



STATE LEGISLATURE.

HOUSE OF COMMONS.—Nov. 19.

Debate on providing for the Choice of Electors.—Continued.

Mr. WILSON did not intend to have given on this question. But he thought the observations made by the gentlemen from Orange and Salisbury did not bear upon the question, as they related to the constitutionality of the law and the policy of passing it.

The simple question now before the house is, whether the act of 1811 be constitutional. The gentleman from Salisbury has brought forward the writings of three eminent men to prove that the Constitution intended the people should elect the Electors, and not the Legislature.

But if there remained any doubt on this subject, Mr. W. thought that a reference to the articles of confederation under the old Congress, and comparing the section which directs the appointment of Delegates with the article in the present Constitution which directs the appointment of Electors, all doubts must be removed.

It was stated by the gentleman from Salisbury, that he was well informed that the article in the Constitution directing the appointment of Electors, was not adopted till near the end of the Convention; that it was first intended that the House of Representatives should elect the Electors; but the article was altered as it at present stands, not with a direction for the people to elect, but in the same words under which the members of the Convention had themselves been appointed.

Is it to be presumed, that the Sages of the American People, after so long a deliberation, would have copied this passage from the articles of confederation, if they had intended the Electors should be elected by the people? They could not have been guilty of such folly.

The circumstance of several of the States having constantly appointed Electors by their Legislatures shows how they have understood this article of the Constitution; and if a contrary construction were the true one, as had been observed by the gentleman from Halifax, we have never yet had a President of the U. States constitutionally elected—not even George Washington.

Are we, asked Mr. W. sent here to deprive N. Carolina of her vote in the Presidential election? And would not an agreement to the present motion have that effect? It is too late to lay off the State into districts in time to comply with the requisition of the Constitution. We cannot comply with this requisition, except we do it in the manner pointed out by the law of last session. He hoped the question would be met on its true merits.

The Speaker was about to put the question, when

Mr. STONE said, before the question was put, he would ask the patience of the house for a few moments. If, said he, my view of our situation be correct, we exhibit the House of Commons of North Carolina in a curious attitude. We are now debating whether the Legislature of 1811 be unconstitutional. It is the first time I have ever heard this question made for a Legislature to determine. We are called upon by the act of 1811, prescribing the mode of electing Electors, &c. is unconstitutional, and by that decision to declare that this house will not proceed to elect Electors.

Why, said Mr. S. is the law unconstitutional? Because, it is said, the Constitution contemplates the choice of Electors by the people, and that the Legislature, in passing this law, has taken this choice from the people. If the law be unconstitutional, and we cannot now give the people the right to make the election, will gentlemen undertake to appoint Electors, in any form, under the law? I say they cannot proceed to appoint them in any form. Mr. S. beseeched gentlemen to review their arguments, before they determine to deprive the State of its vote in the pending election.

Thus much with regard to the peculiarity of our situation. We are called upon to judge a law of the Legislature. The people and the Judges are the proper tribunals to determine questions of this kind, and not the Legislature.

But why is this law unconstitutional? This, Mr. S. apprehended was the main question in debate. Where shall we apply for information as to what the Convention intended? Shall we apply to the Constitution itself, or take vague rumors of what passed in that body, or the imaginary theories of any gentleman touching the meaning of the Constitution? As a citizen of the U. States interested in the support of the Constitution as the thing which he wished to preserve in its purity, he should cling to it, but not take its meaning from any theory which the fancy of gentlemen may bring forward.

The words of the Constitution appear to have given to the Legislatures of the several States authority to make provision for the election of Electors in the manner prescribed by the act in question; it is a course which has at times, been practised by all the States, by some uniformly. Our Presidents have all been elected in that way; and we have never, till now, heard of its being unconstitutional.

Mr. S. said the Constitution did not intend that the President of the United States should be elected by the people, but by the States and by the people of the States—a compounded ratio. Each State and the people of the State according to their numbers. The people are to appoint Electors in proportion to their numbers and their ratio as States. It is not the meaning and spirit of the Constitution that the people shall immediately choose the President. They are to choose him in the way pointed out by their Legislatures, not immediately by themselves, but mediately by Electors appointed as the Legislature shall direct—the meaning of which is, that the Electors shall not necessarily be chosen by the people.

