

calities might be availed of to call the central power to interfere with state administrations.

Mexico was undoubtedly republican in form under Diaz, but the forms were perverted to a dictatorship; yet a mere show of revolution restored the people to their use of the duly provided forms. Such self-corrective power of state autonomy was doubtless relied upon when the form alone of republican government was required of the states. Of such form the only test is the character of the general fabric.

Our experience with the constitution of the United States has witnessed the practical nullification of many of the forms which were provided. The electoral college is non-existent as an independent body; the power of the president's cabinet is extra-constitutional; the senatorial power to consent to official appointments has become practically the control of such appointments.

Woodrow Wilson insists (Congressional Government, page 306) that the constitution "is now our form of government rather in name than in reality, the form of the constitution being one of nicely adjusted ideal balances, whilst the actual form of our present government is simply a scheme of congressional supremacy."

In England the premier has boldly declared that "the king's veto is as dead as Queen Anne," and the recent concession by the house of lords of a vast portion of this power is a mighty change in substance without a change in form.

It was Lord Butte who well said, "The forms of a free and the ends of an arbitrary government are things not altogether incompatible."

John Adams in his "Thoughts on Government" (Works, Vol. 1, page 193) rebuked the poet Pope for false philosophy expressed in his lines, "For forms of government let fools contest; that which is best administered is best." "Nothing," said Adams, "can be more fallacious than this; nothing is more certain than that some forms of government are better fitted for being well administered than others."

The later provisions of Article 4, Section 4 for cases of invasion and domestic violence are very impressive in their suggestion that the substance of republicanism is to be preserved under that portion of the article, and that under the guaranty clause, the states are required only to furnish the forms of a free republic.

It is quite apparent that there are no particular forms contemplated as republican by the constitution.

"In the constitution of Pennsylvania the executive department exercises judicial powers in the trial of public officers.—In New Jersey, in Georgia, in South Carolina and North Carolina the executive power is blended with the legislative."

James Wilson in Elliot's Debates, Vol. II, p. 505.

Clearly the direct election of representatives is not a requisite, as this very court consists of men appointed by the president who is elected by an electoral college. It is likewise plain that a limited tenure is not essential as the members of this court hold their offices during good behavior.

In the constitutional period the selection of judges was not by the people but in the form of appointment under the English precedents. That the people of most of the states have decided to elect their judges constitutes clearly no invasion of the republican form. If it be true that the only basic requisite of republican form be its recognition of the continuing sovereignty of the people, such form would seem to relate to the machinery of the government; the shape it takes must be such that the popular will shall be

in all parts operative or shall always permit expression of consent of the governed.

Pure democracy has never been regarded as inconsistent with such form, but on the contrary has been deemed its most perfect form.

Oligarchy and monarchy are the only inconsistent forms, namely, the power of one or of less than a majority to determine the rights of the whole.

There is no doubt that the speech of James Wilson in the convention of Pennsylvania for the ratification of the constitution, November 24th, 1787 exercised a profound influence upon the public opinion with respect to the federal constitution.

B. "DEMOCRATIC" AND "REPUBLICAN" SYNONYMOUS.

It is apparent from the discussions of the constitutional period that no distinction existed in the larger conception of the words "democracy" and "republic." This is true even of ancient authorities.

"There are three sorts of public government, to wit: Monarchy, which is regality or kingship, oligarchy, which is the government by peers and nobles and democracy, which is a popular or (as we term it) a free state."

Plutarch's Morals, Vol. V, p. 396.
Tacitus' Annals, Book IV, Ch. 33.

"If we consider the nature of civic government, we shall find that, in all nations, the supreme authority is vested either in the people, or the nobles or a single ruler."

Charles Pinckney a member of the constitutional convention quotes Paley, Vol. II, 174, 175, who enumerates three forms of government, despotism, aristocracy, and a republic and defines the latter as "a republic, where the people at large either collectively or by representation form the legislature." Elliot's Debates, Vol. IV, p. 328.

Hamilton in his brief for argument on the constitution of the United States (1788, Works, Vol. II, p. 463) makes it plain that "republic" was a term variously understood. He asserts that it has been applied to aristocracies and monarchies as Rome and Great Britain under kings, Sparta and Carthage through a senate for life, Netherlands through aristocracy and monarchy.

He adverts to the confusion about the words democracy, aristocracy and monarchy, designating democracy, as defined by Rousseau, as a government exercised by the collective body of the people and any delegation creating an aristocracy, but he says:

"Democracy in my sense where the whole power of the government in the people; 1, whether exercised by themselves or, 2, by their representatives, chosen by them either mediately or immediately and legally accountable to them."

He divides governments not into republics, &c., but into democracy, aristocracy, monarchy, and defines aristocracy—"Where whole sovereignty is permanently in the hands of a few for life or hereditary" and monarchy—where the whole sovereignty is in the hands of one man for life or hereditary."

The "consequence" is that the United States government is a "representative democracy."

John Marshall in Virginia Debates on Constitution, (Elliot's Debates, Volume 3, page 222) deals with the United States constitution as creating a "democracy."

"I conceive that the object of the discussion now before us is whether democracy or despotism be most eligible. I am sure that those who framed the system submitted to our investigation, and those who now

support it intend the establishment and security of the former.

"We, sir, idolize the democracy; those who oppose it have bestowed eulogiums on monarchy. We prefer this system to any monarchy, because we are convinced that it has a greater tendency to secure our liberty and promote our happiness. We admire it because we think it a well-regulated democracy. It is recommended to the good people of this country; they are through us to declare whether it be such a plan of government as will establish and secure their freedom."

"Switzerland," that confederate republic, has stood upwards of 400 years; and although several of the individual republics are democratic and the rest aristocratic, no evil has resulted from this dissimilarity." Patrick Henry, in Virginia Debates, Elliot's Debates, Vol. IV, p. 62, and at p. 44,—"Holland is not a democ-

racy wherein the people retain all their rights securely."

James Wilson said (Elliot's Debates Vol. II, page 365) "then let us examine, Mr. President, the three species of simple government which are * * * the monarchical, aristocratical and democratical."

[The fifth installment of Mr. Williams' brief will be printed in the next issue of The Commoner.]

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