

Federal Farmer: *An Additional Number of Letters to the Republican*, New York, 2 May 1788

The federal representatives are to be chosen every second year (an odd mode of expression). In all the states, except South-Carolina, the people, the same electors, meet twice in that time to elect state representatives. For instance, let the electors in Massachusetts, when they meet to chuse state representatives, put in their votes for eight federal representatives, the number that state may chuse, (merely for distinction sake, we may call these the votes of nomination), and return a list of the men voted for, in the several towns and places, to the legislature, or some proper body; let this list be immediately examined and published, and some proper number, say 15 or 20, who shall have the most votes upon the list, be sent out to the people; and when the electors shall meet the next year to chuse state representatives, let them put in their votes for the eight federal representatives, confining their votes to the proper number so sent out; and let the eight highest of those thus voted for in the two votes (which we may call, by way of distinction, votes of election), be the federal representatives: thus a choice may be made by the people, once in two years, without much trouble and expence, and, I believe, with some degree of security. As soon as the votes of nomination shall be collected and made known, the people will know who are voted for, and who are candidates for their votes the succeeding year; the electors will have near a year to enquire into their characters and politics, and also into any undue means, if any were taken, to bring any of them forward; and such as they find to be the best men, and agreeable to the people, they may vote for in giving the votes of election. By these means the men chosen will ultimately always have a majority, or near a majority, of the votes of the electors, who shall attend and give their votes. The mode itself will lead to the discovery of truth and of political characters, and to prevent private combinations, by rendering them in a great measure of no effect. As the choice is to be made by the people, all combinations and checks must be confined to their votes. No supplying the want of a majority by the legislatures, as in Massachusetts in the choice of senators, &c. can be admitted: the people generally judge right when informed, and, in giving their votes the second time, they may always correct their former errors.

I think we are all sufficiently acquainted with the progress of elections to see, that the regulations, as to times, places, and the manner merely of holding elections, may, under the constitution, easily be made useful or injurious. It is important then to enquire, who has the power to make regulations, and who ought to have it. By the constitution, the state legislatures shall prescribe the times, places, and manner of holding elections, but congress may make or alter such regulations. Power in congress merely to alter those regulations, made by the states, could answer no valuable purposes; the states might make, and congress alter them *ad infinitum*: and when the state should cease to make, or should annihilate its regulations, congress would have nothing to alter. But the states shall make regulations, and congress may make such regulations as the clause stands: the true construction is, that when congress shall see fit to regulate the times, places, and manner of holding elections, congress may do it,

and state regulations, on this head, must cease: for if state regulations could exist, after congress should make a system of regulations, there would, or might, be two incompatible systems of regulations relative to the same subject.

It has been often urged, that congress ought to have power to make these regulations, otherwise the state legislatures, by neglecting to make provision for elections, or by making improper regulations, may destroy the general government. It is very improbable that any state legislature will adopt measures to destroy the representation of its own constituents in congress, especially when the state must, represented in congress or not, pay its proportion of the expence of keeping up the government, and even of the representatives of the other states, and be subject to their laws. Should the state legislatures be disposed to be negligent, or to combine to break up congress, they have a very simple way to do it, as the constitution now stands—they have only to neglect to chuse senators, or to appoint the electors of the president, and vice-president: there is no remedy provided against these last evils: nor is it to be presumed, that if a sufficient number of state legislatures to break up congress, should, by neglect or otherwise, attempt to do it, that the people, who yearly elect those legislatures, would elect under the regulations of congress. These and many other reasons must evince, that it was not merely to prevent an annihilation of the federal government that congress has power to regulate elections.

It has been urged also, that the state legislatures chuse the federal senators, one branch, and may injure the people, who chuse the other, by improper regulations; that therefore congress, in which the people will immediately have one, the representative branch, ought to have power to interfere in behalf of the people, and rectify such improper regulations. The advocates have said much about the opponents dwelling upon possibilities: but to suppose the people will find it necessary to appeal to congress to restrain the oppressions of the state legislatures, is supposing a possibility indeed. Can any man in his senses suppose that the state legislatures, which are so numerous as almost to be the people themselves, all branches of them depending yearly, for the most part, on the elections of the people, will abuse them in regulating federal elections, and make it proper to transfer the power to congress, a body, one branch of which is chosen once in six years by these very legislatures, and the other biennially, and not half so numerous as even the senatorial branches in those legislatures?

Senators are to be chosen by the state legislatures, where there are two branches the appointment must be, I presume, by a concurrent resolution, in passing which, as in passing all other legislative acts, each branch will have a negative; this will give the senatorial branch just as much weight in the appointment as the democratic: the two branches form a legislature only when acting separately, and therefore, whenever the members of the two branches meet, mix and vote individually in one room, for making an election, it is expressly so directed by the constitutions. If the constitution, by fixing the choice to be made by the legislatures, has given each branch an equal vote, as I think it has, it cannot be altered by any regulations.

On the whole, I think, all general principles respecting electors ought to be carefully established by the constitution, as the qualifications of the electors and of elected: the number of the representatives, and the inhabitants of each given district, called on to

chuse a man from among themselves by a majority of votes; leaving it to the legislature only so to regulate, from time to time, the extent of the districts so as to keep the representatives proportionate to the number of inhabitants in the several parts of the country; and so far as regulations as to elections cannot be fixed by the constitution, they ought to be left to the state legislatures, they coming far nearest to the people themselves; at most, congress ought to have power to regulate elections only where a state shall neglect to make them.

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