

will see that every proposition carried yesterday was carried by less than 49 votes. If this rule had been applicable to the second reading, not a single conclusion would have been needed during the whole session of the day. On page 111 is a vote, 31 to 52; but that proposition was lost. The proposition which was finally carried received a vote of 44 to 33, a majority of 11 votes, yet wanting 5 votes of being a majority of the members elected. We cannot expect to have more members present, for 83 members is above the average attendance hitherto. At the previous sessions we have not had as many. The result will be under the rule, as my colleague has just remarked, every proposition will be defeated upon which the political majority here do not unite. It will be difficult upon propositions which are out of a general political character to get 49 votes. At the same time propositions which command so large a vote as a majority of the members present, may be considered as representing the views of the whole Convention, because it is generally the fact that the absentees are about equally divided, and if they were present the vote would just about preserve the same proportion.

The argument of one of the members from Prince George's yesterday, was that if any proposition could not command the vote of a majority of this whole body, it was pretty strong proof that it might not go into the Constitution, for the people will not sanction it. Now we are placed in this position, that we are bound to make a Constitution. Everybody agrees that there must be some judiciary system. Does the gentleman mean to say that if no judiciary system can command 49 votes in this Constitution, it is better to have no judiciary system at all? How will the rule work with regard to that? One man brings up one system, another brings up another system, and another brings up a third. The majority of the House vote down the first, because part of that majority are in favor of the second, and part in favor of the third. So they vote down the second, and the third, because in each case they are divided between the other two propositions. If the majority can finally agree upon a system, must it be rejected unless it can command 49 votes? A great many people think we ought to leave the Judiciary system to stand precisely as it is, with perhaps a little modification to relieve the pressure of business upon one or two of the courts. Yet the present article in this Constitution could not command 49 votes in the Convention for two weeks. Or if you wish to abolish the present system and substitute another entirely elective, I do not believe that can command 49 votes upon an average attendance. I doubt very much whether any proposition for the establishment of a Judiciary system can command 49 votes upon an average attendance of this House. We must

come to some compromise in order to adopt any system which the majority of the members present will accept.

Mr. MARBURY. Does the gentleman mean to say that if we vote down propositions to change the article on the Judiciary, or any other article in the Constitution, it will leave the State of Maryland without any Judiciary system in the Constitution?

Mr. STIRLING. I say that if we vote down all propositions offered for a Judiciary system, we shall have no Judiciary system.

Mr. MARBURY. Shall we not in that case have the present Judiciary system?

Mr. STIRLING. Certainly not. How can we? We must incorporate an article in the new Constitution before it can become a part of it. There must be an affirmative vote to incorporate in the new Constitution an article of this old Constitution, just as much as to incorporate an entirely new article. It is a substantive part of another document, and requires an affirmative vote to make it a substantive part of this. But as some are in favor of one system and some of another, it will be difficult upon an average attendance to obtain a vote of 49 members in favor of any system. We might take vote after vote, and sit here day after day, although a majority of ten or fifteen had argued upon a proposition before we could obtain the requisite number.

Take the apportionment question. The proposition of my friend from Prince George's (Mr. Clarke) in regard to representation, as it stands now, will not get 49 votes in this body; and I doubt whether any apportionment system will get 49 votes in this body. One man will object to it because a certain part of the State gets too much, and will vote against it for that reason. Members from that part of the State will vote with him against it because they think their part of the State gets too little, and so both sections will keep on killing everything for the purpose of getting something better for their respective sections. So they will go on day after day, as they did in the last Legislature, whose duty it was to re-adjust the representation. Everybody agreed that they were bound to re-adjust it, and yet they could not get 38 votes for any system of apportionment which they could devise. There were bills which passed by a large majority, but none receiving 38 votes. Some men voted against apportionments upon the sole ground that they thought some one county ought to have one more man; and that was enough to prevent anything being done; and nothing was done, although it was the duty of the Legislature to re-adjust the apportionment.

When any article requires compromise and adjustment, you will have extreme difficulty in getting 49 votes for it. Yet we must come to some conclusion. The people of the State are now getting dissatisfied with the length of time this Convention has taken up. There