

RATE OF INTEREST.

The convention accordingly proceeded to the consideration of the section reported by the committee on usury, which was read the second time as follows:

'Sec. —. The legal rate of interest in this State shall be six per centum per annum, except in cases where a different rate may be agreed upon between contracting parties; and in all cases of private contract, the rate of interest agreed on, or contracted for, shall be recoverable; and the general assembly shall pass all laws that may be necessary to carry this section into effect.'

Mr. DANIEL. I move to amend by striking out "six" in the first line, and inserting "seven." I make this motion simply because I think it will be greatly to the interest of the State of Maryland to adopt the rate of interest which is allowed in New York. It is still higher in some other States; and business men, large financial operators tell me that the effect has been to drive a good deal of capital out of the State of Maryland, simply because by the provision in our constitution the rate of interest has been confined to six per cent. I know that at the principal banks in the city of Baltimore they are discounting more New York paper at the New York rate than of Baltimore paper. They prefer it because they get a larger rate of interest; and thus our money is going out into other States, and the State of Maryland is drained of its capital.

I very heartily agree in the subsequent provision, that money ought to be like any other commodity in the market, open to contracting parties. Whether you prescribe it in the constitution or not, money will range according to its value; and the effect of attempting to control it is to prevent honest men from bringing their money into the market, and to enable another class of men who are sharpers, to take advantage of the high rates, and to charge a higher rate than would be charged if money was free. If the market is left open, as soon as the rate of interest gets a little higher than usual, money would be thrown into the market to such an extent that the rate of interest would immediately go down again; and thus it would regulate itself like any other commodity in the market, according to its value.

According to the law now upon the subject, that is nearly the proposition upon the statute book, that the rate shall be as agreed upon by the contracting parties, the law being that if a party is sued for an excess of interest, and the party does not come in and plead usury, and tender the amount with simple interest, you can recover the whole amount, no matter what rate of interest is agreed upon. That is the law as decided in the courts. It amounts therefore simply to this, that a party must plead usury, to avoid

the payment, and there is scarcely a man willing so to injure his character, for he could never go into the market again. As the law now stands therefore it amounts to this, that in nearly every case where the interest agreed upon is above the legal rate, the party can recover it.

I tried a case in the superior court of Baltimore city in which this question came directly in issue. The rate of interest agreed upon was some eight or nine per cent. The party pled that we could not recover that rate of interest; but he did not plead usury and tender the amount with the legal rate of interest; and we recovered the whole amount of interest.

I think the legal rate of interest should be seven per cent. and that contracting parties should be allowed to fix the rate higher or lower in particular cases as they think proper, according to the condition of the money market. I think it will work greatly to the advantage of our State to adopt seven per cent., the rule in New York, instead of six per cent.

Mr. CLARKE. I move to add to the section the following: "provided that the said rate of interest shall only apply to contracts for the loan of money made after the adoption of this constitution." I do not know that it is necessary to say anything except a mere statement of the case. A number of contracting parties have made large loans of money five or ten years ago, and a great deal of money is now seeking investment, and the parties are making their arrangements in reference to the present rate of interest. These contracts are existing contracts; and I think it may be fairly contended that any contract made when the law limited the rate of interest to six per cent. could not be subjected to a higher rate. It is no more than just that the change of rate should apply only to future contracts.

Mr. SANDS. I must say I have listened with surprise to the amendment offered by the gentleman from Baltimore city (Mr. Daniel,) and with still greater surprise to the remarks made in support of it. What should be the object of all just legislation? Should it be to protect those who need protection, or should it be to confer upon those already in power? So far as this question is concerned, it affects two classes of people. I do hope the members of this convention will give this matter their careful and serious consideration. This question affects, I say, two classes of people; and who are they? Money-kings, who have at present power enough in their hands. Money is power everywhere. And it affects, secondly, the honest, enterprising, industrious, working classes of the people. It was said by a man who was a very close observer of men and things that the most powerful sovereign on earth was the head of the house of Rothschilds.

Mr. STIRLING. Will the gentleman allow