(XLVth YEAR.) THE (No. 2225.)

MARYLAND GAZETTE.

THURSDAY, SEPTEMBER 3, 1789.

Proceedings of Congreſs.

HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

FRIDAY, *Auguſt* 14.

THE houſe went into a committee on the amendments to the conſtitution. Mr. Trumbull in the chair.

The firſt amendment was again read, which was to prefix to the introductory paragraph theſe words—"Government being intended for the benefit of the people, and the rightful eſtabliſhment thereof being derived from their authority alone."—

Mr. Gerry objected to the phraſeology of this clauſe; it might ſeem to imply that all governments were inſtituted and intended for the benefit of the people, which was not true. Indeed moſt of the governments, both of ancient and modern times, were calculated on very different principles. They had chiefly originated in fraud or in force, and were deſigned for the purpoſe of oppreſſion and perſonal ambition. He wiſhed to have nothing go out from this body as a maxim, which was falſe in fact, or which was not clear in its conſtruction. He moved to alter the clauſe by inſerting the words "of right"—This motion was negatived.

Mr. Tucker objected to any amendments being made to the preample of the conſtitution. This, he ſaid, was no part of the conſtitution, and the object was only to amend the conſtitution: the preamble was no more a ſubject of amendment than the letter of the preſident annexed to the conſtitution.

Mr. Smith (S. C.) in anſwer to Mr. Tucker, ſhewed that this amendment had been recommended by three ſtates, and that it was proper it ſhould be made.

Mr. Tucker replied, that he was not oppoſed to the principle, but thought this was an improper place to expreſs it: It could be inſerted with propriety in a bill of rights, if one ſhould be agreed on, and in that form be prefixed to the conſtitution; but the preamble was not the place for it.

Others objected to the whole clauſe, as it was unneceſſary, ſince the words, "We the people," contained in itſelf the principle of the amendment fully. Mr. Sherman obſerved, that if the conſtitution had been a grant from another power, it would be proper to expreſs this principle; but as the right expreſſed in the amendment was natural, and inherent in the people, it is unneceſſary to give any reaſons or any ground on which they made their conſtitution: It was the act of their own ſovereign will. It was alſo ſaid that it would injure the beauty of the preamble.

Mr. Madiſon contended for the amendment——He ſaw no difficulty in aſſociating the amendment with the preamble without injuring the propriety or ſenſe of the paragraph. Though it was indiſputable that the principle was on all hands acknowledged, and could itſelf derive no force from expreſſing, yet he thought it prudent to inſert it as it had been recommended by three reſpectable ſtates.

The queſtion on adopting the amendment being put was carried in the affirmative.

Second amendment: From art. 1, ſect. 2, par. 3, ſtrike out all between the word "direct" 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, or more than one hundred and ſeventy-five, but each ſtate ſhall always have at leaſt one repreſentative."

Mr. Vining moved that a clauſe ſhould be inſerted in the paragraph, providing that, when any one ſtate poſſeſſed forty-five thouſand inhabitants, it ſhould be entitled to two repreſentatives.

This was negatived without a diviſion.

Mr. Ames then moved to ſtrike out the word "thirty" and inſert "forty;" ſo that the ratio of repreſentation ſhould be one for forty thouſand—He went into a train of reaſoning to prove the ſuperior advantages of a ſmall repreſentation: He drew an argument, in the firſt place, from the ſatisfaction which the people univerſally expreſſed in the preſent repreſentation, that their minds were reconciled to it, and were convinced that a more faithful and more prompt diſcharge of the buſineſs of the union would take place in ſo ſmall an aſſembly. Experience had taught them that all the information that was neceſſary both of a general and local nature, would be found in a body ſimilar to the preſent. He ſuggeſted the importance of the expence of a numerous repreſentation, as a capital burthen, which would ſoon become diſſatisfactory to the people. According to the ratio of one to thirty thouſand, the increaſe of the people would ſwell the repreſentation to an enormous maſs, whoſe ſupport would be inſufferable, and whoſe deliberations would be rendered almoſt impracticable. The preſent population would on the firſt cenſus produce upwards of 100. The augmentation would be very rapid; it was therefore proper to fix the proportion immediately, ſo as to prevent theſe evils.—He went very copiouſly into the uſual arguments to prove that all numerous popular bodies are liable, in proportion to their number, to fluctuations, fermentations, and a factious ſpirit. By enlarging the repreſentation, the government, he ſaid, would depart from that choice of characters who could beſt repreſent the wiſdom and the intereſt of the United States; and who would alone be able to ſupport the importance and dignity of this branch of the legiſlature.—Men would be introduced more liable to improper influences, and more eaſy tools for deſigning leaders.

