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REMARKS on the Amendments to the Federal Constitution, proposed by the Conventions of Massachusetts, New-Hampshire, New-York, Virginia, South and North-Carolina, with the minorities of Pennsylvania and Maryland, by a FOREIGN SPECTATOR.

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The remaining amendments are designed as personal checks on those, who shall administer the federal government, and are as follows: *That no senator or representative shall during the time for which he was elected be appointed to any office, under the authority of the United States.* Constitution [i.e., Convention] of New-York, 17th amendment; ditto Virginia and North-Carolina, with the variation *civil office*, 4th amendment; minority of Maryland, with ditto *office of profit*, 8th amendment. The constitution provides, that "no person holding *any office* under the United States, shall be a member of either house during his continuance in office;" and that no senator or representative shall during the time for which he was elected, be appointed to any *civil office* under the authority of the United States, *which shall have been created, or the emoluments whereof shall have been increased during such time*, 1st art. 6th sect. This caution is quite sufficient. Accumulation of offices is injurious to other worthy candidates, and in many cases corruptive of a republican constitution; but to call eminent citizens into successive stations of trust, is to reward merit in promoting the public good. In case of war a number of military appointments become necessary; must we exclude from these such members of Congress, who after having served the country with their counsels, are willing and able to protect it by their swords? Some representatives or senators may be great law-characters, or statesmen; shall those by no means fill a vacancy in the supreme judicial court or some important embassy? Why? Because those may vote for a standing army, in order to get commissions, or perhaps to enslave us! and these may by a perfidious treaty sell their country to foreign powers! or in the seat of justice be dreadful instruments of federal tyranny! An evil merely possible is no argument against a positive good. That a majority of Congress in complot with the president would raise an army for traiterous or selfish purposes is very incredible; and if they on the strength of a party venture on such a measure, they certainly would conduct it by themselves or friends, without any constitutional direction. That they might make a traffic of the government, is also improbable; but at all events it is a wise provision, that if such harpies must engross the established appointments, they cannot create any new emoluments.

*That the laws ascertaining the compensation of senators and representatives for their services, be postponed in their operation, until after the election of representatives immediately succeeding*

*the passing thereof; that excepted, which shall first be passed on the subject.* Convention of Virginia and North-Carolina, 18th am. 19th am. resp. *That the compensation for the senators and representatives be ascertained by standing laws; and that no alteration of the existing rate of compensation shall operate for the benefit of the representatives, until after a subsequent election shall have been had.* Convention of New-York 13.

The former amendment is more polite, as it permits us to suppose, that members of congress might not only raise but also lower their own salaries. The constitution simply declares that “the senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States,” 1st art. 6th sect. It presumes that congress cannot be so base as to saddle the people with a permanent load, for the sake of a trifling personal gain during two or four years.<sup>(a)</sup> But if we must expect nothing generous, may not the representatives refuse a necessary addition of salary, because they cannot personally derive any benefit from it?

*That the journals of the proceedings of the senate and house of representatives shall be published at least once in every year, except such parts thereof, relating to treaties, alliances, or military operations, as in their judgment, require secrecy.* Convention of Virginia and North-Carolina, 5th am. Ditto of New-York 19th am. with this addition; *and that both houses of congress shall always keep their doors open, during their session, unless the business may in their opinion require secrecy. That the yeas and nays shall be entered on the journals, whenever two members in either house may require it.* By the 5th sect. 1st art. of the constitution, “these journals are to be published from time to time, excepting such parts as require secrecy; and the yeas and nays shall be entered at the desire of one fifth of those present.” *From time to time* I apprehend to mean rather less than annual intervals. Open debates are certainly in many respects of great utility, and will no doubt be used on all proper occasions.

Recording the personal votes is a means to unmask corruption; but it may also restrain the necessary freedom of voice; and sometimes alarm the public by great division on a critical question. The constitution wisely leaves it to the request of one fifth of the members: a sufficient proportion to guard against any extraordinary combination on one side, and the folly or malice of individuals on the other.

*That a regular statement and account of the receipts and expenditures of all public money shall be published at least once in every year.* Convention of Virginia and North-Carolina, 6th am. The constitution requires this to be done *from time to time* 1st art. 9th sect. We hope that accordingly it will be done frequently. There can be nothing more essential for the security and satisfaction of the people. I venture to assert that this check alone will frustrate any attempts of a corrupt government. Even yearly statements may sometimes be insufficient. Subsidies, loans, and some other money transactions may in extraordinary cases require a temporary secrecy; but the least unnecessary protraction is a grievance. If a positive term should be fixed, within two years is a proper medium; that each house of representatives may give an account of their stewardship.

*That the salary of a judge shall not be increased or diminished during his continuance in office, otherwise than by general regulations of salary, which may take place on a revision of the subject at stated periods of not less than seven years, to commence from the time such salaries shall be first ascertained by Congress,* conv. of Virginia and North Carolina, 20th and 21st resp. The real value of silver and gold varies with the general prices of commodities; and may in less than seven years

be considerably changed: At present the proportion is not settled. It will be more so in the general stability of national affairs; but may still in the midst of public prosperity vary many degrees from causes not easily calculated.

*That no judge of the supreme court of the United States shall hold any other office under the United States, nor any of them,* conv. of New-York, 27th amendment. They will have business enough in this important function, which is also incompatible with any other petty office. Occasional transient commissions of moderate profit should not however be absolutely prohibited. We should not suppose an high priest of federal Themis to be a worshipper of Mammon. The seventh amendment of the Maryland minority demands, that no *federal judges may hold any other office of profit, or receive the profits of any other office under Congress.* But why this tacit permission of emolument from a state? They warmly insist on the concurrent jurisdiction of the state judges; why not a provision, that these shall receive no other profits from the state?

*That the senators and representatives, and all executive and judicial offices of the United States, shall be bound by oath or affirmation, not to infringe or violate the constitutions or rights of the respective states.* Con. N. York, 31st am. The most zealous advocate for the rights of the respective states may find such unlimited oath repugnant to his conscience. If a section in any state-constitution, whether now or in future, militates against some important federal interest, a bigoted stickler for it would be a bad citizen, both of the confederacy and of that state. What then in the unhappy case of a state changing its constitution into a form wholly inimical? The oath to support the federal constitution virtually obligates to defend the rights of every state; because injury to a member cannot be justice to the body. The person who cannot feel this political truth will probably not regard any oath however solemn. As to any necessary opposition between the federal government and the constitutions of the states the surmise is groundless.<sup>(b)</sup>

(a) *Only one-third of the senate remains for six years.*

(b) No. 3.

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