

day. So that indirectly the Constitution of this State does fix the day for electing members of Congress. This clause was put in for the purpose of guarding against any confusion in the matter; in order that it might be generally understood that the election of members of Congress was to take place on that day. It is perfectly certain that it must take place on that day even without any such provision. It can do no harm to have it in, and it provides against any mistake as to the day of election. At the proper time I will move to amend by adding the words "unless the Legislature shall hereafter fix some other day."

Mr. CLARKE. The election for members of Congress does not properly take place this fall; not until this fall a year.

Mr. STIRLING. If the gentleman will examine the Code he will find that there is no authority to hold an election for members of Congress except upon the day for electing members of the General Assembly. Therefore no members of Congress can be elected this fall a year, because there will be no election for members of the General Assembly this fall a year.

Mr. CLARKE. This section provides for electing members of the Legislature on the first Wednesday of November, 1864. The Legislature will meet next January and then they can fix the time for electing members of Congress.

Mr. STIRLING. Members of the General Assembly will be elected in November of this year, and then not again for two years thereafter.

Mr. CHAMBERS. It seems very manifest that by this section there is a peremptory order to hold the congressional election on the first Wednesday of November next. It does not provide, as the gentleman from Baltimore city (Mr. Stirling) seems to put it, that congressmen shall be elected on the same day that members of the Legislature are elected; that is not the phraseology. I do not want to interfere with the work of the committee. But I would suggest the propriety of so altering the last clause of this section so as to make it read that "the election for representatives from this State in the Congress of the United States shall take place on the same day that senators and delegates in the General Assembly are elected."

Mr. MILLER. This section as it now stands certainly changes the time of electing congressmen from this State for the present year. If we do not adopt this Constitution and the Code is left to govern the election, then there would be no election of members of Congress until this fall one year. But by the adoption of this Constitution we shall change entirely the time of electing the members of our General Assembly, and it puts ahead one year the election of congressmen. The provision of the Constitution of the United States says

that the Legislature, and the Legislature alone, shall have the power to fix the day on which representatives in Congress shall be elected. Now can this Convention, by the adoption of a provision in this Constitution, nullify that provision of the Constitution of the United States, and declare that the election of members of the General Assembly shall be at a different time from that which now exists, and therefore make the day for electing members of Congress different from what the Legislature has now fixed?

Mr. STIRLING. I do not say that I admit what gentlemen on the other side have said. But the Legislature of this State, in fixing the day for electing members of Congress, has fixed it in such a manner as to leave it necessarily to be determined by this Convention. It says it shall take place on the day for electing members of the General Assembly. Now, if the Constitution changes that day, then, *ex vi termini*, the legislative enactment in regard to members of Congress applies to that day.

Mr. MILLER. The present legislation was made in view of the existing Constitution of the State; not in view of the Constitution to be made here. Now it is proposed here to change the Constitution so as to put the election of our members of Congress one year ahead of the time at which they are to take their seats. Our practice in Maryland has always been to elect them in the fall of the year in which Congress meets. But under this provision, our representatives in Congress will have to be elected on the first Wednesday of November next. When will they take their seats in Congress? Not until the year following, because the members now elected hold over until the fourth of March next.

Mr. STOCKBRIDGE. If a special session of Congress is called, then they will take their seats on the fifth of March next.

Mr. MILLER. It is proposed under a provision of this Constitution to have an election this fall for members of Congress, who will not take their seats until a year after their election. The circumstances of the country are such that I do not desire to change the time of electing members of Congress. I want them to represent the people as nearly as possible at the time at which they are to serve in the Congress to which they are elected.

Mr. STOCKBRIDGE. I have prepared an amendment to this section which I desire to submit. As the section now stands, it reads—"The first election for senators and delegates shall take place on the first Wednesday of November, 1864." I propose to amend by striking out the words "first Wednesday" and inserting the words "Tuesday next after the first Monday of the month." The clause will then read—"The first election of senators and delegates shall take place on the