Mr. Ames ſaid it appeared clear to him, that, as the whole number was increaſed, the individual conſequence, the pride of character, and conſequently the reſponſibility of each member would be diminiſhed. The reſponſibility would alſo be in ſome proportion to the number of the conſtituents. A repreſentative of a large body of people would feel in a higher degree the weight impoſed upon him, and he would be thereby the more intereſted to ſupport a virtuous fame, and redouble his exertions for the public good.

Mr. Ames contended, that the original deſign of thoſe who propoſed the amendments reſpecting repreſentation, was not to obtain an increaſe beyond what their firſt cenſus would give them; their intention was to fix a limitation, that it ſhould not be in the power of congreſs to diminiſh the repreſentation at any time, below the point of ſecurity. Their object was certainly not augmentation.

Mr. Ames was much more ample in his arguments; but want of time obliges us rather to ſketch the topics on which he dwelt, than purſue the connected chain of his ideas.

Mr. Madiſon in reply, inſiſted that the principal deſign of theſe amendments was to conciliate the minds of the people, and prudence required that the opinion of the ſtates who had propoſed the important amendment in contemplation, ſhould be attended to. He ſaid it was a fact, that ſome ſtates had not confined themſelves to limitation, but had propoſed an increaſe of the number; he did not conceive it to be very neceſſary in this caſe to inveſtigate the advantages or diſadvantages of a numerous repreſentation; he acknowledged, that beyond a certain point the number might be inconvenient. That point was a matter yet of uncertainty. It was true that numerous bodies were liable to ſome abuſes; but if on one hand they were prone to thoſe evils which the gentleman had mentioned, they were on the other hand leſs ſuſceptible of corruption.

He thought alſo, that to fix the ratio at even 40,000 for one would not prevent the abuſes which Mr. Ames apprehended; for before the ſecond cenſus ſhould be taken, it was probable that the increaſe of population would be ſo great as to make the body very large——There was little choice therefore with a view to futurity, between one ratio or the other, but as this of one for thirty thouſand was the proportion contemplated and propoſed by the ſtates, it was moſt adviſable to adopt it.

Mr. Gerry, Mr. Sedgwick, Mr. Livermore, Mr. Jackſon, Mr. Seney, oppoſed the amendment; and Mr. Ames replied to them largely.—The queſtion being taken, Mr. Ames's propoſition was rejected.

Mr. Tucker moved to ſtrike out the firſt "one hundred" in the amendment, and to inſert "two hundred," and then to ſtrike out the reſt of the paragraph--ſo that the repreſentation ſhould not be leſs than two hundred, nor ſhould congreſs have a diſcretion to fix any ratio of increaſe, but that ſuch proportion ſhould be adopted as to keep the repreſentation fixed at 200.

After ſome debate this motion was negatived.

On motion of Mr. Sedgwick, the words "one hundred and ſeventy-five" were ſtruck out, and "two hundred" inſerted. And then the paragraph, as amended, was agreed to.

Third amendment. Art. 1, ſec. 2, par. 3—Strike out all between the words "direct" and "and until ſuch," and inſtead thereof inſert, "but no law, varying the compenſation, ſhall take effect until an election of repreſentatives ſhall have intervened. The members."

This amendment was agreed to.

Committee roſe——Houſe adjourned.

SATURDAY, *Auguſt* 15.

The houſe went into a committee on the amendments to the conſtitution.

Mr. Boudinot in the chair.

The committee took up the fourth amendment.——"Art. 1, ſect. 9.—Between par. 2, and 3—inſert—"no religion ſhall be eſtabliſhed by law, nor ſhall the equal rights of conſcience be infringed."

Mr. Livermore moved to ſtrike out this clauſe, and to ſubſtitute one to the following effect—"The congreſs ſhall make no laws touching religion or the rights of conſcience." He obſerved, that though the ſenſe of both proviſions was the ſame, yet the former might ſeem to wear an ill face, and was ſubject to miſconſtruction.

