before the power was exercised by Congress, some few years since, in 1842, when they determined that the whole of the United States should be districted? I ask if he can show me any power to deny the right of any State to lay itself off into Senatorial districts?

Mr. HOWARD replied. I cannot show any such case, nor do I believe it is necessary for the support of the argument. But what, sir, I deny is this: I do not deny the power of the States to lay it off into districts, so far as to enable the voters of the district to cast their votes, because it is nothing more than an execution of the power of prescribing the manner of electing representatives, which right was reserved to the States by the Constitution of the United States. But there is a distinction between the manner of electing members of the House of Representatives and the manner of electing Senators. In that respect, and that only, do I think there is any difference in the effect of this clause upon the election of Senators and Representatives. I only speak of the manner of electing to each, and of the necessary distinctions which exist from the very thing itself. The manner in which the Legislature proceeds, either by a concurrent vote or a joint ballot in the election of a Senator is one thing, and the manner in which the people shall assemble together to elect a representative is a very different thing. For example, there is no necessity for electing a Senator upon any given day, because the appointing power is in daily existence. But the people must have notice of the time at which they are to assemble at the polls in their respective districts. Hence there must be a law to regulate the latter, whilst there need be none to regulate the former. That is all comprehended under the constitutional word "manner" of electing a Senator or Representative; and when you come to prescribe the manner of electing of members of the House of Representatives, the State then exercises the power by dividing itself into districts, owing to the necessity of the case. The State must prescribe the manner how the people can get together; consequently, there must be some will, some common instruction as to where they must meet and upon what day. They must be gathered together in accordance with some previous notice. That, however, is not necessary in the case of a Senator; but I do say, that while I admit the power of a State to district itself under the clause prescribing the manner of electing members of the House of Representatives, it has no right to declare that a citizen of the State who may not be a resident of the particular district shall be ineligible, although he may possess the qualifications required by the Constitution of the United States. So that the operation of the clause is the same as to either branch of Congress. The State has no more right to annex the disqualification of non-residence to Representatives than she has to Senators.

The people in your district, Mr. President, had as much right to elect me to represent them as they had to elect you. Each House of Congress has a right to judge of the returns and qualifications of its own members; and in the exercise of this right, the wise policy has been pursued of keeping open and unobstructed the avenue which leads from the people or the Legislatures to the respective branches of Congress, so that the best talents of the nation may find their way to the Government of the United States. Congress has a right to keep the path free from any impediment which the States may put there.

The case cited is a very old case, and I do not think it has been overruled; and the same question would be decided by the Senate in the same way, notwithstanding any article which we may place in our constitution.

Mr. BLAKISTONE. Does the gentleman contend or entertain the opinion that the people living without the district (as prescribed and defined by the Legislature or by Congress) have the right and power to vote and control the election within the district, and elect a person as Representative to Congress without his having a majority of the legal votes within the district, and without his being a resident of the district for which he shall be elected?

Mr. HOWARD. By no means. That Legislature has a right to specify the qualifications. The Congress has nothing to do with that—the elective franchise belongs exclusively to the State. The Legislature have a right to say where they shall vote, and when to vote. That is a different thing altogether.

Mr. BLAKISTONE. The authority to which the gentleman from Baltimore county (Mr. Howard) has referred, is the case of Joshua Barney vs. William McCreery, of Maryland, in the volume of contested elections in Congress. This was the case of an election in a congressional district composed of Baltimore city and county, and entitled to elect two Representatives. Nicholas P. Moore had 6,164 votes, and resided in Baltimore county. William McCreery had 3,559 votes; Joshua Barney, a resident of Baltimore city, had 2,063 votes, and John Leal, also a resident of Baltimore city, had 353 votes. William McCreery, whose seat was contested, had for a number of years resided in the city of Baltimore. In 1803, he and h s family removed to his country seat in Baltimore county, and from that time spent the summer in the county, the winter in Baltimore city, and that at the time of the election he resided in Baltimore city. He had 1,496 more votes than Barney, and I believe the Congress did right in giving him his seat. But I do not arrive at that conclusion by the same process of reasoning adopted by the committee. It would have been anti-republican to have given the seat to the contestant Barney, he having a minority vote greatly below the vote given to McCreery. This, no doubt, had its influence, and right it should, all other things being equal. McCreery, when he went to reside upon his country seat in Baltimore county, in the summer of 1803, went with the intention of returning to Baltimore city (where he had resided for a number of years) in the winter. He did so,