

JONATHAN ELLIOT

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and including Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. 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, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina six, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall choose their Speaker and other Officers, and shall have the sole Power of Impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years, and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Clases. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Course of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator, who shall not have attained to the Age of thirty Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless he be equally divided.

The Senate shall choose their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

THE DEBATES IN THE SEVERAL STATE CONVENTIONS ON THE ADOPTION OF THE FEDERAL CONSTITUTION

VOLUME 2

The Debates In The Several
State Conventions On The
Adoption Of The Federal
Constitution

Volume 2

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Convention of Massachusetts

DEBATES IN THE CONVENTION OF THE COMMONWEALTH OF MASSACHUSETTS, ON THE ADOPTION OF THE FEDERAL CONSTITUTION.

In Convention,
Boston,

January 9, 1788

On motion, *Ordered*, That the Hon. Nathaniel Gorham, John Carnes, Esq., Dr. Charles Jarvis, Hon. Tristram Dalton, Hon. Walter Spooner, Hon. Caleb Davis, and Hon. John Taylor, be a committee to receive the returns of the several towns.

Ordered, That a committee of five persons be appointed to collect, count, and sort the votes for a secretary; and the Hon. Caleb Davis, Tristram Dalton, Aaron Wood, Eleazer Brooks, and Charles Turner, Esquires, were appointed.

The Convention then proceeded to the choice of a secretary by ballot, and, the votes being taken, it appeared that George Richards Minot, Esq. was chosen, who accepted of the choice, and was duly sworn to qualify him for exercising the duties of that office.

Voted, That Mr. Jacob Kuhn, the messenger of the General Court, be appointed messenger to this Convention.

Voted, That five monitors be chosen, and the following gentlemen were elected, viz., the Hon. Noah Goodman, Mr. Phaniel Bishop, Mr. Daniel Cooley, Hon. Azor Orne, and Mr. Thomas Davis.

Voted, That a committee of seven be appointed to prepare rules and orders for the regulation of the Convention. The Hon. Nathaniel Gorham, Dr. Charles Jarvis, Hon. John Taylor, Mr. William Widgery, Hon. Tristram Dalton, Hon Theodore Sedgwick, and James Bowdoin, Jun., Esq., were then appointed on the said committee.

Afternoon. — The Convention proceeded to the choice of a president by ballot, according to assignment; and, a committee of five being appointed to collect, count, and sort the votes, it appeared that his Excellency, John Hancock, was chosen.

Voted, That the Convention proceed to the choice of a vice-president. — The Convention then proceeded to the choice of a vice-president accordingly, by ballot; and, a committee being appointed to collect, count, and sort the votes, it appeared that the Hon. William Cushing was chosen; who by request took the chair.

Voted, That a committee of five be appointed to wait upon his Excellency, John Hancock, and acquaint him that this Convention have made choice of him for their president, and to request his Excellency's acceptance of that appointment.

On motion of the Hon. Mr. Adams, *Voted*, That the Convention will attend morning prayers, daily, and that the gentlemen of the clergy, of every denomination, be requested to officiate in turn.

The members from Boston were appointed to wait upon them, and acquaint them thereof.

A vote of the church in Brattle Street, in Boston, offering the use of their meeting-house to the Convention, being communicated by the Hon. Mr. Bowdoin, *Voted*, That a committee of nine be appointed, to view the accommodations of the said meeting-house, and report.

Mr. Sedgwick, Mr. Lincoln, Dr. Taylor, Gen. Brooks of Lincoln, Dr. Jarvis, Dr. Holton, Mr. Strong, Mr. Nason, and Mr. Thatcher, were then appointed on said committee.

Thursday, *January* 10. — The committee appointed to examine the returns of delegates, desired a rule, whereby they might determine whether the towns had exceeded their privilege to send members. After a long debate, a motion was made, that the valuation of the different towns, returned in 1784, should be the rule to determine the number.

An offer having been made, by the church in Brattle Street, of that meeting-house, for the use of the Convention, and a committee having viewed the accommodation, it was voted that when the Convention do adjourn, that it adjourn to meet at three o'clock, at the meeting-house in Brattle Street.

Friday, *11th*. — Committees were raised to inquire respecting the contested elections, and enjoined to sit immediately.

Afternoon. — The house in which the Convention were sitting, on account of the difficulty of hearing, being found inconvenient, a committee was raised to provide one more suitable, after which it was voted to adjourn to Saturday morning, then to meet in the representatives' chamber.

Saturday, *12th*. — The Honorable Convention met again in the representatives' chamber, where they decided all the disputed elections in favor of the members returned. The sense of the Convention was twice taken against removing to any other place.

Monday, *January* 14. — The Constitution for the United States of America, as reported by the Convention of delegates, held at Philadelphia, in May last, together with the resolutions of the General Court of this commonwealth, for calling a Convention, agreeably to the recommendation of Congress, were ordered to be read.

