

S. D. C. Feb. 7 '10

REPORT.

The undersigned, appointed a member of the committee on credentials and qualifications, begs leave respectfully to submit for himself, a separate report:

In pursuance of the terms of the resolution appointing the committee, the undersigned has considered—

First, the question whether the disabilities provided in the existing constitution and Bill of Rights of Maryland, are applicable to members of this Convention.

Secondly, whether any persons returned as delegates to this Convention, are prohibited from qualifying and acting as such according to the terms and meaning of the 6th, 30th and 32nd articles of the Bill of Rights.

The undersigned does not deny that these are grave and difficult questions, and he has looked in vain for any case where the same question has been entertained and decided. It is true, that in most of the State Conventions, persons holding judicial stations under the States, have been allowed to participate in those Conventions, but the undersigned has been unable to find any State Constitutions, where Conventions have been held whose enactments touching Judges, were as stringent and prohibitory as those of the Bill of Rights of Maryland.

And in all instances, where Judges have been allowed to sit in constitutional conventions, their claim so to do has hitherto passed unchallenged.

The high example of Chief Justice Marshall, who while a Judge of the United States, was also a member of the Virginia convention, has often been quoted as a justification for the State Judges to sit in a State Convention. But as he was not a State Judge while sitting in the State convention, and there was nothing in the constitution of Virginia prohibiting a federal officer from holding such an office, the example does not apply. There is, then, nothing in previous adjudications to preclude the consideration of this question.