

of these officers, who may be at the heads of the great departments of business, in carrying into execution the national system, involve in them a variety of considerations; they will not often occur and the power to make them ought to remain in safe hands. Officers of the above description are appointed by the legislatures in some of the states, and in some not. We may, I believe, presume that the federal legislature will possess sufficient knowledge and discernment to make judicious appointments: however, as these appointments by the legislature tend to increase a mixture of power, to lessen the advantages of impeachments and responsibility, I would by no means contend for them any further than it may be necessary for reducing the power of the executive within the bounds of safety. To determine, with propriety, how extensive power the executive ought to possess relative to appointments, we must also examine the forms of it, and its other powers; and these forms and other powers I shall now proceed briefly to examine.

By art. 2. sect. 1. the executive power shall be vested in a president elected for four years, by electors to be appointed from time to time, in such manner as the state legislatures shall direct — the electors to be equal in numbers to the federal senators and representatives: but congress may determine the time of chusing senators [i.e. electors], and the day on which they shall give their votes; and if no president be chosen by the electors, by a majority of votes, the states, as states in congress, shall elect one of the five highest on the list for president. It is to be observed, that in chusing the president, the principle of electing by a majority of votes is adopted; in chusing the vice president, that of electing by a plurality. Viewing the principles and checks established in the election of the president, and especially considering the several states may guard the appointment of the electors as they shall judge best, I confess there appears to be a judicious combination of principles and precautions. Were the electors more numerous than they will be, in case the representation be not increased, I think, the system would be improved; not that I consider the democratic character so important in the choice of the electors as in the choice of representatives: be the electors more or less democratic, the president will be one of the very few of the most elevated characters. But there is danger, that a majority of a small number of electors may be corrupted and influenced, after appointed electors, and before they give their votes, especially if a considerable space of time elapse between the appointment and voting. I have already considered the advisory council in the executive branch: there are two things further in the organization of the executive, to which I would particularly draw your attention; the first, which, is a single executive. I confess, I approve; the second, by which any person from period to period may be re-elected president, I think very exceptionable.

Each state in the union has uniformly shewn its preference for a single executive, and generally directed the first executive magistrate to act in certain cases by the advice of an executive council. Reason, and the experience of enlightened nations, seem justly to assign the business of making laws to numerous assemblies; and the execution of them, principally, to the direction and care of one man. Independent of practice a single man seems to be peculiarly well circumstanced to superintend the execution of laws with discernment and decision, with promptitude and un[i]formity: the people usually point out a first man — he is to be seen in civilized as well as uncivilized nations — in republics as well as in other governments. In every large collection of people there must be a visible point serving as a common centre in the government, towards which to draw their eyes and attachments. The constitution must fix a man, or a congress of men, superior in the opinion of the people, to the most popular men in the different parts of the community, else the people will be apt to divide and follow their respective leaders. Aspiring men, armies and navies, have not often been kept in tolerable order by the decrees of a senate or an executive council. The advocates for lodging the executive power in the hands of a number of equals, as an executive council, say, that much wisdom may be collected in such a council, and that it will be safe; but they agree, that it cannot be so prompt and responsible as a single man — they admit that such a council will generally consist of the aristocracy, and not stand so indifferent between it and the people as a first magistrate. But the principal objection made to a single man is, that when possessed of power he will be constantly struggling for more, disturbing the government, and encroaching on the rights of others. It must be admitted, that men, from the monarch down to the porter, are constantly aiming at power and importance and this propensity must be as constantly guarded against in the forms of the government. Adequate powers must be delegated to those who govern, and our security must be in limiting, defining, and guarding the exercise of them, so that those given shall not be abused, or made use of for openly or secretly seizing more. Why do we believe this abuse of power peculiar to a first magistrate? Is it because in the wars and contests of men, one man has often established his power over the rest? Or are men naturally fond of accumulating powers in the hands of one man? I do not see any similitude between the cases of those tyrants, who have sprung up in the midst of wars and tumults, and the cases of limited