On motion of Mr. Strong, *Voted*, That this Convention, sensible how important it is that the great subject submitted to their determination should be discussed and considered with moderation, candor, and deliberation, will enter into a free conversation on the several parts thereof,

by paragraphs, until every member shall have had an opportunity to express his sentiments on the same; after which the Convention will consider and debate at large the question whether this Convention will adopt and ratify the proposed Constitution, before any vote is taken expressive of the sense of the Convention, upon the whole or any part thereof.

The resolve of the General Court of this commonwealth, of March, 1787, appointing delegates for the Convention of the states, held at Philadelphia, was ordered to be read.

A motion was made and passed, that the Hon. Elbridge Gerry be requested to take a seat in the Convention, to answer any questions of fact, from time to time, that the Convention may ask, respecting the passing of the Constitution.

Afternoon. — *Ordered,* That a committee of three be appointed to wait upon the Hon. Elbridge Gerry, and acquaint him with the vote of this morning, requesting him to take a seat in the Convention, to answer to any questions of fact, from time to time, that the Convention may ask, respecting the passing the Constitution.

Agreeably to the resolution passed in the forenoon, the Convention proceeded to consider the first section of the Constitution, and, after a short conversation, entered upon the discussion of the second section, the first paragraph of which caused a lengthy debate.

The Convention entered upon the consideration of the proposed Constitution, and, having debated thereon through the day, postponed the further consideration thereof to the next morning.

It had been mentioned by some gentlemen, that the introduction of tyranny into several nations had been by lengthening the duration of their parliaments or legislative bodies; and the fate of those nations was urged as a caution against lengthening the period for which Congress is to be chosen. Mr. SEDGWICK wished to know what were the nations which had been thus deprived of their liberties; he

believed they were few in number; in fact, he did not recollect any. After showing, by several examples, how nations had been deprived of their liberties, he continued, — Is it not necessary, Mr. President, that the federal representatives should be chosen for two years? Annual elections, in a single state, may be the best for a variety of reasons; but when the great affairs of thirteen states — where their commerce may be extended, and where it is necessary to be restricted — what measures may be most expedient, and best adapted to promote the general prosperity thereof, are to be the objects of deliberation, is not such a period too short? Can a man, called into public life, divest himself of local concerns, and instantly initiate himself into a general knowledge of such extensive and weighty matters? After several other arguments in favor of the section, he begged the indulgence of the Convention while he made a personal observation: “It has been given out, sir, by several persons, that I have said the Constitution must go down, right or wrong; I beg leave to declare, sir, on my honor, that, so far from having made such a declaration, the idea of it has not ever entered my mind.”

Mr. G. DENCH wished to know how the representation was secured; as, by the 4th section, Congress were empowered to make or alter the regulation of the times, places, and manner of holding elections. Mr. D. was continuing, but was called to order by Mr. Parsons, who said the subject in debate was the *expediency of biennial elections*, and that an answer to the gentleman from Hopkinton would more properly be given when the 4th section was under consideration.

Dr. TAYLOR. Mr. President, I am opposed to *biennial*, and am in favor of *annual* elections. Annual elections have been the practice of this state ever since its settlement, and no objection to such a mode of electing has ever been made. It has, indeed, sir, been considered as the safeguard of the liberties of the people; and the annihilation of it, the avenue

through which tyranny will enter. By the Articles of Confederation, annual elections are provided for, though we have additional securities in a right to recall any or all of our members from Congress, and a provision for rotation. In the proposed Constitution, there is no provision for rotation; we have no right by it to recall our delegates. In answer to the observations, that, by frequency of elections, good men will be excluded, I answer, if they behave well, it is probable they will be continued; but if they behave ill, how shall we remedy the evil? It is possible that rulers may be appointed who may wish to root out the liberties of the people. Is it not, Mr. President, better, if such a case should occur, that at a short period they should politically die, than that they should be proceeded against by impeachment? These considerations, and others, said the doctor, make me in favor of annual elections; and the further we deviate therefrom, the greater is the evil.

The Hon. Mr. SPRAGUE was in favor of the section as it stood. He thought the same principles ought not to guide us when considering the election of a body whose jurisdiction was coëxtensive with a great continent, as when regulating that of one whose concerns are only those of a single state.

Mr. T. DAWES, after a short exordium, said he had not heard it mentioned by any gentleman who had spoken in the debate, that the right of electing representatives in the Congress, as provided for in the proposed Constitution, will be the acquisition of a new privilege by the people, as it really will be. The people will then be immediately represented in the federal government; at present they are not; therefore it will be in favor of the people, if they are chosen for forty instead of two years; — and he adduced many reasons to show that it would not conduce to the interests of the United States, or the security of the people, to have them for a shorter period than two years.

The Hon. Mr. WHITE said he was opposed to the section; he thought the security of the people lay in frequent

elections; for his part, he would rather they should be for six months than for two years; — and concluded by saying he was in favor of annual elections.

Dr. JARVIS, Gen. BROOKS, Gen. HEATH, and Mr. TURNER, each spoke a few words on the subject, when a motion was made to postpone the consideration of the 2d section until the next meeting, which passing, the Convention adjourned.

