

appeals are elected by the qualified voters of the several districts from which they come. There are many reasons why I think that under that system we can get a better man for the court of appeals than by a general vote of the whole State.

I must confess, although a member of the bar, that if I were called upon to vote for the most competent man in the particular district represented in part by the gentleman from Allegany, I should not be half as competent to judge who was the most fit person to sit upon the bench of the court of appeals, as the gentlemen who reside there. The same principle would apply to being called upon to vote for a member of the court of appeals from our section of the State. I am familiar with all the members of the bar in our section of the State. I know their standing at the bar, and their legal attainments, and therefore I should be better able to judge who would be most competent in my section of the State to sit upon the bench of the court of appeals than the gentleman from Allegany.

I therefore prefer the provision of the present constitution. Let gentlemen think of it for a moment, and ask themselves how we can obtain the services of the best men to sit upon the bench of the court of appeals. As a matter of course we must know the men from whom we make the selection; and, although a member of the bar, I must say that I do not know personally who would be best suited for that place in the section of the State represented by the gentleman; and I take it for granted that the same remark will apply to him. Therefore there is manifest wisdom in adhering to the present system.

Let each district elect a judge of the court of appeals by the qualified voters of the district. We then have the assurance that we shall get good men upon the bench, and I am sure it is the desire of every one present that that should be accomplished. I think that this is reason enough why every member of the convention should vote to allow them to be elected by the qualified voters of the district from which they come, according to the provision of the old constitution.

Mr. STIRLING. I hope very sincerely that the amendment of the gentleman from Allegany will prevail. It strikes me that there is a manifest propriety in this mode of electing the judges. I was very much struck yesterday with the remarks made incidentally by my friend from Washington (Mr. Negley) with regard to this subject. It is a fact that the judges of the court of appeals represent the justice of the whole State. Under the old system they were appointed by the governor who represented the whole people. The judge of each judicial district represents the people of that district, but the judges of the court of appeals are obliged to decide cases which come up from every portion of the State.

Mr. BERRY, of Prince George's. Will the gentleman allow me to ask him a question? The appointment having been made under the old system by the governor of the State, was it not the uniform practice for the governor in the appointment thus made to require recommendations from the members of the bar from the section of the State from which the judge was appointed?

Mr. STIRLING. I suppose it was. That was the mere ascertainment of his fitness for the office. Every citizen of the State has an interest in every judge of the court of appeals, and he has just as much right to vote for him as to vote for the governor of the State. They equally exercise a general authority over the whole State.

So far as regards the selection of a proper man, I believe that the State convention of any political party will in every instance nominate a better man upon the State ticket than would be nominated upon a district ticket. In the first place, candidates are selected with more care by the members of nominating conventions. They come together from all parts of the State, and there are more men among them acquainted with the qualifications of members of the bar.— Not only that, but they have an interest in putting on their ticket their strongest man because it has an effect upon the strength of the rest of their ticket.

It is a positive fact, so far as I have had an opportunity of hearing about it, that the judges of the supreme court in New York State have been less influenced by politics and have been more able men than those of any other courts of the State; and I believe this is largely attributable to the fact, that while the district judges are elected by the vote of the districts, the judges of the court of appeals are elected by a general vote of the State, and both political parties have taken pains to keep their ablest men for the court of appeals. We all know that when the question of the constitutionality of the legal-tender law came before that court, Judge Denis gave a dissenting opinion against the law, and yet his character was such that when his party came to nominate a justice of the court of appeals for the next term they unanimously gave him a re-nomination. I rather think that if he had been required to be nominated by a district convention political prejudice would have absolutely turned him off the bench, because he decided contrary to the political feeling of the party. There is less liability of political feeling being excited against a judge for deciding contrary to the prejudices of a particular district than when the election is by general ticket. The individual citizen is very often brought before the court in antagonism with the people, and the judges under the elective system are sometimes inclined to represent the people against the in-