

Mr. BRISCOE said: I move to insert after the word "times" the words "in the mode prescribed in this Constitution." This will make it conform to the present Constitution. I do not know that it is necessary for me to go into the argument now, or to give the reasons why I am disposed to adhere to that article of the Constitution as it exists now in the Constitution; for I believe they are patent to the mind of every gentleman here; and so far as regards the form of that article, it is a question which gave rise to considerable discussion at the time the Legislature of Maryland were in the act of calling this Convention. I believe it has been conceded in the political theory of this country that, when any action at all is taken to modify or change the organic law of the State, it should be preceded by some legislative action directing the mode and manner in which the Convention to change the organic law of the State should assemble. The precedents for that are without number. I believe there has hardly been a State in the Union where the legislative authority has not very clearly indicated or established by law the mode and manner in which the Convention should assemble to change the organic law.

I believe it is contended by some gentlemen that it is competent for the people of this or of any other State, at any time they choose, without the intervention of legislative forms or countenance, to hold primary assemblies in the State; and that principle is carried so far as to maintain that, without any interposition of the legislative authority, or precaution as to the mode in which the vote shall be taken, the people in those primary meetings could change the organic law.

My whole object in offering this amendment is, that the Bill of Rights shall not be construed to carry the principle to that extent. The framers of the Constitution as it now stands, in order to avoid all misconception upon that point, incorporated this provision. I remember very well that, in the argument made by Mr. Webster in the Rhode Island case, he said that there was no precedent, in this country, where there were no legislative directions for assembling the Convention. The difficulty arose in the Rhode Island case in this way: The people there had been living under the old chartered government of Charles II, and the forms of their charter did not provide any mode for calling a Convention; and they undertook to adopt this mode of calling a Convention in the State of Rhode Island, which gave rise to the Dorr Rebellion. The case is very familiar to members of the profession, or those who have read the political history of the country.

In order to avoid misconception upon that point, and a misconstruction of the Constitution, I have offered this amendment. I should have preferred that some member of the committee should have moved to incorporate such

a provision in the Bill of Rights, but as they have not, I make the motion, to avoid misconception, because I know very well that in the argument that took place with regard to the calling of this very Convention now assembled here, when I took the ground that it was not competent for even the Legislature, excepting by a strict construction of the Constitution as it now stands, to call this assembly, I was referred by gentlemen to this article of the Constitution, which said that the people have, at all times, the right to assemble; and the argument was used then that it was competent for them, *non obstante* the restriction of the Constitution, to call a Convention when they might please, provided that they might think the public welfare and the general good required it. I think, therefore, in order to make this more distinct, that we should incorporate the amendment I have offered, and not depart from the present Constitution.

Mr. STROCKBRIDGE. Without undertaking at all to speak for the Committee which reported this Declaration of Rights, of which I have not the honor of being a member, it occurs to me that there is one serious objection to the amendment offered by the gentleman from Calvert (Mr. Briscoe.) The article as it stands declares a universal truth, not alone for the State of Maryland or any other individual State, but for all States: "All government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole," and the people "have at all times the unalienable right to alter, reform or abolish their form of government in such manner as they may deem expedient." Now, if the mode is to be put in, it seems to me to make it an absurdity upon its face to claim that the people of other States and elsewhere have no right to alter, reform or abolish their form of government except in the manner prescribed by the Constitution of Maryland. The Constitution of the United States prescribes one form, and the Constitution of each State its own form for amendments; but this amendment would tie all governments down to the particular form prescribed by this Constitution.

Mr. BRISCOE. It occurs to me that the phraseology adopted in the present Constitution of Maryland is susceptible of the same misconstruction. If the gentleman undertakes to start out with laying down an abstract truth, we may go into an argument upon that. I believe it is the theory of some that it is impossible for a sovereign power to limit itself. According to the conception I have formed of the principles of political government in this country, I hold that it is competent for a sovereignty or a delegated power to limit itself as to the mode, or to tie its hands as to the mode by which it shall do a certain thing. If that objection applies, it raises that question. I undertake to say that