



CONGRESS.

PHILADELPHIA.

HOUSE OF REPRESENTATIVES,  
THURSDAY, December 22.

*In committee of the whole, on the bill relative to the choice of electors of President and Vice-President; also determining what officer shall act as President in case of vacancies in the office both of President and Vice-President.*

THE bill was read by the Clerk—the first section was then read by the Chairman.

Mr. Tucker moved to amend this clause by striking out these words, "except in cases in which an extraordinary election of President and Vice-President shall take place, as hereinafter specified;" this motion was agreed to.

Mr. Sedgwick made some general observations on the great objects of the bill, and adverted to the term proposed for the choice of electors of President and Vice-President—observed that he had his doubts whether it would not be best to give a longer time. He enlarged on the disagreeable consequences which would probably ensue, in case there should not be a choice by the electors; as the business must then be determined by the House, voting, according to the constitution, by States. He discarded on the pernicious consequences which might result from the collision of parties, and the working of passions in the breasts of men whose ardor would probably be excited to the greatest degree on such an occasion; he said every reasonable measure should be adopted to prevent the evils which he deprecated; he therefore moved that the words *thirty days* should be struck out, in order to give the people a longer time to give in their votes for electors.

Mr. White objected to the motion; he conceived it was calculated to produce the very mischief the gentleman appeared to deprecate. If it had been possible, he could have wished that the electors should meet and give in their votes on the very day of their being chosen; he withheld as much as the gentleman to adopt measures to prevent the evils he mentioned—but did not think the motion would conduce to that object; he thought the time should rather be contracted than extended.

Mr. Dayton also objected to the motion; he thought 14 days would be a more proper time; it was the design of the constitution, though it is not expressed, that the President should not know the characters to whom he is indebted for his election.

Mr. Sedgwick observed that the objections would be very proper was it certainly known that the electors would always agree in a choice; but this he conceived, it was hardly possible should always be the case—and what will then take place? The election devolves on this house, and the electors will then be known, and liable to all that intrigue and cabal which has prevailed in other countries. He left it to the consideration of the committee to determine on the immense importance of providing in season against the evils of a contested election, in the case now before them.

Mr. Baldwin objected to the motion; but said if it was struck out, he should then move to insert a clause which should assign different periods according to the circumstances of the several States, so that the electors should meet as nearly as possible at the same time in all the States.

Mr. Niles objected to the motion; and the question being put, it was negatived.

The clause which makes it the duty of the executive of the several States to cause the names of the electors to be certified, was objected to.

Mr. Niles observed that no person could be called upon to discharge any duty on behalf of the United States, who had not accepted of an appointment under their authority. He thought that this was opening the door too wide, and involves a blending of the respective powers and duties of each, which are not warranted by the constitution; and he observed that he should be sorry that the government of the United States should attempt to exercise a power which they are not competent to carrying into execution. He moved that the clause should be struck out.

Mr. Sedgwick observed that if Congress were not authorized to call on the executives of the several States, he could not conceive what description of persons they were empowered to call upon.

Mr. Niles said he considered this section as degrading to the executive of the several States; and enquired what is to be done in case those

executives should refuse to comply with the requisition?

Mr. Clark said it appeared to him that the committee was creating difficulties where none before existed. He observed that the choosing these electors was a privilege conferred on the people, and that this was merely pointing out the mode of exercising this privilege; he thought the clause stood very well and would create no uneasiness whatever.

Mr. Hillhouse said he considered the provision improper, it imposed a duty on the supreme executives of the several States, which they might, or might not execute; and thus the necessary certificates may not be made. He seconded the motion to strike out the clause, and proposed a substitute making it the duty of the electors to procure for themselves the necessary certificates.

Mr. Livermore spoke in favor of the clause; he did not consider it either as an undue assumption of power, or degrading to the executives of the respective States.

Mr. Barnwell said a small addition to the clause would in his opinion obviate every difficulty; the words he proposed to insert were—or such person as the executive may appoint.

Mr. Sturges moved to strike out "Executive," and insert *the Legislature*.

Mr. J. Smith said it appeared to him that the proposed alteration would amount to exactly the same thing—for the duty of giving the certificate would eventually devolve on the executive.

The motion for striking out the clause was negatived.

The 9th section provides that in case of vacancies in the offices of President and Vice-President, the President of the Senate *pro tem.* or the Speaker of the House of Representatives shall act as President. Mr. White moved the section should be struck out—he said the House had formerly discussed the subject and could not agree; the first part of the bill is necessary—this he said is not of immediate importance to be attended to.

Mr. Fitzsimons said he supposed the question must be determined some time or other, and he knew of no reason why it should not be decided at this time; to strike out the clause would in effect be to declare that the House could not agree.

Mr. Williamson was in favor of striking out.

Mr. Livermore objected to the motion; he said no two subjects could possibly be more intimately connected—and the provisions of the bill are such as to render the intermission, during which this regency was to take place, as short as possible—he hoped the clause would not be struck out.

Mr. White added some further objections to the section; he said it was distinct from the bill, and though a majority of the committee were in favor of the characters nominated—yet he thought it would be best to make it the object of another bill, and of an independent discussion.

Mr. Sedgwick said he hoped the section would not be struck out, especially if there is a majority of the committee in favor of it. He observed that last session there was no decision in the case, he conceived it necessary that the business should be now decided on—and adverted to the particular characters named—he said they were as far removed from any influence of the executive as any persons that could possibly be pointed out.

