

offer although I think it embodies a mode of selecting judges preferable to either the old one, or that proposed by the committee's report, is yet not one to which I am wedded. My purpose is, to bring out suggestions from other gentlemen more capable than myself, so that we may have before us a number of plans, from which we may choose that which seems most free of objections. My amendment provides that the Legislature shall on joint ballot present the names of three persons to the Governor, who shall select one of the three to be commissioned as judge. The great evil of the old system is this:—The Governor owes his own nomination and election to the caucus machinery and political management which I have attempted to describe; and he generally selects for his appointments those men who have been his most active friends in the canvass for nomination and election. Thus a particular clique—

The PRESIDENT's hammer here fell, the gentleman's half-hour having expired.

Mr. PHELPS moved that the gentleman be allowed to proceed.

Mr. DONALDSON said, he did not ask that favor of the Convention.

Mr. RANDALL thought that no objection would be made to allowing the gentleman to proceed with his remarks.

SEVERAL MEMBERS. "Go on, go on!"

Mr. STEWART, of Caroline, inquired how the gentleman could be allowed to go on under the order limiting the debate?

Mr. DONALDSON repeated, that he did not ask to be allowed to proceed.

Mr. STEWART, of Caroline, said, if there was one in the Convention to whom he would be willing to extend this courtesy, it was the gentleman from Anne Arundel; but he objected to this as a bad precedent, and we might just as well rescind the rule at once.

Mr. PHELPS moved a reconsideration of the vote by which the order limiting debate was passed.

The PRESIDENT stated the consideration of the order of the day could not be suspended for the purpose of entertaining the motion to rescind the order.

*Remarks of Mr. DONALDSON—same date.*

Mr. DONALDSON said: I understand now, Mr. President, that by the construction given to our rule for limiting debate, I am entitled to another half hour; but I will not take advantage of the privilege, for I know that on this day especially the Convention is usually indisposed to listen to speeches. I will therefore only occupy a few minutes in showing the operation of the amendment I propose. But first let me say, that when I rose this morning, my intention was merely to explain that amendment, and not to go into an examination of the general principles of a judiciary system. When the limit of half an hour was established by the order of the Convention, I determined not to speak at all upon this subject, knowing very well that I could not discuss it with any degree of satisfaction to myself, with so short

an allowance of time. Yet, when I had taken the floor, an impulse seized me, and carried me away in complete forgetfulness of the rule we had adopted; so that I was surprised by the fall of the President's hammer, just as I was about to make some explanation of my amendment. Thus it happened that an argument against it was made by the gentleman from Baltimore city, before anything had been said in its favor. I will now content myself with but few words in reply.

I have never favored the mode of appointing officers by joint-ballot of the Legislature, and my observation of the evils of that system in regard to certain officers so appointed, caused me to vote against the proposition of the gentleman from Dorchester, (Mr. Phelps,) for giving the choice of judges to the Legislature alone. But I believe that such a combination as I propose of legislative nomination and executive selection would be free from the objections urged to the separate action of either. In many cases, perhaps generally, the majority of the Legislature would not be of the same political party as the Governor; and even if they were, they would not be particularly interested in rewarding the mere personal adherents of the Governor. As the Governor has not the power to name those from whom the selection is to be made, and as the complexion of the Legislature cannot be known beforehand, there would be no motive of self-interest to induce one, who was ambitious for a seat upon the bench, to take an active part in canvass for the election of Governor.

On the other hand, I believe, the necessity of nominating three persons for the same office would counteract the evils usually attending joint ballot appointments. Where one person is appointed to an office by joint ballot, an unfit selection may often be made by caucus management; but where there is the check of another power, and where the friends of several candidates can all be gratified by having the names of their favorites presented for selection, while, at the same time no amount of management can ensure the ultimate success of any particular one—it seems to me that we might be quite confident of a good result.

I should not feel at all apprehensive that two persons out of the three nominated would be so unfit as to force the Governor to select the third, and that the whole power of appointment would thus practically fall into the hands of the legislature. Should we have legislatures capable of taking such a course, I do not doubt we should have Governor's ready to counteract them by the selection of one of those not intended to be selected. A single example of this kind would probably put an end to such hazardous experiments. I believe, on the contrary that the legislature would strive to present the very best candidates, in order to deprive the Governor of the power of making a bad appointment. As the Governor himself could not originate the appointment, and therefore, could not make his power serve his own personal or political ends, or advance his own immediate friends, his object in general