executives in established governments; nor shall we, on a careful examination, discover much likeness between the executives in Sweden, Denmark, Holland, &c. which have, from time to time, increased their powers, and become more absolute, and the executives, whose powers are well ascertained and defined, and which remain, by the constitution, only for a short and limited period in the hands of any one man or family. A single man, or family, can long and effectually direct its exertions to one point. There may be many favourable opportunities in the course of a man's life to seize on additional powers, and many more where powers are hereditary; and there are many circumstances favourable to usurpations, where the powers of the man or family are undefined, and such as often may be unduly extended before the people discover it. If we examine history attentively, we shall find that such exertions, such opportunities, and such circumstances as these have attended all the executives which have usurped upon the rights of the people, and which appear originally to have been, in some degree, limited. Admitting that moderate and even well defined powers, long in the hands of the same man or family, will, probably, be unreasonably increased, it will not follow that even extensive powers placed in the hands of a man only for a few years will be abused. The Roman consuls and Carthaginian suffetes possessed extensive powers while in office; but being annually appointed, they but seldom, if ever, abused them. The Roman dictators often possessed absolute power while in office; but usually being elected for short periods of time, no one of them for ages usurped upon the rights of the people. The kings of France, Spain, Sweden, Denmark, &c. have become absolute merely from the encroachments and abuse of power made by the nobles. As to kings, and limited monarchs, generally, history furnishes many more instances in which their powers have been abridged or annihilated by the nobles or people, or both, than in which they have been increased or made absolute; and in almost all the latter cases, we find the people were inattentive and fickle, and evidently were not born to be free. I am the more particular respecting this subject, because I have heard many mistaken observations relative to it. Men of property, and even men who hold powers for themselves and posterity, have too much to lose, wantonly to hazard a shock of the political system; the game must be large, and the chance of winning great, to induce them to risque what they have, for the uncertain prospect of gaining more. Our executive may be altogether elective, and possess no power, but as the substitute of the people, and that well limited, and only for a limited time. The great object is, in a republican government, to guard effectually against perpetuating any portion of power, great or small, in the same man or family; this perpetuation of power is totally uncongenial to the true spirit of republican governments: on the one hand the first executive magistrate ought to remain in office so long as to avoid instability in the execution of the laws; on the other, not so long as to enable him to take any measures to establish himself. The convention, it seems, first agreed that the president should be chosen for seven years, and never after to be eligible. Whether seven years is a period too long or not, is rather matter of opinion; but clear it is, that this mode is infinitely preferable to the one finally adopted. When a man shall get the chair, who may be re-elected, from time to time, for life, his greatest object will be to keep it; to gain friends and votes, at any rate; to associate some favourite son with himself, to take the office after him: whenever he shall have any prospect of continuing the office in himself and family, he will spare no artifice, no address, and no exertions, to increase the powers and importance of it; the servile supporters of his wishes will be placed in all offices, and tools constantly employed to aid his views and sound his praise. A man so situated will have no permanent interest in the government to lose, by contests and convulsions in the state, but always much to gain, and frequently the seducing and flattering hope of succeeding. If we reason at all on the subject, we must irresistably conclude, that this will be the case with nine tenths of the presidents; we may have, for the first president, and, perhaps, one in a century or two afterwards (if the government should withstand the attacks of others) a great and good man, governed by superior motives; but these are not events to be calculated upon in the present state of human nature.

A man chosen to this important office for a limited period, and always afterwards rendered, by the constitution, ineligible, will be governed by very different considerations: he can have no rational hopes or expectations of retaining his office after the expiration of a known limited time, or of continuing the office in his family, as by the constitution there must be a constant transfer of it from one man to another, and consequently from one family to another. No man will wish to be a mere cypher at the head of the government: the great object of each president then will be, to render his government a glorious period in the annals of his country. When a man constitutionally retires from office, he retires without pain; he is sensible he retires because the laws direct it, and not from the success of his rivals, nor with that public disapprobation which being left out, when eligible, implies. It is said, that a man knowing that at a given period he must quit his office, will unjustly attempt to take from the public, and lay in store the means of support and splendour in his retirement; there can, I think, be but very little in this observation. The same constitution that makes a man eligible for a given period only, ought to make no man

eligible till he arrive to the age of forty or forty-five years: if he be a man of fortune, he will retire with dignity to his estate; if not, he may, like the Roman consuls, and other eminent characters in republics, find an honorable support and employment in some respectable office. A man who must, at all events, thus leave his office, will have but few or no temptations to fill its dependant offices with his tools, or any particular set of men; whereas the man constantly looking forward to his future elections, and, perhaps, to the aggrandizement of his family, will have every inducement before him to fill all places with his own props and dependants. As to public monies, the president need handle none of them, and he may always rigidly be made [to] account for every shilling he shall receive.

