

Mr. HERR. This section merely provides that the present judges shall continue to act as circuit judges in the districts in which they reside. And it then provides for the election of judges in those districts in which none now reside.

Mr. PARRAN moved to amend by inserting after the words "until their successors are elected and qualified," the words, "or until they shall have attained the age of seventy years."

The PRESIDENT. I think that provision is contained in the general provisions of this report.

Mr. MILLER. That does not apply to judges who hold over; only to those who may be elected under this new constitution. Under the present constitution there is no limitation in regard to age upon the circuit judges.

Mr. STIRLING. I at first felt inclined to vote for this amendment. But if there is no such restriction in the present constitution in regard to those judges who hold over, if we adopt this amendment we shall be imposing a restriction upon these judges, which did not exist when they were elected. I shall therefore not vote for this amendment.

Mr. CHAMBERS. An observation has been made here which requires correction. It has been said that the old constitution made no provision in regard to the age of the district judges. Now so far as the printed constitution is concerned that is true; but so far as the action of the convention is concerned that is not the fact. The convention did pass upon that subject; there is no mistake about it; the journal will show it. But in the hurry and confusion of winding up, and such a hurry and confusion as I suppose was seldom witnessed in a legislative body—in the great anxiety to get off by the particular day and hour appointed, the constitution was in point of fact left unfinished, in the hands of a committee; and this portion of it was omitted. That is the fact; this provision passed the convention without any sort of difficulty, by a majority equal to that which passed the provision in regard to the age of the other judges. But it was not inserted in the constitution.

The PRESIDENT. And therefore was not voted upon by the people.

Mr. CHAMBERS. And there is justly no precedent to be claimed on that subject.

Mr. STIRLING. It is a mere question as to what constitutes the constitution; whether what is to be found in the journal of the convention, or what is in the recorded copy of the constitution, is the law under which we are now living.

The PRESIDENT. The constitution as printed was that which was ratified by the people.

The question was then taken upon the motion of Mr. PARRAN, to insert the words, "or until they shall have attained the age of seventy years," and it was rejected.

The amendment was then taken upon the section as proposed by Mr. HERR, and it was adopted.

Mr. THOMAS moved to insert the following as an additional section in relation to the judges of the courts of Baltimore city:

Sec. —. The present judges of the several courts of Baltimore city shall continue to act as such until the expiration of the terms for which they were respectively elected, and until their successors are elected and qualified.

The question being taken upon the section, it was adopted.

Mr. HERR. On one of the days when this report was under consideration, the following additional section was adopted, on motion of the gentleman from Baltimore city, (Mr. Thomas):

Sec. 24. In case of the death, resignation, removal or other disqualification of a judge by the courts of this State, the governor, by, and with the advice and consent of the senate, shall thereupon appoint a person duly qualified to fill said office, until the next general election, for members to the general assembly, thereafter, at which time an election shall be held as herein prescribed for a judge, who shall hold said office for the term of fifteen years, and until the election and qualification of his successor.

Under another section, which the convention subsequently adopted, the terms of some of the judges will expire on the year when county officers are elected. It will therefore be necessary to amend this section.

The PRESIDENT. As the section has already been adopted, it must be reconsidered before it can be amended.

On motion of Mr. HERR, the vote by which the foregoing section was adopted was reconsidered.

Mr. HERR then moved to amend the section as follows: strike out the words "for members of the general assembly thereafter," and insert "thereafter whether for members of the general assembly or for county officers, which ever shall first occur."

The question being then taken on the amendment of Mr. HERR, it was adopted.

The section as amended was then adopted.

On motion of Mr. HERR,

The following additional section was adopted:

Sec. 38. In the event of a vacancy in the office of a justice of the peace, the governor shall appoint a person to serve as justice of the peace for the residue of the term; and in case of a vacancy in the office of constable, the county commissioners of the county in which the vacancy occurs, or the mayor and city council of Baltimore, as the case may be, shall appoint a person to serve as constable for the residue of the term.

Mr. GALLOWAY moved to reconsider the