

ture of Maryland, although he had been elected for four years, might resign his seat, and accept the office of judge, even during the term for which he had been elected.

Mr. CHAMBERS. Not upon the ground of anything in relation to the term.

Mr. MILLER. I think it was.

Mr. CHAMBERS. I understood that distinguished counsel had given the opinion that inasmuch as that was an elective office, and inasmuch as the Constitution did not prohibit a member of the Legislature from holding an office to which he might be elected by the people, therefore that appointment by the Executive was lawful. I understand, without meaning to advocate that doctrine as correct law, that that was the ground upon which the appointment was made; simply that it was an office in the gift of the people, which office had not been prohibited to members of the Legislature by the Constitution. There is but one term mentioned in this provision. The phrases, "said term," "above term," "term aforesaid," "term before mentioned," all relate to the same term.

Mr. STOCKBRIDGE. As there is nothing before the Convention to bring this question distinctly before it, I will move to amend this section by striking out the words "said term," and inserting the words "the time he shall continue to be a senator or delegate." If that amendment be adopted, it will then read:

"Or shall, during the time he shall continue to be a senator or delegate, hold any office, or receive the salary or profits of any office, under the appointment of the Executive or General Assembly."

The PRESIDENT. Suppose he resigns?

Mr. STOCKBRIDGE. Then he does not continue to be a senator or delegate.

Mr. STIRLING. The object of the committee, whether right or wrong, was to prevent any such state of things as that taking place. The house can alter the report of the committee, of course, if they do not desire to accomplish that object. But the object of the committee was to prohibit any senator or delegate from being appointed, during the term for which he was elected, to any office by the Executive or Legislature.

Mr. PUGH. Even though he should resign?

Mr. STIRLING. Yes, sir; they thought he ought not to be allowed to resign to obtain any such appointment.

Mr. SANDS. I would like to ask the chairman of the committee one question; whether, under the language of this section as it now stands, a party who was a member of the Senate or the House of Delegates, would not be deprived of the right to accept a military commission issued by the Governor of this State? Suppose that you, Mr. President, or the gentleman from Frederick (Mr. Schley) should be called upon by the Governor of

the State, while you were members of the Senate, or House of Delegates, to accept a military commission as captain, or major, or colonel; does not this section as it now stands exclude you from doing that? And would it not be necessary, in order to obviate that difficulty, to insert the word "civil" before the word "office?" I think we are going to have a better organization of the militia of this State. And I can conceive of cases in which it would be very important to have certain gentlemen hold military commissions, and I do not want them excluded under any construction of the language of the Constitution. I would just ask the question, whether the adoption of this section as it now stands would not debar any member of the Senate or House of Delegates from accepting any military commission from the Governor of this State?

Mr. STIRLING. Except brigadier generals, the Governor has no power to appoint any military officers. You might insert the word "civil" here, for civil officers were those to which the committee had reference in this section; although I think the chance to be shot at is not so very desirable as to make such an amendment necessary.

Mr. SANDS. The Governor issues commissions.

Mr. STIRLING. The section says "appointment," not "commission." However, I think it would be well to insert the word "civil" before the word "office."

Mr. CHAMBERS. The amendment of my friend from Baltimore city (Mr. Stockbridge) does not remove the difficulty here. In relation to the case to which reference has been made here, it was denied that the appointment by the Governor *ad interim*, until the election by the people, came within the scope of this provision. The difficulty is, that the prohibition is not intended to apply to any office which is in the gift of the people. And it was held that this was a case, not of an office to be filled by executive appointment, within the meaning of the Constitution, but was clearly and by the very words of the Constitution an elective office; and therefore the Governor, in the meantime having the power to fill the vacancy until the people should elect, could put in a person whom the people themselves had the right to elect to the same office.

This amendment, it strikes me, does not meet the case of officers to be elected by the people; and the same difficulty would again arise. I would suggest to the gentleman to amend by inserting the word "other" before the word "office," so that the clause would then read:

"Or shall, during said term, hold any other office, or receive the salary or profits of any other office."

Then strike out the words, "under the appointment of the executive or general assem-