vote for the most numerous branch of the state legislature and that those elections were to be held at the same places, conducted in the same manner, and by the same officers as the elections for members of assembly. In cases of general elections therefore there could be no difference of opinion, and as these were to be governed in both cases by the same rules, it was fair to infer that special elections for representatives to Congress were to be conducted in the same manner as special elections to fill vacancies in the legislature of the state. By the laws of Pennsylvania it appears that in cases of vacancy in the representation of any county, the Speaker is to issue a writ at least fifteen days before an election can be held, and the sheriff of the county must make proclamation and give at least ten days notice to the people. The reason of the law was evident, it was intended to prevent the people from being surprised, and to give them time to look round for suitable persons to represent them. If the reason was good as it applied to the state representatives, who were all chosen in single counties, it was more so as it applied to representatives in Congress who are chosen in districts composed in some instances of three or more counties. He therefore was of opinion that they should be governed by the same law. The committee had however been told by his colleague (Mr. Findley) that the legislature never intended to make any law on the subject, that they conceived that they had no power, that the constitution of the United States by saying that in case of vacancy in the representation of any state, the executive thereof should issue a writ of election to fill such vacancy was imperative, and by making it the duty of the governor to issue such writ gave him the sole power of regulating the time, manner and place of holding the election and precluded all legislative interference. We were not to judge of the law by the alledged intention of the legislature, if they had mistaken their own powers or the powers of the executive, their mistake was not to govern the decisions of Congress. All we had to do was to enquire whether there was a law, whether that law applied to the case, and whether its provisions had been complied with. But he could not suppose that the assembly had so far misconceived the constitution. By the fourth section of the first article of that instrument the state legislatures were impowered to regulate the time, place and manner of holding elections for Senators and Representatives to Congress. This power was not confined to *general* elections, but must necessarily extend to elections to fill vacancies. It was true that in special cases they could not direct the precise time, but they might prescribe the notice which should be given, and shall we be told that because the very day cannot be named, the number of days which shall intervene between the proclamation of the sheriff and the election shall not be fixed by law? The notice is part of the manner; and the legislature though they cannot fix the time may fix, and have fixed the places and manner. It is true the executive is compelled by the second section of the first article of the constitution to issue a writ of election to supply a vacancy, but this writ he contended was merely a notification. It gave no power, no discretion. If the governor had a discretion it might extend to the place and manner. The north-west district of the state is very extensive and under this discretion the governor might so direct an election that in case of vacancy the town of Pittsburgh alone might be notified and would alone vote for the member to supply that vacancy. But the case of a choice of a Senator during the recess of the legislature had been resorted to as analogous to that of representatives. If the Senators were chosen by the people the case would be in point. Senators when vacancies happen during the recess of the legislature are chosen by the executive, and therefore there was no necessity for the legislature to prescribe either the time, place or manner, as it would be absurd to suppose that the governor should notify himself, or change his residence in order to make an appointment. Would it be argued that it was therefore unnecessary to give the people due notice of an election for representatives? Surely not.

But, said Mr. Clay, the governor has himself recogniz d the law in the very writ; were not the same officers appointed to conduct this election as were appointed to conduct the general election? Were not the ballots given in the same manner, counted by the same persons, and returned by the same judges? Whence did they derive their authority but from the law? and the law ought to have been complied with in every other respect. It is true an election was to be held throughout Pennsylvania for electors of President and Vice President; the governor actuated by the most laudable motives, in order to save the county of Washington the expence of a special election, directed that a member of Congress should be chosen on the same day to fill the vacancy caused by the resignation of Mr. Hoge. But the committee would recollect that although the people knew that electors were to be appointed they did not, they could not know of the intended choice of a Representative. In Pennsylvania the people do not as in some of the southern states, all meet at one place in the county to give their votes. No, each county is divided into a number of districts in each of which an election is held, so that no person has more than a few miles to go to the poll. The county of Washington is divided into six or eight of these districts. The sheriff's proclamation was issued on the first day of November and the election was held on the second. Although the people of the town of Washington and its immediate neighbourhood might receive due notice, it was impossible that those who resided and voted in the remote parts of the county should. Indeed it was evident that they did not — An election for electors was held on the same day. It was generally known that no opposition was intended, and the people were therefore less anxious about the result. The electors were chosen by a general ticket throughout the state, the votes of any one country were therefore deemed of comparatively little importance; this was not the case however with a representative in Congress. The county of Washington forms a district for the choice of one member, the people of that county not having the cooperation of any other part of the state, necessarily depended for success upon their own vigilance and exertions. Yet what was the result? the bare *majority* given for electors exceeded the whole number of votes given both for the sitting member and for the rival candidate. It was therefore evident that the people had not notice sufficient of the congressional election. Mr. C. did not mean to impeach the motives of the governor; on the contrary he thought them praise worthy; but substance ought not to be sacrificed to form; The object of elections was that the majority of the people might have an opportunity of giving their fair and unbiassed suffrages, in the choice of persons to represent them, and if through any mistaken constructions, however pure might be the intentions of the executive or of the legislature, this object was defeated in an election, it was a manifest violation of the rights of the people and ought not to be confirmed. This opportunity was not given in the present instance or the sitting member would not have been returned. Conceiving this to be the case and believing that the people had not that notice which by law they ought to have had, he considered the election void and should vote against the report of the committee.

