

HOW SHALL WE ELECT OUR PRESIDENTS?

AN American writer, of some local repute in his day, addressing his countrymen soon after the Constitution of the United States went into operation, said: "You have nothing to fear from your Constitution; your Constitution has everything to fear from you." This antithesis contained some truth when it was uttered; it contains some now. Our Constitution is, in its theory, the most nearly perfect system of free government that was ever devised. It has but few defects; and although, when it had been completed and was first promulgated, it seemed to that generation very hazardous to commit such powers of government to a central authority acting for the whole people of the United States, so that the Constitution as originally framed had to be amended, the true way in which the system should be regarded, in judging of its merits, is to consider the first ten amendments just as if they had been incorporated into the text of the instrument as it came from the hands of its framers. Thus complemented by the addition of certain restrictive and explanatory clauses, there was as little danger to liberty from the Constitution as there was danger of anarchy, notwithstanding the anxiety felt by our grandfathers when they gave their assent to the new government. But while the people have had nothing to fear from the Constitution, the Constitution has often had a good deal to fear from the people and their public servants. False constructions, loose official interpretations, departures from the intent and spirit of many of its provisions, the strifes of parties, the antagonisms of sections, the conflicts of local interests, the ambitions of individuals,—these, and many other causes for which the Constitution itself is not responsible, have at different times powerfully contributed to bring this nearly perfect system of government into much peril. I do not now propose to treat of the great schism which, nearly a quarter of a century ago, seemed likely to end in a permanent disruption of the Union, and by consequence in the loss of the Constitution. I now seek to direct public attention to an evil that has been growing in magnitude for a period of about fifty years, and which is to-day one of the most serious and menacing of all the causes that may finally lead to an overthrow of this form of government. I allude to the abuses of the electoral system,—abuses of the machinery which the Constitution established

for constituting the executive head of the government.

There can be very little question about the intent of the plan by which the framers of the Constitution proposed to have the office of President of the United States filled at stated intervals of four years. Whether this period was or was not too short, there can be no doubt that the method of election was well devised. It interposed between the people of each State and the ultimate choice a body of electors, measured in numbers by the aggregate representation of the State in the two Houses of Congress. The design of this intermediate body was twofold: first, to avoid the tumults that might attend a direct vote of the people for a chief executive officer to whom such great powers were to be committed; and, secondly, to enable the functionaries called electors to exercise a deliberate and independent choice from among the public men of the country for an office of so much dignity and authority. The fact that the first President was chosen under circumstances which operated as a distinct moral instruction to the electors to cast the votes of their States for Washington, does not detract from the obvious design of the electoral system. While the men who made that system anticipated that to insure the success of the experiment of their new government Washington must be and would be the first President, they so framed the electoral machinery that in subsequent elections the choice would, as they believed, take place without any moral or any other kind of instruction to compel the selection of the individual to fall upon a previously designated person. In like manner, although at the time when the Constitution went into operation there were, properly speaking, no parties or party divisions,—for the differences between the friends of the Constitution and its opponents certainly did not amount to organized parties such as we have since known,—yet it was foreseen that questions of administration and public policy would necessarily lead to the formation of parties; and it is quite certain that one of the chief reasons for interposing a body of electors, by whom the office of President was to be filled, was to avoid in some degree the dictation and control of parties, and to allow some scope for the voice of minorities in the electoral colleges. So, too, when we interpret the text of the electoral

system by known historical facts and contemporary documents and discussions, there can be no doubt that one of the chief purposes of this system was to have the President appointed by public functionaries who should act without the control of positive instruction respecting the individual for whom they were to cast the votes of their States. This view of the original design of the electoral bodies leaves to political parties all the scope that they ought to have in the choice of a President; for it leaves the dominant majority of the people of every State to appoint as electors men of their own political faith and opinions, and at the same time it avoids the dictation of the individual to whom the electoral votes of the States are to be given. The members of an electoral college, appointed by the votes of a majority of the people of a State, may properly, and will naturally, cast their electoral votes for some public man who is of the same party; but it is simply an abuse of the electoral system, as it was originally designed to operate, to have the electors put under a moral, an honorary, or any other obligation not in any case to vote for any person but the individual who is designated, or, as it is called, "nominated," by a party convention.

Let us now see what has come about in the past forty or fifty years. Before the advent of the so-called national conventions, nominations for the Presidency were made by bodies called caucuses, composed of the members of Congress who were adherents of the respective parties of the time. This was a method that was open to some of the objections which belong to the convention system of nominations; that is to say, all nominations which operate finally as positive instructions to the State electors, however they may be made, are bad, because they lead to intrigue, to the exclusion of the best men, to more or less of corruption, and, therefore, to a violation of the original design of the electoral system. But the nominating caucuses that were held at the seat of government by the political parties, and were composed of such members of Congress as chose to take part in them, bad as they were on some accounts, did not lead to a title of the evils of the convention system. It is to the consequences of this system of national party conventions, as it has operated ever since it was resorted to, that I wish to draw the attention of reflecting men, and then to consider whether anything can be done to put an end to it, and at the same time to leave to political parties all the vigor and activity that they ought to have in a popular government like ours.

