

Mr. THOMAS. I move to amend this section as follows:

Strike out all after the word: "judges," in the first line, and insert the following:

"Of the several counties of this State, shall be elected by the qualified voters of the counties and the city of Baltimore, in the manner hereinafter prescribed."

Mr. CHAMBERS. I would suggest to the gentleman who has offered this proposition, that it is not at all cognate to the subject under consideration. If I recollect aright, there is no other provision in this report for this purpose.

Mr. THOMAS. I propose to offer another section for that purpose.

Mr. CHAMBERS. If the idea of the gentleman is to have the tenure of office changed, then let us understand it.

Mr. THOMAS. I do not know what the convention may want to do about that.

Mr. CHAMBERS. The tenure of office is another subject. This section applies to the tenure of office. Strike it out here, and then it is not in the report. The matter of his amendment is entirely different from the matter of this amendment.

Mr. THOMAS. I understand the gentleman to make the point of order that my amendment is not in order. If the president decides that question, I will be satisfied.

On motion of Mr. STIRLING, Section three with the pending amendment was informally passed over.

Mr. SANDS. I would suggest—

The President. The president has heard so many suggestions, that hereafter he will require all matters to be reduced to writing.

Mr. SANDS. I merely wish to save time. We have settled the elective feature of this report. We better decide now whether we shall have three judges for the bench or not.

The President. Does the gentleman from Howard, (Mr. Sands) submit a motion?

Mr. SANDS. No, sir.

The following sections were then read, and no amendment was offered thereto:

"Section 4. Any judge shall be removed from office by the governor, on conviction in a court of law, of incompetency, of wilful neglect of duty, misbehavior in office, or any other crime, on impeachment according to this constitution, or the laws of the State, or on the address of the general assembly, two-thirds of each house concurring in such address, and the accused having been notified of the charges against him, and had opportunity of making his defence.

"Sec. 5. All judges shall, by virtue of their offices, be conservators of the peace throughout the State, and no fees or perquisites, commission or reward of any kind shall be allowed to any judge in this State; besides his annual salary, or fixed per diem for the discharge of any judicial duty.

"Sec. 6. No judge shall sit in any case

wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degrees as now are or may hereafter be prescribed by law, or where he shall have been of counsel in the case."

Section seven was then read as follows:

"Sec. 7. The judge or judges of any court may appoint such subordinate officers for the respective courts as may be found necessary, but none other; and no clerk shall be appointed in any court, but clerks or assistant clerks, sheriffs, or their deputies, or bailiffs, as the court directs; shall, without additional compensation, perform the duties heretofore performed by clerks."

Mr. STIRLING. I desire further time to consider this section, and therefore I move that it be informally passed over.

The motion was agreed to.

Section eight was then read as follows:

"Sec. 8. The clerks of the several courts created or continued by this constitution, shall have charge and custody of the records and other papers, shall perform all the duties and be allowed the fees which appertain to their several offices, as the same now are or may hereafter be regulated by law."

No amendment was offered thereto.

Section nine was then read as follows:

"Sec. 9. The legislature shall provide for the trial of causes in case of the disqualification of all of the judges of the circuit, but the parties to any cause may, by consent, appoint a proper person to try said cause, and may try any cause before the court without the intervention of a jury."

Mr. MILLER. This section embraces a new feature in the judicial system of this State, and I would like to hear some reasons assigned why it should be adopted. It provides that parties, by consent may appoint a proper person to try any cause, ignoring entirely the judge, if I understand the section aright, even if he is not disqualified. And if the section is not susceptible of that construction, then it is liable to another objection. "Add may try any cause before the court without the intervention of a jury." That applies as well to civil as criminal cases. It seems to be a sort of invasion of the right of trial by jury, by allowing parties, by consent to take a case before the judge and try it upon the facts as well as upon the law, without a jury. It seems to me that is imposing upon the judge a duty which has not hitherto been devolved upon him. It may devolve upon him the trial of a long case in which, besides the construction of the law, the facts may be complicated. I think the trial of facts in all civil cases should be left to a jury, under such instructions as the court may give them in reference to matters of law. I can see no good reasons for the change here proposed.

Mr. CHAMBERS. Persons familiar with the practice of courts, will readily recollect a