Mr. Findley said, if the subject before the committee of the whole was an election law he would cheerfully subscribe to many of his colleague's (Mr. Clay's) observations. He admitted that Congress had a constitutional authority to make laws which would prescribe rules to regulate the exercise of the executive discretion in issuing writs to supply vacancies, but neither Congress nor the state legislature have made such laws, but left it in the hands of the executive who is under an unconditional constitutional obligation to issue such writs, and who in Pennsylvania and other states always has done so, and the returns of elections on these writs have in all cases passed the decision of the committees of elections, and received the approbation of Congress. Therefore, as he had said before, the question turned more properly on the discreet or proper use of the executive discretion than the right of exercising it.

In order to prove that the governor in the case before us had acted indiscreetly, Mr. F. said his colleague had observed how unreasonable it would have been for the governor to have issued a writ with such short notice to a district which he had named, and which consists of three counties, and sends two members. The petitioners themselves argue from the extent of the Allegheny districts which contains eight counties thinly settled, and is spread over an extent of territory larger than some whole states. He thought it unfair to argue, that because the governor gave such short notice to the least extensive and least numerous district in the state, a district consisting of one thickly settled county, and which had a representative for less than 30,000 inhabitants, & to correspond with another very important general election, the day on which it was to be held had been so long proclaimed that every man knew it, to charge the governor with indiscretion equal to what it would have been had he given but the same notice to the most extensive and dispersedly settled districts at a time when no general election made it the duty of the citizens to be present on the election ground, was improper. As it was the governor's conduct, and that only, that was called in question in this case, it was proper to observe that though his colleague was justified in saying they had but one day's official notice, yet in fact they had had a part of two other days, and the writ having laid one day open in the prothonotary's office, as was understood before it was proclaimed, through the absence of the sheriff, was not the fault of the governor. If the governor had done wrong he did not wish to extenuate his offence, but he thought it improper to magnify the charge by supposed cases so essentially different.

Mr. F. observed that his colleague (Mr. Clay) had maintained that the general congressional election law of Pennsylvania applied also to the case of filling vacancies, and that it made it the duty of the governor to give 30 days notice before the election. If the gentleman would examine that law he would find this opinion incorrect, it did not make it the duty of the governor to give any notice. This duty was enjoined on the sheriff of each county. The sheriffs are enjoined to give 30 days notice, and was allowed 30 days after the election to make their returns, after the returns were lodged in the secretary's office, it was made the duty of the governor by proclamation to give public notice to the members elected, and to transmit the returns to the speaker of the house of representatives in Congress. The governor was not authorised by the constitution or the laws of Pennsylvania, to issue a writ for holding any election whatever. The authority of issuing a writ in the case in question, was solely derived from the constitution of the United States. This law could not be applied to elections to fill vacancies without absurdity. The sheriff has 60 days for giving the public notice and making the returns, adding to this a reasonable time for the governor to make proclamation, and the candidate at a distant part of the state before he could go to Congress, in most cases the session would be over before the vacancy could be filled. The petitioners themselves argue much more reasonably when they apply the law for filling vacancies in the state legislature to this case, this law makes it the duty of the sheriff to give ten days notice after he receives the writ from the speakers of the house, but commands the speaker of the respective houses in all cases, when the houses are not in session to direct the vacancy to be filled at a general election. This is a reasonable law for the purpose, but prescribes no duty to the governor, nor is binding on him, yet the executives have always acted as nearly to it in filling vacancies in Congress, as circumstances would permit, and in this case it was only varied agreeably to the spirit of that law in favor of the publicity of the day on which an important general election was to be held; but supposing the obligation of the general election law on the executive in this case, the election officers having done their duty, is urged as a proof either that the general election law applied to this case, or that the election is void, because it was not conducted by officers authorised for the purpose. A brief explanation will remove the force of this argument.