The operation of the convention system is

this: An irresponsible body, unknown to the Constitution or the laws, the creature of a usage only, and organized by the action in primary assemblies of probably not a tenth part of the American people, assembles in some great city. Some of the delegations come with positive instructions from the political cabals which appointed them to secure the nomination of a particular individual, who may or may not be a person of national reputation. Other delegations are not so positively fettered, but perhaps they are under the operation of a device called the "unit rule," whereby the whole vote of the delegation is thrown by a majority of its members,—an ingenious plan for suppressing the voices of a minority of the delegation in the final count of the votes of the whole convention. In addition to the regular delegates from the different States, come organized bands of noisy partisans, to "work" for their respective candidates. Here and there may be seen eminent citizens, who have traveled great distances from their homes with the patriotic purpose of bringing about a good nomination. The influence, however, of this class of men is often lost in the tumultuary excitements of the scene. The assembly is usually convened in some very large building which admits of enormous crowds in its galleries; and these crowds, composed of the most heterogeneous materials, often partake of some of the characteristics of a mob. It has not seldom happened that wise deliberation and conscientious action have been impossible under such circumstances; and it has sometimes happened that the presiding officer has been unable to distinguish between the decisions of the body itself and the decisions of the surrounding vociferating and excited galleries. In the discussions, conferences, bargains, and combinations that take place out of the sittings of the convention, if money is not used, and used in large sums, to buy votes, these bodies have been belied for many years. The probability is that for at least twenty years, in the nominating conventions of both of the great political parties, money has been a factor. But these transactions are so conducted that they are unknown to any but the vendors and purchasers of the votes. The staple of the argument that is openly pressed for this or that candidate for the nomination is his ability to "carry" this or that State which is supposed likely to be "the battle-ground" or one of the battle-grounds of the election. The "pivotal States," as they are denominated in the political jargon of these occasions, sometimes make the nomination turn upon considerations of the lowest kind. Something in the past history of a public man is supposed to

give him the best chance to capture the "soldier" vote, or the "Irish" vote, or the "German" vote, or the "negro" vote, or the liquor or the anti-liquor interest, or the workman's interest, and so on through all the catalogue of diversified prejudices and passions which sway, or are supposed to sway, the popular impulses of different localities or classes at these times of the quadrennial ballot for a President. Very little is heard of the solid grounds on which the public character of a statesman ought to be able to challenge public confidence; very little of the qualities which should fit a man for the office. Nearly the whole effective force of a great party is expended in calculation of the elements of what is called the "strength" of the different prominent men of the party. An accurate definition of this curious quality of political strength excludes the personal fitness of a man to be President of the United States, and includes his supposed "availability," which means some adventitious capacity to win more votes in the election than any one else. Undoubtedly, so long as the convention system of nominations, with all their binding force, is continued, the quality that is universally understood as "strength," low as it is in the scale of calculations, is an element of some importance. But let any one follow out the whole process of these nominations and the working of the whole machinery, and then compare it with the obvious design of the electoral system, and he will be convinced that if the framers of the Constitution could have foreseen in what their system was to result, they never would have established it.

The balloting in these nominating conventions often afford a curious study. The first balloting generally reveals the "strength" of the respective persons for whom the votes are cast. Then ensues a strange kind of lottery. Across the calculations and combinations which, at one moment, have seemed almost certain to bring about a concerted result, wild waves of feeling and impulse sweep with unaccountable force, and some other person comes to the front. Perhaps he is one of those whose candidacy has been contemplated by a part of the public and by a strong body of adherents, so that he belongs to the category of men known to the nation. Perhaps he is that mysterious personage known as the "dark horse," who rides into the arena from comparative obscurity and suddenly carries off the prize, no man can tell how or why. But in some mode, after the contending forces have worked out a majority for somebody, a nomination is made. Then follows the application of the device by which the mouths of all dissenters are

to be shut. The nomination is declared to be the unanimous act of the convention, amid loud vociferation, waving of banners, and all the hubbub of an excitement which a calm looker-on would suppose indicated a universal conviction that something of great importance to the public welfare had occurred. Meantime everybody knows that the unanimity is one of those fictions which it is no abuse of language to characterize as lies. To be sure, no one is deceived by it. It is only a formality, meaning nothing.

A certain number of throws from two dice-boxes will inevitably give a major number of points to one or the other of the persons playing; but a by-stander might as well undertake to predict what is to come out of a given number of casts of dice, as to pronounce beforehand who will receive the nomination of a party convention for the great office of President of the United States. Eminent talent, long public service, high character, statesmanlike accomplishments, which would seem to be sure elements of calculation, are the least potent of all the factors which bring about the result; and of those factors which really produce the result, there is no calculation possible,—they are so diverse, contradictory, and inappreciable. The only tangible one of all those factors is money, or its equivalent in the shape of promises of future preferment. But somehow a nomination is made. Thereupon, instantly, all over the land, throughout all the adherents of the party, if white has not become black and black white, it has become inexpedient to speak of the difference. Presses which had previously urged, with all the ability they could command, the high political and moral expediency of electing some eminent statesman to the Presidency, suddenly find themselves advocating the election of a very inferior sort of person. Principles of political conduct which a little while before were thought to be the highest political virtue are speedily put out of sight. Men become boisterous in their praises of what they strongly disapproved one week or two weeks since. The few who will neither surrender their principles nor bury them in silence are stigmatized by a term borrowed from the turf, which describes the refusal of a beast under whip and spur to obey the reins, as "bolters."