Tuesday, *January* 15. — A motion was made by Mr. DANA, that the vote of yesterday, prescribing the manner of proceeding in the consideration of the Constitution, should be reconsidered, for the purpose of making the following addition thereto, viz.: —

“It is, nevertheless, the opinion of this Convention, that, if any member conceives any other clause or paragraph of the Constitution to be connected with the one immediately under consideration, that he have full liberty to take up such other clause or paragraph for that purpose.” And the question of reconsideration, being put, passed in the affirmative.

On the question whether the addition should be made, it was determined in the affirmative.

The Hon. Mr. STRONG rose to reply to the inquiry of the Hon. Mr. Adams, why the alteration of *elections* from annual to biennial was made; and to correct an inaccuracy of the Hon. Mr. Gorham, who, the day before, had said that *that* alteration was made to gratify South Carolina. He said he should then have arisen to put his worthy colleague right, but his memory was not sufficiently retentive to enable him immediately to collect every circumstance. He had since recurred to the original plan. When the subject was at first discussed in Convention, some gentlemen were for having the term extended for a considerable length of time; others were opposed to it, as it was contrary to the ideas and customs of the Eastern States; but a majority was in favor of three years, and it was, he said, urged by the Southern States, which are not so populous as the Eastern,

that the expense of more frequent elections would be great; — and concluded by saying that a general concession produced the term as it stood in the section, although it was agreeable to the practice of South Carolina.

Mr. AMES. I do not regret, Mr. President, that we are not unanimous upon this question. I do not consider the diversity of sentiment which prevails as an impediment in our way to the discovery of truth. In order that we may think alike upon this subject at last, we shall be compelled to discuss it by ascending to the principles upon which the doctrine of representation is grounded.

Without premeditation, in a situation so novel, and awed by the respect which I feel for this venerable assembly, I distrust extremely my own feelings, as well as my competency to prosecute this inquiry. With the hope of an indulgent hearing, I will attempt to proceed. I am sensible, sir, that the doctrine of frequent elections has been sanctioned by antiquity, and is still more endeared to us by our recent experience and uniform habits of thinking. Gentlemen have expressed their zealous partiality for it. They consider this as a leading question in the debate, and that the merits of many other parts of the Constitution are involved in the decision. I confess, sir, and I declare that my zeal for frequent elections is not inferior to their own. I consider it as one of the first securities for popular liberty, in which its very essence may be supposed to reside. But how shall we make the best use of this pledge and instrument of our safety?

A right principle, carried to an extreme, becomes useless. It is apparent that a declaration for a very short term, as for a single day, would defeat the design of representation. The election, in that case, would not seem to the people to be of any importance, and the person elected would think as lightly of his appointment. The other extreme is equally to be avoided. An election for a very long term of years, or for life, would remove the member too far from the control of the people, would be dangerous to liberty, and in fact

repugnant to the purposes of the delegation. The truth, as usual, is placed somewhere between the extremes, and I believe is included in this proposition: The term of election must be so long, that the representative may understand the interest of the people, and yet so limited, that his fidelity may be secured by a dependence upon their approbation.

Before I proceed to the application of this rule, I cannot forbear to premise some remarks upon two opinions, which have been suggested.

Much has been said about the people divesting themselves of power, when they delegate it to representatives; and that all representation is to their disadvantage, because it is but an image, a copy, fainter and more imperfect than the original, the people, in whom the light of power is primary and unborrowed, which is only reflected by their delegates. I cannot agree to either of these opinions. The representation of the people is something more than the people. I know, sir, but one purpose which the people can effect without delegation, and that is to destroy a government. That they cannot erect a government, is evinced by our being thus assembled on their behalf. The people must govern by a majority, with whom all power resides. But how is the sense of this majority to be obtained? It has been said that a pure democracy is the best government for a small people who assemble in person. It is of small consequence to discuss it, as it would be inapplicable to the great country we inhabit. It may be of some use in this argument, how ever, to consider, that it would be very burdensome, subject to faction and violence; decisions would often be made by surprise, in the precipitancy of passion, by men who either understand nothing or care nothing about the subject; or by interested men, or those who vote for their own indemnity. It would be a government not by laws, but by men.

Such were the paltry democracies of Greece and Asia Minor, so much extolled, and so often proposed as a model

for our imitation. I desire to be thankful that our people (said Mr. Ames) are not under any temptation to adopt the advice. I think it will not be denied that the people are gainers by the election of representatives. They may destroy, but they cannot exercise, the powers of government in person, but by their servants *they* govern: they do not renounce their power; they do not sacrifice their rights; they become the true sovereigns of the country when they delegate that power, which they cannot use themselves to their trustees.

I know, sir, that the people talk about the liberty of nature, and assert that we divest ourselves of a portion of it when we enter into society. This is declamation against matter of fact. We cannot live without society; and as to liberty, how can I be said to enjoy that which another may take from me when he pleases? The liberty of one depends not so much on the removal of all restraint from him, as on the due restraint upon the liberties of others. Without such restraint, there can be no liberty. Liberty is so far from being endangered or destroyed by this, that it is extended and secured. For I said that we do not enjoy that which another may take from us. But civil liberty cannot be taken from us, when any one may please to invade it; for we have the strength of the society on our side.

