

declaration that by the *constitution* "the per diem of members as fixed and unchangeable." It was doubtless their purpose "to equalize the compensation of members with that of previous legislatures," and having the constitutional right to increase their mileage, they did so—very inequitably and unfairly, I admit, as to the distant members from Allegany, Worcester and Somerset; but I have got to learn that the unfair or even iniquitous *effect and operation* of a law, in particular instances, can control a judge in pronouncing upon the true legal construction of a statute.

The only remaining question is, did the resolution apply to members of that general assembly only, or does it fix the mileage "allowed by law," for future general assemblies until changed by law? I see nothing in the case, which limits the allowance to members of that particular general assembly. If such were their purpose, the language should have been "the senators and delegates of *this* general assembly." In the absence of any such restrictive words, whatever may possibly or even probably have been the selfish motives of those who voted for the resolution, as charged here, and under all the circumstances, in terms harsh and perhaps unjust, I am of opinion that the resolution is equivalent to a public general law, fixing the mileage until duly changed. The delegates to this convention being entitled under the law of their creation, to "the mileage allowed to members of the general assembly of this State," I am clearly of the opinion that they are entitled to the mileage fixed by the resolution aforesaid. I admit that it operates most unfairly to the distant members, but that we cannot now help or avoid. A future legislature will doubtless correct this inequality. As to the indelicacy of deciding the question in our own favor, we cannot avoid a decision, as there is no other tribunal to decide. Gentlemen who doubt, or differ from us in our construction, ought to vote against the amendment. If our construction of the law is correct, there is no altered "condition of the currency or the cost of travel and living," except for the worse, which ought to be considered as rendering it improper for the delegates to accept the mileage allowed by the law.

Mr. DELLINGER moved the previous question, which was seconded, and the main question ordered.

The question was upon the amendment of Mr. LEE, to add to the order offered by Mr. RIDGELY the following:

"And that the committee on accounts be hereby instructed to audit the mileage account of each member of this convention according to the joint resolution of the general assembly of this State at its last session, adjusting the mileage of the members of that body."

Upon the question Mr. DANIEL called for the yeas and nays, and they were ordered.

Mr. STOCKBRIDGE moved a call of the house, which was ordered.

Pending the call of the roll—

On motion of Mr. NEGLEY,

Further proceedings under the call were dispensed with.

Mr. SCOTT moved to adjourn.

The CHAIRMAN. That motion is not now in order. The rule requires the vote to be taken, after the yeas and nays have been ordered, before any adjournment can take place.

The question was then taken upon the amendment by yeas and nays.

After the call of the roll had been commenced,

Mr. DANIEL said: I want to ask a question for information.

Cries of "Order," "Order," from various parts of the house.

Mr. DANIEL. I want to ask—

Mr. JONES, of Somerset. I call the gentleman to order. The secretary having commenced to call the roll, it is not in order for the gentleman to say anything until his name is called.

The CHAIRMAN. (Mr. Purnell.) The point of order is well taken. The gentleman from Baltimore city (Mr. Daniel) must take his seat.

Pending the calling of the yeas and nays, the following explanations were made by members, as their names were called:

Mr. CUSHING. I have not the slightest doubt as to the legality of paying this hundred dollars to every member; that does not trouble me the slightest. I think it was the duty of the committee on accounts, if they had any doubt as to the law, to have sought advice and decided the matter for themselves. In a case affecting myself, I prefer to be on the safe side, and to vote against taking this money, rather than assume a duty which I think the committee on accounts ought to have taken upon themselves. I therefore vote "no."

Mr. DANIEL. I shall vote "no" on this proposition, because I am opposed to the amendment, and shall be opposed to the original proposition as amended, if this be adopted. The question I want to ask is, whether, if this order is amended, it can be divided. I could vote for the first part of it, but I must vote against the whole if this is put in, and it cannot be divided.

Mr. DENT. I rise merely to say that I have no difficulty, either in law or in morals, in voting for this proposition; none whatever. I vote "aye."

Mr. ECKER. I do not rise to make any explanation. But I want the clerk and the reporter to put down to my name "NO" in the largest kind of capitals they can use.

Mr. GALLOWAY. Being the chairman of the committee on accounts, to which this ques-