exertion; and without these are acquired and preserved, our union will not be lasting; we shall be rent asunder by intestine commotion, or exterior assault; and when that period arrives, we may bid adieu to all the blessings we have purchased at the price of our fortunes, and the blood of our worthiest heroes.

Mr. LIVERMORE thought this an amendment of more importance than any yet obtained; that it was recommended by five or six States, and therefore ought to engage their most serious consideration. It had been supposed that the United States would not attempt to levy direct taxes; but this was certainly a mistake. He believed nothing but the difficulty of managing the subject would deter them. The modes of levying and collecting taxes pursued by the several States are so various, that it is an insuperable obstacle to an attempt by the General Government.

He was sensible that the requisitions of the former Congress had not been fully complied with, and the defect of the confederation was, that the Government had no powers to enforce a compliance. The proposition now under consideration obviated that difficulty. Suppose one or two States refused to comply, certainly the force of the others could compel them, and that is all that ought to be required; because it is not to be supposed that a majority of the States will refuse, as such an opposition must destroy the Union. He hoped the States would be left to furnish their quotas in a manner the most easy to themselves, as was requested by more than half of the present Union.

Unless something more effectual was done to improve the constitution, he knew his constituents would be dissatisfied. As to the amend-

ments already agreed to, they would not value them more than a pinch of snuff; they went to secure rights never in danger.

Mr. PAGE wished the proposition might be recommitted, for he was certain there was neither time nor inclination to add it to those already agreed upon.

He observed that the warmest friends to amendments differ in opinion on this subject; many of them have ceased urging it, while others have become strenuous advocates for the reverse. The most judicious and discerning men now declare that the Government ought never to part with this power. For his part, experience had convinced him that no reliance was to be had on requisitions, when the States had treated them with contempt in the hour of danger, and had abundant means of compliance. The public credit stood at this moment in the utmost need of support, and he could not consent to throw down one of its strongest props. He thought there was no danger of an abuse of this power, for the Government would not have recourse to it while the treasury could be supplied from any other source; and when they did, they would be studious of adapting their law to the convenience of the States. He hoped, when the gentleman returned home to New Hampshire, his constituents would give him credit for his exertions, and be better satisfied with the amendments than he now supposed them to be.

Mr. SUMTER felt himself so sensibly impressed with the importance of the subject, that if he apprehended the proposition would not have a fair discussion at this time, he would second the motion of commitment, and had not a doubt but the House would acquiesce in it.

Gentlemen had said that the States had this business much at heart. Yes, he would venture to say more, that if the power was not relinquished by the General Government, the State Governments would be annihilated. If every resource is taken from them, what remains in the power of the States for their support, or for the extinguishment of their domestic debt?

Mr. GERRY thought if the proposition was referred, that it ought to go to a Committee of the whole, for he wished it to have a full and candid discussion. He would have something left in the power of every State to support itself, independent of the United States, and therefore was not satisfied with the amendment proposed. The constitution, in its original state, gives to Congress the power of levying and collecting taxes, duties, imposts, and excise. The fault here is, that every thing is relinquished to the General Government. Now, the amendment gives the same power, with qualification, that there shall have been a previous requisition. This by no means came up to his idea; he thought that some particular revenue ought to be secured to the States, so as to enable them to support themselves.

He apprehended, when this clause in the

constitution was under the consideration of the several State conventions, they would not so readily have ratified it, if they had considered it more fully in the point of view in which he had now placed it; but if they had ratified it, it would have been under a conviction that Congress would admit such amendments as were necessary to the existence of the State Governments. At present, the States are divested of every means to support themselves. If they discover a new source of revenue, after Congress shall have diverted all the old ones into their treasury, the rapacity of the General Government can take that from them also. The States can have recourse to no tax, duty, impost, or excise, but what may be taken from them whenever the Congress shall be so disposed; and yet gentlemen must see that the annihilation of the State Governments will be followed by the ruin of this.

Now, what is the consequence of the amendment? Either the States will or will not comply with the requisitions. If they comply, they voluntarily surrender their means of support; if they refuse, the arms of Congress are raised to compel them, which, in all probability, may lay the foundation for civil war. What umbrage must it give every individual to have two sets of collectors and tax-gatherers surrounding his doors; the people then soured, and a direct refusal by the Legislature, will be the occasion of perpetual discord. He wished to alter this proposition in such a manner as to secure the support of the Federal Government and the State Governments likewise, and therefore wished the amendment referred to a Committee of the whole House.