The queſtion on this motion was carried.

Fifth amendment.—"The freedom of ſpeech and of the preſs, and of 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. Tucker moved to inſert between the words "common good," "and to" in this paragraph, theſe words, "to inſtruct their repreſentatives."

On this motion a long debate enſued.—

Mr. Hartley ſaid it was a problematical ſubject.—The practice on this principle might be attended with danger. There were periods when, from various cauſes, the popular mind was in a ſtate of fermentation, and incapable of acting wiſely.—This had frequently been experienced in the mother country, and once in a ſiſter ſtate. In ſuch caſes it was a happineſs to obtain repreſentatives who might be free to exert their abilities againſt the popular errors and paſſions.—The power of inſtructing might be liable to great abuſes; it would generally be exercised in times of public diſturbance, and would expreſs rather the prejudices of faction than the voice of policy; thus it would convey improper influences into the government. He ſaid he had ſeen ſo many unhappy examples of the influence of the popular humours in public bodies, that he hoped they would be provided againſt in this government.

Mr. Page was in favour of the motion.

Mr. Clymer remarked, that the principle of the motion was a dangerous one. It would take away all the freedom and independence of the repreſentatives, it would deſtroy the very ſpirit of repreſentation itſelf by rendering congreſs a paſſive machine, inſtead of a deliberative body.

Mr. Sherman inſiſted, that inſtructions were not a proper rule for the repreſentative, ſince they were not adequate to the purpoſes for which he was delegated. He was to conſult the common good of the whole, and was the ſervant of the people at large. If they ſhould coincide with his ideas of the common good, they would be unneceſſary; if they contradicted them, he would be bound by every principle of juſtice to diſregard them.

Mr. Jackſon alſo oppoſed the motion.

Mr. Gerry advocated the propoſition—he ſaid, the power of inſtructing was eſſential, in order to check an adminiſtration which ſhould be guilty of abuſes.—Such things would probably happen. He hoped gentlemen would not arrogate to themſelves more perfection than any other government had been found to poſſeſs, or more at all times than the body of the people. It had, he ſaid, been always contended by the friends of this government, that the ſovereignty reſided in the people. That principle ſeemed inconſiſtent with what gentlemen now aſſerted; if the people were the ſovereign, he could not conceive why they had not the right to inſtruct and direct their agent at their pleaſure.

Mr. Madiſon obſerved, that the exiſtence of this right of inſtructing was at leaſt a doubtful right. He wiſhed that the amendments which were to go to the people ſhould conſiſt of an enumeration of ſimple and acknowledged principles. Such rights only ought to be expreſsly ſecured as were certain and fixed.—The inſertion of propoſitions that were of a doubtful nature, would have a tendency to prejudice the whole ſyſtem of amendments, and render their adoption difficult. The right ſuggeſted was doubtful, and would be ſo conſidered by many of the ſtates. In ſome degree the declaration of this right might be true, in other reſpects falſe. If by inſtructions were meant a giving advice, or expreſſing the wiſhes of the people, the propoſition was true, but ſtill was unneceſſary, ſince that right was provided for already. The amendments already paſſed had declared, that the preſs ſhould be free, and that the people ſhould have the freedom of ſpeech and petitioning; therefore the people might ſpeak to their repreſentatives, might addreſs them through the medium of the preſs, or by petition to the whole body. They might freely expreſs their wills by theſe ſeveral modes. But if it was meant that they had any obligatory force, the principle was certainly falſe. Suppoſe the repreſentative was inſtructed to do any act incompatible with the conſtitution, would he be bound to obey thoſe inſtructions? Suppoſe he was directed to do what he knew was contrary to the public good, would he be bound to ſacrifice his own opinion? Would not the vote of a repreſentative, contrary to his inſtructions, be as binding on the people as a different one? If theſe things then be true, where is the right of the conſtituent? Or where is the advantage to reſult from? It muſt either ſuperſede all other obligations the moſt ſacred, or it could be of no benefit to the people. The gentleman ſays, the people are the ſovereign: True. But who are the people? Is every ſmall diſtrict THE PEOPLE? And do the inhabitants of this diſtrict expreſs the voice of the