We have wandered so far from the principles of the Constitution — they are so little understood at the present day by the great body of citizens — that perhaps the statement that the Constitution does not contemplate or intend that the President shall be conclusively designated by a popular vote will cause some surprise. Yet there is no proposition

concerning the Constitution that can be made more indisputable than this. In the discussions which attended its formation and adoption, we can trace the effort to frame a system by which the President could be appointed without being absolutely elected by the votes of the people. Project after project was brought forward in the Federal Convention, all of them of a different character, but all designed as substitutes for a direct appointment by the people. At one time it was proposed that the national executive should be appointed by the national legislature; at another, by the legislatures of the States; and still another plan was that electors should be chosen by the State legislatures or appointed by the State executives. At length, after the most laborious and careful consideration, the plan was adopted of electors to be appointed by the different States according to the ratio of their representation in Congress. These officers were interposed between the popular vote and the actual choice, with the intent that they should make the choice upon high public motives, without positive instruction, pledge, or obligation binding them to vote for a specified person. It was intended to secure a body of electors whose calm and sound judgment might be relied upon to prevent the executive office from falling into the hands of men of great personal popularity, or influence, or distinction, not accompanied by high qualifications for its duties. It was doubtless not intended to exclude the sense of the people from the consideration of the electors. But it was certainly intended that the electors should exercise a real choice; that they should weigh the sense of the people, but not be controlled by it, if a sound judgment of the public good required them to disregard it. They were to be the agents of the people in choosing a President, but not to be their agents for the inevitable selection of a particular individual. No other function in the government was assigned to them. Having discharged their trust, they were to return into the body of their fellow-citizens.

But this wise and careful institution has lost its purpose. The electors exercise no choice, no judgment, no volition. They come into official existence pledged to vote for a particular candidate, and they are assumed to be dishonorable men and traitors to their party if they do not obey its behests. In some States they are appointed by a majority of the voters; in some a plurality only determines the person for whom they are to vote, while a majority of votes have perhaps been cast against him.

It has fared no better with the people. The candidate for whom the electors are

expected and required to vote is not only designated before they have assembled, but he is designated by a body that is unknown to the law, that derives its existence and authority from those who choose to get together and institute it, and who are, too, a numerical minority of the political party in whose name they claim to act. But notwithstanding the total want of all proper authority, notwithstanding the fact that the primary assemblies which appoint the delegates to the nominating conventions notoriously embrace but a small part of the voters of a party, the power of these conventions is immense. To break away from their dictation requires an effort that few men who feel party obligations like to make. The people have not only accepted the control of the conventions over the electors, but they have lost all proper freedom of choice in casting their own votes. The election is supposed to be popular. It is not a popular election, if by that is meant that the people, or a majority of them, express their preferences by their votes. They have no opportunity for such an expression. They are just as much debarred from all proper freedom of choice as if a foreign army, able to overrun and overawe the country, were to land on our coast and say: "Choose for your executive one of two men whom we present to you." The people do not choose the President; they determine which of two "candidates" shall be President, and this is all.

Can anything be done to put an end to this state of things? That something ought to be done, if it be possible, few reflecting men will deny. If we can get rid of the pernicious operation of the political maxim that "to the victors belong the spoils," and can confine the function of parties to the promotion of differing views of public policy, we shall have begun a work that may take away one of the principal motives that actuate a large class of our politicians who busy themselves in organizing and conducting the nominating conventions. How potent this motive is, no one need be told. So long as it is left in operation, so long the successful candidate for the Presidency will be obliged to yield to the demands that are made upon him, whether he has or has not entered into previous stipulations to reward his supporters. It requires great firmness of character in any newly elected President to resist the demands of an active and influential politician who can come to him and say: "Sir, I secured your nomination to this great office; more than that, I carried my State for you; the usages of the party, its effective force for the present and the future, its common law of political action, give me a claim to a certain

