

I take the law fairly and broadly. I accept of its provisions. I ask whether this convention will or will not adopt the law as an entirety, and not adopt one part of it and reject the other.

Mr. STIRLING. The astounding nature of the proposition made to this convention that at this period of the session we should be asked to decide that nearly one-third of the members of this body, deliberately sent here by their constituents, are not eligible, and that we should be asked to say this by a gentleman himself sent here by the people, who says that he himself is not eligible—the astounding character of such a proposition is such that I have scarcely the patience to speak upon the subject. But as it is proper that in regard to an important matter like this, there should be something said to show that we are not merely acting because we have the power, and as I happen to have been placed last winter in a position to be perfectly familiar with the origin and progress of this whole convention bill, I wish to say a few words upon the points raised by the gentleman from Anne Arundel (Mr. Miller.)

I do not intend to allude at all to the view of the subject that this convention is not bound by a qualification placed in this act of assembly. That is the view taken by the eminent gentleman from Kent county (Mr. Chambers.) I do not care anything about that. I distinctly affirm that these gentlemen who are said to be disqualified, are qualified within the true intent and meaning of this act of assembly.

In the first place, I say that this act of assembly ought not to be construed as other acts of assembly are construed. It ought to be construed as the court of appeals has said, that the constitution of a State ought to be construed. It ought to be construed as the people understood it when they passed upon it. What was their construction?

I affirm as a matter of fact known to every member of the last general assembly, that this whole question of the qualifications of members of this body was discussed in the house of delegates and in the senate, and that the *prima facie* case made was that every body was to be eligible. The objection was first that judges ought not to come here, and then that clerks of the courts should not come here; and the provision excluding clerks and judges was put in after argument, upon that distinct understanding, for it was a subject of discussion and conference. The two houses had that particular matter under discussion; and when the committee of conference made their report to the senate and the house of delegates upon that special matter, it was the distinct understanding that the disqualification of judges and clerks was the only disqualification in the bill, and there was not a member of either house that had any other idea.

What was the effect? They carried their idea home to their constituents; and it is a remarkable fact that no judge and no clerk of a circuit court or court of Baltimore city was sent here, although gentlemen who were judges and clerks were proposed as candidates for this convention, yet after discussion among their friends it was determined that they were disqualified, and they were not sent here. Yet the people, acting under the impression derived from their representatives with regard to the true construction of this bill, sent here these other gentlemen, because they knew it was the understanding that no disqualification existed except as to judges and clerks.

What was the origin of this requirement that every member should possess the qualifications required for a seat in the house of delegates? I know perfectly well as a matter of fact how that came there. It was placed there on the motion of a gentleman from Kent, Mr. Ricaud, in the senate, because of a discussion upon residence. Somebody offered, or proposed to offer an amendment requiring that the members should have been residents of the State for five years or for two years. Mr. Ricaud remarked that there was some propriety in that, and to cure the difficulty he put in the basis of qualification required for a seat in the house of delegates, and read this from our present constitution: "No person shall be eligible as a senator or delegate who at the time of his election is not a citizen of the United States, and who has not resided at least three years next preceding the day of his election in this State."

And upon that reading of that article of the constitution, and upon that proposition as a substitute for the proposal to state a particular residence in the bill, this clause was placed in the bill with the distinct understanding among the members of the senate that it meant to refer to the three years residence and citizenship of the United States. And I say that if the language does not mean that, this intention, this understanding among the representatives and senators who passed it in the legislature, and of the people who upon that understanding voted upon it, makes it the true construction. The circumstances would make that the construction, even if the strict meaning of the language was different. And I say that settles the question.

What did the convention mean by afterwards putting in the bill that no judge or clerk should be eligible? If the gentleman's argument were correct, the very provision with regard to delegates in the first section would have excluded clerks and judges. Is it not according to a maxim of law that there must be presumed to have been some reason for putting it in? Is it not a maxim that the expression of one idea or intention is an exclusion of the other? The express exclusion of certain office holders implied the eligibility