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On AMENDMENTS.

Messieurs PRINTERS, The fifth article of the Constitution of the United States, declares, that “The Congress, whenever two-thirds of both Houses shall deem it *necessary*, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several states, shall call a Convention for proposing amendments; which, in either case, shall be valid to all intents and purposes, as part of this Constitution when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress,” &c.—This article of the Constitution very probably was the saving of the whole: Indeed I may safely affirm, that this was really the case with respect to this State at least; for, otherwise, there would have been no legal hold on the States to make any amendments whatever to the Constitution, without a concurrence of every individual state;¹ the difficulty of procuring which would have been an insurmountable barrier to any amendments, and, consequently those states, who would not adopt it, but in expectation of amendments, would have rejected it, from a persuasion of the folly and vanity of such expectation separate from the provision contained in the before recited article.

And yet what has this article been the means of effecting? Or, how vain has our expectation from it hitherto proved?—Let us examine a little, and we shall find it has as yet produced us nothing or worse than nothing. Congress it is true have resolved that certain “articles be proposed to the legislatures of the several states, as amendments to the Constitution of the United States.” But among them all, is there one, except the second,² but what the warm and zealous supporters of the Constitution continually told us were either unnecessary or superfluous, as being already either expressly or impliedly contained in the Constitution itself.

I have in a former number noticed the art and subtlety of the federalists; it is still to be remarked in this,—“The Congress, whenever two-thirds of both Houses shall deem it *necessary*, shall propose” &c.—What would be the natural and most rational construction of this necessity?—I should suppose, that whenever, in the course of the operation of government, Congress should find that to proceed strictly conformable to the Constitution, would work an injury to the people; or that a certain amendment would procure a greater good; that then they would deem it *necessary* to propose such amendment: but what *kind of necessity* there can be for proposing amendments, which affect not, or alter in the least, the Constitution itself, I cannot conceive; unless it be the *necessity* spoken of by the writer of the Federalist, who subscribes himself Publius,

when he says, “The intrinsic difficulty of governing thirteen states at any rate, independent of calculations upon an ordinary degree of public spirit and integrity, will, in my opinion, constantly *impose* on the national rulers the *necessity* of a spirit of accommodation to the reasonable expectations of their constituents.” Thus then we see Congress deeming it *necessary* to propose amendments in order to comply with the general wish of their constituents, and to accommodate the Constitution to their reasonable expectations; and yet the amendments proposed are, according to the sentiments of the Senators from the respectable state of Virginia, “*inadequate to the purpose of real and substantial amendments.*” But Congress could observe that the grand point, viz. the adoption, having been obtained, and such members, both in Congress and the States Legislatures in general, elected by the indefatigable exertions of the great friends of the Constitution & of Consolidation, they needed only to throw out a few propositions, and call them amendments; and these, adopted by the State Legislatures, they supposed, would quiet the clamours of those who wished for “such amendments as may secure against the annihilation of the state governments.”—They were encouraged to suppose this, from finding that no Legislature had applied for calling a Convention to propose Amendments;³ and yet they were not willing to omit offering any lest some future Legislature might apply therefore; and if *any* were now offered and accepted, as they doubted not would be the case, if it was left to the present Legislatures to determine, they expected to hear no more of Amendments, especially as the general silence of late on the subject indicated an inattention thereto—The Amendments therefore came out, “proposed to the *Legislatures* of the several States.”

It is true Congress had a right to propose this mode, but they also had a right to propose another; they might have proposed them to Conventions in the several States, or they might, in my opinion, have left it to the determination or election of the several states, in what mode it should be conducted.—But, from the circumstances before-mentioned, they *know* what, in probability, they might expect from the present Legislatures, and *feared* perhaps, what might take place in a Convention, when the PEOPLE should know for what purpose they were elected.—However, it is not yet, perhaps, too late to insist on a Convention being called for the purpose of proposing such amendments as the late Convention of this State then thought necessary, and such other as have since been so apprehended.—I shall close this number with an extract from the Senators in Congress from the State of Virginia to the Speaker of their House of Representatives. “If a persevering application to Congress from the States that have desired (such) amendments, should fail of its object, we are disposed to think, reasoning from causes to effects, that unless a *dangerous apathy* should invade the public mind, it will not be many years before a constitutional number of Legislatures will be found to demand a Convention for the purpose.”

1. The Articles of Confederation provided that amendments to the Articles be proposed by Congress and unanimously adopted by the state legislatures.

2. The second amendment proposed by Congress concerned altering the compensation for members of Congress.

3. The legislatures of Virginia and New York each adopted resolutions requesting Congress to call a constitutional convention to propose amendments to the Constitution. Congress received these resolutions on 5 and 6 May 1789, read them, and then tabled them pending the receipt of the requests from the necessary two-thirds of the state legislatures.

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