Take another view of the subject. Suppose the Electors fail in electing the President, then the choice is to be made by the House of Representatives of the U. States. The House of Representatives is elected by and considered as the Representatives of the people of the U. States. But how do they vote for President? Not individually, but by States. If it had been intended that the people of the U. States should appoint the President, would not the members of the House of Representatives, when the election fell upon them, have voted by members, instead of by States? Would the State of New-York, with her 27 members, have counted no more than the State of Delaware with her 2 members? But the election, in this case, is made by States, and not by the people.

How, then, is it contrary to the constitution, when we say that the Legislature shall by joint ballot make the choice? The Legislature is to direct the manner. The Legislature has directed it. But gentlemen say this is not the true meaning of the Constitution, but a violation of it. Shall we, then, sacrifice the rights of North-Carolina?

Mr. S. said he was not desirous of detaining the House long. It was not his custom, nor was it necessary as the argument had been ably supported by the gentleman from Stokes.

The Convention which sat in Philadelphia in 1787 were called to form the Constitution. Can it be supposed that the members of that body should have adopted one of their old articles, and expect the people to act differently under it from what they had been accustomed to do? Such an idea cannot be entertained. They considered that the same provision would be acted under as formerly, and that the Electors would be well chosen, if appointed by the Legislature.

Mr. S. concluded by hoping that gentlemen would maturely weigh what had been said on this subject, and consider the awkward situation in which the State would be placed if the present motion prevailed. A more important question perhaps never came before the Legislature. If the motion was negatived, he hoped the House would proceed to the election of Electors agreeably to the directions of the Constitution and the law of last session. This was the course expected to be taken by our constituents. However dissatisfied some parts of the country may have been with the law, as there is not time to provide for the election by the people, he trusted the State would not be suffered to lose its vote in this important election.

Mr. STANLY said, it was the conviction that this was one of the most important questions that could be discussed in that house, that had overcome the desire which he felt, from indisposition, to retain his seat.

This question was important as it went to establish a principle of vital interest to the freemen of this country. It was important in another point of view. On its decision may depend whether the reins of Government shall remain in the feeble hands which at present hold them—in the hands of a man who is neither disposed to make Peace with honour, nor able to carry on War with effect; or whether they will be assigned to one who will be able to prosecute the War with vigour, or negotiate an honorable Peace. It was because it might depend upon the vote of this State which of these two characters shall preside over the Nation for the next four years, that he rose to take a part in this debate, and in the hope of contributing to effect a desirable change he was in favor of the present motion.

Permit me to disclaim, said Mr. S. any intention of defeating the vote of the State in the Electoral College. He viewed the Constitution as imperative in this respect; it was the bounden duty of the Legislature to see that the State is duly represented in this important election.

It is an assertion not warranted, therefore, to say that the advocates of this motion are desirous of depriving the State of her vote in this election. Had not the gentleman from Orange proposed to introduce another mode of electing Electors? Was it ingenious, did it comport with gentlemen's ideas of candid and honorable debate to ascribe motives to gentlemen which their conduct clearly disproves? Why, asked he, are we not, at this moment, discussing a proposition for laying off the State into districts for the purpose of electing electors? Because the motion had been declared to be out of order.

Mr. S. said he was opposed to the mode of election prescribed by the act of last session and which this Resolution goes to effectuate on constitutional ground; but, after the able arguments of the gentleman from Salisbury, it was unnecessary for him to say a word on that subject. A legislative choice of electors was not only contrary to the spirit of the Constitution, at variance with the wishes of the people, but inconsistent with the policy and interest of the country. But we are told that by this mode N. Carolina will have an entire vote. Whence asked Mr. S. does it result that each State shall necessarily have an entire vote? Is it according to the fitness of things that it shall be so? In the large State of N. Carolina, the interests of the different sections of the State are as distinct as if they were distinct States. Do we not see the people entertain dissimilar opinions on this subject, according to their situations? The products and pursuits of the inhabitants of different parts of the State are various. If every seaport of this State were blockaded by hostile fleets or barred by nature, how would this affect the interests of our western counties? Not at all. Regardless of our misfortunes, because unaffected by them, they would find as they now do a market for their produce in the adjoining States. Why, then, shall we deprive the different sections of the State of the privilege of voting as they think best according to their different interests in this election? Because James Madison is opposed to the encouragement of commerce, and De Witt Clinton is favorable to it; because one has made war and the other will make peace, we view them with different eyes as we are differently affected. Some men can look with complacency

