For the National Intelligencer.

Letter from a reſpectable citizen to a Member of Congreſs, on the ELECTION *of a* PRESIDENT.

The argument to which the deſign you mention in your's of the 28th reſorts for defence, I underſtand to be this. "The "conſtitution provides no remedy in the "caſe of an equal diviſion of electors, and "an equal diviſion of ſtates, between the "perſons *having a majority of the electors*; but it inherently poſſeſſes the "power of preſerving itſelf; therefore a "remedy may be provided for this caſe "by law."

Waving for the preſent a conſideration of the conſequences of a power in the legiſlature, to remedy ſuppoſed defects in the conſtitution, let us admit it, and conſider in what part of the exiſting caſe, the conſtitution is ſilent. It is not ſilent in aſcertaining the rights beſtowed by an equality of votes, and a *majority of all*. It expreſsly declares, that this event ſhall beſtow the Preſidency and Vice-Preſidency. So far there is no ſilence, no defect, but a poſitive and unequivocal rule. The conſtitution proceeds as diſtinctly, to inveſt the ſtates, through the organ of each ſtate's repreſentation in the houſe of congreſs popularly conſtructed, with a power of ſelecting one of the elected for Preſident; whereupon the other becomes Vice-Preſident, without the agency of this houſe, but under the authority of his election. Hitherto no omiſſion, or ambiguity appears, nor any ſymptom of an intention, that any power ſhould ſuperſede the will of the people, by an excluſion of either of thoſe elected; on the contrary the power of preference is expreſsly limited to thoſe already elected. This power of preference, is clearly diſtinct from a right to elect, and if a dilemma ariſe from an equal diviſion of ſtates, the queſtion is, whether principles of implication or conſtruction, or the neceſſity of the caſe, will inveſt the legiſlature with a right to ſuperſede the election of the people, or only with a right of preſcribing ſome additional mode of ſettling a preference, which will remove the difficulty? To ſay "that "if a dilemma occurs from the ſilence "of the conſtitution in one caſe, that it "ſhall inveſt the legiſlature with a power "over it, where it is clear and expreſs—" would compleatly proſtrate it at the feet of the legiſlature. Admitting then that the legiſlature could legiſlate at all in this caſe, they are bound even by the principle upon which the project is bottomed, namely, "That the conſtitution inherently poſſeſſes a power of preſerving "itſelf" to legiſlate for its preſervation, by finding a mode of placing the elected of the people in the offices to which they are entitled in virtue of the conſtitution, nor could they, under pretence that the conſtitution ought to be preſerved, violate it, by an excluſion direct, or indirect.

But it is a caſe in which the legiſlature cannot legiſlate, without deſtroying every principle of the conſtitution, and changing the whole texture of our government. The conſtitution beſtows a right of ſuffrage as to this preference, neither on congreſs, nor any component part of congreſs, and as far removed beyond the reach of congreſs, as any other right of ſuffrage it does beſtow. If a right of ſuffrage beſtowed by the conſtitution may be taken away by the legiſlature, the very foundation upon which republican government is built, being removed, the whole ſuperſtructure muſt fall. If the ſtates may be deprived of their ſuffrage in the houſe of repreſentatives by a law, they may be thus deprived of their ſuffrage in the appointment of electors; and laws may alſo change or take away rights of ſuffrage, in the caſes of chooſing members of the ſenate, or of the houſe of repreſentatives. If a law can make a Preſident, it can alſo make a ſenate or houſe of repreſentatives, and where it is competent to create, it is competent to continue. A Preſident, who is the creature of law, ceaſes to be a check upon thoſe who make the law, though by his voice in making laws, he may reimburſe himſelf for what the people would loſe by the loſs of this check, by voting for himſelf, or by excluding a rival, who could not ſecure two thirds of congreſs, and by the chance he would have of fixing himſelf for life, and tranſmitting the office to his heirs. For if laws can be made to diſpoſe of the Preſidency, the man in poſſeſſion may be ſaid to have in his favor the whole twelve points of the law.