Mr. TRUCKER.—I do not see the arguments in favor of giving Congress this power in so forcible a light as some gentlemen do. It will be to erect an *imperium in imperio*, which is generally considered to be subversive of all Government. At any time that Congress shall exercise this power, it will raise commotions in the States; whereas, the mode of requisitions will operate in so easy a way, by being consonant to the habits of the people, that the supplies will be sooner realized in the treasury by this means than by any other. It will require a length of time to form a uniform system of taxation, that shall operate equally and justly through all the States; though I doubt the possibility of forming such a system. It has been said, that requisitions have not been complied with in former times, but it is to be hoped that there will not be so much difficulty in future. The supplies from the impost will greatly diminish the requisitions; besides, should any of the States refuse to comply, they will be liable to the exercise of the power of Congress in the very heart of their country. This power will be so disagreeable, that the very dread of it will stimulate the States to an immediate and prompt compliance with the requisitions. This amendment has been proposed by several of the States, and by some of the most important



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ones. For this and other reasons that have been offered on the subject, I hope the amendment will be adopted.

Several methods were proposed for disposing of this question for the present; but the motion for its lying on the table being put and negatived, Mr. PARTRIDGE, referring to his instructions, was solicitous that this amendment should not be too precipitately decided upon, and moved the previous question, which was negatived.

Mr. SEDGWICK said, that he believed his mind was as strongly impressed with the force of the instructions he had received from his constituents, as that of other gentlemen. But, sir, a Government entrusted with the freedom and the very existence of the people, ought surely to possess, in a most ample degree, the means of supporting its own existence; and as we do not know what circumstances we may be in, or how necessary it may be for Congress to exercise this power, I should deem it a violation of the oath I have taken to support the constitution were I now to vote for this amendment.

Mr. SHERMAN remarked, that if Congress should exercise this power, the taxes would be laid by the immediate representatives of the people; neither would it be necessary to adopt one uniform method of collecting direct taxes. The several States might be accommodated by a reference to their respective modes of taxation.

The question upon the paragraph being called for from every part of the House, the yeas and nays were taken.

YEAS.—Messrs. Burke, Coles, Floyd, Grout, Hathorn, Livermore, Van Rensselaer, Sunter, and Tucker.—9.

NAYS.—Messrs. Ames, Benson, Brown, Cadwalader, Carroll, Clymer, Fitzsimons, Foster, Gale, Gerry, Gilman, Goodhue, Hartley, Heister, Jackson, Lawrence, Lee, Madison, Matthews, Moore, Muhlenburg, Page, Parker, Partridge, Schureman, Scott, Sedgwick, Seney, Sherman, Sylvester, Sinnickson, Smith, of Maryland, Smith, of South Carolina, Stone, Sturges, Thatcher, Trumbull, Vining, and Wadsworth.—39.

Mr. TUCKER proposed the following amendment to the constitution:

Article 1, section 8, clause 9, strike out the words, "tribunals superior to the Supreme Court," and insert the words "courts of admiralty."

And on the question being put, it passed in the negative.

He then moved for a further amendment to the constitution, as follows:

In the third section of the sixth article insert the word "other" between the word "no" and the word "religious."

And on the question that the House do agree to the said amendment, it passed in the negative.

Mr. GERRY moved to add to the amendments already agreed to the following articles, to wit:

"That Congress erect no company of merchants with exclusive advantages of commerce." And on the question that the House do agree to the said proposed article, it passed in the negative.

He introduced another motion, to add to the amendments already agreed to the following article, to wit:

"Congress shall at no time consent that any person holding an office of trust or profit under the United States shall accept of a title of nobility or any other title or office from any King, Prince, or foreign State."

And on the question being put, it was negatived.

Mr. BENSON introduced a resolution to the following purport:

*Resolved by the House of Representatives of the United States in Congress assembled, That the following amendments to the constitution of the United States having been agreed to by two-thirds of both Houses, be submitted to the Legislatures of the several States; which, when ratified, in whole or in part, by three-fourths of the said Legislatures, shall be valid to all intents and purposes as parts of the said constitution.*

This resolution was referred to a committee consisting of Messrs. BENSON, SHERMAN, and SEDGWICK, who were directed to arrange the said amendments and make report thereof.