I hope, sir, that these reflections will have some tendency to remove the ill impressions which are made by proposing to divest the people of their power.

That they may never be divested of it, I repeat that I am in favor of frequent elections. They who commend annual elections are desired to consider, that the question is, whether biennial elections are a defect in the Constitution; for it does not follow, because annual elections are safe, that biennial are dangerous; for both may be good. Nor is there any foundation for the fears of those, who say that if we, who have been accustomed to choose for one year only, now extend it to two, the next stride will be to five or seven years, and the next for term of life; for this article, with all

its supposed defects, is in favor of liberty. Being inserted in the Constitution, it is not subject to be repealed by law. We are sure that it is the worst of the case. It is a fence against ambitious encroachments, too high and too strong to be passed. In this respect, we have greatly the advantage of the people of England, and of all the world. The law which limits their Parliaments is liable to be repealed.

I will not defend this article by saying that it was a matter of compromise in the federal Convention. It has my entire approbation as it stands. I think that we ought to prefer, in this article, biennial elections to annual; and my reasons for this opinion are drawn from these sources: —

From the extent of the country to be governed;

The objects of their legislation;

And the more perfect security of our liberty.

It seems obvious that men who are to collect in Congress from this great territory, perhaps from the Bay of Fundy, or from the banks of the Ohio, and the shore of Lake Superior, ought to have a longer term in office, than the delegates of a single state, in their own legislature. It is not by riding post to and from Congress that a man can acquire a just knowledge of the true interests of the Union. This term of election is inapplicable to the state of a country as large as Germany, or as the Roman empire in the zenith of its power.

If we consider the objects of their delegation, little doubt will remain. It is admitted that annual elections may be highly fit for the state legislature. Every citizen grows up with a knowledge of the local circumstances of the state. But the business of the federal government will be very different. The objects of their power are few and national. At least two years in office will be necessary to enable a man to judge of the trade and interests of the state which he never saw. The time, I hope, will come, when this excellent country will furnish food, and freedom, (which is better than food, which is the food of the soul,) for fifty millions of happy people. Will any man say that the national business can be understood in one year?

Biennial elections appear to me, sir, an essential security to liberty. These are my reasons: —

Faction and enthusiasm are the instruments by which popular governments are destroyed. We need not talk of the power of an aristocracy. The people, when they lose their liberties, are cheated out of them. They nourish factions in their bosoms, which will subsist so long as abusing their honest credulity shall be the means of acquiring power. A democracy is a volcano, which conceals the fiery materials of its own destruction. These will produce an eruption, and carry desolation in their way. The people always mean right; and, if time is allowed for reflection and information, they will do right. I would not have the first wish, the momentary impulse of the public mind, become law; for it is not always the sense of the people, with whom I admit that all power resides. On great questions, we first hear the loud clamors of passion, artifice, and faction. I consider biennial elections as a security that the sober, second thought of the people shall be law. There is a calm review of public transactions, which is made by the citizens who have families and children, the pledges of their fidelity. To provide for popular liberty, we must take care that measures shall not be adopted without due deliberation. The member chosen for two years will feel some independence in his seat. The factions of the day will expire before the end of his term.

The people will be proportionably attentive to the merits of a candidate. Two years will afford opportunity to the member to deserve well of them, and they will require evidence that he has done it.

But, sir, the representatives are the grand inquisition of the Union. They are, by impeachment, to bring great offenders to justice. One year will not suffice to detect guilt, and to pursue it to conviction; therefore they will escape, and the balance of the two branches will be destroyed, and the people oppressed with impunity. The senators will represent the sovereignty of the states. The representatives

are to represent the people. The offices ought to bear some proportion in point of importance. This will be impossible if they are chosen for one year only.

Will the people, then, blind the eyes of their own watchmen? Will they bind the hands which are to hold the sword for their defence? Will they impair their own power by an unreasonable jealousy of themselves?

For these reasons, I am clearly of opinion that the article is entitled to our approbation as it stands; and as it has been demanded, why annual elections were not preferred to biennial, permit me to retort the question, and to inquire, in my turn, what reason can be given, why, if annual elections are good, biennial elections are not better?

The inquiry in the latter part of Mr. Ames's speech being directed to the Hon. Mr. Adams, that gentleman said, he only made the inquiry for information, and that he had heard sufficient to satisfy himself of its propriety.

Mr. DENCH said his objections to biennial elections were removed; but he wished to recur to the 4th section, and to inquire, whether *that election was secured*, as, by this section, Congress has power to regulate the time, place, and manner of holding it.

[A question now arose, whether the consideration of the 4th section was in order, and much debate was had thereon; but the propriety, as expressed by a worthy member, of "elucidating scripture by scripture," being generally admitted, the motion made by the Hon. Mr. Dana passed, which put an end to the conversation.]

