

bers of the general assembly. Nothing to my mind can be clearer than that is, in regard to the law of this matter.

But suppose we take another view of this matter. Suppose we say (and that is my doctrine) that this body represents the sovereign power of the State—that it is bound by no legislative act whatever. Then what is the condition of things? If we are left to fix our own compensation, is it too much to say that one hundred dollars, in addition to the five dollars a day should be allowed?—making it, perhaps, not more than three dollars a day in gold.

I contend, therefore, that in every view of the case, both as a matter of law, and as a matter of justice, this amendment should be adopted. There is nothing in it that I can see except a squeamishness of the conscience of a few gentlemen here to prevent the adoption of this amendment. If there are any such, then let them refuse to take the money. I shall not refuse to take it.

Mr. STOCKBRIDGE. When this matter was before the convention last Friday —

Mr. LANSDALE. The gentleman is out of order; he has already spoken twice.

Mr. ABBOTT. The gentleman (Mr. Stockbridge) was a member of the last legislature, which passed this mileage resolution, as it is called. I understood him the other day to say that he received the hundred dollars. Now I would like to ask him this question; suppose this constitution is not adopted by the people, and he comes back here to the next legislature; would he not receive this hundred dollars again without another act of the legislature?

Mr. STOCKBRIDGE. I will remark, in answer to that question, that these personal arguments which we have so much of in cases like these, amount to nothing in my opinion. They are very good to turn a laugh sometimes, but really they are not arguments at all. In answer, however, to the question whether this resolution of the last general assembly creates a mileage of eight or ten cents a mile, or whatever rate it may be, and the one hundred dollars in addition for the members of all succeeding legislatures; I will say that no proposition can be clearer to my mind than the hundred dollars under that resolution cannot be allowed to the members of any subsequent legislature, if the constitution we are now framing be not adopted. I do not believe it is a law of the State, in default of our making a constitution which the people accepts. Upon its face it does not pretend to call it mileage. It does not say "the sum of one hundred dollars additional mileage," or "mileage in addition to that which has heretofore been allowed." As they say in their report, it was an effort to equalize the compensation of members with that of previous legislatures.

Now there were two or three ways of doing

that. One was to raise the per diem; but the constitution stood in the way of that. Then they could increase the mileage, giving to each member in the State an additional amount of "fees for travel by the mile." But that would not do, for the simple reason that all the increase would go to the members who came from the greatest distance, and there would be no increase of compensation to those who lived near by. Therefore, it would not do to call it "mileage." They accordingly ordered that the round sum of one hundred dollars be paid to each member. That is what it reads. It does not say "one hundred dollars more mileage than usual," because they cannot deceive themselves into the idea that they are receiving more mileage.

The thing is just here; if this be the law of the State regulating the matter of mileage, then there is no necessity for this convention to do anything. Because if it be the law then the committee on accounts of this convention are bound by it; the comptroller is bound by it; the law officers and the disbursing officers of the State are bound by it. If it be the law of the State, then they will obey it, and there is no necessity for us to do anything; they are under a sworn obligation to obey the law. And therefore if it be the law, I say it is unnecessary for us to act in the matter. If it be not the law, then the question arises whether we will make it so. On that point, I will say that I am not ready at this time to make it the law. I think this proposition is unjust. Just look at it. How will it apply to the legislature? The legislature cannot increase the compensation of any officer; the constitution prohibits it. It says:

"No extra compensation shall be granted or allowed by the general assembly to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract entered into; nor shall the salary or compensation of any public officer be increased or diminished during his term of office."

Now, will any gentleman, lawyer or not lawyer, tell me that the general assembly could say that the judges of the circuit courts should receive an additional thousand dollars as compensation for riding through their circuits?

Mr. JONES, of Somerset. The constitution does not provide that they should have mileage.

Mr. STOCKBRIDGE. It does not say they shall or shall not; it fixes their salaries. Can you give them a thousand dollars additional mileage?

Mr. BELT. I believe it is provided in the constitution in the case of the general assembly, but not in the case of the judges, that they shall be entitled to such per diem as the constitution fixes, and such mileage as is allowed by law.

Mr. STOCKBRIDGE. It is.