#### ADJOURNMENT.

Mr. GOODHUE moved that the report of the joint committee on the adjournment be made the order of the day for Monday next; passed in the affirmative.

#### TREASURY BILL.

The committee on the part of the House appointed to confer with the Senate on their amendment to the Treasury bill, being called on to report, Mr. MADISON reported verbally, that the committee had met and conferred upon the subject; that the members on the part of the Senate stated the reasons on which their amendment was founded, which not being satisfactory to the committee on the part of the House, they submitted certain propositions to the committee of the Senate, who, on their part, offered none. Mr. MADISON further reported, that it is the opinion of the committee on the part of the House, that it would not be right for the House to recede from their disagreement.

MONDAY, August 24.

Mr. FITZSIMONS, from the committee appointed, according to order, presented a bill establishing the salaries of the executive officers of Government, with their assistants and clerks, which was received and read the first time.

Mr. BENSON, from the committee appointed for the purpose, reported an arrangement of the articles of amendment to the constitution of the United States, as agreed to by the House on Friday last; also, a resolution prefixed to the same, which resolution was twice read and agreed to by the House, as follows:

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*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses deeming it necessary,) That the following articles be proposed to the Legislatures of the several States as amendments to the constitution of the United States, all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said constitution.*

*Ordered, That the clerk of this House do carry to the Senate a fair engrossed copy of the said proposed articles of amendment, and desire their concurrence.*

## ADJOURNMENT.

The House proceeded to the consideration of the report of the joint committee, on the adjournment.

Mr. VINING was against taking up this report. He thought it appeared absurd to enter into a discussion of the question at this moment; it would necessarily bring on a great deal of debate, and consume much time, and would likewise counteract the object of gentlemen entirely, while so many important subjects were yet undecided, which must be attended to and finished previous to a recess. He moved for a postponement, in order to take up the Treasury bill.

Mr. HARTLEY said, that the honorable gentleman's remarks furnished the best argument for coming to a determination upon the adjournment at the present time, as it was the best way to confine the attention of the House to the essentials which claimed their immediate attention and decision.

Mr. SEDGWICK was in favor of deciding on the report immediately; he contended that the public business would be expedited thereby: this remark, he said, was founded upon experience. When the time is fixed, and gentlemen are fully impressed with the importance of despatching business in a given time, they will exert themselves to the utmost. He had known as much business transacted in the Assembly of Massachusetts in one week, and as well done, as had been before in three. He further observed that many gentlemen were anxious to go home; that the sickly season was approaching, and that if an adjournment does not take place, the members will be so thinned off, that in all probability a much less number than the present will be left to do business.

The motion of Mr. VINING was withdrawn, and

Mr. MADISON proposed the following resolution:

*Resolved, That when this House does adjourn on \_\_\_\_\_ of September next, they will adjourn to the first Monday in December next.*

Mr. SCOTT objected to this. He said it was too short a period; it would not admit of the members who lived at the extremities of the Union to go home and return by the time mentioned.

Mr. LIVERMORE was also opposed to it, and proposed to adjourn on the first of September.

Mr. GOODHUE said, he conceived those gentlemen who talked of adjourning on the first of September did not wish for any adjournment at all. He contended for a short adjournment, as proposed by the resolution; some relaxation from business is necessary; it is also expedient to consult our constituents; some alterations may be found necessary in the laws we have enacted. We can judge better of that necessity from our observation and conversation with our constituents in our respective States, than we can from any other information.

Mr. AMES was in favor of the motion, and proposed to fill the blank with 22d September, which was carried in the affirmative.

Mr. SUMNER objected to the shortness of the time of adjournment. The business now before us cannot be completed, if we may judge by what has already taken place. The recess will be so short, that none of the advantages expected to be derived from consulting our constituents can be realized by those from a remote quarter of the Union. Short recesses are attended with great expense. Our conduct in adjourning for so short a time, and leaving so much business unfinished, can never be approved by the people. Gentlemen talk of their private concerns; I do not think that any member has made a greater proportionable sacrifice than I have. But the public good is to be chiefly regarded; we ought not to be influenced by our private concerns. He hoped that some plan of accommodation would take place.

Mr. AMES introduced the foregoing resolutions in the form following, viz: "That the President of the Senate, and the Speaker of the House of Representatives, do adjourn their respective Houses of Congress on the 22d of September next, to meet on the first Monday in December next."

