

tion, the inhibition to the States of the right to district the State for the election of Senators, if the right exists; and I presume it is admitted, on all hands, that the power to district a State in regard to representatives does exist, and has existed, because the same words which give the power in the one case give the power in the other. The same identical language in reference to the power is contained in the Constitution of the United States. We would have no power, I humbly apprehend, to say that a Senator should be elected by the popular vote, because we would come in direct conflict with the Constitution of the United States, which says and prescribes that the Senators shall be elected by the Legislature; but I think it would be competent for us—if we exercise the power which, I believe, would be unwise in us to do—to lay off the State into districts, and take one Senator to represent certain interests, and another other interests. But the language which has been used by the gentleman from Anne Arundle with regard to the writings of Mr. Hamilton, it seems to me, goes to show that the whole power and the only contest for power which was in conflict between the General Government and the State Governments, with regard to the election of these different officers, was narrowed down to this one point, and that in regard to the Senators—the object of the States being to deprive the General Government of any control as to the place of the meeting of the Legislature, lest it might be fixed at such inconvenient points in the different States that a large portion of their population, through their representatives in the Legislature, might not be heard in the election of Senator, and the time might be fixed by Congress in such a manner as to preclude a large portion of the State from participating in the election of a Senator of the United States. State sovereignty was involved in the issue, and the States were not willing to surrender it to Congress. It was their intention that the Senators should represent the great body of the State, and that the Senators of the several States, in one body, assembled in the Senate of the United States, should represent the State sovereignty of the Union, while the delegates represent the popular branch, and represent the different interests of their constituents. Sir, I call the attention of gentlemen to the language of the Constitution, and ask them to draw me the difference in regard to the qualification of Senators and Representatives, and show me why we had the right to district in regard to Representatives and not the right to district for Senators, when the same identical language is used in regard to both.

Mr. HOWARD said: I have the volume in my hand which I referred to yesterday, in reply to the gentleman from Kent, (Mr. CHAMBERS,) and I have brought it here to-day because it furnishes an answer, perhaps, to the objections made by the gentleman from St. Mary's. I understand his proposition (certainly a very nice one) to be this, that if you admit the power of a State to district in regard to Representatives in one branch of Congress, you must admit a corresponding power in the State over the other branch of Congress, because the same clause of the Constitution included both. Certainly the argument was very well put.

There is a difficulty about it, and the only escape from the conclusion the gentleman has drawn is, to deny the power of the State to require a residence in any particular district, as a qualification to be elected to one branch as well as the other; and that, if it be well founded, is a sufficient answer to his objections. Now, the case referred to by the honorable gentleman from Kent settles that point, it will be seen, as far as the decision goes.

The House of Representatives did decide that a State had no right to insist upon a qualification of residence for members of the House of Representatives. The case is "Barney vs. McCreery, and is found in a volume called "Contested Elections in Congress." I read only a paragraph or two, to show what the case was. The marginal note, which is fully warranted by the case, is as follows: "The Constitution of the United States having fixed the qualifications of members, no additional qualifications can rightfully be required by the States."

The committee reported that by an act of the Assembly of Maryland, passed in November, 1790, it is required that the member shall be an inhabitant of his district at the time of his election, and shall have resided therein twelve calendar months immediately before.

By another act of Assembly, passed in 1802, it is provided that Baltimore town and county shall be the fifth district, which district shall be entitled to send two representatives to Congress, one of which shall be a resident of Baltimore county and the other a resident of Baltimore city.

Three persons were voted for. Two of them, viz: Moore and McCreery, resided in the county and received more votes than Barney, who resided in the city. The latter contested the seat of McCreery.

Mr. Barney claimed his seat on the ground of the controlling operations of this law, that one only could be elected from Baltimore county, and the other from the city, and that he was the only one to take his seat. There is a voluminous report of the committee, with which I will not trouble the Convention.

"On the foregoing state of facts the House of Representatives passed the following resolution: "Resolved, That Wm. McCreery is entitled to a seat in this House.

The argument turned entirely upon the constitutional right of the State to annex any additional disqualifications to those enumerated in the Constitution of the United States; and it was argued that to prescribe residence in a particular part of the district would be to affix such additional disqualification.

The concluding remarks of the compiler of this is:

"By the decision of this case it seems to have been settled that the States have not a right to require qualifications from members, different from or in addition to, those prescribed by the Constitution."

Mr. BLACKSTONE. I will ask the gentleman whether he can show me any authority which prohibits any State from districting the State