The Hon. Mr. BOWDOIN remarked on the idea suggested by the honorable gentleman from Scituate, [Mr. Turner,] who had said that nature pointed out the propriety of *annual* elections, by the *annual* renewal, and observed, that if the revolution of the heavenly bodies is to be the principle to regulate elections, it was not fixed to any period, as in some of the systems it would be very short; and in the last-discovered planet it would be eighty of our

years. Gentlemen, he said, who had gone before him in debate, had clearly pointed out the alteration of the election of our federal representatives, from annual to biennial, to be justifiable. Annual elections may be necessary in this state, but in the choice of representatives from the continent, it ought to be longer; nor did he see any danger in its being so. Who, he asked, are the men to be elected? Are they not to be from among us? If they were to be a distinct body, then the doctrine of precaution, which gentlemen use, would be necessary; but, sir, they can make no laws, nor levy any taxes, but those to which they themselves must be subservient; they themselves must bear a part; therefore our security is guarantied by their being thus subject to the laws, if by nothing else.

Gen. HEATH. Mr. President, I consider myself not as an inhabitant of Massachusetts, but as a citizen of the United States. My ideas and views are commensurate with the continent; they extend in length from the St. Croix to the St. Maria, and in breadth from the Atlantic to the Lake of the Woods; for over all this extensive territory is the federal government to be extended.

I should not have risen on this paragraph, had it not been for some arguments which gentlemen have advanced respecting elections, and which, I think, tend to make dangerous impressions on the minds of the rising generation. It has been the general opinion that the liberties of the people are principally secured by the frequency of elections, and power returning again into their own hands. The first Parliament ever called in Europe was called by Constantine the Third, and to continue for one year. The worthy gentleman from Boston [Mr. Dawes] has mentioned a writer as a good authority, and who, he says, was twenty years compiling his works. I will produce one observation from this celebrated writer, Baron Montesquieu; it is as follows: "The greatness of power must be compensated by the brevity of the duration; most legislators have fixed it to a year; a longer space would be

dangerous." Here, sir, we have not only the opinion of this celebrated writer, but he has also mentioned that most legislators were of the like opinion; but I shall come to our own country, where we shall find in what respect annual elections have always been held. This was the wisdom of our ancestors; it has been confirmed by time; therefore, sir, before we change it, we should carefully examine whether it be for the better. Local circumstances may render it expedient; but we should take care not to hold up to the rising generation, that it is a matter of indifference whether elections be annual or not; and this is what induced me to rise.

It is a novel idea, that representatives should be chosen for a considerable time, in order that they may learn their duty. The representative is one who appears in behalf of, and acts for, others; he ought, therefore, to be fully acquainted with the feelings, circumstances, and interests of the persons whom he represents; and this is learnt among them, not at a distant court. How frequently, on momentary occasions, do the members of the British Parliament wish to go home and consult their constituents, before they come to decision! This shows from what quarter they wish to obtain their information. With respect to the obtaining a knowledge of the circumstances and abilities of the other states, in order to an equal taxation, this must be acquired from the returns of the number of inhabitants, &c., which are to be found on the files of Congress; for I know not how length of time could furnish other information, unless the members should go from state to state, in order to find out the circumstances of the different states. I think representatives ought always to have a general knowledge of the interests of their constituents, as this alone can enable them properly to represent them.

But, sir, if there be charms in the paragraph now under consideration, they are these: Congress, at present, are continually sitting; but under the new Constitution, it is

intended that Congress shall sit but once annually, for such time as may be necessary, and then adjourn. In this view, every gentleman acquainted with the business of legislation knows that there is much business, in every session, which is taken up and partly considered, but not finished; an adjournment keeps all this business alive; and at the next session it is taken up and completed, to the benefit of the people, in a great saving of expense, which would otherwise be lost; for a new legislature would not see through the eyes of those who went before them; consequently all business partly finished would be time lost, to the injury of the public. Therefore, as it seems to be intended that Congress shall have but two sessions in the two years for which the representatives are to be chosen, this consideration has reconciled me to the paragraph, and I am in favor of biennial elections.

Mr. TURNER, in reply to the Hon. Mr. Bowdoin, said he thought it an important consideration whether the elections were to be for one or for two years. He was, he said, greatly in favor of annual elections, and he thought, in the present instance, it would be establishing a dangerous precedent to adopt a change; for, says he, the principle may so operate, as, in time, our elections will be as *seldom* as the revolution of the star the honorable gentleman talks of.

Mr. DAWES, in answer to Gen. Heath, said, that the passage quoted from Montesquieu applied to *single* governments, and not to *confederate* ones.

