

## THE JUDICIARY.

Mr. CLARKE. I now offer the following sections to the report of the judiciary committee, in order that they may go upon the journal as amendments to the different sections. If we should immediately go on with the judiciary report, I suppose they would come up at once.

## PART III.

*County and Circuit Courts.*

"Section 19. There shall be a judge for each county in the State, who shall be elected by the legal and qualified voters of the several counties. He shall be a resident for one year in the county for which he may be elected next before the time of his election, and shall reside in the county for which he is elected while he continues to act as judge."

"Section 20. There shall be a court in each county in the State; they shall be called equity courts for the county in which they are held. The judge elected for each county, shall be the judge of the said court, and shall have and exercise in the county for which he is elected, the full and exclusive power, authority, and jurisdiction of a court of equity, in their said county, with all the chancery powers which the present circuit courts have as courts of equity in the several counties, or which may be hereafter prescribed by laws made pursuant to this constitution, with the right of appeal to the court of appeals, as is now or may be hereafter provided for by law. He shall hold at least four terms of the equity court for the county, or oftener if required by law, and shall be ex-officio chief judge of the orphans' court of the county for which he is elected.

"Section 21. Same as section 19 in the report of the committee.

"Section 22. In each of the above named circuits, except the eighth, there shall be three courts, one to be held in each county; they shall be called circuit courts for the county in which they may be held, and shall have and exercise in the several counties of the respective circuits all the common law power and authority, original and appellate, and criminal jurisdiction which the circuit courts for the several counties now have, hold and exercise, or which may hereafter be prescribed by laws made pursuant to this constitution.

"Section 23. The judges of the several counties, comprising the said judicial circuits shall be the judges of the circuit courts for the respective counties embraced within the said judicial circuits. The governor, by and with the advice and consent of the senate, shall designate the chief justice of the several circuits. The said judges shall hold a term of their courts in each of the counties composing their respective circuits at such times as now are, or may hereafter be fixed by law, such terms to be never less than two in each year in each coun-

ty. Special terms may be held by said judges, in their discretion, whenever the business of the several counties renders such terms necessary; a single judge may hold sessions of the circuit court for the disposal of all business merely formal and uncontested, such causes civil or criminal as the parties litigant shall consent in writing to try before a single judge, and appeals from justices of the peace where the parties agree in writing to waive a trial by jury, and to try the appeal before a single judge.

"Section 24. The chief justice when so appointed as herein prescribed, shall when attending, preside in said courts, and in case of his absence or his withdrawing from the bench, the judge next in seniority, to be determined from the date of the commission, who shall be present shall preside therein; and in case of the death, disqualification, or refusal to act, of the person appointed chief justice as aforesaid, the judge next in seniority as aforesaid, shall be the chief justice of the said court until a new appointment of chief justice shall be made as aforesaid."

The convention resumed the consideration of the article on the judiciary department on its second reading. The pending section was the following:

"Sec. 20. In each of the above named circuits, except the eighth, there shall be three courts, one to be held in each county; they shall be called circuit courts for the county in which they may be held, and shall have and exercise all the power, authority, and jurisdiction, original and appellate, which the present circuit courts of this State now have and exercise, or which may hereafter be prescribed by law."

Mr. HEBB had submitted the following amendment:

"Sec. 20. One court shall be held in each county of the State; the said courts shall be called circuit courts for the county in which they may be held, and shall have and exercise all the power, authority and jurisdiction, original and appellate, which the present circuit courts of this State now have and exercise, or which may hereafter be prescribed by law."

Mr. CLARKE had submitted the following amendment to the amendment:

"Sec. 20. There shall be a judge for each county in the State, who shall be elected by the legal and qualified voters thereof, from among those learned in the law."

Mr. HEBB. I think the gentleman's amendment more properly belongs to the next section, it refers to the judges, whereas the section refers to the courts.

Mr. CLARKE. I withdraw it.

The question recurred upon Mr. HEBB's amendment.

Mr. NGLEY. In some respects, I like the amendment offered by the gentleman from Allegany (Mr. Hebb) better than the original