

called. Is not the Governor of the State authorized to call an election in less than two years from the time of the last election?

Mr. CLARKE. Certainly; but after the term of service has expired then there is a vacancy, just as if the member has resigned his seat.

Mr. STIRLING. Does not Maryland stand almost alone in electing members of Congress at so late a day?

Mr. CLARKE. Yes, sir; but they elect at intervals of two years. I do not know when other States made their change. But the change can be made in this State by the Legislature so as to gradually bring the time to the same as in other States. The coming Legislature can provide for holding the election at any time, if an interval of two years is allowed to take place.

But this provision brings about annual elections of members of Congress; and that is done by the action of this Constitutional Convention.

In reply to my objection that the Legislature only had the power to fix the day of election of members of Congress, the gentleman from Baltimore city (Mr. Stirling) says that this provision brings the day of election on the same day on which it would take place if there was no such clause in the Constitution. But when we come to look at the subject we find that there is a change; that the election of members of Congress will not take place at the time when it would take place as regulated by the Legislature.

Furthermore, I refer to that provision of the Constitution of the United States, which says that members of Congress shall be elected every two years. We had an election for members of Congress last fall. Now, it will be a violation of the Constitution of the United States for us to provide here for an election next fall.

Mr. RIDGELY. The Constitution of the United States says—"every second year."

Mr. CLARKE. You had an election last year. Now, I contend that this entire year must pass before you can hold another election for members of Congress. You might provide for an election in January, February, or March, or any other time. Now, I think the provision of the Constitution of the United States is very clear, that the election must take place every second year—that an entire year must intervene. I do not pretend to raise the question here, because it will be raised before other bodies. If we undertake to adopt this provision, and make this change in the time of electing our members of Congress, when they go to take their seats, they may find that they have been elected under regulations prescribed by our State Constitution, and not under the regulations prescribed by the Legislature in accordance with the Constitution of the United States. And they may furthermore find that they

have been elected not at an election held the second year, but at an annual election. Now, I do not raise the question here as to whether they would be entitled to hold their seats, for that will be raised by the body in which they will claim a right to take seats.

Mr. STOCKBRIDGE. May I ask the gentleman whether more than two full years will not have elapsed on the 8th of November next since the last election was held?

Mr. CLARKE. I think not. We have never elected members of Congress until November. I should like to see how the gentleman will prove it.

The PRESIDENT. It is the difference between the first Wednesday and the first Tuesday after the first Monday, I suppose.

Mr. CLARKE. I have not gone through the calculation. I understand that the years go from election to election. The first Wednesday from the first Tuesday after the first Monday amounts, I suppose, to full 365 days. If it were less than 365 days it would not be a year.

Mr. STOCKBRIDGE. The law provides that the election of representatives to Congress, shall be on the same day as the election of members of the General Assembly. The Constitution provides that the election of delegates shall take place on the first Wednesday of November. This year the first Tuesday after the first Monday in November comes on the 8th; and the first Wednesday can never be so late in the month as the 8th.

Mr. CLARKE. No, sir; I think it cannot. But this is only in relation to one branch of my argument. When we turn to the code, we find that the Constitution has changed the period of the election of members of the General Assembly; and the Constitution undertakes therefore to change the day of the election of members of Congress. I would like to know why this is done. Will gentlemen give us some valid reason for it? There is a clear provision in the Constitution that the Legislature shall fix the time. Why are we to violate the provision of the Constitution of the United States? Why are we to assume a power not given us, but expressly prohibited us by the Constitution of the United States? We have been told here over and over again of our duty to the Constitution of the United States, and that our paramount allegiance is due to the Federal Government.

Mr. STIRLING. I think I can save the gentleman some trouble with regard to this argument. I have heard no one claim that this Convention has any power to fix the time.

Mr. CLARKE. Why then is this put in?

Mr. STIRLING. I claim distinctly that the Legislature in the exercise of its power has named no specific day; but has said that the election shall take place on that day on which by the Constitution of the State the election of delegates takes place. This body have