Mr. JACKSON said that the time was too short; it would not admit of the members who come from a distance to consult their constituents, and so far the advantage of an adjournment would be lost. Let us view the matter in another point of light; alarms have been spread respecting the compensations; this will increase those alarms, for it will be said that a very great expense is needlessly incurred. If we sit two months longer, the public business would be so far completed as to supersede the necessity of meeting in December. He thought the adjournment ought to be to the first Monday in March, and the constitution would warrant this; mutual concessions ought to be made for the accommodation of all. At the time proposed, the cold season will be advanced; the ice and snow will prevent the gentlemen at the eastward and northward from attending to their private business; hence that season will be adapted to their convenience. But let us look to the members from the southward; it ought to be considered that their relaxed constitutions will be greatly exposed by the intense cold of this northern cli-

inducements as would influence the first abilities to accept of the appointment; and urged the importance of making the Judges independent. The Judicial department he considered to be the sheet anchor of the Constitution; a department of the first consequence to the Union; a department, which, in all civilized countries, is placed in an eligible and independent situation.

Mr. MADISON said, he did not wish to trouble the committee with a recapitulation of observations respecting the first abilities; but he would observe, that it ought to be considered, that these Judges must make a new acquisition of legal knowledge. They must have a familiar acquaintance with the laws of every State; they must understand the nature of treaties, and especially the treaties now subsisting between these States and foreign countries. These studies will absorb a great deal of their time.

When we consider the duties that will devolve upon them, they strike the mind as being of the greatest magnitude: they are the guardians of the Laws and of the Constitution of the United States, and, I trust, of the individual States also.

When we consider the great and important causes, in which opulent individuals will be parties, that are to come under their cognizance, we must be struck with the propriety of shielding these Judges from all possible assaults of temptation: to these, if we add, important cases of treaties, in which the greatest interests will be involved, the idea will receive additional force. Upon the whole, considering the circumstances of the people, he said, he should disagree to the sum proposed by the committee; but, at the same time, should not agree to the proposed reduction.

On the question for striking out 4500, it was carried in the affirmative. It was then proposed to fill the blank with 4000, which was agreed to.

After going through the bill, and making alterations in almost every salary, upon the foregoing principles, the committee rose, and reported the bill as amended.

After which the House adjourned.

SATURDAY, September 19.

The engrossed bill for amending part of the act to regulate the collection of the duties, was read the third time and passed.

A bill, making provision for the invalid Pensioners of the United States, was read the second time.

A message from the Senate informed the House, that they had passed an act to regulate recesses in the courts of the United States, to which they request the concurrence of the House; also, that they agree to some, and disagree to others, of the amendments proposed by this House to the bill for establishing the Judicial Courts of the United States.

Mr. PARKER, from the committee appointed for the purpose, presented a bill concerning the

importation of certain persons, prior to the year 1808, which was read the first time; and, on motion, ordered, that the further consideration of the said bill be postponed until the next session of Congress.

The House then took into consideration the amendments to the Constitution, as amended by the Senate; and, after some time spent thereon, the business was postponed till tomorrow.

The House then proceeded to consider the amendments reported yesterday, by the committee of the whole, to the bill allowing compensation to the Judges and Attorney General, when the salary of 4000 dollars to the Chief Justice, agreed to yesterday by the committee of the whole, was reduced to 3500; and some other similar alterations were made, when it was ordered, that the bill be engrossed; and, after some time, the bill was read a third time and passed the House. Adjourned.

MONDAY, September 21.

A message from the Senate informed the House, that they recede from their amendment to the bill for allowing compensation to the President and Vice-President of the United States; that they have also passed the Judges, Compensation bill, with several amendments; to which they request the concurrence of the House.

The House then proceeded to consider the amendments:

Whereupon, *Resolved*, That this House agree to the first, second, and third amendments; and disagree to the fourth amendment of the said bill.

Another message from the Senate was received, informing the House, that they have agreed to the following resolution; to which they desire the concurrence of the House.

*Resolved*, That it be recommended to the Legislatures of the several States, to pass laws making it expressly the duty of the keepers of their gaols, to receive, and safe keep therein, all prisoners committed under the authority of the United States, until they shall be discharged by the due course of the laws thereof; under the like penalties, as in case of prisoners committed under the authority of such States respectively; the United States to pay for the use, and safe-keeping of such gaols, at the rate of fifty cents per month, for each prisoner, that shall, under their authority, be committed thereto, during the time such prisoners shall be therein confined; also, to support such of said prisoners, as shall be committed for offences.