on the destruction of commerce; there are others whose all depend upon its prosperity and protection.

If it be in the spirit of the Constitution, that the State shall give in this case an undivided vote, why does not the same principle extend to the proceedings of Congress? Why does not that body vote by States instead of numbers? We know that there every Representative expresses the opinion of his constituents, without consulting his associates. If, said Mr. S. it be agreeable to the spirit and meaning of the Constitution that Electors shall be elected by general ticket, the Assembly might save themselves the trouble of laying off the State into districts for electing members to Congress; as there is no argument in favor of electing Electors in this way, that would not equally apply to members of Congress.

But supposing, said Mr. S. we are neither tied down by the words or the spirit of the Constitution from electing Electors by a joint ballot of the Legislature—and admitting that it is a constitutional mode; admitting too that there is not time to restore the right of election to the people to be exercised in season on the present occasion—it will not be denied that there is another mode, against which no constitutional objection could be made, which comes nearest to the choice by the people themselves in districts; he meant an election by the members of the Legislature in districts as proposed by the gentleman from Orange.

It is, said he, of vast importance that the election of a President should be guarded from the approach of corruption and intrigue by the strictest barriers. The greatest security which the wisdom of man could devise, is placing the right of election in the hands of the people. In the present instance, the members of the last Assembly have thought proper to undermine those barriers and to encroach on this right. Is there any doubt as to the opinion of the people on this subject? Where, asked he, are the projectors of this legislative choice—the men who filled last year the seats which now we occupy? They have been permitted to retire under the indignant scowl of a free People. Has their opinion been expressed in an equivocal way? If it had not been most explicit in condemning this measure, he had been misinformed. Will it answer the just expectations of those who sent us here, if we sit tamely down and carry into effect the very act against which the people have so decidedly expressed their opinion?

With all due respect for the gentlemen around him he did not think that a seat on this floor gave the qualities of incorruptibility or perfection of judgment. If ever it should happen—and such things have happened—that a Foreign Nation should wish to obtain an influence in our affairs and by the aid of designing and corrupt men attempt to overturn our liberties, could they succeed while the power of election remains in the hands of the people? They could not; the people though poor, are virtuous, and the agents of corruption cannot reach them—but take the right of election of President from the people and place it in the hands of the Legislature, the designs of intrigue and corruption are aided—their labor is certainly lessened and the probability of their success greatly increased.

Suppose, said Mr. S. it should ever become fashionable in this State to form those self-created bodies called *Caucuses*, in attending which you make a sacrifice of your principles and independence on the threshold, by pledging ourselves to give your vote with the majority however inferior in point of intellect or questionable in virtue the majority may be, or whatever that vote may be. If ever that practice should obtain here, and the right of choosing Electors remain in the hands of the Legislature, we shall see the Representatives of this State surrendering their independence into the hands of some popular demagogue, and driven before him like sheep to a market. When the business of a Nation is settled in *Caucus*, it is not decided by argument, nor settled upon the basis of right reason, but dictated by intrigue and determined according as will best subservise the interests of a party, and enable them to obtain possession of the *loaves and fishes*. The possibility, indeed the tendency to this abuse of power, forms a strong objection to this legislative choice of Electors.

But there are other objections against

electing electors by the legislature. It is the spirit of our government that every one has equal rights. If this be not the case we have been flattered by delusions of liberty. In the election of Electors by the people, every freeman has a vote, and so he ought to have. The poor man paid in his blood the price of our independence, and he cannot tribute his portion towards the support of the Government.