By the conſtitution, for many obvious reaſons neither the legiſlature, nor any component part of the legiſlature, are allowed an agency in the election of a Preſident. To one houſe, but modified differently from its legiſlative form, is confided a limited power in particular caſes. This power is given to the ſtates, and not to the union; and it would approach nearer to propriety, were the houſe of repreſentatives in reſolves, made by the ſixteen votes of the ſtates, exiſting in that houſe for this ſpecial purpoſe, to renounce or modify the power they may exerciſe, than that congreſs, to whom it is not given, and who cannot exerciſe it, ſhould do ſo. By legiſlative interpoſition, the whole political character of the firſt magiſtrate, would be changed from that which the conſtitution deſigned it to be.

The neceſſity for this legiſlative interpoſition might eaſily be made common. The members of the houſe of repreſentatives by uniting to prevent any majority, and by ſcattering their votes as ſtates among the firſt five, without giving a majority to either, might often create this pretended neceſſity, as a pretext for appointing a Preſident in a mode more pleaſing to themſelves, than that preſented by the conſtitution. And if the ſpirit of faction and the love of power, are now ſtrong enough to make ſuch a precedent, there is no doubt but that they will hereafter follow it.

Admitting then the not providing a remedy for this apprehended equality of ſuffrage is a defect in the conſtitution, yet it cannot be amended by law, not only becauſe the conſtitution has provided a different mode of curing its own defects, but alſo becauſe ſuch a mode of amendment would clearly reduce the conſtitution to the ſtate of any other law, to be altered, abrogated, or exchanged for another, according to the will of the legiſlature.

But I am inclined to think that this is not a defect capable of a remedy; and that in this inſtance, as in many others, it was neceſſary to confide in the force of public opinion, for the execution of the conſtitution. A ſimilar caſe might ariſe in the election of the ſenate. Suppoſe a majority of ſtates, from a diviſion between their two legiſlative branches—between the electors themſelves, or from the force of ſome party impreſſion, ſhould forbear to elect ſenators; as a majority of ſtates may now forbear to decide the point of preference between the Preſidents elect. There is no conſtitutional proviſion for this dilemma either; and wherefore?—— becauſe it is not capable of ſuch a proviſion. It would be a caſe proper for the tribunal of public opinion, which would either decide that the progreſs of the government ought to be arreſted, or that theſe legiſlatures had perpetrated the moſt conſummate act of treaſon againſt the happineſs of ſociety. It would be in fact moſt clearly a caſe of revolution; if public opinion declares in its favor, it is right; if that rejects the attempt, it is followed by a degree of execration and puniſhment, which conſtitute the only poſſible proviſion againſt vicious experiments, and is ſufficiently awful ſometimes to prevent virtuous effects.

I do not diſcern how either elective right could have been placed in hands entitled to more confidence, leſs liable to this dilemma of diviſion, or more ſtrongly intereſted to keep the wheels of government in motion. To the ſtate legiſlatures is confided the entire power of chooſing ſenators; but to the ſtates aſſembled at the ſeat of government in a form appropriated to the object, is confided the comparatively unimportant right of preference, between perſons already choſen. If the great power can be confided to the ſtate legiſlatures, the leſs may ſurely be entruſted to the collected wiſdom and virtue of the union. If the reſponſibility is ſo tremendous, as to be a ſecurity againſt the ſtates ſeizing upon their power, as a weapon with which to deſtroy their rival (the general government) it may certainly be depended on for preventing that government from deſtroying itſelf.

As therefore public opinion muſt be relied upon ultimately in many inſtances to enforce the progreſs of government, its progreſs in this caſe could hardly have been confided, where there was more ſecurity, or greater reſponſibility; and therefore I doubt whether this pretended defect exiſts.

So far as to the theory of the caſe; but of what remedy does the dilemma admit in practice? There appears none, but repeated trials to elect conſtitutionally, in the courſe of which it muſt happen, that ſome one ſtate, on one ſide or the other, will renounce an obſtinacy, which muſt otherwiſe terminate in a general convention, or a diſſolution of the government.