amount of the public patronage for myself and my friends." Every one knows how these claims are always responded to; how often an administration, and even the usefulness of a successful party, have been wrecked in the effort to reconcile the conflicting claims of the leading political managers of a nomination and a campaign. If there ever was such a degree of political utility in the spoils system as to amount to a plausible necessity for making it a principle of party action, it has come to be such an abuse that the true function of parties is swamped beneath a deluge of corruption. In a government like ours, the only legitimate office of a party is to develop and carry out public policies; and among all the nearly countless public positions which the vast patronage of the Federal Government embraces, there are but a very few which it is in any proper sense necessary to fill with adherents of the party which the President represents. If we ever reach the condition that is aimed at in what is called Civil Service Reform, an administration of any vigor can always find means to prevent inferior officers of the civil service from acting improperly against its public policy, unless the laws which regulate the term of such offices are very unwisely framed. The objection that any fixity of tenure, which will take away the President's power of removal at his pleasure, will tend to the establishment of an oligarchy of office-holders, or a permanent official class, or a bureaucracy, is much more specious than real. Many governments have found by experience that the advantage of retaining civil officers in the public service so long as they well and faithfully perform the duties far outweighs any advantage that can be derived from a universal change at every change of the executive administration. Rotation in office, as such changes are euphemistically denominated, is a principle of republican government only in a sentimental sense. In a practical sense it is of no value excepting as a means of rewarding partisan service and continuing the domination of a party. Just as soon as a party ceases to command the confidence of the people by its public policy, its hold upon the executive as well as the legislative branch of the government ought to cease at the first opportunity for a change; and it is simply absurd to leave in its hands the means of continuing its possession of power by the enormous patronage of a government that disburses more money and employs more public servants than the whole aggregate of the civil lists of all the States in the Union many times over. But be the disadvantages of a fixed tenure of office what they may, the people of the United

States are now brought to the necessity of determining which is the greater evil, to have a class of official men not removable from their places excepting for some cause other than the political aims of the existing administration, or to have the enormous patronage of the Federal Government used, as it has heretofore been, for the purpose of getting or keeping power.

The tendency of the existing mode of nominating and electing candidates for the Presidency is to divide American statesmanship into two classes of men of very unequal numbers. The high-toned men, who will not stoop to the acts and use the appliances necessary to procure a nomination, are the exceptions. They may and generally do hold as strongly to the tenets of their party as the men who belong in the other category; their political principles are deep convictions; and ambition, the infirmity of noble minds, may not be, and need not be, wanting to them. But with this class of men ambition is restrained by a self-respect which forbids solicitation or management in their own interest. They may have friends and followers who will gladly do the political work required to effect for them a party nomination, and do it disinterestedly; but they do not allow themselves to be drawn into the schemes necessary to bring it about, nor are their followers likely to be persons willing to embark very far in such schemes. The consequence is that this class of our public men, who have achieved high reputation on the theater of national affairs, and who are the best representatives of the American character as well as of the parties with which they act, are the least possessed of that peculiar recommendation called political strength, and are therefore the least likely to find favor with the nominating conventions of their party. Nevertheless, these are the very men from among whom the Presidential electors ought to select a chief magistrate for the nation.

The emancipation of the country from the evils of the spoils system may do something to break up the convention system of making nominations. But it needs to be supplemented by an emancipation of the people and the Presidential electors from the thralldom which confines the choice of a President to designated candidates. I conceive that the following plan, if it can receive the support of disinterested men of all parties, would go far to accomplish the object. My suggestion involves an amendment of the Constitution; and I am well aware that no amendment can be adopted without the support of the principal statesmen of the country, regardless of party. But if the amendment which I suggest can

receive that support, it can be adopted. It is somewhat invidious to speak of classes in this country, but it is sometimes necessary. There is a very large proportion of the people of the United States who for convenience may be called the middle class: that great body of men who are neither rich nor poor; who vote sometimes with one party, sometimes with another, but who have no selfish objects in their political action. It is quite plain that this system of nominating candidates for the Presidency, and confining the choice by the operation of the binding force of the party nominations upon the consciences of the electors to the designated candidate of the party, in sheer violation of the intent of the electoral system, cannot go on much longer without bringing that system into utter contempt. The middle class of people will see before long that the mode in which these nominations are brought about, and the restriction of choice which the practice entails, deprives the country of the services of its fittest men in the office of President of the United States. Thousands of honest citizens who now deposit their votes in the ballot-boxes with serious misgivings about the candidate for whom their vote will be counted, will not much longer endure the strain upon their consciences and their judgments. They will demand such a modification of the electoral system as will restore its main original design, by freeing the electors from the absolute dictation of a party nomination. This may be done by a single change.

The Constitution, as it stood until the year 1804, after providing for the appointment of electors by each State in such manner as its legislature might direct, required them to meet and ballot in their respective States, but authorized the Congress to determine the time of choosing them and the day on which their votes were to be given, requiring the day to be the same throughout the United States. They were to vote by ballot for two persons, of whom one at least must not be an inhabitant of the same State with themselves. A mode was provided for determining which of the two persons voted for was to be the President and which the Vice-President. The electors were to make a list of all the persons voted for and of the number of votes for each, and they were to transmit it, sealed, to the seat of government, directed to the President of the Senate, who, in the presence of the Senate and House of Representatives, was to open all the certificates, and the votes were then to be counted. The twelfth amendment, adopted in 1804, continued the original provision which required the electors to meet and vote in their respective States, but changed the

method of balloting so as to designate what person they voted for as President, and what person they voted for as Vice-President, requiring distinct lists of the votes for each of them. The amendment also continued the original method of transmitting the sealed certificates, the opening of the certificates, and the counting of the votes.

