

Kent county in regard to a United States Senator. However, he looked at this matter as one for compromise, and thought that they would all come up to the question in the same spirit as those who had gone before them, and then even-handed justice would be meted out.

Mr. BOWEN had not intended to say another word, but he hoped the Convention would indulge him in a few remarks. His friend from Kent, (Mr. Chambers,) undertook to read from the opinions of distinguished gentlemen in the contested election case of "Barney vs. McCrea-ry," in support of his argument. He (Mr. B.) had never seen that case until now, and he had just cast his eye upon it. He believed, however, that the members who advocated the doctrine now held by the gentleman from Kent, were all Federalists. Here were their names: Mr. Philip Barton Key, Mr. Quincy, Mr. Chapman Johnson and others. Those who voted to sustain the rights of the States were Democrats, viz: Mr. Randolph, Mr. Sawyer, Mr. Bibb, and Mr. Love. He desired to read for his own justification the deliberate opinions of Mr. Randolph, of Va., who, in his, (Mr. B's) judgment, had expressed sentiments of the clearest and soundest character. They came fully up to the case now under consideration, and not even Mr. Key, or Mr. Quincy, or his friend from Kent, (Mr. Chambers,) or the gentleman from Frederick, (Mr. Thomas,) had come within gun shot of the argument. He asked the attention of the Convention, while he read Mr. Randolph on the Constitutional question:

"The second paragraph of the second section of the first article of the Constitution had, to his extreme surprise, been construed by the committee of elections as restricting the States from annexing qualifications to a seat in the House of Representatives. He could not view it in that light. — Mark the distinctions between the first and second paragraphs. The first is affirmative and positive. 'They shall have the qualifications necessary to the electors of the most numerous branch of the State Legislature.' The second merely negative. 'No person shall be a representative who shall not have attained to the age of twenty-five years,' &c. No man could be a member without these requisites; but it did not follow that he who had them was entitled to set at naught such other requisites as the several States might think proper to demand. If the Constitution had meant (as was contended) to have settled the qualifications of members, its words would naturally have run thus: "Every person who has attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall, when elected, be an inhabitant of the State from which he shall be chosen, shall be eligible to a seat in the House of Representatives." But so far from fixing the qualifications of members of that House, the Constitution merely enumerated a few *disqualifications* within which the States were left to act. It said to the States, you have been in the habit of electing young men bare of age; you shall send us none but such as are five and twenty; some of you

have elected persons just naturalized; you shall not elect any to this House who have not been seven years citizens of the United States. Sometimes mere sojourners and transient persons have been clothed with legislative authority; you shall elect none whom your laws do not consider as inhabitants. Thus guarding against too great laxity in the State regulations, by general and negative provisions, leaving them, however, within the limits of those restrictions, to act for themselves; to consult the genius, habits, and if you will, the prejudices of their people. The first paragraph which he had read was positive and affirmative. By it every person having the qualification requisite to an elector of the most numerous branch of his State Legislature, was entitled to vote for members of the House of Representatives. Yet, nevertheless, the qualification rested with the State. They might make it a part of the qualification of an elector, that he should reside within his district, county or borough. Would it not be absurd to say that a man might take a seat in that House, who, at the same time, was not qualified to vote for a member of it? It had always been supposed that the elected should possess higher qualifications than the elector; yet it would be entirely reversed. And why should it be supposed that whilst the Constitution had vested in the State the greater power, that which was most capable of abuse, the unlimited right of prescribing the qualification of the person voted for, having respect, however, to the disqualifications enumerated in it? The construction of the constitution, for which he had contended, was so obvious and natural that it had been adopted by the States, and acted upon from the commencement of the government, without any man dreaming of, or starting an objection to it."

Here (continued Mr. B.) was the substance of the argument he had submitted to the Convention, and every word was endorsed by Mr. Sawyer, by Mr. Bibb, and by Mr. Love, all of whom were lawyers of distinction. He thought the opinions of such men entitled to quite as much weight as those of Mr. Key or of any other gentleman whose opinion has been relied on by the gentleman from Kent.

Mr. STEWART, of Caroline, asked if it would be in order to offer a substitute for the amendment at that time?

The PRESIDENT said it would not.

Mr. STEWART then observed, that he should decline to vote for the amendment of the gentleman from Prince George's; but it struck him at the time the proposition was first offered, that it was unconstitutional. And, having his own opinions and views as to the constitutionality of the proposition coming in conflict with what he desired, should otherwise be a provision in the constitution, he had listened with great attention to the arguments on the subject; for he had determined, if he could be satisfied in his own mind that it was constitutional, he would vote for it. Therefore he had listened with a great deal of pleasure to the argument of the gentleman from Prince George's, in order that he