Such is the only remedy in a great number of ſimilar caſes. A diviſion of the State legiſlatures in electing ſenators, ſuch as actually happened in Pennſylvania, —or a diviſion in chooſing a ſpeaker of the houſe of repreſentatives on every new congreſs, would, if obſtinately perſiſted in, produce a ſudden ſtop to the government. No body thought of a remedy for the caſe quoted, becauſe no body conceived that any other than the force of public opinion was neceſſary. And when the diſgrace and danger of diſſolving all the ligaments of ſociety, rather than obey the conſtitution by expreſſing the preference it requires, or than yield to the wiſh of the people in that expreſſion, are duly weighed, perhaps it will be found that no better ſecurity againſt the evil can be found.

This project for excluding the elect of the people from the Preſidencies, if it ſhould be unfortunately perſiſted in, will conſtitute a touch-ſtone of principles, and draw forth the truth from the diſguiſements of profeſſion and nick-names, and the artifices of faction.

Whilſt the republicans by this machinery were thrown into the minority, they ſubmitted to an erroneous majority, and Virginia has patiently beheld the ſedition law, executed by a proceſs ſo compendious, as exceſſively to increaſe its terrors; in the very ſpot where her aſſembly had declared it to be conſtitutional; but even, thoſe who cried out loudly for the ſupremacy of a majority, even in a queſtion too intricate to excite it, are endeavouring to deſtroy this fundamental principle, where the excitement of public opinion has been compleat, its competency unequivocal, and its deciſion poſitive.

The project will illuſtrate the juſtneſs of party epithets. Thoſe who have aſſumed the title of "federaliſts," will be ſeen engaged in a ſtratagem to break the conſtitution—The "friends of order," will be detected in the very act of diſorganizing the government—and the pretended enemies of French revolutions, will be exhibited in an attempt to ſubſtitute the will of faction for the will of the people, ſo that hereafter changes of men in office will be epochs of revolution.

The republicans have ſaid, "that they were the true federaliſts, and that their adverſaries had concealed under that epithet, a ſyſtem for the gradual ſubverſion of the conſtitution." A project for overturning it at a blow, will confirm the charge of a premeditated deſign to deſtroy it.

The names of "federaliſts" and "friends of order," have deluded many men of property, but this project teeming with the moſt awful conſequences to them in particular, will diſſolve the charm.

A nation divided into two parties, is ever in imminent danger, leſt ſome man or ſet of men, ſhould by the help of the prejudices and reſentments of one, contrive to enſlave both. This has ſo often happened, as to have aſſumed the appearance of a natural conſequence, and ought to be beheld, as a ſcowling political cloud, announcing whirl-winds, tempeſts and deſolation. The two parties we have. Their prejudices and reſentments are great—and it is hardly imaginable, that we have no men capable of making uſe of them. What have we to check the deſigns of ſuch men, but the conſtitution, and if the rage of either party ſhould countenance their leaders in breaking that, what beacon will remain to point out the deſigns of ambition? Suppoſe a man of property was aſked, even by the object of his enthuſiaſtic political confidence, to underwrite to the amount of his whole property, the ſucceſs of a project, which was to commence with a breach of the conſtitution, and to proceed in oppoſition to the will of a majority; would not the propoſal ſtartle him? Yet by becoming a partiſan of ſuch a project, he thoughtleſsly ſtakes his life as well as his property upon its ſucceſs. And his chance for ſaving both theſe, will be exactly the ſame as in other countries, after the conſtitutional landmarks between right and wrong are thrown down. Faction after faction will riſe up. None can long retain the ſupport of the people, becauſe the power of all will be illegitimate. The deſpot of to day may kneel to morrow to a wretch whom he had conſigned to a loathſome jail. Property will change as rapidly as power, and ſome warrior will finally become maſter of every thing. And the utmoſt to be expected by the firſt violators of ſocial order, is, to prepare the way for others ſtill more wicked and daring, whilſt all will violate the charters which preſerve life, liberty, and property. Such reflections as theſe will finally rally up all virtuous men from the enſigns of party, under the ſafe ſtandard of the conſtitution.

If however an enraged minority ſhould ſucceſsfully oppoſe for the preſent the voice of the people, ſo audibly pronounced in favor of Mr. Jefferſon, it can only be from a ſecret enmity to the conſtitution, becauſe that is able to govern his conduct, and therefore it muſt be that, and not him, which is the real object of their hatred. It muſt then be a queſtion of revolution, which whilſt it may produce the great evils I have mentioned, will almoſt certainly, as you obſerve, beget thoſe leſſer ones of deſtroying all property reſting on credit, and of depriving Virginia and Maryland of the Seat of Government.