By the laws of Pennsylvania, the election officers appointed annually for the election held on the second Tuesday of October, are to discharge the duties of their respective trusts at all elections by the citizens for national purposes throughout the year. The constitution of Pennsylvania prescribes the manner, that citizens shall vote, by ballot, &c. The laws of Pennsylvania institute the election officers and prescribe their duty. The constitution of the state and of the United States, and the laws of the state declare the officer that shall be voted for, if the election officers conduct elections for officers not instituted by any of these authorities, it is void. Otherwise it is valid. It will not be said that an election to fill vacancies in Congress, is not authorised by the constitution of the United States, or that the governor's writ did not sufficiently authorise the election officers.

WEDNESDAY, November 28.

Debate on the bill for authorising the erection of a Dam or Causeway from Mason's Island to the Western shore of the Potomac.

[The reporter conceiving the bill under consideration so peculiarly local to the district of Columbia as not to involve a single point of general interest in relation to the union, had left the chamber of the House of Representatives for a few minutes—when he returned he found the subject growing into importance, and as the debate advanced the interest of the adjoining states mingled with some constitutional questions and constructions, induced him to listen with attention; he however took but very brief notes. The omission is not on his part so much a matter of regret, as it would have been, had there not since arisen a very elaborate debate, reiterating not only all the ideas and arguments of this day, but much additional matter, of which he has taken copious notes for the next publication.]

Mr. Macon, (Speaker) moved to strike out the first section of the bill, with a view of trying its merits.

Mr. J. Randolph seconded the motion of his respectable friend (the Speaker.) The river Potomac was the joint property of the states of Maryland and Virginia under compact between those states. This property, at least on the part of Virginia, had never been relinquished. Congress, in his conception, had no right to pass the law in question. But if they had—there was another objection. The corporation of George Town were empowered to lay a tax which would be unequal and oppressive, since the property on which it was to be levied would not be equally benefitted by deepening the harbour, supposing that effect to be accomplished. He hoped a prompt rejection of the bill would serve as a general notice to the inhabitants of the district to desist from their daily and frivolous applications to Congress to the great obstruction of the public business.

Mr. Smilie understood there was a rival interest between the towns of Alexandria and George Town, and as this rival y had been exhibited on many former occasions, he deemed it proper before they passed any bill for the encouragement of either place, that the parties should be obliged to publish their intentions some weeks before the application, that if there were any objections to the measure contemplated, they might be before the House at the same time. He stated this merely as a ground of postponement, not saying whether he was in favor or against the measure.

Mr. Gregg thought the House bound to legislate for these people, until they relinquished the claim to the jurisdiction either by authorising them to legislate for themselves, or receding them to the states to which they originally belonged. He approved of the idea of publishing as expressed by his colleague (Mr. S.) which he considered absolutely necessary. If Alexandria were opposed to the bill, it is probable they would have sent in a memorial on the subject before this time; their not having done so inclined him to believe that they were satisfied that the measure should go into operation. He did not think the bill perfect, but nevertheless he should not oppose its progress.

Mr. Lewis said the land holders of Georgetown had very generally signed the petition to Congress. And no person out of the walls of this House gave it opposition—The people of Alexandria were content, and the owner of the island and the west shore of the river was the person most likely to be affected, yet he had given it his hearty assent. He was well persuaded that no injury would be done to the navigation of the Eastern branch, or to the port of Alexandria; if therefore they could render a benefit to George-town, without injuring any other property, he trusted the House would agree to the bill.

Mr. Sloan felt interested in the result of this measure. The people here have no body to look to but Congress to make legislative provision for their well being; he therefore considered it a duty to attend to their desires; but he wished the applicants to give notice of their intentions, in order that any person conceiving himself likely to be aggrieved should have an opportunity of being heard. This was the usual course persued in the state where he resided.

Mr. Claiborne was by no means satisfied that the removal of the mud bank would do no injury to the Eastern branch and to Alexandria.

Mr. Nelson said that on a question so important to the upper parts of Maryland and Virginia, he could not refrain from stating some reasons in favor of the measure, and against the motion of the Speaker, which was intended to destroy the bill. It had been urged that the sediment which now obstructed the navigation to George-town, if set afloat, by encreasing the current and the volume of water across it, would impede the navigation of the Eastern branch or fill up the harbor of Alexandria.—Those who would take a view of the Eastern branch would be convinced it could make no deposit there, it being intercepted or turned aside by the point which projected into the Potomac; and as the water of the Eastern branch was more rapid than the Potomac, the breadth of the latter being much wider than the former, there certainly was no danger to be apprehended in that quarter. As to Alexandria, it was not to be supposed that the solid mass of sediment was to be taken off the bar at once, and lodged in that harbor; the probability was it would remove gradually and deposit at the eddy on each side the river, while the union of the Eastern branch with the Potomac would encrease the celerity of the current and carry it far below Alexandria.