It is a well-known historical fact that the framers of the Constitution required the electors to meet and vote in their respective States, and on the same day throughout the United States, in order to prevent intrigue and corruption. Contemplating for each State a body of untrammelled electors who were to make a real choice of two persons, one of whom, having the highest number of all the electoral votes in the Union, was by operation of law to be the President, and the other, having the next highest number of votes, was to be the Vice-President, the framers of the Constitution assumed that the danger of improper influences and corrupt or factious combinations would lie, if anywhere, in the electoral bodies themselves. It could be obviated, as they supposed, by requiring the electors to meet and vote in their respective States, and on the same day. But it was not foreseen that the danger of intrigue and corruption was to arise in another quarter; that this danger would precede the appointment and assembling of the electors; and that the whole system would be deflected from its original purpose, not by any legitimate constitutional change in the function of the electors, but by a practice of party nominations imposing upon the electors of every State an irresistible customary law, of honorary obligation, requiring them to vote and to vote only for a person designated by a party convention. This reduction of the electors to the position of mere automata, restricting their votes to a candidate previously designated by a body in which every art of intrigue and corruption can be successfully applied, and designated often by a hap-hazard process, has rendered the assembling and voting by the electors in their respective States of no value at all. Of what consequence is it where the electors of a State meet and vote, if they have no function but to register the previous decrees of a party convention? Wherever they may meet and vote, they are not often intrigued with or corrupted after they have assembled, or after they have been appointed. They are usually honest and upright persons, of no great consequence as individuals, acting, according to the prevalent customary obligation, as mere instruments to give a formal constitutional shape to the popular vote of their party for some nomi-

nated candidate. They could do this if they were all assembled in one body, just as well as to do it in separate colleges. Wherever they do it, it is certain that the Constitution did not intend that the popular vote should absolutely designate the President by any process whatever.

There is another and a long train of unfortunate consequences that have flowed from the electoral voting in the separate States, accompanied by the requirement of certificates to be transmitted to the President of the Senate, to be opened by him, and then to be acted on by the two Houses of Congress in counting the votes. It is almost unnecessary to advert to the dangerous questions that have arisen out of this process of returning and counting the electoral votes, or to the manner in which these difficulties have been met. Recent occurrences of a very painful nature will be in the recollection of every reader. If any safe and prudent method can be devised, which, while accomplishing other benefits, will take the whole process of counting the electoral votes out of the hands of the two Houses of Congress, it will be a consummation most devoutly to be wished.

Both theoretically and practically, the electors appointed by the respective States to ballot for a President ought to be, and the Constitution contemplates that they shall be, persons fit to exercise a peculiar function; and over this function experience has shown that the legislative bodies should have no control. As the Constitution was planned, requiring the electors to meet and vote in their respective States, it became necessary to provide for some central authority to open their certificates, count their votes, and make a public record of the results. It was expedient that this should be a public solemnity; and as some one public officer must receive and open the certificates, and as the votes must be publicly counted, the President of the Senate was designated for one of these purposes and the two Houses for the other. But it is quite obvious that there is an alternative method, which may dispense with a return of certificates to any officer of the government, and with the counting of the votes by the two Houses. We are entirely familiar with the operation of the principle which makes a public body the judge of the elections, qualifications, and returns of its own members; and where the body is a large one, performing a dignified and important function in the government, this principle works in general with as much purity and honesty as any institution can in a government conducted by political parties. It is, at all events, the best principle that can be applied to the determination of a

right to sit and act in a public body; and although it may sometimes be found expedient, as of late in the British House of Commons, to delegate the exercise of this power of determination to a judicial or quasi-judicial tribunal, its exercise is always under the control of the body itself. With us this power has never been delegated by our legislative bodies, but is always held and exercised by the public body in which it is vested, without inquiry, appeal, or revision elsewhere. The instance in which this power was in some manner delegated to a commission to determine between conflicting electoral certificates, is not one that stands in history as a fortunate precedent in the working of the system for counting the votes of the Presidential electors.

No more important or dignified function exists in this government of ours than that which is assigned by the Constitution to the Presidential electors. In the aggregate they constitute a very numerous body; as numerous as the whole number of the two Houses of Congress. Chosen for a temporary but most sacred function, and dissolved as soon as they have performed it, they would be, if assembled in one body, less likely to be swayed by improper or factious motives than bodies which are to continue in existence, and are closely connected with the parties and factions of the time. If they can be emancipated from the thralldom which now binds them, we might expect to see men of the highest order of character willing to assume and exercise a function of such transcendent importance, instead of seeing, as we now see, these appointments distributed as empty honors among the politicians, or as party compliments to men to whom there is at present nothing else to give, and who will make as good machines as anybody.

Why not, then, assemble the whole body of the electors at the seat of government, making them an electoral chamber, and constituting the body itself the judge of the elections, qualifications, and returns of its own members? We should thus obviate the necessity for returning the certificates of their appointment to any public officer who was not an officer of the electoral chamber itself, and should vest in the body itself every question that could arise on any of the certificates. Every certificate would be filed with some designated officer of the chamber, and the chamber would proceed to organize itself as other public bodies do in whom the same power is lodged. Of course the different members of the chamber would come with their party affinities and predilections; but, acting in public, and with a sense of their

responsibility to the nation as well as to their constituents, they would be compelled to decide with decency every preliminary question that could arise. If we are willing to trust this power to every legislative body in the land, why not trust it to the Presidential electors? They will be or might be removed from many of the improper and unfair motives that sometimes sway the action of legislative bodies on questions of contested seats.