The said resolution being twice read, was agreed to by the House.

A bill making appropriations for the service of the present year, was read a second time, and ordered to be referred to a committee of the whole House tomorrow.

The House then proceeded to consider the report of the committee upon the petition of the Baron de Glaubeck:

Whereupon, it was

*Resolved*, That the Baron de Glaubeck be allowed

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*Permanent Seat of Government.*

[H. OF R.]

the pay of a Captain, from the ninth day of March, 1781, to the twenty-fourth day of August, 1782, having undertaken the command thereof at the request, and by order of the Commander-in-chief of the Southern Army.

Another message was received from the Senate, informing the House, that the Senate recede from their fourth amendment to the Judges and Attorney General's compensation bill; also, from their third amendment to the Constitution of the United States; and do insist on the other amendments to the said articles disagreed to by the House; and that they have agreed to a conference on this subject.

The House then proceeded to consider the report from the committee, on the memorial and petition of the public creditors of Pennsylvania; after which, they came to the following resolutions:

*Resolved*, That this House consider an adequate provision for the support of public credit as a matter of high importance to the national honor and prosperity.

*Resolved*, That the Secretary of the Treasury be directed to prepare a plan for that purpose, and to report the same to this House at its next meeting.

On motion, it was then ordered, that the Secretary of the Treasury be directed to apply to the Supreme Executives of the several States, for statements of their public debts—of the funds provided for the payment, in whole, or in part, of the principal and interest thereof; and of the amount of the loan-office certificates, or other public securities of the United States, in the State Treasuries respectively; and that he report to the House such of said documents as he may obtain, at the next session of Congress.

The House then proceeded to reconsider such of the amendments to the Judiciary bill, as had been disagreed to by the Senate; and adopted them without debate.

The report of the Secretary of the Treasury on the necessary appropriations for the current year was received, read, and referred to Messrs. WADSWORTH, SMITH, (of Maryland,) and SMITH (of South Carolina.)

The House then resumed the consideration of the amendments proposed by the Senate to the several articles of amendments to the Constitution of the United States; some of which they agreed to, and disagreed to others, two-thirds of the members present concurring in each vote; whereupon, a committee of conference was desired with the Senate, on the subject matter of the amendments disagreed to; and Messrs. MADISON, SHERMAN, and Vining were appointed managers on the part of the House.

MR. JACKSON moved for leave to bring in a bill to alter the time of the annual meeting of Congress; this motion was agreed to.

#### SEAT OF GOVERNMENT.

And then the House proceeded to consider the bill to establish the seat of Government of

the United States, which lay on the table, with the amendments, as reported by the committee of the whole House.

MR. SMITH proposed to confine the choice of a situation on the banks of the Susquehanna, between Checkiselongo creek and the mouth of the river. He was seconded by MR. SENEY.

MR. HARTLEY hoped the committee would limit it as near the spot contemplated as possible.

MR. HEISTER said, he moved, the other day, for a particular spot on the river, which he conceived entitled to a preference; if the proposed motion obtained, that place would be excluded, and he should hesitate respecting his vote upon the bill.

MR. SENEY by no means wished to embarrass the committee; if the motion proposed would, any how, have that effect, he should withdraw his second.

MR. MADISON felt himself compelled to move for striking out that part of the bill which provided that the temporary residence of Congress should continue at New York; as he conceived it irreconcilable with the spirit of the Constitution. If it was not from viewing it in this light, he should have given the bill no further opposition; and now he did not mean to enter on the merits of the main question.

From the Constitution, it appeared that the concurrence of the two Houses of Congress was sufficient to enable them to adjourn from one place to another; nay, the legal consent of the President was, in some degree, prescribed in the 7th section of article 1st, where it is declared, that every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment,) shall be presented to the President of the United States, and approved by him, before the same shall take effect. Any attempt, therefore, to adjourn by law, is a violation of that part of the Constitution which gives the power, exclusively, to the two branches of the Legislature. If gentlemen saw it in the same light, he flattered himself they would reject that part of the bill; and, however little they valued the reflection that this city was not central, which had been so often urged, they would be guided by arguments springing from a superior source.

