

at all for the qualification of the first governor elected under this constitution, so that he may qualify at any time during the three years for which he was elected:

Mr. SANDS. Certainly; it will meet that difficulty.

Mr. MILLER. I would suggest to the gentleman from Howard (Mr. Sands) that the better way would be to strike out the portion of the section he first proposed to strike out—that is, all after the word “prescribed,” and insert before the word “qualify” the words “before he enters upon the discharge of the duties of his office.” That will meet all cases.

Mr. PUGH. I would suggest that the section as it stands, it seems to me, will cover the whole ground. For it says the person having the highest number of votes, “and being constitutionally eligible.” Now this governor first elected is by the express provisions of this constitution not eligible until the term of the present incumbent shall have expired.

Mr. MILLER. The gentleman is mistaken about his not being “eligible.”

Mr. PUGH. I know that is an ambiguous term, but I think that is the meaning of those words. And even if this was not so, this first governor cannot by any possibility enter upon the discharge of his duties constitutionally until the term of the present incumbent has expired. I do not know but what there is a way of explaining this thing, but it has not been suggested yet.

Mr. VALLIANT. Is not the eligibility of the governor prescribed in the fifth section of this report, as follows?

“Sec. 5. A person to be eligible to the office of governor must have attained the age of thirty years, and been for five years a citizen of the United States, and for five years next preceding his election a resident of the State.”

Mr. PUGH. I know that is the meaning of the term “eligible” as generally used. But I have no doubt at all it is the word “eligible” that makes the whole thing ambiguous. And I have no doubt that the committee intended these words to cover the case of the first governor. The amendment of the gentleman from Howard (Mr. Sands) does not meet the whole case. If it did I should be in favor of it. It does not provide the time when the first governor shall qualify. For the sake only of making the section clear, which it is not now, I admit that it should be amended.

Mr. STOCKBRIDGE. It seems to me the first section is free from ambiguity as it stands. It provides when the first governor under this constitution shall be chosen, and then it provides that he shall not enter upon the discharge of the duties of the office until the expiration of the term for which the present incumbent was elected, unless the said office

shall become vacant by death, resignation, removal from the State or other disqualification of the said incumbent.” You fix when he is to enter upon his duties, and then in the third section the general provision is put in that the governor, each one of them elected, “shall qualify in the manner herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable.” Entering upon the discharge of his duties not until a year after he is elected, if it is not practicable for him to qualify the January next ensuing his election, he will qualify when it is practicable. If a vacancy occurs he will qualify sooner; if not, then he will qualify at the end of the year.

The PRESIDENT. The eligibility has no application to the time when he enters upon the duties of his office.

Mr. TODD. Suppose there is no session of the legislature a year after his election. We have provided, I believe, for biennial sessions of the legislature.

Mr. SANDS. I offered the amendment I did, instead of the motion to strike out, which I first indicated, for the reason that I thought that under certain circumstances it would approach more nearly the views of gentlemen than the other motion. I do not care to insist upon the amendment and will withdraw it.

No amendment was offered to section three.

Section four was then read as follows:

“Sec. 4. If two or more persons shall have the highest and an equal number of votes, one of them shall be chosen governor by the senate and house of delegates; and all questions in relation to the eligibility of governor, and to the returns of said election, and to the number and legality of votes therein given, shall be determined by the house of delegates. And if the person or persons having the highest number of votes be ineligible, the governor shall be chosen by the senate and house of delegates. Every election of governor by the legislature shall be determined by a joint majority of the senate and house of delegates, and the vote shall be taken *viva voce*. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be confined to the persons having an equal number; and if the votes should be again equal, then the election of governor shall be determined by lot between those who shall have the highest and an equal number on the first vote.”

No amendment was offered to section four.

Section five was then read as follows:

“Sec. 5. A person to be eligible to the office of governor must have attained the age of thirty years, and been for five years a citizen of the United States, and for five