

Mr. NEGLEY said: I vote against this section because I want to move a reconsideration of the substitute offered by the gentleman from Baltimore city (Mr. Audoun,) and have that perfected if possible. I therefore vote "no."

Mr. STOCKBRIDGE. I am not prepared to vote understandingly upon this, not having these amendments before us. They have become so complicated that I do not know what is right and what is wrong. Not knowing what to do, it is best perhaps to do nothing; and I therefore vote "no."

The amendment as amended was accordingly agreed to.

The question recurred upon the section as amended.

Mr. MILLER moved to strike out the following words:

"They shall certify their appointment so made to the governor, by whom the appointees shall be commissioned as justices of the peace of the State of Maryland, in and for _____ county and city."

Mr. HEBB. I would suggest to the gentleman to transpose these words. The governor is to appoint the magistrates and the county commissioners the constables. Then the appointment of the constables should be certified to the governor. If it is necessary for the governor to commission the justices of the peace, when appointed by the judges of the courts, I should suppose it would be necessary to commission the constables to be appointed by the county commissioners.

Mr. MILLER. As perfect a *non sequiter* as ever I heard. The county commissioners are required to appoint constables as they would appoint a collector or anybody else. The governor has nothing to do with commissioning them. The governor appoints the justices of the peace, and these he can commission. We do not want the constables commissioned.

The amendment was agreed to.

Mr. STOCKBRIDGE. The clause moved by the gentleman from Baltimore city (Mr. Thomas) was placed in this section in exactly the same form as in the substitute which was subsequently rejected. In the substitute the convention upon my motion inserted the word "incompetency," and I now move to insert that word in the original section before the word "wilful."

The PRESIDENT. The journal has gone to the printers; but it is the impression of the chair that that amendment was only moved to the substitute which was rejected; that it was not placed in the original section.

Mr. STOCKBRIDGE. Then I will move to insert that amendment including the word "incompetency" at the end of the section, as follows:

"And shall be subject to removal by the judge having criminal jurisdiction in the county or city, for incompetency, wilful

neglect of duty, or misdemeanor in office, on conviction in a court of law."

Mr. BRISCOE. I move to amend the amendment by striking out the word "incompetency." I hold that justices of the peace should be placed as far above all influences and power as any other judge in the land. I see nowhere in the constitution of Maryland, or in any other State constitution that a judge is removable for incompetency. I think that so far as regards wilful neglect of duty, or malfeasance in office, or misbehavior, he should be removable for those causes. But the question of incompetency reaches the head and not the heart of the judge. It has been well said, God forbid that we should undertake to confer the power to punish a man for a defect of understanding. He may make a decision, and may be indicted for having made that decision, and from mere prejudice may be brought up for conviction, and upon the opinion of twelve men that he is incompetent to act as judge he may be removed from the office. I see no necessity for putting that word there, and I therefore move to strike it out.

Mr. STOCKBRIDGE. I almost regretted having moved the insertion of that word after I did so, for I was assured by some gentlemen that there would be no justices of the peace left in their counties if the amendment was adopted. But I wish to remind my friend from Calvert county (Mr. Briscoe) that this is nothing either unusual or unprecedented. The existing constitution of the State provides with reference to the judges of the court of appeals precisely the same ground for removal. It says:

"* * * as a judge of the said court of appeals who shall hold his office for the term of ten years from the time of his election, or until he shall have attained the age of seventy years, whichever may first happen, and be re-eligible thereto until he shall have attained the age of seventy years, and not after; subject to removal for incompetency, wilful neglect of duty, or misbehavior in office, on conviction in a court of law," &c.

The terms are precisely the same as in this amendment.

Mr. BRISCOE. I referred to the judges of the circuit court. I have that provision before me, and it does not apply to them at any rate.

The amendment to the amendment was rejected.

The amendment was agreed to.

Mr. STIRLING moved to amend by inserting before the last amendment the words "justices of the peace and constables so appointed."

The amendment was agreed to.

Mr. HEBB moved that the section be transposed to read as follows:

"Sec. 37. The governor by and with the