He would proceed to state the reasons which induced him to be of this opinion; it is declared in the Constitution, that neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting; from hence he inferred, that the two Houses, by a concurrence, could adjourn for more than three days, and to any other place which they thought proper; by the other clause he had mentioned, the Executive power is restrained from any interference with the Legislative on this subject; hence, he concluded, it would be dangerous to attempt to give to the President a power which the Consti-

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*Amendments to the Constitution.*

[H. OF R.]

It was ordered, that leave be given to bring in a bill, to explain and amend the act for registering and clearing vessels, and regulating the coasting trade; Messrs. BLAND, BENSON, and GOODHUE were appointed to prepare and bring in the same. Adjourned.

WEDNESDAY, Sept. 23.

The engrossed bill for recognising and adapting to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, was read the third time and passed the House.

The House resolved itself into a committee of the whole on the bill making appropriations for the service of the present year; Mr. BOUDINOT in the Chair; and after some time spent in considering the same, the committee rose and reported that they had, according to order, had the said bill under consideration, and made an amendment thereto; which being twice read, was agreed to by the House; and the bill was ordered to be engrossed, with the amendment, and read the third time to-morrow.

Mr. BLAND, from the committee appointed for the purpose, presented a bill to explain and amend the act for registering and clearing vessels and regulating the coasting trade, which was read the first and second time, and ordered to be engrossed and read the third time to-morrow.

The House resolved itself into a Committee of the whole on the bill to alter the time for the annual meeting of Congress, Mr. BOUDINOT in the Chair; and after some time being spent in considering the same, the Committee reported, that they had had the said bill under consideration, gone through the same, and made several amendments thereto; which were twice read, and agreed to by the House.

The said bill, with the amendments, were ordered to be engrossed and read the third time to-morrow.

The House then resolved itself into a Committee of the whole House on the bill to regulate processes in the courts of the United States, Mr. BOUDINOT in the Chair; and after some time spent therein, the committee rose and reported progress. Adjourned.

THURSDAY, Sept. 24.

The two following engrossed bills were read the third time and passed, to wit, the bill to explain and amend an act for registering and clearing vessels, and regulating the coasting trade, and the bill to alter the time for the annual meeting of Congress.

The engrossed bill making appropriations for the service of the present year being read the third time, was ordered to be recommitted to a Committee of the whole House this day.

A committee was appointed to ascertain the amount of the compensations due to the members of this House respectively, and of the sev-

eral officers thereof, together with the contingent expenses of the session; consisting of Messrs. FITZSIMONS, SMITH (of Maryland) and BALDWIN.

Mr. GERRY, from the committee to whom it was referred to prepare an estimate of the gross amount and net produce of the Impost and Tonnage duties for one year, made a report, which was read and ordered to lie on the table.

## AMENDMENTS TO THE CONSTITUTION.

The House proceeded to consider the report of a Committee of Conference, on the subject, matter of the amendments depending between the two Houses to the several articles of amendment to the Constitution of the United States, as proposed by this House: whereupon, it was resolved, that they recede from their disagreement to all the amendments; provided that the two articles, which, by the amendments of the Senate, are now proposed to be inserted as the third and eighth articles, shall be amended to read as follows:

ART. 3. Congress shall make no law respecting an establishment of religion, or prohibiting a free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ART. 8. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation—to be confronted with the witnesses against him—to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

And provided also, that the first article be amended, by striking out the word "less" in the last place of the said article, and inserting, in lieu thereof, "more."

On the question that the House agree to the alteration of the eighth article, in the manner aforesaid, the yeas and nays were called, and are as follow:

YEAS—Messrs. Ames, Baldwin, Benson, Boudinot, Brown, Cadwalader, Carroll, Clymer, Contee, Fitzsimons, Foster, Gale, Gilman, Goodhue, Griffin, Hartley, Lee, Leonard, Madison, Moore, Muhlenberg, Parker, Partridge, Schurman, Scott, Seney, Sherman, Sylvester, Simnickson, Smith, (of Maryland,) Smith, (of South Carolina,) Stone, Thatcher, Trumbull, Vining, White, and Wynkoop.—37.

NAYS—Messrs. Bland, Burke, Coles, Floyd, Gerry, Grout, Hathorn, Jackson, Livermore, Matthews, Page, Van Rensselaer, Sumter, and Tucker.—14.

On motion, it was resolved, that the President of the United States be requested to transmit to the Executives of the several States which have ratified the Constitution, copies of the amendments proposed by Congress; to be added thereto, and like copies to the Executives of the States of Rhode Island and North Carolina.