Gen. BROOKS, (of Medford,) in reply to Gen. Heath, said, he recollected the passage of Montesquieu, but he also recollected that that writer had spoken highly of the British government. He then adverted to the objection to this section of Gen. Thompson and others, that biennial elections were a novelty, and said, we were not to consider whether a measure was new, but whether it was proper. Gentlemen had said that it had been the established custom of this country to elect annually; but, he asked, have we not gone from a colonial to an independent situation? We were

then provinces; we are now an independent empire; our measures, therefore, says he, must change with our situation. Under our old government, the objects of legislation were few and divided; under our present, there are many, and must be united; and it appears necessary that, according to the magnitude and multiplicity of the business, the duration should be extended, he did not, he said, undertake to say how far. He then went into a view of the history of Parliaments: the modern northern nations, he said, had Parliaments; but they were called by their kings; and the time, business, &c., of them, depended wholly on their wills.

We can, therefore, says he, establish nothing from these. One general remark was, that, in the reigns of weak princes, the power and importance of Parliaments increased; in the reigns of strong and arbitrary kings, they always declined; and, says he, they have been *triennial*, and they have been *septennial*. The general combated the idea *that the liberties of the people depended on the duration of Parliament*, with much ability. Do we hear, asked he, that the people of England are deprived of their liberties? or that they are not as free now as when they had short Parliaments? On the contrary, do not writers agree, that life, liberty, and property, are nowhere better secured than in Great Britain, and that this security arises from their Parliaments being chosen for seven years? As such is the situation of the people of England, and as no instance can be given wherein biennial elections have been destructive to the liberties of the people, he concluded by asking, whether so much danger is to be apprehended from such elections as gentlemen imagined.

Gen. THOMPSON. Sir, gentlemen have said a great deal about the history of old times. I confess I am not acquainted with such history; but I am, sir, acquainted with the history of my own country. I had the honor to be in the General Court last year, and am in it this year. I think, sir, that had the last administration continued one year longer,

our liberties would have been lost, and the country involved in blood. Not so much, sir, from their bad conduct, but from the suspicions of the people of them. But, sir, a change took place; from this change pardons have been granted to the people, and peace is restored. This, sir, I say, is in favor of frequent elections.

[Gen. T. was called to order, on the idea that he reflected on the last administration. A debate ensued, which ended on the Hon. Mr. White's saying, he wished to put out every spark of the fire that appeared to be kindling; therefore moved to adjourn.]

Afternoon. — Dr. TAYLOR opened the conversation of the afternoon, by calling upon Gen. Thompson to proceed.

Gen. THOMPSON accordingly said, that, however just, however good, and however upright the administration may be, there was still a great necessity for annual elections.

He thought a change of election was for the best, even if the administration pleased the people. Do the members of Congress, says he, displease us, we call them home, and they obey. Now, where is the difference of their having been elected for one or two years? It is said that the members cannot learn sufficiently in that time. Sir, I hope we shall never send men who are *not learned*. Let these members know their dependence upon the people, and I say it will be a check on them, even if they were not good men. Here the general broke out in the following pathetic apostrophe: "O my country, never give up your annual elections! young men, never give up your jewel!" He apologized for his zeal. He then drew a comparison between the judges, &c., of this country before the revolution, who were dependent on Great Britain for their salaries, and those representatives dependent on the Continent. He concluded by hoping that the representatives would be annually elected, and thereby feel a greater dependence on the people.

Mr. GORE. It has been observed, that, in considering this great and momentous question, we ought to consult the sentiments of wise men, who have written on the subject of

government, and thereby regulate our decision on this business. A passage is adduced from Montesquieu, stating that, where the people delegate great power, it ought to be compensated for by the shortness of the duration. Though strictly agreeing with the author, I do not see that it applies to the subject under consideration. This might be perfectly applicable to the ancient governments, where they had no idea of representation, or different checks in the legislature or administration of government; but, in the proposed Constitution, the powers of the whole government are limited to certain national objects, and are accurately defined. The House of Representatives is but one branch of the system, and can do nothing of itself. Montesquieu, in the sentiment alluded to, must have had in his mind the Epistates of Athens, or the Dictators of Rome; but certainly observations drawn from such sources can have no weight in considering things so efficiently different. Again, sir, gentlemen have said that annual elections were necessary to the preservation of liberty, and that, in proportion as the people of different nations have lengthened, beyond the term of a year, the duration of their representatives, they have lost their liberties, and that all writers have agreed in this. I may mistake; but I know no such thing as a representation of the people in any of the ancient republics. In England, from whence we receive many of our ideas on this subject, King John covenanted with his people to summon certain classes of men to Parliament. By the constitution of that country, the king alone can convoke, and he alone, previous to the revolution, could dissolve, the Parliament; but in the reign of William the Third, the patriots obtained an act limiting the duration of Parliament to three years. Soon after, a Parliament then sitting, and near expiring, a rebellion broke out, and the tories and Jacobites were gaining strength to support the Pretender's claim to the crown. Had they dissolved themselves, and a new Parliament been convoked, probably many of the very opponents to the government might have been elected. In

that case they might have effected by law what they in vain attempted by arms.