The compact mentioned by the gentleman from Virginia (Mr. Randolph) between the states of Maryland and Virginia he acknowledged to exist; but as the measure contemplated the improvement of the navigation of the Potomac, instead of obstructing it; the right of each state to the free navigation thereof remained unimpaired. He imagined that the inhabiants of Alexandria and the citizens of Virginia wished success to the measure. He knew his constituents had it much at heart, knowing that a choice of markets is a great accommodation to farmers; and if defeated it would be as much to their advantage to bring their produce to a shipping port at once by land, as to use the canal recently constructed at such prodigious expense, having afterwards to go with their produce to Alexandria by land.

Mr. Smilie should not be against the bill if upon full and fair enquiry it was found proper to pass it. But he could not agree to be hurried along without allowing time to acquire information. He therefore moved that the committee rise and report progress.

Mr. Macon (Speaker) opposed the rising of the committee, because it was leaving the business exactly where it stood, unless it was meant to recommit it to a select committee for modification. But as he was determined to vote against it in any or every shape, he was prepared to decide now. As to the mode he had taken to come at his object, he should only say it was a fair one, and such as had been the uniform practice of the house since he had a seat in it.

The gentlemen in favor of this dam or causeway, say it will do no harm: but where is the demonstration? On the other side serious apprehensions are entertained of its injurious effects upon the United States navy yard in the eastern branch, and its causing obstructions in the harbor of Alexandria. He would assure the committee he was ready to promote the welfare of any of the citizens; but it must in justice be done without injuring any other person whatever.

At the last session an application was made for a permanent bridge across the Potomac, with a draw for the passage of vessels; the petitioners urged the general utility of the measure to all persons travelling north or south, but particularly the vast benefit accruing to the inhabitants of the district, by affording a solid and secure mean of intercourse between its several parts. This measure was opposed by the present petitioners on the ground of the compact between Maryland and Virginia securing the right of free navigation to the river, and also alleging that their navigation to George town would be impeded. The argument which they applied then, now applies against them, and it ought in the minds of the same legislators to apply with equal success.

Mr. Findley was rather in favor of the bill, believing the mode proposed would be successful in deepening the channel, which would certainly improve the navigation to and from George-town, and in that object the citizens of some of the western counties of Pennsylvania were materially interested: several of their boatable creeks nearly interlocking with those of the Potomac. He would however agree to the committee rising, with a view to postpone the bill, 'till gentlemen acquired the information they asked for.

Mr. Goddard hoped the committee would rise, and the subject be postponed 'till sufficient light was obtained to guide their votes to a proper decision. He also hoped that no member might be considered as the friend or the foe of the present bill, 'till he became such by an examination into its merits or demerits. He narrated the course the business had taken since its introduction into this house, and inferred that the same deliberate mode ought to be pursued to the end. Whether the measure was good or evil could only be determined in that way, and gentlemen ought not to reject doing a positive good, unless it was demonstrated that positive evil would result to counterbalance the good that was intended. He conceived the members ought to enquire for themselves on this point, and legislate accordingly. He would on all occasions endeavor to promote the interests of the district; and as it had no immediate representative on the floor he considered every representative bound to serve them, while the seat of government remained among them.

Mr. G. W. Campbell would not declare whether he should vote for the final passage of the bill or not. But he was disposed to take notice of the applications made from time to time by the inhabitants of the district; whether to redress grievances, or procure benefits. But he by no means approved of the principle of legislation without representation. He regretted that they were placed in this unfortunate situation; but he should decide on the present question according to its merits; and if it was found to be of great consequence to the petitioners, and not likely to work an injury to others, he presumed the bill would finally pass. But he wished the committee to rise, in order to give further time to obtain information. It had been alledged that the friends of the measure ought to demonstrate that the erection of a causeway would do no injury to any one. This was not a fair position; it was requiring them to prove a negative. The burthen of proof should lie on those who oppose the bill, and it was for them to demonstrate that injury would result. The gentleman from Virginia (Mr. J. Randolph) has stated that the boats from the western country have a choice of passing by the western or eastern channel to the market below George-Town, and this, it is presumed, he means they should be still entitled to under the compact between Maryland and Virginia. L t us hear from these persons also, and then ascertain whether they have any objection to the project on that account. This was also an argument in favour of the rising of the committee, and perhaps it may be added, that a little delay will enable the House so to modify the bill as to render it less exceptionable than at present.