

except in accordance with an appropriation made by law." The existing constitution is in full force, and will so continue until a new one is substituted, in proper manner, by the vote of the voters of the State. Hence the idea which some gentlemen seem to entertain that this, being a sovereign convention, has unlimited control of the treasury and everything else in the State, is a very great mistake. The purpose and powers of this convention are expressed in the act of assembly, and said to be indorsed by the people, in calling and constituting this convention.—The general assembly made an appropriation by law of a sum of money to defray the expenses of the convention; otherwise not a dollar could have been drawn from the treasury. The expenditure of so much of the sum thus appropriated, as may be necessary, was intrusted to the discretion of this convention. The compensation of the delegates was fixed by the law at "five dollars per day and the mileage allowed to the members of the general assembly of this State;" and in my judgment, the convention have no authority to alter or change that provision.

Then it is said, the president being a delegate can receive no additional compensation, especially and mainly because, as the gentleman from Baltimore city (Mr. Stockbridge) alleges, the house of delegates expressly refused to allow the president six dollars per day. Now whatever votes the house of delegates may have given upon separate propositions, the law passed by the general assembly provides for paying "to the officers of the convention, upon the order of the president, such compensation as the convention shall allow." There is no exception in the law. If the president is an "officer of the convention," in the meaning of the law, can there be any doubt that the convention may allow him, as such officer, the additional dollar per day for his constant and faithful services as its presiding officer? Whatever may have been the intention and meaning of the house of delegates, is there any pretence that the senate had any other intention than the language of the law plainly implies? And who ever heard of the proceedings of one or even both houses of a legislature being brought into court to enable a judge to decide on the meaning of a law?

And then as to the question of "mileage allowed to the members of the general assembly of this State," to which the delegates are entitled under the law. It is known that previous to the last general assembly, the mileage of the members had been fixed, I believe, by immemorial usage, with reference to the distance of the counties from the seat of government. But the last assembly passed the following resolution:

"Resolved by the general assembly of Maryland, That the sum of one hundred dollars, in addition to their usual mileage, be paid to

each of the senators and delegates of the general assembly."

Can any one doubt that the plain import and meaning of that resolution is "one hundred dollars as additional mileage?" It is plain there was, in the contemplation of the legislature, "usual mileage" to which the members were entitled. In "addition" to that, they allowed one hundred dollars; yet gentlemen argue, with many hard sayings and insinuations against that assembly, that they meant one hundred dollars additional per diem. I can hardly think if the gentleman near me (Mr. Stockbridge) were sitting as judge, (a position he may hereafter fill with dignity and ability,) he could give the resolution such a construction, even with the aid of the report of the committee, which precedes the resolution, which like the preamble to a law, may be considered as *aiding* in its construction, but not as controlling or contradicting the plain import of the language used in the law. That report is in these words:

"The committee on claims, to which was referred the order of the house of the second day of March, 1864, instructing them to readjust the mileage of the members of the general assembly, respectfully report:

"That the constitution of Maryland provides that the members of the general assembly shall receive a per diem of four dollars, and such mileage as may be allowed by law. This constitutional provision seems to justify the conclusion that while the per diem of members is fixed and unchangeable, their mileage is left to be adjusted according to the varying circumstances which might arise.—The committee, having in view the peculiar and unprecedented condition of the currency of the country at this time, and the greatly enhanced cost of travel and living in consequence thereof, have deemed it just and right to provide as near as may be for equalizing the compensation of members with that of previous legislatures; and therefore recommend the adoption of the following joint resolution," etc.

The committee were instructed "to readjust the mileage." They notice that while the constitution fixes the *per diem* at four dollars, which cannot be increased, the mileage is left to be adjusted by the general assembly "according to the varying circumstances which might arise," and the committee mention the "condition of the country at this time, and the greatly enhanced cost of travel and living," as reasons "for equalizing the compensation of members with that of previous legislatures," which they propose to do by paying the members of the general assembly "one hundred dollars in addition to their usual mileage."

Considering the question as one of statutory construction, it does seem to me impossible to say they meant the hundred dollars as additional per diem, in the face of their