Still it may be frankly admitted that this plan could not work well, unless the force of the obligation which now compels every elector to vote for a designated candidate, and not to vote for any other, can be broken. Where, by the law of the State, its electors are chosen on one ticket by a plurality vote of the people, the entire electoral vote of that State is now cast for a candidate who may not be the choice of a majority of all the voters. It is true that where the law of a State admits of the appointment of electors by districts, the elector of any district can make his vote and the wishes of his constituents felt in the final count. But assemble the whole body of the electors in one chamber, and let them vote for a President *per capita*, without regard to the fact whether they were elected on general State tickets or elected in districts, and minorities and sometimes even majorities would be better represented in the final result than they are now. It seems to be a reasonable calculation that this method of voting in the electoral chamber, after it had become appreciated by the people of all the States, would strongly stimulate them to select men worthy of the electoral trust, who would not, under all imaginable circumstances, surrender their judgments to the dictate of a nominating convention, which has perhaps been packed in the interest of some one man.

I am by no means disposed to forget the potency of political parties, nor the force of their machinery. But I am not arguing with the common run of politicians. I put it to the sober sense of the people — if anything that I can think or say can reach them — whether parties are of any value to *them* excepting as a means of carrying out some public policy; and whether our present mode of nominating and electing our Presidents is either necessary or useful to the legitimate objects of a party. I grant that so long as the spoils remain the grand objective point of party exertion and activity, or so long as the control of the public patronage is coupled as a means to the accomplishment of a public policy as an end, so long we must have nominating conventions, and the consequent degradation of the electoral system. But destroy the spoils system, eliminate entirely the cohe-

sive power of the public plunder from the means which hold parties together, and we shall break up this mode of choosing Presidents, and still leave to political parties all their legitimate functions. If we can choose a President in the mode which I have ventured to sketch, he will still be the representative of a party in every sense in which he ought to be; for the electors who appointed him would represent the public policy of a party; but he would not be a President bound to reward with office the partisans who had procured his nomination by a national party convention. We should thus destroy the vice of these conventions, and should still leave to them all the virtue that they can have, for they could still meet and resolve and announce their policies by platforms or otherwise. The vice of the system is the absolute dictation to the electors, which makes it impossible for them to think of but one candidate for the office which *they* are supposed to fill.

But I have been told in answer to this plan that the parties will still make their nominations, and that the force of these nominations will not be lessened by having the electors assemble and act as one chamber. There will be, it is said, just the same dictation, just the same honorary and imperative obligation to vote for the one man only. This may fairly be doubted, if we can once have what Civil Service Reform aims to accomplish. When that is effected, the national party conventions, if they continue to be held, will be attended chiefly by men who will seek to make them exclusively organs for declaring some public policy. It is not at all necessary that some one Presidential candidate should be presented to the people as the sole representative of a party policy. The electors of each State will come to the proposed chamber as representatives of the policy preferred by the voters who have appointed them to exercise the electoral trust. Unrestricted in their choice in all but one respect, they will be at liberty to select from among the public men of the same party the man whom they deem the most eligible for the office. They can therefore give, as they do not now give, due weight to all those considerations of character and capacity which ought to govern their votes. As no bargains have been made by them or for them, or by or for any one else, they will have no stipulations to fulfill by their votes; and the sole restriction that they will be under will be the public expediency of choosing some qualified statesman who concurs in the public policy of the party which made them electors. The President, when thus chosen, will be free to give his attention to the legitimate objects of the party associa-

tion, and will not be obliged to consider how he is to pay his political debts, for he will have none to discharge.

Shall I be told that this scheme is utopian? In a free and popular government, the value of any scheme that is pure and sound in its theory depends upon the practicability of once getting it into operation. No change should be regarded as utopian or visionary, unless there are practical obstacles to its inauguration and trial. I know of but one practical obstacle to the proposed plan, and as this is one that will come chiefly from the interested class of politicians, it is worthy only of a passing notice. The people, says the astute politician, have been so long accustomed to the exercise of a power of designating the man who is to be President as absolutely as if they chose him by a direct vote, that they will never surrender the existing practice. The people never surrender any power which they have once gained, least of all a power to make their will felt directly in their government. This suggestion of what the people will not do, in reference to the present subject, is derived from two sources. One of its sources is the assumption that the people are not intelligent enough to understand, and virtuous enough to secure, their own interest. The other is the fact that the spoils system, in the long history of party conventions, has been the main-spring of party activity and the cement of party consolidation. If, therefore, it is true that we cannot have the benefit of parties without the cohesive and stimulating power of the spoils,—cannot conduct our government without a vicious principle of action that really deprives us of half the legitimate benefits of party association,—our national institutions are on the road to ruin, whatever may be our material prosperity. Recent symptoms would seem to indicate that the people are intelligent enough to see this, and that the politician who shrewdly calculates that they are not is this time at fault.