I ſincerely believe that all good men of both parties are inimical to a revolution, and that the warmeſt attachments to Mr. Jefferſon have grown out of a hope, that under him moderate and orderly government may be expected, which will unite parties, at preſent ſo portentous to national proſperity, and conſtitute the beſt ſecurity againſt uſurpation in whatever form ſhe may attempt to exalt her creſt. Towards this end, they muſt adhere to their motto "The public will, and the ſupremacy of the conſtitution over government," to whatever individual it may apply.

In Chancery, January 3d, 1801.

ON Application to the Chancellor by petition in writing of JOHN HEPBURNE, of Charles county, praying the benefit of the "act for the relief of ſundry inſolvent debtors" paſſed at the laſt ſeſſion on the terms therein mentioned, and a ſchedule of his property and a liſt of his creditors, ſo far as he can aſcertain, the the caſe, on oath, being annexed to his petition and ſaid John Hepburne, being a perſon known to the Chancellor to be at this time, a citizen of the United States, and of this State, and to have been ſuch at the time of paſſing the ſaid act, and the ſaid John Hepburne, at the time of preſenting his petition, having produced to the chancellor, the aſſent in writing, of ſo many of his creditors as have due to them, the amount of two thirds of the debts due by him at the time of paſſing the ſaid act, according to the liſt aforeſaid —It is therefore adjudged and ordered that the ſaid John Hepburne, by cauſing a copy of this order to be inſerted once in each of three ſucceſſive weeks, in ſome one of the Waſhington Newſpapers, before the end of the preſent month, give notice to his creditors, to appear in the Chancery Office, on the twentieth day of February next, for the purpoſe of recommending ſome perſon to be truſtee for their benefit, on the ſaid John Hepburne, then and there taking the Oath preſcribed by law for delivering up his property.

Teſt.

SAMUEL HARVEY HOWARD, reg. C. C.
Jan. 7. 1801. 1aw3t.

In Chancery, December 29, 1800.

WALTER W. HARWOOD, an Inſolvent of Prince George county, makes application as a trader, by petition to the Chancellor in writing, praying the benefit of an "act or the relief of Sundry Inſolvent debtors". There is annexed to his petition a Schedule of his property, and a liſt of his Creditors on Oath, as by the ſaid act is required. The Chancellor is ſatisfied by competent teſtimony, that he is at this time, and was, at the time of paſſing that act, a citizen of this ſtate, and of the United States. It is therefore adjudged, and ordered that he appear before the chancellor in the chancery office, on the firſt day of April next, for the purpoſe of taking the Oath, by the ſaid act required in preſence of his creditors, and that by cauſing a copy of this order, to be inſerted once in each of three ſucceſſive weeks before the end of January next, in ſome newſpaper of the City of Waſhington, he give notice to his creditors to attend on the ſaid firſt day of April, for the purpoſe of recommending a truſtee for their benefit, and to lodge with the chancellor, within ſixty days from the time of the laſt publication (if they ſhall think fit) their diſſent to his being admitted to the benefit of the ſaid act.

Teſt.

SAMUEL HARVEY HOWARD, reg. C. C.
Jan. 7, 1801. 1awt3.

Boarding & Lodging

MAY Be had, for ſix or eight Gentlemen, at the WHITE HOUSE, between the City Poſt-Office, and Pennſylvania Avenue.
January 14th, 1801. 3t.

John Minchen.

BOOT MAKER

FROM PHILADELPHIA.

RESPECTFULLY acquaints his FRIENDS, CUSTOMERS, and the PUBLIC, that he has removed his BOOT AND SHOE MANUFACTORY from near the Eaſtern Branch, to New Jerſey Avenue, on the hill, near the Capitol, where he makes Gentlemen's Boots, Bootees, dreſs and undreſs Shoes on the ſhorteſt notice, in the neateſt manner, and of the beſt materials.
December 3d. 3tw.

TO JOURNEYMEN SHOEMAKERS.

WANTED, a number of Journeymen Shoemakers, to whom conſtant employment and good wages will be given.