The Parliament, therefore, extended their duration from triennial to septennial. This was acquiesced in by the people, and the next Parliament sanctioned the act. No evil, but great good, has been supposed to follow from their duration being thus extended; and if Montesquieu and Dr. Adams think the British constitution so perfect, how much greater must be our security, when we reflect that our representation is equal; that the powers of the government are so limited, and the checks so nicely appointed! If there be a representation of the people in any other countries, and annual elections therein have been considered as the basis of their freedom, I pray gentlemen to mention the instances; I confess I know none. People adopt a position which is certainly true, viz., that elections ought to be frequent; but, then, as we have been in the custom of choosing our representatives annually, we have determined annually to be frequent, and that biennial, or any longer term than annual, is not frequent; but if gentlemen will only consider the objects over which this government is to have rule and authority, and the immense and wide-extended tracts of country over which the representatives are to pass before they reach the seat of government, I think they will be convinced that two years is a short time for the representatives to hold their office. Further, sir, we must consider this subject with respect to the general structure of the Constitution. The Senate represents the sovereignty of the states; the House of Representatives the people of the United States. The former have a longer term in their office; it is then necessary that that body which represents the people should have a permanence in their office, to resist any operations of the Senate, which might be injurious to the people. If they were annual, I submit it to the good sense of this house whether they would be able to preserve that weight in the system which the Constitution intended they

should have, and which is absolutely necessary for the security of the rights of the people.

The Hon. Mr. KING said he would not detain the Convention by any exordium for the purpose of obtaining their attention. He declared, however, that he thought the subject might be freed from certain prejudices connected with its examination, and that thereby the question might receive a fairer decision: this should be the object of his address.

The honorable gentleman observed, that the Convention would do well to lay aside the terms *annual* or *biennial*, and consider the subject as it could be supported by principles. Much had been said of the instruction to be derived from history on this point; he said he presumed to doubt whether this was the case. From the continent of Europe he believed that we could receive no instruction. Their Parliaments, after the overthrow of the Roman empire, were not constructed upon the principle of a representation of the people. The conqueror of a given district of the country was, by the feudal system, the prince or king of the people within his conquered territories. When he wished the advice of any persons, he summoned usually a number of his principal officers, or the barons of his kingdom, to give him their counsel; but the people, or, as they were degradingly called, the vassals, were never consulted. This certainly cannot be considered as a representation of the people. This mode of assembling a Parliament probably obtained in the early stages of the English history; but those who have written on this subject agree that their information is very imperfect, relative to the origin of English Parliaments; they are not certain who composed the Parliament, how long they held their office, or concerning what points they were consulted.

Nothing clear on this subject appears before the 12th century. Magna Charta is the foundation of the imperfect representation of England. Improvements have since been made in favor of the more equal and certain representation

of the people; but it is still extremely imperfect and insecure. Perhaps the people of America are the first, who, by the social compact, ever obtained a right to a full and fair representation, in making the laws of their country.

If, then, [continued Mr. K.,] history can afford little or no instruction on this subject, the Convention must determine the question upon its own principles. It seems proper that the representative should be in office time enough to acquire that information which is necessary to form a right judgment; but that the time should not be so long as to remove from his mind the powerful check upon his conduct, that arises from the frequency of elections, whereby the people are enabled to remove an unfaithful representative, or to continue a faithful one. If the question is examined by this standard, perhaps it will appear that an election for two years is short enough for a representative in Congress. If one year is necessary for a representative to be useful in the state legislature, where the objects of his deliberations are local, and within his constant observation, two years do not appear too long, where the objects of deliberation are not confined to one state, but extend to thirteen states; where the complicated interests of united America are mingled with those of foreign nations; and where the great duties of national sovereignty will require his constant attention. When the representatives of the colony of Massachusetts were first chosen, the country was not settled more than twenty miles from Boston; they then held their offices for one year. The emigrants from Massachusetts, who settled on Connecticut River, appointed the representatives to meet in the General Court of that colony for only six months. Massachusetts, although her settlements have extended over almost her whole territory, has continued to depute representatives for only one year, and Connecticut for only six months; but as, in each of these colonies, when under the British government, the duties of the representatives were merely local, the great duties of sovereignty being vested in their king, so,

since the revolution, their duties have continued local, many of the authorities of sovereignty being vested in Congress. It is now proposed to increase the powers of Congress; this will increase the duties of the representatives, and they must have a reasonable time to obtain the information necessary to a right discharge of their office.

It has been said that our ancestors never relinquished the idea of annual elections: this is an error. In 1643, the colonies of Plymouth, Massachusetts, Connecticut, and New Haven, united in a confederacy, which continued about forty years; each colony sent two commissioners as their representatives, and by the articles they were to be annually elected. About the year 1650, the General Court of Massachusetts instructed their commissioners to propose that the elections, instead of being annual, should be only once in three years. The alteration did not take place, but the anecdote proves that our ancestors have not had a uniform predilection for annual elections.

Mr. K. concluded by observing that, on a candid examination of this question, he presumed that the Constitution would not be objected to on account of the biennial election of the House of Representatives.

