

Mr. THURSTON. There are ten times as many lunatics not under guardianship as are under guardianship. You will find lunatics in our almshouses who are not under guardianship.

Mr. BERRY, of Prince George's. It is very well known to all lawyers who have been in the practice of the law any length of time that to apply for a writ *de lunatico inquirendo* requires a good deal of money. The cost is considerable to summon a jury and go through all the requirements of the law. Unless a party has property, or his friends have property to apply for him, it has never been done within my practice. But when there is no property, and when by common reputation they are regarded as lunatics, they have never been under guardianship in the experience I have had in the practice of the law. I think, therefore, that this amendment is proper and should be adopted by the convention.

Mr. STIRLING. I think this should be retained, and that the judges of election should have no right to decide at all that a person not under guardianship should be excluded from voting. This report makes a change from the language of the present constitution, as my colleague has just shown. The remarks I made just now are applicable to the report as it stands. The present constitution allows any man to vote who is not absolutely under guardianship either as a lunatic, or as a person *non compos mentis*. If a man is able actually to offer his vote, it is sufficient.

Mr. SCOTT. A member of the committee calls my attention to the fact that this was reported exactly as in the present constitution, but that owing to a misprint the "as" is omitted in the last line, changing it somewhat.

Mr. ECKER. We gave orders to the clerk to copy out the section exactly as it stands.

The PRESIDENT. We are acting upon the report as it is printed.

Mr. SANDS. The clerk was directed to copy the section verbatim.

The PRESIDENT. The written manuscript is the same as the printed copy; but this being the statement of the committee, the President will direct the insertion of the word "as."

The section was accordingly amended.

Mr. THURSTON. I hold that a lunatic should not be allowed to vote, whether under guardianship or not. Nine-tenths of them are not under guardianship, and yet they are not allowed to vote. I want the law to conform to the practice.

Mr. JONES, of Somerset. The practice in Allegany seems to be different from that in other parts of the State. The constitution has been uniformly held, in the section of the State where I reside, to exclude those under guardianship; and no judge of elec-

tions has ever considered himself justified in inquiring into the sanity or insanity of any person offering to vote. It was the clear and manifest purpose of the committee which reported this article to exclude that as a subject of judicial inquiry, whether a man is insane or *non compos mentis*; because there are two descriptions of persons.

Mr. THURSTON. Are acknowledged idiots allowed to vote?

Mr. JONES, of Somerset. Yes, sir.

Mr. THURSTON. And persons found to be lunatics without being under guardianship?

Mr. JONES, of Somerset. Yes, sir. The constitution has only excluded those under guardianship. There are two classes of persons only that the constitution proscribes—those who are lunatics, and those who are *non compos mentis*; and they must have been so adjudged, and placed under guardianship. All others that are going at large, or are under the care of their friends, without judicial inquiry, are entitled to vote. I think it would be a very dangerous power, and one very difficult properly to execute, to devolve upon the judges of elections, to try the question of sanity or insanity, pending the excitement of the business that requires all their time on the day of election. The fact that a man is under guardianship or not, is a matter of record in the county, and so notorious as to preclude all question; and that is the sole purpose that was intended, I presume.

Mr. BERRY, of Prince George's. I should like to ask my friend from Somerset one question. What is the necessity of having a guardianship, if the lunatic has no property? The object is to take charge of the personal property, where there is property.

Mr. STIRLING. Any person actually in a lunatic asylum, is under guardianship, whether there is a judgment or not.

Mr. JONES, of Somerset. Certainly; and I presume if he is put in the almshouse as a lunatic, he is under guardianship there. I think as a matter of principle that the constitution ought to distinctly describe the classes of persons who are to vote, and those who are to be precluded from voting, so that no question of judicial construction shall be left open for litigation, and especially before a tribunal evidently and confessedly incompetent practically to decide such a question.

Mr. THURSTON. The words "under guardianship" used here are technically used with reference to the act of assembly to mean under guardianship for the protection of property. Parties are found to be lunatics, without having guardians appointed, and without going to the asylum. It is manifest that lunatics and idiots are incapable of determining how they shall vote, and will only be made tools of by interested persons. Nor do I consider this a dangerous power to vest in the judges of elections. They decide