

brigade inspectors, by the field officers of their respective brigades; major generals, brigadier generals, and commanding officers of regiments or separate battalions, shall appoint the same officers of their respective divisions, brigades, regiments or separate battalions.

Sec. 5. The governor shall nominate and, with the consent of the Senate, appoint major generals, an adjutant general, and other members of his staff, and their commissions shall expire with the time for which the governor shall have been elected.

Sec. 6. The general assembly shall, by law, fix the time and manner of electing militia officers, and of certifying their election to the governor, who shall grant their commissions and determine their rank, when not fixed by law.

Sec. 7. In case subalterns, captains or field officers shall refuse or neglect to make such elections, the governor shall have power to appoint such officers, and to fill all vacancies caused by such refusal or neglect.

Sec. 8. No commissioned officer shall be removed from office but by the sentence of a court-martial, or by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended.

Sec. 9. In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the general assembly may abolish the same, and provide by law for their appointment and removal.

J. WICKARD.

Mr. SMITH, of Worcester, renewed the motion that the convention take a recess.

Mr. DANIEL called for yeas and nays on the motion, and they were ordered.

The question being then taken, by yeas and nays, it resulted—yeas 28, nays 37—as follows:

Yeas—Messrs. Berry, of Baltimore county, Billingsley, Blackiston, Chambers, Crawford, Dall, Davis, of Charles, Davis, of Washington, Dent, Duvall, Harwood, Lansdale, Lee, Marbury, Mayhugh, Mitchell, Miller, Morgan, Murray, Parran, Peter, Purnell, Smith, of Worcester, Thomas, Thruston, Wickard—28.

Nays—Messrs. Goldsborough, President; Abbot, Annan, Brown, Carter, Cunningham, Daniel, Earle, Ecker, Edelen, Galloway, Hopkins, Hopper, Jones, of Oser, Jones, of Somerset, Keefer, Kennard, King, Markby, McComas, Mullikin, Negley, Parker, Ridgely, Roanette, Russell, Sands, Schley, Schlusser, Smith, of Carroll, Smith, of Dorchester, Stirling, Stockbridge, Swopes, Sykes, Todd, Wooden—37.

The motion to take a recess was not agreed to.

JUDICIARY DEPARTMENT.

The convention then resumed the consid-

eration of the report of the committee on the judiciary department, which was on its second reading.

The ninth section as follows, was under consideration:

"S. c. 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. NEGLEY. I move to strike out the words "all of the judges," and insert the words "any judge," so that it shall read "in case of the disqualification of any judge of the circuit," &c.

Mr. SANDS. I think that amendment is entirely out of place as to time. We have not determined the main features in this report upon which will depend all these details. I think the convention will save a great deal of time by first acting upon the controlling features of this report and afterwards it will be easy to provide for the minutiae. We have decided to have an elective system. Now let us determine the number of the judges, then the tenure of the office, and we can then very soon fill up the details. If this amendment is adopted we may have to go back and strike it out.

Mr. STANTON. I hope this question will not be pressed, unless the house is going to investigate this subject. If we go on making amendment after amendment without due consideration we may abolish the half of this report right off by incidental motions. This report provides for three judges in the circuit court. If we are going to decide that we are to have a one-judge system we ought to have our eyes open. I confess that I am now in favor of the one-judge system.

On motion of Mr. NEGLEY, the ninth section with the pending amendment was informally passed over.

TAKING OF TESTIMONY.

Mr. DANIEL. I move to insert after the ninth section, the following as an additional section:

"Sec. 10. The testimony in equity cases shall be taken in like manner as in cases at law."

I think this is the proper place for this section. I have copied it in exact terms from the New York system. I have done it because I believe it will save a great deal of time in the taking testimony by commission as is now practiced. Cases are frequently delayed day after day under the present system in this State. One party may be placed almost in the entire control of another party, who wishes to delay a case and put it off by the taking of testimony day after day before a commissioner. I call to mind now a case, an important case of injunction, where the