Judge DANA. Mr. President, the feeble state of my health will not permit me to enter so largely into the debates of this house, as I should be otherwise inclined to do. The intention of my rising, at present, is to express my perfect acquiescence in the sentiments advanced by the honorable gentleman from Newburyport, [Mr. King,] in favor of *the expediency of biennial elections* of our federal representatives. From my own experience, I think them preferable to *annual* elections. I have, sir, seen gentlemen in Congress, and delegates from this state too, sitting in that honorable body, without a voice; without power to open their mouths, or lift up their hands, when matters of the highest importance to their state have been under consideration. I have seen members in Congress, for the

space of three months, without power, sir, waiting for evidence of their reëlection. Besides, sir, that the more *frequent* elections are, the oftener states will be exposed to be deprived of their voice and influence in national councils. I think annual elections are too short for so extensive an empire. They keep the members always travelling about; and I am of opinion that elections for two years are in no way subversive of the liberties of the *people*. I, sir, am one of the people, thank God! and am happy in having an opportunity of expressing my personal satisfaction of such elections. For these and a variety of other reasons, Mr. D. suggested that he thought this state ought to be the first to adopt this method of elections.

The Hon. Mr. WHITE still thought that Congress might perpetuate themselves, and so reign emperors over us.

Hon. Mr. GORHAM observed, (in continuation of Mr. Dana's observation,) that there was not now a Congress; although the time of their meeting had considerably elapsed. Rhode Island, Connecticut, and several other states, had not gone on; that there was now only five states in Congress, when there ought to have been thirteen two months ago.

Mr. CARNES rose to confirm it, and accordingly read part of a letter from the Hon. Mr. Otis, the purport of which was, that there was much business to do; that only five states were represented, and that the probability of Indian war, &c., evinced the great necessity of the establishment of an efficient federal government, which will be the result of the adoption of the proposed Constitution.

Dr. TAYLOR rose to answer two objections which had been made against annual elections: The *distance of place* was not so great but the delegates might reach Philadelphia in a fortnight; and as they were answerable to the people for their conduct, he thought it would prevent a *vacancy*, and concluded by saying, he did not conceive the arguments in favor of *biennial* elections well founded.

A letter from the Hon. Elbridge Gerry, informing that he would attend the Convention, agreeable to their vote of yesterday, was received and read.

On motion of Mr. NASON, *Ordered*, That a committee be appointed to provide a more convenient place for the Convention to sit in.

Wednesday, *January* 16. — The 2d part of the 2d section of the 3d article was read at the table a desultory conversation ensued on the mode of conducting the discussion; it was *again* agreed, that, in the debate on any paragraph, gentlemen might discuss any other part they might suppose had relation to that under consideration.

Mr. PIERCE, (from Partridgefield,) after reading the 4th section, wished to know the opinion of gentlemen on it, as Congress appeared thereby to have a power to regulate the *time, place, and manner* of holding elections. In respect to the manner, said Mr. P., suppose the legislature of this state should prescribe that the choice of the federal representatives should be in the same manner as that of governor, — a majority of all the votes in the state being necessary to make it such, — and Congress should deem it an improper *manner*, and should order that it be as practised in several of the Southern States, where the highest number of votes make a choice; — have they not power by this section to do so? Again, as to the *place*, continues Mr. P., may not Congress direct that the election for Massachusetts shall be held in Boston? and if so, it is possible that, previous to the election, a number of the electors may meet, agree upon the eight delegates, and propose the same to a few towns in the vicinity, who, agreeing in sentiment, may meet on the day of election, and carry their list by a major vote. He did not, he said, say that this would be the case; but he wished to know if it was not a possible one. As the federal representatives, who are to form the democratical part of the general government, are to be a check on the representatives of the sovereignty, the

senate, he thought the utmost caution ought to be used to have their elections as free as possible. He observed that, as men have ever been fond of power, we must suppose they ever will continue so; and concluded by observing, that our caution ought in the present case to be greater, as, by the proposed Constitution, no qualification of property was required in a representative; and it might be in the power of some people thereby to choose a bankrupt for a representative, in order to give such representatives employment, or that he might make laws favorable to such a description of the people.

Gen. PORTER (from Hadley) endeavored to obviate the objections of Mr. Pierce, by showing the almost *impossibility* of Congress making a law whereby eight men could be elected, as Mr. Pierce had supposed; and he thought it equally impossible for the people to choose a person to take care of their property, who had none himself.

Mr. BISHOP rose, and observed that, by the 4th section, Congress would be enabled to control the elections of representatives. It has been said, says he, that this power was given in order that refractory states may be made to do their duty. But if so, sir, why was it not so mentioned? If that was the intention, he asked why the clause did not run thus: "The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but," *if any state shall refuse or neglect so to do, "Congress may,"* &c. This, he said, would admit of no prevarication. I am, says Mr. B., for giving Congress as much power to do good as possible. It has been said, Mr. President, that the conduct of Rhode Island, in recalling its delegates from Congress, has demonstrated the necessity of such a power being lodged in Congress. I have been informed by people belonging to Rhode Island, sir, that that state never has recalled her delegates from Congress. I do not believe it has. And I call