How is it when the appointment is made by the Legislature? Every man who owns fifty acres of land, gives three votes in the election of that body; but the labouring man, unpossessed of landed property gives but two votes; and his weight in the election of President is but two thirds of that of the landholder. This is another reason why this mode should not be adopted, when there is any way of avoiding it.

But we are told by the gentleman from Bertie, said Mr. S. that it is a novel thing for one Legislature to pass judgment upon the acts of another—that this is the province of the judiciary alone. It would have gratified him highly—and no man is better qualified to do it—if the gentleman from Bertie would have shown in this house how the Electoral Law of last session could be brought before the judiciary for their decision; and how the Judges could prevent the Electors, even if unconstitutionally elected, from proceeding with the performance of their duty. This, he conceived to be one of those cases in which the Judges cannot pronounce an opinion; this is the only body which can arrest this act of usurpation. He trusted that it would be arrested and the judgment of the people respected by a choice of Electors by districts.

Mr. S. concluded by observing again, that he had no wish to defeat the vote of the State—sufficiently humbled by long being in minorities, he had learnt to bow to the will of the majority; and if this Legislature be determined to carry this law into effect, he must submit, though it would deprive many respectable portions of this State of a voice in the Electoral College; whereas if the State were divided into districts, and the members from those districts were to appoint the Electors, as proposed by the resolution on the table, you would afford an opportunity to every part of the State of being heard in the best manner which could now be adopted. It was in hopes that this mode would be resorted to that he should vote for striking out all the resolution after the introduction.

The question was taken by yeas and nays as follows:

YEAS—Messrs. Boyd, Barringer, Bynum, Wm. Bryan, C. Bryan, Browne, Cox, Campbell, D. Cameron, J. A. Cameron, Darden, Hucksbee, Howard, Humphrey, Huldday, Holt, Howell, W. Johnson, A. Jones, W. Jones, William W. Jones, King, Latham, J. Lindsay, R. Lindsay, LeGrand, Leak, Lamb, Macalpin, Martin, Newsome, Pinkham, Porter, Pearson, Roberts, Randle, Stewart, J. Seawell, Sullivan, Slocumb, Steele, Stanly, Sheppard, Smith, A. Stewart, Tillman—46.

NAYS—Messrs. Adams, Allen, Bunch, Bell, Baker, Boddie, Bateman, Beck, Barber, Callaway, Coffield, Croon, Cherry, Copeland, Carson, Carver, Collins, Dickson, Dabney, Woodson, Daniel, J. J. Daniel, Dobson, J. Darden, Edwards, Eaton, Forster-Farmer, Flowers, Frink, Fennell, Freeman, Flory, Greenlee, Garrett, Gillespie, Horton, Hawkins, Hudgins, Hoyle, Hoke, Harris, Hill, Hassell, Horn, Joyner, Edmund Jones, Kim Jones, W. R. Johnson, Ingram, Kelly, T. D. King, Lanier, Lenoir, Loftin, London, Long, Murfree, Moore, Massey, Matthis, Owen, O'Kelly, Odell, Pickett, Potter, Pierce, Phifer, Rainey, Relfe, Stone, Dempsey Sawyer, Street, Dan. Sawyer, H. Seawell, Sparkman, Spencer, Talliferro, R. Vanhook, L. Vanhook, Wright, Webb, Woodley, Wilson—83.

The final question on Mr. Wilson's motion was then taken by Yeas and Nays: The Yeas on the former question were the Nays on this, and the Nays the Yeas; except that Mr. Allen voted Yeas on both, and Mr. C. Bryan did not vote on the last.

A Place Wanted. By a Young Man, who can come well recommended as a Tanner, in all the variety of THE TANNING BUSINESS. NOTHING but the hardness of the times induces him to solicit a situation; and any person who is disposed to take a Partner, can enjoy the benefit of this notice by giving me their terms, address, &c. In the proposals for Partnership, it will be necessary to give some statement of the number of hides received, the facility of selling leather & the amount of sales. Those who wish to engage as above will please to signify it as soon as possible, as I may make other contracts. P. C. FOULKES. Red House, Caswell County, Nov. 1, 1812. 4 57