

of the report of the committee on the judiciary department.

Mr. FARROW, (seconded by Messrs. HERR and GREENE,) moved to reconsider the vote by which the twenty-ninth section of the report was adopted.

The section was the following:

"Sec. 29. It shall be the duty of the orphans' court of the several counties and the city of Baltimore to bind out, until they arrive at the age of twenty-one years for males, and eighteen years for females, all negroes emancipated by the adoption of this constitution, who are minors, incapable of supporting themselves, and whose parents are unable to maintain them, subject to such regulations as are now or may hereafter be prescribed by law; and in all cases the preference shall be given to their former masters, when in the judgment of the said courts they are suitable persons to have charge of them."

Mr. MILLER. I rise to a point of order, whether the gentleman from Worcester (Mr. Farrow) is entitled to make that motion. My friend from Baltimore county (Mr. Ridgely) who has looked at the authorities can make the question clearer than I can, but I will simply suggest that the point of order is this: The motion is, after the convention has passed upon this section as an entirety, to open it for consideration as a whole section. The gentleman from Worcester, who makes the motion, only voted in favor of incorporating one branch of that section into the constitution. He voted against the incorporation of the second branch of the proposition. In order to get the whole section open for consideration, I say that the motion to reconsider must come from some member of the convention who voted in favor of both branches of that proposition.

Mr. RIDGELY. When that section was under consideration, and the house was called to pass upon it, a division of the question was asked for. It is on page 545 of the journal, [August 26.] On the first branch of the proposition the gentleman who moved the reconsideration voted in the affirmative. On the second branch of the proposition they voted in the negative. The point is this: that on taking the vote on the second branch of the proposition, the proposition became an entirety. The vote being taken on the first branch of the proposition, but half the vote was taken. It became necessary to take the other half of the vote to perfect the vote upon the proposition. The vote being taken on the second branch of the proposition, the proposition became an entirety; and now it exists as an entirety. It is in your constitution; and the motion to reconsider that as an entire proposition must come from a member who voted for it as an entire proposition, and not from a member who voted for but one-half.

The only authority I have upon the subject, which is a very remote one, because I have not found that this question has ever been raised, although I have made a very diligent search through all the manuals that have been in my reach, is one supporting the last view that the proposition only becomes an entire proposition after the question has been taken upon all its branches. It is Jefferson's Manual, page 184, sec. 36.

"When a question is divided, after the question on the first member, the second is open to debate and amendment; because it is a known rule that a person may rise and speak at any time before the question has been completely decided, by putting the negative as well as affirmative side. But the question is not completely put when the vote has been taken on the first member only. One-half of the question, both affirmative and negative, remains to be put."

And until the other half is put, the house does not determine the question. That being put, the question then becomes an entire question. It is not susceptible of reconsideration by branches. No motion could be entertained to reconsider one branch of an entire proposition. The only motion that could be entertained would be a motion to reconsider the whole proposition. The question is who is entitled under the general rule to move a reconsideration under circumstances of this kind, as having voted in the majority. I hold that according to all reasonable views of the subject, the party must show that he was friendly to the measure, that he voted for the whole proposition as an entire proposition. If the question had come before the house as a whole proposition he would have been found with the majority. It is very clear that the parties here who propose to reconsider were unfriendly to the second branch of the proposition, and could not have voted for the proposition as a whole. Therefore the point is raised that they are not competent as friends of the proposition that was adopted, being with the majority, to move to reconsider.

Mr. SMITH. There is nothing in the rules upon this subject except the proposition in the 44th rule, which says:

"Rule 44. When a question has once been decided in the affirmative or negative, a motion of reconsideration shall be in order, if made by one member and seconded by two others who voted in the majority; and no motion for reconsideration shall be postponed or laid on the table."

Then the rule in regard to the division of the question is this:

"Rule 40. Any member may call for the division of a question, which shall be divided, if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the convention."

The principle of the right of division orig-