Mr. Barnwell was in favor of going into a discussion of the subject at this time. He said there was a large number of the present House who had not heard the observations offered in the last Congress; he supposed the present as proper a time to consider the subject as any that could occur—if gentlemen who are opposed to the section will offer their objections, he should be glad to hear them; if they were conclusive, he should vote to strike out the section. If nothing was offered he should vote against the motion.

Mr. Sturges mentioned several objections to the section, which in his opinion rendered it unconstitutional; he could not find that the Speaker of the House or President of the Senate *pro tem.* were officers of the government in the sense contemplated by the constitution. The compensations of the President and Vice-President are settled by the House; the Speaker would have to decide on those compensations, this he said rendered him evidently improper. He further observed that the consequence would be, caballing and electioneering in the choice of Speaker.

Mr. White said the Speaker was not a permanent officer, if he could be considered as one in any point of view—but he was of opinion, that he was no more an officer of government than every other member of the House.

The question for striking out the section was negatived.

Mr. Sturges then moved to strike out the words "the President of the Senate *pro tempore*, and the Speaker of the House of Representatives."

Mr. Giles stated the reasons which he conceived fully proved the unconstitutionality of the clause. The characters referred to he did not think were officers. If they had been considered as such, it is probable they would have been designated in the constitution; the constitution re-

fers to some permanent officer to be created pursuant to the provisions therein contained.

These persons are not permanent; a permanent officer was contemplated, the subject was not to be left to any casualty, if it could possibly be prevented.

Mr. Sedgwick said he did not know what officer could with propriety be said to be permanent; offices are held during good behavior in some instances, and in others during pleasure—but it will be impossible to say that any officer is a permanent officer, for the expression is very extensive.

He was surprized to hear the idea controverted, that the Speaker of the House, or the President of the Senate, *pro tem.* is not an officer.—In common parlance he was sure there was no difficulty in the business.

Mr. Gerry observed that some gentlemen had said the Speaker is not an officer—but if he is not an officer, what is he?—He then read a clause from the constitution, which says that the House shall choose their Speaker and other officers.—He hoped, however, that the Speaker of the House of Representatives would be struck out, in order to avoid blending the legislative and executive branches together.—He considered this measure as a political stroke of the Senate; but he hoped that the House would never consent to making their Speaker an amphibious animal.—He moved therefore that the words "Speaker of the House of Representatives" should be struck out.

Mr. Hillhouse objected to any officer appointed by the executive's being inserted.—He said, if that should be the case, the appointments would in most cases be made with reference to that object—and hence important offices would often be filled with improper and incompetent characters.—Besides, it was taking away the choice from the people, and thus violating the first principle of a free elective government. The Senate are appointed by the people, or their representatives, and hence, in his opinion, filling the vacancy would devolve with the greatest propriety on that body.

Mr. Williamson was in favor of the motion for striking out both the characters.—He observed, that this extensive construction of the meaning of the word officer, would render it proper to point out any person in the United States, whether connected with the government or not, as a proper person to fill the vacancy contemplated.

WEDNESDAY, January 11.

A message, from the President of the United States, was delivered by Mr. Secretary Lear, together with two reports from the Secretary of the Department of War, respecting the situation of affairs in the Western Country.—Which being confidential, the gallery was cleared.

THURSDAY, January 12.

A message was received from the Senate by Mr. Otis, their Secretary, informing that they have passed the bill sent from the House, extending the time limited for settling accounts between the United States and individual States, with amendments, to which they request the concurrence of the House.

Also, that they have passed a bill for the encouragement of the bank and other cod-fisheries, and for regulating the seamen employed therein, in which they request the concurrence of the House.

The House then proceeded to the reading of the papers and documents communicated in the President's message of yesterday—which occasioned the galleries to be shut.

FRIDAY, JANUARY 13.

The bill sent from the Senate, entitled an act for the encouragement of the bank and other cod-fisheries, and to regulate the fishermen employed therein, was read the first and second times, and referred to a committee of the whole House—to be the order of the day for the 23d instant.

A message was received from the Senate, by Mr. Secretary Otis—informing the House that they have passed a bill, entitled, "An act establishing a Mint, and regulating the Coins of the United States," in which they request the concurrence of the House—read the first and second times, and referred to a committee of the whole House—to be the order of the day for Thursday next.

The amendments of the Senate to the bill for extending the time limited for settling the accounts of the United States with the individual States, were taken into consideration, and agreed to.—These amendments provided, by an additional section, for the settlement of the accounts of the State of Vermont—said accounts to be rendered by the first of December next.

The committee on the petition of Richard Lloyd, reported, that the petitioner have leave to withdraw his petition.

A petition of George Blanchard was read, praying settlement and payment of an account for trucking of sundry public property, by order of the late navy board for the Eastern Department—referred to the Secretary of the Treasury.—Sundry other petitions were read and referred to different heads of departments.

A petition from sundry inhabitants of the county of Frederick, Virginia, was read, praying a modification and alteration of the distilled spirits act; referred to the Secretary of the Treasury.

The House resumed the consideration of the report on the memorial of Benjamin Lincoln, and others, commissioners for treating with the Creeks—and agreed to the following resolution, in substance, that a committee be appointed to bring in a bill to appropriate the sum of ——— dollars, to be allowed to the memorialists on account of their extra expences in going to, and returning from said treaty; Messrs. Tucker, Giles, and J. Smith, were appointed the committee.

A committee of the whole on the bill to ascertain and regulate the claims to half pay, and to invalid pensions. The committee made sundry amendments to the bill; and proceeded through the discussion of the whole—they then rose and reported the same with the amendments, which were laid on the table, and the House adjourned till Monday next.