One of the most palpable and mischievous consequences of the present method of making candidates for the Presidency remains to be noticed. For a long period of time the people of the United States have been, and they will probably continue to be, divided into two great parties. But there are always bodies of men who are associated politically upon some other principle,—some crotchet or other which they deem of supreme importance, but of which the two principal parties make little account, or with which they dabble more or less in certain localities. The formation of these "third parties"—political mushrooms springing up suddenly and suddenly disappearing—is on the whole a public mis-

fortune. They owe their existence, nine times out of ten, to the inability of the two principal parties to satisfy everybody with a "platform" or a candidate. But the advent of a third party into the field, not numerous or powerful enough to elect its own candidate, but able to draw voters away from both the principal parties, has a strong tendency to throw the election of a President into the House of Representatives, or else to bring about the election of a President who will not be the choice of a majority of the whole people of the United States. The secondary election by the House of Representatives, in case no choice is effected by the electors, was a necessary provision, but it is always a great misfortune when it has to be resorted to. It is no less a misfortune when a President is chosen by the votes of a sufficient number of the electors, some of whom may in their respective States owe their places to a mere plurality vote of the people. Would the assembling of the electors in one chamber, and their voting *per capita*, have any tendency to prevent or discourage the formation of third parties? There is good hope that it might, when we consider that these third parties are frequently organized in reference to some question or class of questions that are not matters of national concern, or subjects over which the Federal Government has any jurisdiction. If the true function of the electors can be practically restored, the people of all the States will recognize the importance of clothing the most eminent and independent citizens with this trust, who will act upon truly national considerations, and the chances of the presence in the electoral chamber of men representing some third and, nationally speaking, unimportant party will be thus diminished.

It would seem, then, that the Constitution needs but one change, and that this one would be followed by the elimination of many present evils and by the accomplishment of some important benefits. The appointment of the electors by their respective States in such manner as their legislature shall determine, and the negative qualification which forbids the appointment as an elector of any senator or representative, or any person holding an office of trust or profit under the United States, should both by all means be retained. Nor does there seem to be any good reason for changing the provision which empowers Congress to determine the time of choosing the electors. But the reason for their voting in their respective States has passed away. Experience has shown that this practice is utterly powerless to prevent the corruption which lies back of their appointment, in the nominating conventions which

are able to convert them into mere mechanical instruments. As things are now managed, there is nothing to prevent a President from rewarding with an office a politician who has actively aided in bringing about his nomination by a party convention, and has then become an elector to carry out the party decree. But let the electors be assembled and obliged to vote in one chamber, require every member of that chamber to write his name upon the ballot that he gives, make a public record of the votes and of the electors who give them, and we shall do something to forestall the operation of the system which now imposes upon the electors the sole duty of registering a party decree in favor of some one candidate for the Presidency and of him alone. An elector under the present practice is utterly irresponsible for his vote, morally or politically; but an elector who is obliged to discharge his trust in the face of the nation, and to leave on the public records the mode in which he has discharged it, may be made responsible for his vote. He will hardly dare to accept an appointment of any kind from a President whom he has helped to elect; nor would a President have any motive for rewarding an elector in any way, if the people who appointed that elector would take care not to appoint any man who had been a member of a nominating party convention. Doubtless, in order to effectuate the thorough reform that it is desirable to bring about, there are changes in the sphere of political morals that need to be accomplished, and that are out of the domain of positive institution or constitutional provision. But positive institution, if rightly framed, can do much to reform the unwritten code of political morality. If the positive institution and the unwritten law of political morality can be made to help each other, the electoral chamber, assembled and acting in one body, would be a very august assembly, composed of the most eminent citizens, who would be under no party restriction in casting their votes for a President, excepting the obligation to carry out in the best manner the public policy of the party to which they might respectively belong.

As the time for appointing the electors drew near, the public attention would be occupied by the discussion of the policies and aims of the two great parties. All that farrago of whether Mr. A. or Mr. B. could "carry" New York or Pennsylvania or Ohio would be thrust out of existence. There would be no battle-ground to be disputed between two candidates, for there would be no fixed candidates. The electoral chamber would both nominate and elect. The electors would weigh the public characters of the prominent

statesmen of their respective parties; and they would vote with a real responsibility to the nation, because they would exercise a real volition. A public functionary who acts without any volition of his own, who obeys an order imposed on him by another will, when he ought to exercise his own judgment and obey the dictates of his own conscience, is completely irresponsible for his conduct. The nominating convention, which now performs the function of naming the sole candidate for the suffrages of a great party, and the unwritten law of party obligation which confines the votes of the electors to that candidate, render the party leaders who have accomplished his nomination irresponsible for anything that they have done. They are actuated by an object which is expressed in the avowal that what they have to do is to win in the popular election. If they can do that, the electors are tied hand and foot to the triumphal car of the successful candidate, who has carried the popular election against another candidate nominated in the same manner, with the same object.