On the whole, it would be, in my opinion, almost as well to create a limited monarchy at once, and give some family permanent power and interest in the community, and let it have something valuable to itself to lose in convulsions in the state, and in attempts of usurpation, as to make a first magistrate eligible for life, and to create hopes and expectations in him and his family, of obtaining what they have not. In the latter case, we actually tempt them to disturb the state, to foment struggles and contests, by laying before them the flattering prospect of gaining much in them without risking any thing.

The constitution provides only that the president shall hold his office during the term of four years; that, at most, only implies, that one shall be chosen every fourth year; it also provides, that in case of the removal, death, resignation, or inability, both of the president and vice-president, congress may declare what officer shall act as president; and that such officers shall act accordingly, until the disability be removed, *or a president shall be elected*: it also provides that congress may determine the time of chusing electors, and the day on which they shall give their votes. Considering these clauses together, I submit this question — whether in case of a vacancy in the office of president, by the removal, death, resignation, or inability of the president and vice-president, and congress should declare, that a certain officer, as secretary for foreign affairs, for instance, shall act as president, and suffer such officer to continue several years, or even for his life, to act as president, by omitting to appoint the time for chusing electors of another president, it would be any breach of the constitution? This appears to me to be an intended provision for supplying the office of president, not only for any remaining portion of the four years, but in cases of emergency, until another president shall be elected; and that at a period beyond the expiration of the four years: we do not know that it is impossible; we do not know that it is improbable, in case a popular officer should thus be declared the acting president, but that he might continue for life, and without any violent act, but merely by neglects and delays on the part of congress.

I shall conclude my observations on the organization of the legislature and executive, with making some remarks, rather as a matter of amusement, on the branch, or partial negative, in the legislation: — The third branch in the legislature may answer three valuable purposes, to impede in their passage hasty and intemperate laws, occasionally to assist the senate or people, and to prevent the legislature from encroaching upon the executive or judiciary. In Great Britain the king has a complete negative upon all laws, but he very seldom exercises it. This may be well lodged in him, who possesses strength to support it, and whose family has independent and hereditary interests and powers, rights and prerogatives, in the government, to defend: but in a country where the first executive officer is elective, and has no rights, but in common with the people, a partial negative in legislation, as in Massachusetts and New-York, is, in my opinion, clearly best: in the former state, as before observed, it is lodged in the governor alone; in the latter, in the governor, chancellor, and judges of the supreme court — the new constitution lodges it in the president. This is simply a branch of legislative power, and has in itself no relation to executive or judicial powers. The question is, in what hands ought it to be lodged, to answer the three purposes mentioned the most advantageously? The prevailing opinion seems to be in favour of vesting it in the hands of the first executive magistrate. I will not say this opinion is ill founded. The negative, in one case, is intended to prevent hasty laws, not supported and revised by two-thirds of each of the two branches; in the second, it is to aid the weaker branch; and in the third, to defend the executive and judiciary. To answer these ends, there ought, therefore, to be collected in the hands which hold this negative, firmness, wisdom, and strength; the very object of the negative is occasional opposition to the two branches. By lodging it in the executive magistrate, we give him a share in making the laws, which he must execute; by associating the judges with him, as in New-York, we give them a share in making the laws, upon which they must decide as judicial magistrates; this may be a reason for excluding the judges: however, the negative in New-York is certainly well calculated to answer its great purposes: the governor and judges united must possess more firmness and strength, more wisdom and information, than

either alone, and also more of the confidence of the people; and as to the balance among the departments, why should the executive alone hold the scales, and the judicial be left defenceless? I think the negative in New-York is found best in practice; we see it there frequently and wisely put upon the measures of the two branches; whereas in Massachusetts it is hardly ever exercised, and the governor, I believe, has often permitted laws to pass to which he had substantial objections, but did not make them; he, however, it is to be observed, is annually elected.

[Next](#) | [Previous](#) | [Contents](#) | [Text Version](#)