The public, and sometimes the private, character of a man who is to be elevated to the great dignity of President of the United States are matters of public concern. But what is it that gives to discussions of the public and private characters of the candidates nominated by the political parties the ferocity that we are often obliged to endure? It is the fact that the popular election, which in law is nothing but an appointment of a body of electors, is made to designate the inevitable choice that the electors are to make, joined with the other fact that the choice of the people is practically confined to two designated men. When the citizen comes to the polls his vote contributes to the success of one or the other of these two men. Whatever can influence his judgment is intensified by the power which he practically wields; and his judgment is often assailed by the most unscrupulous means, or by means that are irrelevant to the question on which he ought to act. Confine that question to the public policies of the political parties without reference to the individual character of a designated candidate for the Presidency, restore to the electors the function of both nominating and electing a President, and let the citizen feel, when he comes to the polls, that he does nothing but help to constitute a body of public functionaries who are to discharge the electoral trust upon their consciences and their honor, and this savage canvassing of the characters of two candidates will cease. To such a body of men we may safely intrust all the scrutiny into the past lives of our public men

that the public welfare demands. Beyond a doubt this was the purpose of the electoral system. If that purpose cannot be restored to its normal operation, it would be better to do away with the electors entirely, and let the people in contemplation of law vote for a President directly, as they do now in point of actual practice. A great institution, originally designed for a most important purpose, but which has come to be a sham, should not be suffered to remain so. Re-invigorate and renovate it, or put it to a civil death.

In order to give a full and clear idea of the change suggested in this paper, I have cast it into the subjoined form of an amendment of the Constitution. It may be that the order and details of the organization of the electors into an electoral chamber, sketched in this amendment, can be much improved. The great object to be accomplished would of course be a safe mode of organizing such an important assembly. In regard to the time to be allowed to the chamber for effecting an election of a President and a Vice-President, it is obvious that there must be some limitation. I have not specified the number of days, but have left it in blank in each case. It seems to me that they should be kept separate, as in one case the election would go to the House of Representatives and in the other to the Senate, if the electoral chamber did not make a choice.

ARTICLE XVI.

THE electors appointed under Article II. of this Constitution shall assemble in the hall of the House of Representatives in the city of Washington on the first Monday in February next after their appointment by their respective States, and shall, when so assembled and organized, constitute the electoral chamber. They shall have previously met in their respective States, and shall have constituted a chairman of the delegation, who shall bring with him to the seat of government the credentials of the appointment of himself and his colleagues, certified in such manner as the legislature of the State may direct, and shall file the same with the secretary of the chamber, as soon as that officer is appointed. The chamber shall be called to order by the president of the Senate, who shall act as its presiding officer until it is fully organized. For the purposes of the organization, the presiding officer shall cause a roll of the electors to be made from the credentials in the hands of the chairman of each delegation, and the right to sit and vote in the organization shall be determined by this roll. The electors so borne upon the preliminary roll shall then proceed to choose one of their own number as president of the chamber, and one of their own number as its secretary, who shall, before the temporary presiding officer, take and

subscribe an oath for the faithful performance of the duties of their respective offices. The temporary presiding officer shall then retire, and the secretary of the chamber shall receive and file the credentials of the electors, and they shall be referred to a committee of one elector from each State, to be appointed by the president of the chamber. The chamber shall be the judge of the elections, qualifications, and returns of its members. On the report of the committee, the secretary shall make a voting roll of all the electors found entitled to sit and vote in the election of President and Vice-President. The voting roll so made by the secretary shall be used in balloting for a President and Vice-President. Before such balloting, each elector shall take and subscribe an oath for the faithful performance of his electoral duties, and also an oath to support the Constitution of the United States.

The electors, when so organized, shall vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and each elector shall indorse his name on every ballot by him given. The secretary shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists he shall sign and certify, and shall deposit in the Department of State, directed to the Secretary of State, who shall make and keep a record thereof. The provisions of the twelfth amendment, of this Constitution which determine the choice by the electors of a President and a Vice-President respectively, and which regulate the election of the one by the House of Representatives and of the other by the Senate, in cases where a choice has not been effected by the electors, are hereby continued in force.

The time allowed for an election of a President by the electors shall be limited to full days next after the organization of the chamber, and if within that time no person receive the majority of votes required by the said twelfth amendment, the election shall devolve on the House of Representatives as provided in that amendment: and in like manner the time allowed for an election of a Vice-President shall be limited to full days next after the expiration of the time allowed for an election of a President by the chamber; and if no person have the majority of votes for Vice-President required by the said twelfth amendment, the election shall devolve on the Senate, as is provided in that amendment. When an election of a President or a Vice-President has been effected by the electoral chamber and duly certified to the Secretary of State, he shall make publication thereof in two newspapers published in the city of Washington, and shall notify each of the persons so chosen by furnishing to him a certified copy of the record under the seal of the Department.

The Speaker of the House of Representatives shall designate persons to act as messengers, door-keepers, and peace officers of the electoral chamber, and the Congress shall provide by law for all expenses attending the sitting of the chamber, including mileage and attendance of the electors and compensation of all officers of the chamber.

The provisions of the twelfth amendment of this Constitution inconsistent with the provisions of the present article are hereby repealed.

George Ticknor Curtis.